

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

SMARTFLASH LLC,
Patent Owner.

Case CBM2014-00112¹
Patent 7,942,317 B2

PATENT OWNER'S NOTICE OF APPEAL

¹ Case CBM2014-00113 has been consolidated with the instant proceeding.

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a), that Patent Owner Smartflash LLC hereby appeals to the United States Court of Appeals for the Federal Circuit from the *Final Written Decision* entered on September 25, 2015 (Paper 48) and from all underlying orders, decisions, rulings and opinions regarding U.S. Patent No. 7,942,317 (the “’317 Patent”) including the *Decision - Institution of Covered Business Method Patent Review* entered on September 30, 2014 (Paper 7) and the *Order* denying Patent Owner’s request for authorization to file a motion for additional discovery entered on November 13, 2014 (Paper 13).

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner anticipates that the issues on appeal may include the following, as well as any underlying findings, determinations, rulings, decisions, opinions, or other related issues:

- Whether the Board erred in finding that claims 1, 6–8, 12, 13, 16, and 18 of the ’317 Patent are unpatentable under 35 U.S.C. § 103(a) as obvious over the combination of U.S. Patent No. 5,530,235 (“Stefik ’235”) and U.S. Patent No. 5,629,980 (“Stefik ’980”);
- Whether the Board erred in finding that claims 1, 6–8, 12, 13, 16, and 18 of the ’317 Patent are unpatentable under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,915,019 (“Ginter”);

- Whether the Board erred in denying Patent Owner’s Motion to Exclude (Paper 38);
- Whether the Board erred in finding that the subject matter of the ‘317 Patent is directed to activities that are financial in nature and in instituting Covered Business Method review of the ‘317 Patent; and
- Whether the Board erred in denying Patent Owner’s request for discovery.

Copies of this Notice of Appeal are being filed simultaneously with the Director, the Patent Trial and Appeal Board, and the Clerk of the United States Court of Appeals for the Federal Circuit.

Any required fee may be charged to Deposit Account No. 501860.

Dated: November 25, 2015

/ Michael R. Casey /

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that this PATENT OWNER'S NOTICE OF APPEAL was filed with the Patent Trial and Appeal Board using the PRPS System and was served, by agreement of the parties, November 25, 2015, by emailing copies to counsel for the Petitioner as follows:

J. Steven Baughman (steven.baughman@ropesgray.com)
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The undersigned hereby further certifies that on November 25, 2015 this PATENT OWNER'S NOTICE OF APPEAL (and its three attached decisions) were filed with the Federal Circuit via CM/ECF (along with three courtesy copies by hand delivery) and two (2) copies were served on the U.S. Patent and Trademark Office via in-hand delivery as follows:

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
Madison Building East, 10B20
600 Dulaney Street
Alexandria, VA 22314-5793

Dated: November 25, 2015

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Before JENNIFER S. BISK, RAMA G. ELLURU, JEREMY M. PLENZLER, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

ELLURU, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 328(a) and 37 C.F.R. § 42.73

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