

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

TOP GLORY TRADING GROUP INC. and
DP DREAM PAIRS INC.,
Petitioner,

v.

COLE HAAN LLC,
Patent Owner.

IPR2025-01395
Patent D768,959 S

Before JOHN A. SQUIRES, *Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

DECISION
Denying Patent Owner's Request for Discretionary Denial

Cole Haan LLC (“Patent Owner”) filed a request for discretionary denial (Paper 10, “DD Req.”) in the above-captioned case, and Top Glory Trading Group Inc. and DP Dream Pairs Inc. (collectively, “Petitioner”) filed an opposition (Paper 15, “DD Opp.”).

After considering the parties’ arguments and the record, and in view of all relevant considerations, discretionary denial of institution was not appropriate in this proceeding. *See* Paper 17 (“Notice of Decisions on Institution” or “Notice”), 2. This determination was based on the totality of the evidence and arguments the parties presented, only a select portion of which is discussed in the following opinion identified as forthcoming in the Notice. *See id.*

Petitioner argues that “a significant change in law” has occurred since the patent issued, which counsels against discretionary denial. DD Opp. 3 (citing *Intel Corp. v. Proxense, LLC*, IPR2025- 00327, Paper 12, 2–3 (Director June 26, 2025)). In particular, Petitioner contends that the United States Court of Appeals for the Federal Circuit “fundamentally changed the obviousness standard for design patents” in *LKQ Corp. v. GM Global Tech. Operations LLC*, 102 F.4th 1280, 1293 (Fed. Cir. 2024), which impacts the validity of the challenged patent. *Id.* at 2. Petitioner’s argument is persuasive. The challenged patent was examined and issued under an obviousness standard for design patents that the Federal Circuit has since abrogated, and it is an appropriate use of Office resources to consider the merits of Petitioner’s challenge despite any settled expectations Patent Owner may have. *See* DD Opp. 3–4.

While certain arguments are highlighted above, the determination not to exercise discretion to deny institution is based on the complete record and

a holistic assessment of all of the evidence in light of the arguments presented.

In consideration of the foregoing, it is:

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

FURTHER ORDERED that neither party shall file a request for rehearing or Director Review of this decision until a Notice of Decision on Institution including this case issues.

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