

RECORD OF ORAL HEARING
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner

vs.

SMARTFLASH LLC
Patent Owner

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)

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.

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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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