

**U.S. District Court  
District of Columbia (Washington, DC)  
CIVIL DOCKET FOR CASE #: 1:23-cv-03237-BAH**

SMARTFLASH, LLC v. U.S. PATENT AND TRADEMARK  
OFFICE

Assigned to: Judge Beryl A. Howell

Related Case: [1:22-cv-01123-BAH](#)

Cause: 05:552 Freedom of Information Act

**Plaintiff**

**SMARTFLASH, LLC**

Date Filed: 10/30/2023

Jury Demand: None

Nature of Suit: 895 Freedom of  
Information Act

Jurisdiction: U.S. Government Defendant

represented by **Michael Raymond Casey**  
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V.

**Defendant**

**U.S. PATENT AND TRADEMARK  
OFFICE**

represented by **Patricia K. McBride**  
U.S. ATTORNEY'S OFFICE FOR THE  
DISTRICT OF COLUMBIA  
555 Fourth Street, NW  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
10/30/2023	<u>1</u>	COMPLAINT against U.S. PATENT AND TRADEMARK OFFICE ( Filing fee \$ 402 receipt number ADCDC-10456192) filed by SMARTFLASH, LLC. (Attachments: # <u>1</u> Exhibit Civil Cover Sheet, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Exhibit 10, # <u>12</u> Exhibit 11, # <u>13</u> Exhibit 12, # <u>14</u> Exhibit 13, # <u>15</u> Exhibit 14, # <u>16</u> Exhibit Summons, # <u>17</u> Exhibit Summons, # <u>18</u> Exhibit Summons)(Pandit, Siddhesh) (Attachment 1 replaced on 10/30/2023) (zljn). (Entered: 10/30/2023)
10/30/2023	<u>2</u>	NOTICE OF RELATED CASE by SMARTFLASH, LLC. Case related to Case No. 22-01123. (Pandit, Siddhesh) (Main Document 2 replaced on 10/30/2023) (zljn). (Entered: 10/30/2023)
10/30/2023	<u>3</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by SMARTFLASH, LLC (Pandit, Siddhesh) (Main Document 3 replaced on 10/30/2023) (zljn). (Entered: 10/30/2023)

10/30/2023	<u>4</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Michael R. Casey, Filing fee \$ 100, receipt number ADCDC–10456324. Fee Status: Fee Paid. by SMARTFLASH, LLC. (Attachments: # <u>1</u> Declaration In Support Of Motion for Admission, Pro Hac Vice)(Pandit, Siddhesh) (Entered: 10/30/2023)
10/30/2023		NOTICE OF ERROR re <u>1</u> Complaint; emailed to svp@maierandmaier.com, cc'd 0 associated attorneys -- The PDF file you docketed contained errors: 1. Noncompliance with LCvR 5.1(c). Please file an errata correcting the initiating pleading to include the name & full residence address of each party using the event Errata., 2. <b>COMPLIANCE DEADLINE is by close of business today. This case will not proceed any further until all errors are satisfied.</b> (zljn, ) (Entered: 10/30/2023)
10/30/2023	<u>5</u>	ERRATA <i>Regarding Complaint</i> by SMARTFLASH, LLC. (Attachments: # <u>1</u> Exhibit 1)(Pandit, Siddhesh) (Entered: 10/30/2023)
10/30/2023		Case Assigned to Judge Beryl A. Howell. (zljn) (Entered: 10/30/2023)
10/30/2023	<u>6</u>	SUMMONS (3) Issued Electronically as to U.S. PATENT AND TRADEMARK OFFICE, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(zljn) (Entered: 10/30/2023)
10/30/2023		NOTICE OF ERROR regarding <u>4</u> MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Michael R. Casey, Filing fee \$ 100, receipt number ADCDC–10456324. Fee Status: Fee Paid.. The following error(s) need correction: Pro Hac Vice motion must be accompanied by a Certificate of Good Standing issued within the last 30 days (LCvR 83.2(c)(2)). Please file certificate as an Errata (mg) (Entered: 11/01/2023)
10/31/2023	<u>7</u>	STANDING ORDER. Signed by Judge Beryl A. Howell on October 31, 2023. (lcbah4) (Entered: 10/31/2023)
11/03/2023	<u>8</u>	ERRATA <i>Regarding Motion for Pro Hac Vice 4</i> by SMARTFLASH, LLC. (Attachments: # <u>1</u> Exhibit 1)(Pandit, Siddhesh) Modified on 11/6/2023 to add link (mg). (Entered: 11/03/2023)
11/28/2023		MINUTE ORDER (paperless) GRANTING <u>4</u> Motion for Leave to Appear <i>Pro Hac Vice</i> . Michael R. Casey may enter an appearance <i>pro hac vice</i> for the purpose of representing plaintiff Smartflash, LLC in this action. <b>Counsel should register for e-filing via PACER and file a notice of appearance pursuant to LCvR 83.6(a) Click for instructions.</b> Signed by Judge Beryl A. Howell on November 28, 2023. (lcbah4) (Entered: 11/28/2023)
11/30/2023	<u>9</u>	NOTICE of Appearance by Patricia K. McBride on behalf of U.S. PATENT AND TRADEMARK OFFICE (McBride, Patricia) (Entered: 11/30/2023)
12/01/2023	<u>10</u>	NOTICE of Appearance by Michael Raymond Casey on behalf of SMARTFLASH, LLC (Casey, Michael) (Entered: 12/01/2023)
12/01/2023	<u>11</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. PATENT AND TRADEMARK OFFICE served on 11/9/2023 (Casey, Michael) Modified docket text on 12/6/2023 (mg). (Entered: 12/01/2023)
12/01/2023	<u>12</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 11/09/2023. (Casey, Michael) (Entered: 12/01/2023)
12/01/2023	<u>13</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 11/8/2023. Answer due for ALL FEDERAL DEFENDANTS by 12/8/2023. (Casey, Michael) (Entered: 12/01/2023)
12/06/2023	<u>14</u>	MOTION for Extension of Time to File Answer by U.S. PATENT AND TRADEMARK OFFICE. (McBride, Patricia) (Entered: 12/06/2023)
12/06/2023	<u>15</u>	ERRATA <i>CORRECTING MTE</i> by U.S. PATENT AND TRADEMARK OFFICE re <u>14</u> Motion for Extension of Time to File Answer. (McBride, Patricia) (Entered: 12/06/2023)

12/07/2023		MINUTE ORDER (paperless) GRANTING defendant U.S. Patent & Trademark Office's <u>14</u> Motion for Extension of Time to Respond, and DIRECTING defendant U.S. Patent & Trademark Office to answer or otherwise respond to plaintiff's <u>1</u> Complaint by January 12, 2024. Signed by Judge Beryl A. Howell on December 7, 2023. (lcbah4) (Entered: 12/07/2023)
12/08/2023		Set/Reset Deadlines: U.S. Patent & Trademark Office To Answer Or Otherwise Response To Plaintiff's <u>1</u> Complaint due by 1/12/2024. (mac) (Entered: 12/08/2023)
01/11/2024	<u>16</u>	ANSWER to Complaint by U.S. PATENT AND TRADEMARK OFFICE.(McBride, Patricia) (Entered: 01/11/2024)
01/25/2024	<u>17</u>	ENTERED IN ERROR.....Joint STATUS REPORT by U.S. PATENT AND TRADEMARK OFFICE. (McBride, Patricia) Modified on 1/26/2024 (mg). (Entered: 01/25/2024)
01/26/2024		NOTICE OF ERROR regarding <u>17</u> Status Report. The following error(s) need correction: Document incomplete/illegible. Please refile with attorney's signature. (mg) (Entered: 01/26/2024)
01/26/2024	<u>18</u>	Joint STATUS REPORT by U.S. PATENT AND TRADEMARK OFFICE. (McBride, Patricia) (Entered: 01/26/2024)
01/30/2024		MINUTE ORDER (paperless) ISSUING, upon consideration of the parties' <u>18</u> Joint Status Report, the following SCHEDULING ORDER:  (1) By March 29, 2024, defendant shall file any motion for summary judgment;  (2) By April 26, 2024, plaintiff shall file any opposition and cross-motion for summary judgment;  (3) By May 17, 2024, defendant shall file any reply and opposition to plaintiffs cross-motion; and  (4) By June 7, 2024, plaintiff shall file any reply in support of the cross-motion.  Signed by Judge Beryl A. Howell on January 30, 2024. (lcbah4) (Entered: 01/30/2024)
01/31/2024		Set/Reset Deadlines: Defendant Motion For Summary Judgment due by 3/29/2024. Plaintiff Opposition And Cross Motion For Summary Judgment due by 4/26/2024. Defendant Reply And Opposition To Plaintiffs Cross Motion due by 5/17/2024. Plaintiff's Reply In Support Of The Cross Motion due by 6/7/2024. (mac) (Entered: 01/31/2024)
03/26/2024	<u>19</u>	MOTION for Extension of Time to File by U.S. PATENT AND TRADEMARK OFFICE. (McBride, Patricia) (Entered: 03/26/2024)
03/27/2024	<u>20</u>	RESPONSE re <u>19</u> MOTION for Extension of Time to File ( <i>Noting Non-Opposition</i> ) filed by SMARTFLASH, LLC. (Casey, Michael) (Entered: 03/27/2024)
03/28/2024	<u>21</u>	ERRATA <i>CORRECTING DATE AND POSITION OF PLAINTIFF</i> by U.S. PATENT AND TRADEMARK OFFICE re <u>19</u> Motion for Extension of Time to File. (McBride, Patricia) (Entered: 03/28/2024)
03/28/2024		MINUTE ORDER (paperless) GRANTING defendant's <u>21</u> Unopposed Motion for Extension of Time, and MODIFYING the SCHEDULING ORDER issued on January 30, 2024, as follows:  (1) By April 19, 2024, defendant shall file any motion for summary judgment;  (2) By May 20, 2024, plaintiff shall file any opposition and cross-motion for summary judgment;  (3) By June 7, 2024, defendant shall file any reply and opposition to plaintiffs cross-motion; and  (4) By July 8, 2024, plaintiff shall file any reply in support of the cross-motion.

		Signed by Judge Beryl A. Howell on March 28, 2024. (lcbah4) (Entered: 03/28/2024)
03/29/2024		Set/Reset Deadlines: Defendant Motion For Summary Judgment due by 4/19/2024. Plaintiff Opposition And Cross Motion For Summary Judgment due by 5/20/2024. Defendant Reply And Opposition To Plaintiff's Cross-Motion due by 6/7/2024. Plaintiff Reply In Support Of The Cross Motion due by 7/8/2024. (mac) (Entered: 03/29/2024)
04/16/2024	<u>22</u>	MOTION for Extension of Time to File by U.S. PATENT AND TRADEMARK OFFICE. (McBride, Patricia) (Entered: 04/16/2024)
04/17/2024	<u>23</u>	ERRATA <i>CORRECTION TO CONSENT MTE</i> by U.S. PATENT AND TRADEMARK OFFICE re <u>22</u> Motion for Extension of Time to File. (McBride, Patricia) (Entered: 04/17/2024)
04/18/2024		MINUTE ORDER (paperless) GRANTING defendant's unopposed <u>22</u> <u>23</u> Motion for Extension of Time, and MODIFYING the SCHEDULING ORDER issued on January 30, 2024, as amended on March 28, 2024, as follows:  (1) By May 3, 2024, defendant shall file any motion for summary judgment;  (2) By June 3, 2024, plaintiff shall file any opposition and cross-motion for summary judgment;  (3) By June 24, 2024, defendant shall file any reply and opposition to plaintiff's cross-motion; and  (4) By July 25, 2024, plaintiff shall file any reply in support of the cross-motion.  Signed by Judge Beryl A. Howell on April 18, 2024. (lcbah4) (Entered: 04/18/2024)
04/22/2024		Set/Reset Deadlines: Defendant Motion For Summary Judgment due by 5/3/2024. Plaintiff Opposition And Cross-Motion For Summary Judgment due by 6/3/2024. Defendant Reply And Opposition To Plaintiff's Cross-Motion due by 6/24/2024. Plaintiff Reply In Support Of The Cross-Motion due by 7/25/2024. (mac) (Entered: 04/22/2024)
05/03/2024	<u>24</u>	MOTION for Summary Judgment by U.S. PATENT AND TRADEMARK OFFICE. (Attachments: # <u>1</u> Declaration, # <u>2</u> Declaration Vaughn Index, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 6)(McBride, Patricia) (Entered: 05/03/2024)
05/03/2024	<u>25</u>	LARGE ADDITIONAL ATTACHMENT(S) by U.S. PATENT AND TRADEMARK OFFICE <u>24</u> MOTION for Summary Judgment filed by U.S. PATENT AND TRADEMARK OFFICE. (Attachments: # <u>1</u> Exhibit 7, # <u>2</u> Exhibit 8, # <u>3</u> Exhibit 9, # <u>4</u> Exhibit 11, # <u>5</u> Exhibit 12, # <u>6</u> Exhibit 13, # <u>7</u> Exhibit 14, # <u>8</u> Exhibit 15)(McBride, Patricia) (Entered: 05/03/2024)
05/08/2024	<u>26</u>	NOTICE OF FILING EXHIBITS by U.S. PATENT AND TRADEMARK OFFICE re <u>24</u> Motion for Summary Judgment (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 4, # <u>3</u> Exhibit 5, # <u>4</u> Exhibit 10)(McBride, Patricia) (Entered: 05/08/2024)
06/03/2024	<u>27</u>	Cross MOTION for Summary Judgment by SMARTFLASH, LLC. (Attachments: # <u>1</u> Memorandum in Support of Opposition and Cross-Motion, # <u>2</u> Declaration of Michael R. Casey, # <u>3</u> Response to Defendant's Statement of Facts, # <u>4</u> Statement of Facts, # <u>5</u> Text of Proposed Order)(Casey, Michael) (Entered: 06/03/2024)
06/03/2024	<u>28</u>	Memorandum in opposition to re <u>24</u> Motion for Summary Judgment filed by SMARTFLASH, LLC. (Casey, Michael) (Entered: 06/03/2024)
06/20/2024	<u>29</u>	Consent MOTION for Extension of Time to File Response/Reply by U.S. PATENT AND TRADEMARK OFFICE. (McBride, Patricia) (Entered: 06/20/2024)
06/21/2024		MINUTE ORDER (paperless) GRANTING defendant's <u>29</u> Consent Motion for Extension of Time, and MODIFYING the SCHEDULING ORDER issued on January 30, 2024, as amended on March 28, 2024, and April 18, 2024, as follows:  (1) By July 8, 2024, defendant shall file any reply and opposition to plaintiff's cross-motion; and

		(2) By August 22, 2024, plaintiff shall file any reply in support of the cross-motion. Signed by Judge Beryl A. Howell on June 21, 2024. (lcbah4) (Entered: 06/21/2024)
06/24/2024		Set/Reset Deadlines: Defendant Reply And Opposition To Plaintiff's Cross-Motion due by 7/8/2024. Plaintiff Reply In Support Of The Cross-Motion due by 8/22/2024. (mac) (Entered: 06/24/2024)
07/08/2024	<u>30</u>	Memorandum in opposition to re <u>27</u> Cross MOTION for Summary Judgment filed by U.S. PATENT AND TRADEMARK OFFICE. (Attachments: # <u>1</u> Declaration Supplemental Declaration, # <u>2</u> Exhibit Exhibit to Declaration)(McBride, Patricia) Modified event on 7/9/2024 (mg). (Entered: 07/08/2024)
07/08/2024	31	REPLY to opposition to motion re <u>24</u> MOTION for Summary Judgment filed by U.S. PATENT AND TRADEMARK OFFICE. (See docket entry <u>30</u> to view document). (mg) (Entered: 07/09/2024)
08/22/2024	<u>32</u>	REPLY to opposition to motion re <u>27</u> Cross MOTION for Summary Judgment filed by SMARTFLASH, LLC. (Casey, Michael) (Entered: 08/22/2024)