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Paper 25
Entered: April 26, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE INC.,
Petitioner,

v.

SMARTFLASH LLC,
Patent Owner.

CBM2015-00129
Patent 7,942,317 B2

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

On November 23, 2015, we instituted a transitional covered business method patent review (Paper 8, "Institution Decision" or "Inst. Dec.") based upon Petitioner Google Inc.'s ("Google") assertion that claims 7 and 12 ("the challenged claims") of U.S. Patent No. 7,942,317 ("the '317 patent") are directed to patent ineligible subject matter under 35 U.S.C. § 101. Inst. Dec. 22.

On April 15, 2016, Patent Owner Smartflash LLC ("Smartflash") filed an authorized motion to terminate this proceeding as moot. Paper 22, 1. Google does not oppose the motion to terminate. Paper 23.

As Smartflash's motion relates, by Final Written Decision in CBM2014-00112, we determined that claims 7 and 12, among other claims, of the '317 patent are unpatentable under 35 U.S.C. § 103. *Apple Inc. v. Smartflash LLC*, Case CBM2014-00112, Paper 48 at 29 (PTAB September 25, 2015). Smartflash states that "[o]n March 4, 2016, pursuant to Fed. R. App. P. 42(b), the United States Court of Appeals for the Federal Circuit dismissed Smartflash LLC's appeal of the Board's decision in CBM2014-00112 that claims 7 and 12 of the '317 Patent are unpatentable." Paper 22, 1; *see* Exhibit 2117.

We are persuaded that the particular facts of this proceeding now counsel termination. 37 C.F.R. § 42.72. Claims 7 and 12 of the '317 patent have been finally cancelled and any decision we might reach in this proceeding 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 Smartflash's motion to terminate this proceeding is *granted*; and

FURTHER ORDERED that CBM2015-00129 is terminated.

CBM2015-00129
Patent 7,942,317 B2

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