

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**LITE MACHINES CORP., PAUL E. ARLTON, DAVID
J. ARLTON,**
Plaintiffs-Petitioners

v.

UNITED STATES,
Defendant-Respondent

2025-128

On Petition for Permission to Appeal pursuant to 28 U.S.C. Section 1292(d)(2) from the United States Court of Federal Claims in No. 1:18-cv-01411-MBH, Senior Judge Marian Blank Horn.

ON PETITION

Before REYNA, MAYER, and CHEN, *Circuit Judges*.

PER CURIAM.

O R D E R

Pursuant to 28 U.S.C. § 1292(d)(2), petitioners seek permission to appeal an order of the United States Court of Federal Claims granting in part the United States's

motion to dismiss for failure to state a claim. The United States opposes. Petitioners respond.

Under § 1292(d)(2), the Court of Federal Claims may certify that an order that is not otherwise immediately appealable is one involving a controlling question of law as to which there is substantial ground for difference of opinion and for which an immediate appeal may materially advance the ultimate termination of the litigation. Ultimately, this court must exercise its own discretion in deciding whether to grant permission to appeal such an interlocutory order. *See In re Convertible Rowing Exerciser Pat. Litig.*, 903 F.2d 822, 822 (Fed. Cir. 1990). In this case, we decline to grant permission to appeal under § 1292(d)(2).

Accordingly,

IT IS ORDERED THAT:

- (1) The petition for permission to appeal is denied.
- (2) ECF No. 3-1, ECF No. 11 and ECF No. 15 are unsealed.

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

July 9, 2025
Date