

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

AMAZON.COM, INC.,
AMAZON.COM SERVICES LLC,
AMAZON WEB SERVICES, INC., and
TWITCH INTERACTIVE, INC.,
Petitioner,

v.

NL GIKEN INC.,
Patent Owner.

IPR2025-00250 (Patent 8,094,236 B2)
IPR2025-00407 (Patent 8,677,391 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 Patent Owner's Request for Discretionary Denial

NL Giken, Inc. (“Patent Owner”) filed a Request for Discretionary Denial (Paper 10, “DD Req.”) in the above-captioned cases, and Amazon.com, Inc., Amazon.com Services LLC, Amazon Web Services, Inc., and Twitch Interactive, Inc. (collectively, “Petitioner”) filed an opposition (Paper 11, “DD Opp.”).¹ With authorization, Patent Owner filed a Reply (Paper 12) and Petitioner filed a Sur-reply (Paper 13).

After considering the parties’ arguments and the record, and in view of all relevant considerations, discretionary denial of institution is not appropriate in this proceeding. This determination is based on the totality of the evidence and arguments the parties have presented.

In particular, the projected final written decision due date in IPR2025-00250 is June 30, 2026. DD Opp. 3–4.² The district court’s scheduled trial date is June 22, 2026, but the time-to-trial statistics suggest trial would not begin until December 2026. *Id.* at 3; DD Req. 3; Ex. 1012, 13; Ex. 1013. As such, it is likely that a final written decision in this proceeding will issue before the district court trial occurs.

Although certain arguments are highlighted above, the determination not to exercise discretion to deny institution is based on a holistic assessment of all of the evidence and arguments presented. Accordingly, the Petition is referred to the Board to handle the case in the normal course, including by issuing a decision on institution addressing the merits and other non-discretionary considerations, as appropriate.

¹ Citations are to papers in IPR2025-00250. The parties filed similar papers in IPR2025-00407.

² The projected statutory deadline for a final written decision in IPR2025-00407 is July 29, 2026. IPR2025-00407, Paper 11, 3–4. The one-month difference does not materially affect the outcome here.

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In consideration of the foregoing, it is:

ORDERED that Patent Owner's Request for Discretionary Denial is *denied*;

FURTHER ORDERED that the Petition is referred to the Board; and

FURTHER ORDERED that neither party shall file a request for rehearing or Director Review of this decision until the Board issues a decision on institution.

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