

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

APPLE INC.,

Petitioner,

v.

SMARTFLASH LLC,

Patent Owner.

---

Case CBM2014-00106<sup>1</sup>  
Patent 8,033,458 B2

**DECLARATION OF EMILY E. TOOHEY IN SUPPORT OF PATENT  
OWNER'S RESPONSE**

---

<sup>1</sup>Case CBM2014-00107 has been consolidated with the instant proceeding.

I, Emily E. Toohey, make the following Declaration pursuant to 28 U.S.C. § 1746:

1. I am a Litigation Paralegal at the law firm of Davidson Berquist Jackson & Gowdey, LLP.
2. I provide this Declaration in connection with the above-identified Covered Business Method Patent Review. Unless otherwise stated, the facts stated in this declaration are based on my personal knowledge.
3. Exhibit 2014 is a true and correct copy of a press release from Apple Inc. dated February 6, 2013 entitled iTunes Store Sets New Record with 25 Billion Songs Sold. I downloaded a copy of the press release from Apple's website. An exhibit label on the first page has been added to the bottom of the press release but no other alterations have been made.
4. Exhibit 2015 is a true and correct copy of a press release from Apple Inc. dated January 7, 2014 entitled App Store Sales Top \$10 Billion in 2013. I downloaded a copy of the press release from Apple's website. An exhibit label on the first page has been added to the bottom of the press release but no other alterations have been made.
5. Exhibit 2016 is a true and correct copy of a press release from Apple Inc. dated January 7, 2013 entitled App Store Tops 40 Billion Downloads with Almost Half in 2012. I downloaded a copy of the press release from Apple's

website. An exhibit label on the first page has been added to the bottom of the press release but no other alterations have been made.

6. Exhibit 2017 is a true and correct copy of a press release from Apple Inc. dated May 16, 2013 entitled Apple's App Store Marks Historic 50 Billionth Download. I downloaded a copy of the press release from Apple's website. An exhibit label on the first page has been added to the bottom of the press release but no other alterations have been made.

7. Exhibit 2018 is a true and correct copy of a press release from Apple Inc. dated September 22, 2014 entitled First Weekend iPhone Sales Top 10 Million, Set New Record. I downloaded a copy of the press release from Apple's website. An exhibit label on the first page has been added to the bottom of the press release but no other alterations have been made.

8. Exhibit 2026 is a true and accurate copy of a document entitled "In-App Purchase Programming Guide", dated October 22, 2013, that I downloaded from Apple's website at <https://developer.apple.com/library/ios/documentation/NetworkingInternet/Conceptual/StoreKitGuide/StoreKitGuide.pdf>. An exhibit label on the first page has been added to the bottom of the document but no other alterations have been made.

9. Exhibit 2027 is a true and accurate copy of a document entitled

“Receipt Validation Programming Guide”, dated November 18, 2014, that I downloaded from Apple’s website at <https://developer.apple.com/library/ios/releasenotes/General/ValidateAppStoreReceipt/ValidateAppStoreReceipt.pdf>. An exhibit label on the first page has been added to the bottom of the document but no other alterations have been made.

10. I make this declaration of my own personal knowledge. If called to testify as to the truth of the matters stated herein, I could and would testify competently.

11. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27<sup>th</sup> day of February, 2015, at Arlington, Virginia.

  
\_\_\_\_\_  
Emily E. Toohy