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Paper 18, CBM2015-00028
Paper 18, CBM2015-00029
Paper 18, CBM2015-00031
Paper 18, CBM2015-00032
Paper 18, CBM2015-00033
Entered: July 1, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

SMARTFLASH LLC,
Patent Owner.

CBM2015-00028 (Patent 7,334,720 B2)
CBM2015-00029 (Patent 7,334,720 B2)
CBM2015-00031 (Patent 8,336,772 B2)
CBM2015-00032 (Patent 8,336,772 B2)
CBM2015-00033 (Patent 8,336,772 B2)¹

Before JENNIFER S. BISK, RAMA G. ELLURU, GREGG I.
ANDERSON, and MATTHEW R. CLEMENTS,
Administrative Patent Judges.

ELLURU, *Administrative Patent Judge.*

ORDER

¹ This order addresses issues that are the same in all identified cases. We exercise our discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in subsequent papers, except for the filing of the transcript of this teleconference.

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An initial teleconference was held in these cases on June 29, 2015, among respective counsel for Petitioner Apple Inc. (“Apple”), Patent Owner Smartflash LLC (“Smartflash”), and Judges Elluru, Bisk, Clements, and Anderson. A court reporter transcribed the teleconference at the request of Smartflash. Apple and Smartflash submitted lists of proposed motions. Papers 16 and 17.²

As noted, Apple already has authorization to file motions for *pro hac vice* admission. Paper 3. Apple further requested an expedited schedule in these trials to permit synchronization with Due Dates in the current schedule for CBM2015-00015, 16, 17, and 18. Given the number of patents and challenged claims in the trials at issue, we denied Apple’s request to expedite the schedules in the present cases.

Patent Owner requested authorization to file a motion for “routine discovery” under 37 C.F.R. § 42.51(b)(1)(iii) to “compel the production of Apple’s litigation filings and reports relating to non-infringement and non-infringing alternatives” that Smartflash contends should have been served by Apple concurrently with its corrected Petition. Paper 16, 2. We denied Smartflash’s request for authorization to file a motion for routine discovery for the same reasons we denied a similar request in CBM2015-00015, 16, 17, 18 (*see* CBM2015-00015, Paper 28) and CBM2014-00190, 192, 193, 194, and 199 (*see* CBM2014-00190, Paper 13). We further encouraged the

² Paper numbers refer to papers in CBM2015-00028, unless otherwise specified.

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parties to meet and confer to determine whether they could reach a stipulation as to the alleged non-infringing alternatives to resolve this issue.

Lastly, the parties agreed to take a single deposition of any declarant in all related cases such that a single deposition transcript can be used in all related proceedings, but filed separately in each proceeding. We are amenable to that agreement.

It is:

ORDERED that Smartflash shall file the transcript of the present teleconference in each of the cases identified above;

FURTHER ORDERED that Apple's request to expedite the schedules in these trials is denied;

FURTHER ORDERED that Smartflash is not authorized to file a motion to compel routine discovery; and

FURTHER ORDERED that the parties are authorized to take a single deposition of any declarant in all related cases such that a single deposition transcript can be used in all related proceedings, but filed separately in each proceeding.

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