

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 AUDIBLE, INC.,
Petitioner,

v.

AUDIO POD IP, LLC,
Patent Owner.

IPR2025-00757 (Patent 10,091,266 B2)
IPR2025-00765 (Patent 8,738,740 B2)
IPR2025-00768 (Patent 10,805,111 B2)
IPR2025-00769 (Patent 9,954,922 B2)
IPR2025-00774 (Patent 8,738,740 B2)
IPR2025-00777 (Patent 9,319,720 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 Institution of *Inter Partes* Review

IPR2025-00757 (Patent 10,091,266 B2)
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Audio Pod IP, LLC (“Patent Owner”) filed a request for discretionary denial (Paper 8, “DD Req.”) in the above-captioned cases, and Amazon.com, Inc., Amazon.com Services LLC, Amazon Web Services, Inc., and Audible, Inc. (collectively, “Petitioner”) filed an opposition (Paper 11, “DD Opp.”).¹ With authorization, Patent Owner filed a Reply (Paper 13), and Petitioner filed a Sur-reply (Paper 14).

After considering the parties’ arguments and the record, and in view of all relevant considerations, discretionary denial of institution is appropriate in these proceedings. This determination is based on the totality of the evidence and arguments the parties have presented.

Some factors counsel against discretionary denial. For example, there is no trial date set for the parallel district court proceeding involving Petitioner and the challenged patents. DD Opp. 5. As a result, there is no immediate concern of inconsistent outcomes or significant duplication of efforts.

Other factors, however, weigh in favor of discretionary denial. In particular, the challenged patents in IPR2025-00757, IPR2025-00765, IPR2025-00769, IPR2025-00774, and IPR2025-00777 have been in force for approximately seven, eleven, seven, eleven, and nine years, respectively, creating strong settled expectations for Patent Owner. Furthermore, Patent Owner provides evidence that Petitioner first learned of Patent Owner’s

¹ Citations are to papers in IPR2025-00757. The parties filed similar papers in IPR2025-00765, IPR2025-00768, IPR2025-00769, IPR2025-00774, and IPR2025-00777.

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technology in 2007, and, in 2012, Patent Owner informed Petitioner of its patent portfolio, including an issued ancestor patent to the challenged patents. DD Req. 14–15; Ex. 2013. Accordingly, Petitioner appears to have had notice of the challenged patents or patent family for a significant period of time.

The patent challenged in IPR2025-00768 has not been in force as long as the other patents challenged. While ordinarily such circumstances might counsel against discretionary denial, the district court will be considering the validity of the patents challenged in IPR2025-00757, IPR2025-00765, IPR2025-00769, IPR2025-00774, and IPR2025-00777, along with the validity of the patent challenged in IPR2025-00768, and referring IPR2025-00768 to the Board would be an inefficient use of Board resources and tips the balance to discretionary denial as to that patent too.

Although certain arguments are highlighted above, the determination to exercise discretion to deny institution is based on a holistic assessment of all of the evidence and arguments presented. Accordingly, the Petitions are denied under 35 U.S.C. § 314(a).

In consideration of the foregoing, it is:

ORDERED that Patent Owner’s request for discretionary denial is *granted*; and

FURTHER ORDERED that the Petitions are *denied*, and no trial is instituted.

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