

Trials@uspto.gov
Tel: 571-272-7822

CBM2015-00031, Paper 35
CBM2015-00032, Paper 35
CBM2015-00132, Paper 15
CBM2015-00133, Paper 10
Entered: December 16, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE INC.,
Petitioner,

v.

SMARTFLASH LLC,
Patent Owner.

Case CBM2015-00132
Patent 8,336,772 B2

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

ELLURU, *Administrative Patent Judge.*

ORDER

CBM2015-00132
Patent 8,336,772 B2

On December 1, 2015, we instituted review of claims 1, 5, 9, 10, 14, 21, and 22 in this proceeding. Paper 14, 11. We further ordered that Petitioner Google Inc.'s ("Petitioner Google") challenge to claims 1, 5, 9, and 10 based on 35 U.S.C. § 101 is consolidated with CBM2015-00031, and Google's challenge to claims 14, 21, and 22 based on § 101 is consolidated with CBM2015-00032. *Id.*

On December 14, 2015, via teleconference attended by counsel for Apple Inc. ("Petitioner Apple"), Petitioner Google, Samsung Electronics Ltd., Samsung Electronics America, Inc., and Patent Owner Smartflash LLC ("Smartflash")¹, Petitioner Google and Petitioner Apple requested that Petitioner Google's challenge to claims 9 and 21 in CBM2015-00132 be consolidated with CBM2015-00133, instead of with CBM2015-00031 and CBM2015-00032, respectively. Smartflash did not object to the request. We granted the request.

Therefore, we revise our institution decision in CBM2015-00132 as follows. Petitioner Google's challenge to claims 9 and 21 in CBM2015-00132 is no longer consolidated with CBM2015-00031 and CBM2015-00032, respectively. The consolidation of the remaining challenges in CBM2015-00132 with CBM2015-00031 and CBM2015-00032 remains unchanged. Petitioner's Google's challenge to claims 9 and 21 in CBM2015-00132 is consolidated with CBM2015-00133 ("consolidated proceeding").

¹ Smartflash shall file a copy of the transcript of the December 14, 2015, teleconference in CBM2015-00031, CBM2015-00032, CBM2015-00132, and CBM2015-00133.

CBM2015-00132
Patent 8,336,772 B2

The Scheduling Order in place for CBM2015-00133 shall govern the consolidated proceedings. Trial will proceed on the basis of the argument and evidence presented by Petitioner Apple in CBM2015-00133 without submission of additional evidence from Petitioner Google. Any additional evidence, papers, and briefing filed on behalf of Petitioner Apple and Petitioner Google in the consolidated proceedings shall be filed by Petitioner Apple, as a consolidated filing, unless we provide authorization otherwise, as noted below. Petitioner Google shall not file any separate papers or briefing in these consolidated proceedings without authorization from the Board. In addition, Petitioner Google shall not seek any additional discovery beyond that sought by Petitioner Apple. Petitioner Apple and Petitioner Google shall resolve any disputes between them concerning the conduct of the consolidated proceedings and shall contact the Board if any such matters cannot be resolved. No additional burdens shall be placed on Smartflash as a result of the consolidation.

ORDER

For the reasons given, it is:

ORDERED that the challenge to claims 9 and 21 in CBM2015-00132 is no longer consolidated with CBM2015-00031 and CBM2015-00032, respectively;

FURTHER ORDERED that the challenge to claims 9 and 21 in CBM2015-00132 is consolidated with CBM2015-00133;

FURTHER ORDERED that the ground(s) on which CBM2015-00133 was instituted remains unchanged, except to the extent that a challenge to claims 9 and 21 are consolidated with the proceeding, and no other grounds are instituted in the consolidated proceeding;

CBM2015-00132
Patent 8,336,772 B2

FURTHER ORDERED that the Scheduling Order in place for CBM2015-00133 shall govern the consolidated proceedings;

FURTHER ORDERED that the record in CBM2015-00133 will remain unchanged;

FURTHER ORDERED that, throughout the consolidated proceeding, any paper, except for a motion that does not involve the other party, shall be filed by Petitioner Apple, as a single, consolidated filing on behalf of Petitioner Apple and Petitioner Google, and Petitioner Apple will identify each such filing as a consolidated filing;

FURTHER ORDERED that except as otherwise agreed by counsel, Petitioner Apple will conduct cross-examination and other discovery on behalf of Petitioner Apple and Petitioner Google and that Patent Owner is not required to provide separate discovery responses or additional deposition time as a result of the consolidation;

FURTHER ORDERED that all further filings in the consolidated proceedings are to be made in CBM2015-00133;

FURTHER ORDERED that a copy of this Decision will be entered into the records of CBM2015-00031, CBM2015-00032, CBM2015-00132, and CBM2015-00133; and

FURTHER ORDERED that the case caption in CBM2015-00133 shall be changed to reflect consolidation with this proceeding in accordance with the attached example.

CBM2015-00132
Patent 8,336,772 B2

PETITIONER:

Raymond Nimrod
raynimrod@quinnemauel.com

Andrew Holmes
QE-SF-PTAB-Service@quinnemanuel.com

PATENT OWNER:

Michael R. Casey
Smartflash-cbm@dbjg.com

Wayne Helge
whelge@davidsonberquist.com

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