

RECORD OF ORAL HEARING  
UNITED STATES PATENT AND TRADEMARK OFFICE  
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.  
Petitioner

vs.

SMARTFLASH LLC  
Patent Owner

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Cases

CBM2014-00102 (Patent 8,118,221 B2)  
CBM2014-00106 (Patent 8,033,458 B2)  
CBM2014-00108 (Patent 8,061,598 B2)  
CBM2014-00112 (Patent 7,942,317 B2)

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Oral Hearing Held: June 9, 2015

Before: JENNIFER BISK, RAMA ELLURU, JEREMY PLENZLER  
(via video), and MATTHEW CLEMENTS (via video), *Administrative  
Patent Judges*

The above-entitled matter came on for hearing on Tuesday, June 9,  
2015 at the U.S. Patent and Trademark Office, 600 Dulany Street,  
Alexandria, Virginia in Courtroom B, at 9:00 a.m.

APPEARANCES:

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CBM2014-00102 (Patent 8,118,221 B2)  
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1 PROCEEDINGS

2 (9:00 a.m.)

3 JUDGE ELLURU: Good morning, everyone. We  
4 have this morning our final hearings in CBM2014-00102,  
5 CBM2014-00106, CBM2014-00108, and CBM2014-00112,  
6 Apple Inc. versus Smartflash, LLC.

7 I am Judge Elluru. And to my right is Judge Bisk.  
8 And remotely are Judges Clements and Plenzler. Let's get the  
9 parties' appearances, please. Please approach the microphone  
10 when speaking. Who do we have from Petitioner today?

11 MR. BAUGHMAN: Steve Baughman, Ching-Lee  
12 Fukuda, and Megan Raymond from Ropes & Gray. We also  
13 have a representative of Apple here with us this morning.

14 JUDGE ELLURU: Thank you. Good morning,  
15 counsel. How about Patent Owner?

16 MR. CASEY: Good morning, Your Honor, Michael  
17 Casey on behalf of Smartflash LLC. And I am joined today by  
18 the inventor, Patrick Racz, who is the chief technical officer  
19 of Smartflash LLC.

20 JUDGE ELLURU: Thank you. We set forth the  
21 procedure for today's hearing in our trial order, but to just  
22 remind everyone the way this will work, each party will have  
23 two hours of total time to present arguments for all four cases.

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1 Each party may allocate allotted time to each case as it  
2 chooses.

3 Please keep in mind that whatever is projected on  
4 the screen will not be available to Judges Plenzler and  
5 Clements. Thus, when you refer to an exhibit on the screen,  
6 please state the exhibit and page number or for  
7 demonstratives, the slide number, to which you are referring.

8 This is also important for the clarity of the  
9 transcript. At all times the parties must make clear which case  
10 they are discussing, so that we can have a clear transcript. So,  
11 for example, when a party transitions its arguments from one  
12 case to the next, please identify the case by the number.

13 Petitioner has the burden on the original claims  
14 and will go first and may reserve time for rebuttal on the  
15 original claims. Patent Owner will then have the opportunity  
16 to present its response to the original claims. I will use a  
17 clock on the wall to time you, and I will give you a warning  
18 when you are reaching the end of your argument.

19 Is that okay with everyone, starting with Mr.  
20 Baughman?

21 MR. BAUGHMAN: Yes, Your Honor, thank you.

22 JUDGE ELLURU: And Mr. Casey?

23 MR. CASEY: Yes, Your Honor.

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1                   JUDGE ELLURU: Okay. Mr. Baughman, you may  
2 begin when you are ready. Will you reserve any time for  
3 rebuttal?

4                   MR. BAUGHMAN: Yes, Your Honor, if it please  
5 the Board, if we can reserve one hour of our time for rebuttal.  
6 Thank you.

7                   Judges Clements and Plenzler, can you hear and  
8 see me?

9                   JUDGE PLENZLER: Yes.

10                  MR. BAUGHMAN: Thank you.

11                  May it please the Board, Petitioners provided our  
12 positions in evidence in our briefing in these trials, and we  
13 rely on that material to support our arguments, but to assist  
14 the Board in considering the record, we plan to address in our  
15 opening discussion two general topics, along with any  
16 questions the Board may have.

17                  A lot of these topics cross over across the four  
18 trials that they have instituted, but our demonstratives indicate  
19 which claims they pertain to. And I will try to indicate that as  
20 well on the record, Your Honor.

21                  JUDGE ELLURU: Thank you.

22                  MR. BAUGHMAN: So after some brief opening  
23 comments, I will first address the grab bag of arguments that  
24 Patent Owner has made to try to avoid the clear obviousness

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