

NOTE: This order is nonprecedential.

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

SIKORSKY AIRCRAFT CORPORATION,
Plaintiff-Respondent

v.

UNITED STATES,
Defendant-Petitioner

2025-101

On Petition for Permission to Appeal pursuant to 28 U.S.C. Section 1292(d) from the United States Court of Federal Claims in No. 1:21-cv-02327-SSS, Stephen S. Schwartz.

ON PETITION

Before DYK, CUNNINGHAM, and STARK, *Circuit Judges*.
CUNNINGHAM, *Circuit Judge*.

O R D E R

The United States petitions for permission to appeal orders of the United States Court of Federal Claims determining the scope of the claim covered by the contracting officer's decision and limiting the scope of the United

States's discovery. The trial court certified the order for appeal pursuant to 28 U.S.C. § 1292(d)(2). Sikorsky Aircraft Corporation opposes the petition.

Under § 1292(d)(2), the Court of Federal Claims may certify that an order that is not otherwise 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 an interlocutory order. *See In re Convertible Rowing Exerciser Pat. Litig.*, 903 F.2d 822, 822 (Fed. Cir. 1990) (applying § 1292(b)). In this case, we conclude that an interlocutory appeal under § 1292(d)(2) is not appropriate.

Accordingly,

IT IS ORDERED THAT:

The petition for permission to appeal is denied.

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

January 17, 2025
Date