

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

GOOGLE INC.,  
Petitioner,

v.

SMARTFLASH LLC,  
Patent Owner.

---

Case CBM2015-00143  
Patent 8,794,516 B2

---

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

ANDERSON, *Administrative Patent Judge*.

ORDER  
Conduct of Proceedings  
37 C.F.R. § 42.5

## I. INTRODUCTION

On May 13, 2015, in CBM2015-00143, Google Inc. (“Petitioner”) filed: a Petition (Paper 1); a redacted Petition (Paper 2); and a Motion to Seal and for Entry of a Protective Order (“Motion” or “Mot.,” Paper 4). Smartflash LLC (“Patent Owner”) did not oppose the Motion. Petitioner filed the Motion pursuant to 37 C.F.R. §42.14, requesting the Board seal Exhibit 1016, filed under seal, and the unredacted Petition, also filed under seal. Mot. 1. Exhibit 1016 contains excerpts from the Patent Owner’s infringement contentions served in the underlying litigation. *Id.* According to Petitioner, Patent Owner contends that these infringement contentions contain its confidential analysis and has designated them confidential pursuant to the Protective Order entered in the district court litigation. *Id.* The unredacted Petition refers to Exhibit 1016. *Id.* We denied the petition in this proceeding (Paper 8), and did not act upon the Motion before denying the petition.

## II. DISCUSSION

Pursuant to 37 C.F.R. §42.14, documents filed under seal are sealed in the record pending decision on the motion to seal.

Upon denial of a petition, a party is authorized to file a motion to expunge confidential information from the record. *See* 37 C.F.R. § 42.56. Neither party has filed a motion to expunge.

We, however, have authority to “determine a proper course of conduct” in a proceeding under 37 C.F.R. § 42.5. Because we denied the petition in this proceeding, we determine that there is no need to now act upon the Motion and keep the sealed documents in the record. Accordingly,

CBM2015-00143  
Patent 8,794,516 B2

we determine the proper course of conduct is to expunge the unredacted  
Petition (Paper 1) and Exhibit 1016.

### III. ORDER

Accordingly, it is

ORDERED that the Motion is denied; and

FURTHER ORDERED that the unredacted Petition (Paper 1) and  
Exhibit 1016 are expunged.

CBM2015-00143  
Patent 8,794,516 B2

FOR PETITIONER:

Raymond N. Nimrod  
Andrew M. Holmes  
QUINN EMANUEL URQUHART & SULLIVAN, LLP  
[raynimrod@quinnemanuel.com](mailto:raynimrod@quinnemanuel.com)  
[QE-SF-PTAB-Service@quinnemanuel.com](mailto:QE-SF-PTAB-Service@quinnemanuel.com)

FOR PATENT OWNER:

Michael R. Casey  
Wayne M. Helge  
DAVIDSON BERQUIST JACKSON & GOWDEY, LLP  
[mcasey@dbjg.com](mailto:mcasey@dbjg.com)  
[whelge@davidsonberquist.com](mailto:whelge@davidsonberquist.com)  
[Smartflash-CBM@dbjg.com](mailto:Smartflash-CBM@dbjg.com)