

Filed on behalf of:

Patent Owner SightSound Technologies, LLC

Paper No. _____

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,

Petitioner,

v.

SIGHTSOUND TECHNOLOGIES, LLC,

Patent Owner.

Case CBM2013-00023
Patent 5,966,440

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

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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. 5,966,440. I have personal knowledge of all facts set forth in this declaration.

2. Attached hereto as Exhibit 2324 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 2325 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 2326 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 2327 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 2328 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 2329 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 2330 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 2331 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 2332 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 2333 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 2334 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 2335 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 2336 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 2337 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 2338 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 2339 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 2340 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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