

Capital Reporting Company
Apple v. Smartflash, April 13, 2015

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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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3

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,

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Petitioner

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v.

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SMARTFLASH LLC,

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Patent Owner

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11

Cases¹

12

CBM2014-00102(Patent 8,118,221 B2)

13

CBM2014-00106(Patent 8,033,458 B2)

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CBM2014-00108(Patent 8,061,598 B2)

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CBM2014-00112(Patent 7,942,317 B2)

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Monday, April 13, 2015

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11:02 a.m.

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Reported by: Chaz Bennett, Capital Reporting Company

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¹ Case CBM2014-00103 has been consolidated with CBM2014-00102; case
CBM2014-00107 has been consolidated with CBM2014-00106; case
CBM2014-00109 has been consolidated with CBM2014-00108; case
CBM2014-00113 has been consolidated with CBM2014-00112.

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1 A P P E A R A N C E S

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3 ON BEHALF OF THE PETITIONER:

4 STEVEN J. BAUGHMAN, ESQUIRE

5 Ropes & Gary, LLP

6 700 12th Street, Northwest, #900

7 Washington, D.C. 20005

8 (202) 508-4600

9 steven.baughman@ropesgray.com

10

11 ON BEHALF OF THE PATENT OWNER:

12 MICHAEL CASEY, ESQUIRE

13 Davidson Berquist Jackson & Gowdey

14 8300 Greensboro Drive, Suite 500

15 McLean, Virginia 22102

16 (571) 765-7700

17 mcasey@dbjg.com

18

19

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1 P R O C E E D I N G S

2 THE COURT: With that, Mr. Baughman, could
3 you please take the floor?

4 MR. BAUGHMAN: Yes, your Honor. Thank you.

5 It's Steve Baughman for petitioners.

6 And, your Honor, our first request this
7 morning is that the page limits for our reply briefs
8 be increased to the new limits that the PTO director
9 announced as applicable immediately. That's 25 pages
10 per reply.

11 It's based on Director Lee's March 27th blog
12 announcement which, for the record, is
13 www.uspto.gov/blog.

14 That increase is then implemented in
15 numerous orders and pending trials. Just as some
16 examples, there's the LG Chem case, IPR2014-00692,
17 Paper 48 at 2. That was last week, April 6th. And
18 the board there said: "We exercised our discretion to
19 revise the page limit of petitioner's reply brief to
20 reflect this change in the rules."

21 Another example is the Ford versus Paice
22 case last Thursday, IPR2014-01415. That's Paper 11 at

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Capital Reporting Company
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1 2 to 3.

2 And there are numerous others.

3 The director, in her blog, announced that
4 this determination was appropriate for replies
5 generally and noted that commenters had said that 15
6 pages for a petitioner's reply brief is not a
7 commensurate number of pages to respond to a patent
8 owner's response.

9 And quoting from the blog: "We have heard
10 you and we agree."

11 And just to be clear, it's not the
12 petitioner's goal to use every last page necessarily
13 in each proceeding, but we do request the upper limit
14 that the director has stated is appropriate now for
15 all cases be applied to our reply briefs here.

16 THE COURT: Mr. Baughman, is there anything
17 specific in this case that warrants the increase to 25
18 pages?

19 MR. BAUGHMAN: Your Honor, we do have
20 consolidated cases here in pairs. But respectfully,
21 our position is that the -- that the announcement from
22 the director indicates that the increase is

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Capital Reporting Company
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1 appropriate for all replies.

2 And so a case-by-case showing, as would be
3 required, for example, for an individual motion to
4 expand page limits shouldn't be required based on
5 the -- the direction from the director.

6 THE COURT: Thank you.

7 Mr. Casey, would you like to respond?

8 MR. CASEY: Yes, your Honor.

9 In three of the four cases where the page
10 limits were extended to 25 pages, the replies would be
11 longer than the oppositions themselves, your Honor.
12 The last -- the last of the four cases in the
13 CBM2014-00102, the opposition is only 31 pages.

14 So I don't think that this is a -- is a
15 necessary step and, in fact, it encourages a briefing
16 that will be extended and will not meet the goals of
17 speedy, just, and efficient proceedings.

18 This is -- this is going to create just an
19 opportunity to create very long proceedings that are
20 not to the point and will be a drain on the court's
21 time and on the patent owner's time.

22 THE COURT: Mr. Casey, that was the patent

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