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Paper 13
Date: August 14, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

DATADOME S.A. and DATADOME SOLUTIONS, INC.,
Petitioner,

v.

ARKOSE LABS HOLDINGS, INC.,
Patent Owner.

IPR2025-00693 (Patent 7,373,510 B2)
IPR2025-00694 (Patent 9,148,427 B2)

Before COKE MORGAN STEWART, *Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office*.

DECISION
Denying Institution of *Inter Partes* Review

Arkose Labs Holdings, Inc. ("Patent Owner") filed a request for discretionary denial (Paper 8, "DD Req.") in the above-captioned cases, and DataDome S.A. and DataDome Solutions, Inc. (collectively, "Petitioner") filed an opposition (Paper 12, "DD Opp.").[1]

After considering the parties' arguments and the record, and in view of all relevant considerations, discretionary denial of institution is appropriate in these proceedings. This determination is based on the totality of the evidence and arguments the parties have presented.

In particular, the challenged patents have been in force for approximately seventeen years and ten years, creating strong settled expectations for Patent Owner. Petitioner argues that it had settled expectations that the challenged patents would not be asserted against it because the previous patent owner[2] never asserted the challenged patents. DD Opp. 3. Petitioner, however, acknowledges that it has been aware of Patent Owner's patent portfolio in general since at least 2022, and the challenged patents specifically since 2023, after Patent Owner sent a series of letters to Petitioner identifying the challenged patents. In a letter dated December 1, 2023, Petitioner stated that it did "not believe it requires a license to any of the Identified Arkose Patents." Ex. 1015, 2. Therefore, Petitioner had apparently evaluated the challenged patents as of that date but does not provide a sufficient explanation as to why that amounts to settled expectations. For example, a concession of non-infringement by a patent owner may constitute settled expectations for a petitioner. However, a petitioner's reliance on its own assessment of patents presents a different

[1] Citations are to papers in IPR2025-00693. The parties filed similar papers in IPR2025-00694.
[2] Patent Owner acquired the challenged patents in 2021. *See* Ex. 1021.

consideration. Under these circumstances, Petitioner's assertions of settled expectations do not overcome Patent Owner's strong settled expectations.

Furthermore, the parties are engaged in a parallel proceeding in district court. Although there is no scheduled trial date, which counsels against discretionary denial, Petitioner has not offered a stipulation to address concerns of duplicative efforts and potentially conflicting decisions, which weighs in favor of discretionary denial. On balance, the considerations that favor discretionary denial outweigh those that counsel against it.

Although certain arguments are highlighted above, the determination to exercise discretion to deny institution is based on a holistic assessment of all of the evidence and arguments presented. Accordingly, the Petitions are denied under 35 U.S.C. § 314(a).

In consideration of the foregoing, it is:

ORDERED that Patent Owner's request for discretionary denial is *granted*; and

FURTHER ORDERED that the Petitions are *denied*, and no trial is instituted.

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