

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

GOOGLE LLC,
Petitioner,

v.

WITHROW NETWORKS INC.,
Patent Owner.

IPR2025-00775
Patent 10,771,849 B2

Before KALYAN K. DESHPANDE,¹ *Acting Deputy Chief Administrative
Patent Judge.*

DECISION
Referring the Petition to the Board

¹ Coke Morgan Stewart, Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office, is recused and took no part in this decision. The Acting Director has delegated her authority in a Notice of Delegation. See <https://www.uspto.gov/sites/default/files/documents/deshpande-delegation-letter.pdf>.

Withrow Networks Inc. (“Patent Owner”) filed a request for discretionary denial (Paper 6, “DD Req.”) in the above-captioned cases, and Google LLC (“Petitioner”) filed an opposition (Paper 8, “DD Opp.”).

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 is October 17, 2026. DD Req. 8. Currently, there is no scheduled trial date in the co-pending district court litigation, and time-to-trial statistics suggest trial would not begin until January 2027. DD Opp. 8–10. As such, it is likely that a final written decision in this proceeding will issue before the district court trial occurs, reducing the concern of inconsistent outcomes or significant duplication of efforts. Petitioner also provides some evidence that a stay would be likely if this proceeding is instituted. *Id.* at 7.

Furthermore, the challenged patent has not been in force for a significant period of time (issued in 2020). Accordingly, Patent Owner has not developed strong settled expectations that favor discretionary denial. Additionally, early challenges favor robust, predictable patent rights and weigh against discretionary denial.

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.

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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