

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS AMERICA, INC. and  
SAMSUNG ELECTRONICS CO., LTD.,  
Petitioner,

v.

SMARTFLASH LLC,  
Patent Owner.

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Case  
CBM2014-00199  
U.S. Patent 8,118,221

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Before JENNIFER S. BISK, RAMA G. ELLURU,  
JEREMY M. PLENZLER, and MATTHEW R. CLEMENTS,  
*Administrative Patent Judges.*

ELLURU, *Administrative Patent Judge.*

DECISION  
Motion to Terminate  
*37 C.F.R. § 42.72*

CBM2014-00199  
U.S. Patent 8,118,221

Patent Owner Smartflash LLC moves to terminate the present Covered Business Method review (“CBM review”) of U.S. Patent No. 8,118,221 (“the ’221 patent”) as moot, upon authorization by the Board. Paper 45, 1; Paper 44, 3. The present CBM review is of claims 2 and 11 of the ’221 patent under 35 U.S.C. § 102. Paper 9, 13.

In a previous proceeding, CBM2014-00102, we issued a Final Written Decision determining claims 2 and 11, among other claims, of the ’221 are unpatentable under 35 U.S.C. § 103. CBM2014-00102, Paper 52, 43. Patent Owner appealed our Final Written Decision to the Court of Appeals for the Federal Circuit. The Federal Circuit, however, has since dismissed the appeal. Ex. 2117. Thus, contends Patent Owner, because “claims 2 and 11 of the ’221 patent have been finally adjudicated to be unpatentable,” “the issue of patentability of claims 2 and 11 [in the present CBM review] is moot.” Paper 45, 2.

We are persuaded that the particular facts of this proceeding now counsel termination. 37 C.F.R. § 42.72. Claims 2 and 11 of the ’221 patent have been finally cancelled and any decision we might reach in this CBM review regarding the patentability of these claims would be moot and purely advisory. We do not see how the just, speedy, and inexpensive resolution of every proceeding (37 C.F.R. § 42.1(b)) would be secured by rendering a Final Written Decision in this case.

#### ORDER

Accordingly it is

ORDERED that Patent Owner’s motion to terminate this proceeding is *granted*; and

FURTHER ORDERED that CBM2014-00199 is terminated.

CBM2014-00199  
U.S. Patent 8,118,221

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