

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

ACTIVISION BLIZZARD, INC.,
Petitioner,

v.

MILESTONE ENTERTAINMENT, LLC,
Patent Owner.

IPR2025-00708 (Patent 8,529,336 B2)
IPR2025-00711 (Patent 11,335,164 B2)
IPR2025-00712 (Patent 11,393,279 B2)
IPR2025-00713 (Patent 11,501,607 B2)

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

DECISION
Referring the Petitions 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>.

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Milestone Entertainment, LLC (“Patent Owner”) filed a request for discretionary denial (Paper 8, “DD Req.”) in the above-captioned cases, and Activision Blizzard, Inc. (“Petitioner”) filed an opposition (Paper 12, “DD Opp.”).²

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

In particular, the parallel district court proceeding involving Petitioner and Patent Owner has been stayed. DD Opp. 3–4. As a result, there is no immediate concern of inconsistent outcomes or duplication of efforts resulting from two proceedings operating in parallel.

In addition, with respect to IPR2025-00711, IPR2025-00712, and IPR2025-00713, the challenged patents have not been in force for a significant period of time (all issued in 2022). 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.

The patent challenged in IPR2025-00708 presents different circumstances. The challenged patent in IPR2025-00708 has been in force for almost twelve years, creating strong settled expectations for Patent Owner. Petitioner, however, presents evidence that the challenged claims omit limitations added during prosecution of the parent patent that appear to

² Citations are to papers in IPR2025-00708. The parties filed similar papers in IPR2025-00711, IPR2025-00712, and IPR2025-00713.

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have been the patent examiner's reason for allowing the parent patent's claims. *See* DD Opp. 13–15; Ex. 2003, 117, 147. Under these circumstances, it is an efficient use of Board resources to address the patent challenged in IPR2025-00708 as well.

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 Petitions are referred to the Board to handle these cases 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 Petitions are 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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