

Filed on behalf of:

**Patent Owner SightSound Technologies, LLC**

**Paper No.** \_\_\_\_\_

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,

*Petitioner,*

v.

SIGHTSOUND TECHNOLOGIES, LLC,

*Patent Owner.*

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Case CBM2013-00020  
Patent 5,191,573

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**DECLARATION OF DAVID R. MARSH IN SUPPORT OF PATENT  
OWNER SIGHTSOUND TECHNOLOGIES, LLC'S RESPONSE PETITION**

Mail Stop PATENT BOARD  
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U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

I, David R. Marsh, hereby declare as follows:

1. I am a member of the Bar of the United States Patent and Trademark Office and a partner with the law firm of Arnold & Porter LLP, attorneys for Patent Owner SightSound Technologies, LLC. I make this declaration in support of Patent Owner's Response to Apple Inc.'s ("Petitioner") Petition for Covered Business Method Patent Review of United States Patent No. 5,191,573. I have personal knowledge of all facts set forth in this declaration.

2. Attached hereto as Exhibit 2124 is a true and correct copy of the full written transcript of the deposition of David M. Schwartz in the matter of *Apple Inc. v. SightSound Technologies, LLC*, dated December 9-10, 2013.

3. Attached hereto as Exhibit 2125 is a true and correct copy of the full written transcript of the deposition of David M. Schwartz in the matter of *SightSound.com Inc. v. N2K, Inc.*, dated February 1, 2001.

4. Attached hereto as Exhibit 2126 is a true and correct copy of the full written transcript of the deposition of John P. J. Kelly in the matter of *Apple Inc. v. SightSound Technologies, LLC*, dated December 4, 2013.

5. Attached hereto as Exhibit 2127 is a true and correct copy of Recording Industry Association of America Year-End Shipment Statistics for 2008, 2009, 2010, 2011, and 2012.

6. Attached hereto as Exhibit 2128 is a true and correct copy of the full written transcript of a 1987 lecture given at Stanford University by David M. Schwartz and John Stautner.

7. Attached hereto as Exhibit 2129 is a true and correct copy of an article entitled *A Management/Preservation Scorecard*, written by Bill Bolland, and published in the November 6, 1999 edition of Billboard Newspaper (available at <http://books.google.com/books?id=eggEAAAAMBAJ&pg=PA92>).

8. Attached hereto as Exhibit 2130 is a true and correct copy of excerpts of Petitioner's SEC Form 10-K for the fiscal year ending September 29, 2012 (obtained from <http://www.sec.gov/edgar.shtml>).

9. Attached hereto as Exhibit 2131 is a true and correct copy of a Press Release by Petitioner, dated January 9, 2001, detailing Petitioner's introduction of its iTunes software at the 2001 San Francisco MacWorld Expo (available at <http://www.apple.com/pr/library/2001/01/09Apple-Introduces-iTunes-Worlds-Best-and-Easiest-To-Use-Jukebox-Software.html>).

10. Attached hereto as Exhibit 2132 is a true and correct copy of excerpts of Petitioner's SEC Form 10-K405 for the fiscal year ending September 29, 2001 (obtained from <http://www.sec.gov/edgar.shtml>).

11. Attached hereto as Exhibit 2133 is a true and correct copy of a Press Release by Petitioner, dated July 17, 2002, detailing Petitioner's introduction of its iTunes 3 software at the 2002 New York MacWorld Expo (available at <http://www.apple.com/pr/library/2002/07/17Apple-Announces-iTunes-3.html>).

12. Attached hereto as Exhibit 2134 is a true and correct copy of a Press Release by Petitioner, dated October 23, 2001, detailing Petitioner's introduction of its iPod MP3 music player (available at <http://www.apple.com/pr/library/2001/10/23Apple-Presents-iPod.html>).

13. Attached hereto as Exhibit 2135 is a true and correct copy of a Press Release by Petitioner, dated March 21, 2002, detailing Petitioner's introduction of its second model of the iPod digital music player (available at <http://www.apple.com/pr/library/2002/03/20Apple-Introduces-10GB-iPod-2-000-Songs-in-Your-Pocket.html>).

14. Attached hereto as Exhibit 2136 is a true and correct copy of a Press Release by Petitioner, dated July 17, 2002, detailing Petitioner's introduction of its next generation iPod at the 2002 New York MacWorld Expo (available at <http://www.apple.com/pr/library/2002/07/17Apple-Unveils-New-iPods.html>).

15. Attached hereto as Exhibit 2137 is a true and correct copy of a Press Release by Petitioner, dated April 28, 2003, detailing Petitioner's launch of the iTunes Music Store (available at <http://www.apple.com/pr/library/2003/04/28Apple-Launches-the-iTunes-Music-Store.html>).

16. Attached hereto as Exhibit 2138 is a true and correct copy of a Press Release by Petitioner, dated October 16, 2003, detailing Petitioner's launch of its second generation of the iTunes Music Store, which was available for use by both Mac and Windows users (available at <http://www.apple.com/pr/library/2003/10/16Apple-Launches-iTunes-for-Windows.html>).

17. Attached hereto as Exhibit 2139 is a true and correct copy of a Press Release by Petitioner, dated February 25, 2010, detailing Petitioner's announcement that the iTunes Music Store had sold more than 10 billion songs (available at <http://www.apple.com/pr/library/2010/02/25iTunes-Store-Tops-10-Billion-Songs-Sold.html>).

18. Attached hereto as Exhibit 2140 is a true and correct copy of a Press Release by Petitioner, dated February 6, 2013, detailing Petitioner's announcement that the iTunes Music Store had sold more than 25 billion songs (available at

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