

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

SMARTFLASH LLC,
Patent Owner.

Case CBM2015-00016

Patent 8,033,458 B2

PATENT OWNER'S NOTICE OF APPEAL

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 March 29, 2016 (Paper 56), *Decision Denying Request for Rehearing* entered June 9, 2016 (Paper 58) and from all underlying orders, decisions, rulings and opinions regarding U.S. Patent No. 8,033,458 (the “’458 Patent”) including the *Decision - Institution of Covered Business Method Patent Review* entered on April 10, 2015 (Paper 23).

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 6, 8 and 10 of the ’458 Patent are unpatentable under 35 U.S.C. § 101;
- Whether the Board erred in finding that claim 11 of the ’458 Patent is indefinite under 35 U.S.C. § 112;
- Whether the Board erred in denying Patent Owner’s Motion to Exclude (Paper 39); and
- Whether the Board erred in finding that the subject matter of the ’458 Patent is directed to activities that are financial in nature and in instituting Covered Business Method review of the ’458 Patent.

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: August 9, 2016

/ 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 E2E System and was served, by agreement of the parties, by emailing copies to counsel for the Petitioner as follows:

J. Steven Baughman (steven.baughman@ropesgray.com)
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ApplePTABService-SmartFlash@ropesgray.com

The undersigned hereby further certifies that on August 9, 2016 this PATENT OWNER'S NOTICE OF APPEAL (and its three attached decisions) were filed with the Federal Circuit via CM/ECF (along with one courtesy copy 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: August 9, 2016

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

PLENZLER, *Administrative Patent Judge.*

DECISION
Denying Patent Owner's Request for Rehearing
37 C.F.R. § 42.71

¹ Apple Inc. has been dismissed as Petitioner from this proceeding with respect to claim 1. Paper 50.

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