

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

SMARTFLASH LLC,
Patent Owner.

Case CBM2015-00017
Patent 8,061,598

**CORRECTED PETITION FOR COVERED BUSINESS METHOD
PATENT REVIEW OF UNITED STATES PATENT NO. 8,061,598
PURSUANT TO 35 U.S.C. § 321, 37 C.F.R. § 42.304¹**

¹ As directed by the Board in Paper 7, Petitioner hereby resubmits this Petition to address formality issues identified therein.

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EXHIBIT LIST	
1201	U.S. Patent No. 8,061,598
1202	Plaintiffs' First Amended Complaint
1203	U.S. Patent No. 5,925,127
1204	U.S. Patent No. 5,940,805
1205	Russell Housley and Jan Dolphin, "Metering: A Pre-pay Technique," Storage and Retrieval for Image and Video Databases V, Conference Volume 3022, 527 (January 15, 1997)
1206	U.S. Patent No. 4,999,806
1207	U.S. Patent No. 5,675,734
1208	U.S. Patent No. 4,878,245
1209	U.S. Patent No. 7,334,720
1210	U.S. Patent No. 7,942,317
1211	U.S. Patent No. 5,103,392
1212	U.S. Patent No. 5,530,235
1213	U.S. Patent No. 5,629,980
1214	U.S. Patent No. 5,915,019
1215	European Patent Application, Publication No. EP0809221A2
1216	International Publication No. WO 99/43136
1217	JP Patent Application Publication No. H11-164058 (translation)
1218	Eberhard von Faber, Robert Hammelrath, and Frank-Peter Heider, "The Secure Distribution of Digital Contents," IEEE (1997)
1219	Declaration of Anthony J. Wechselberger In Support of Apple Inc.'s Petition for Covered Business Method Patent Review

EXHIBIT LIST	
1220	U.S. Patent No. 8,033,458
1221	Declaration of Michael P. Duffey In Support of Apple Inc.'s Petition for Covered Business Method Patent Review
1222	Declaration of Megan F. Raymond In Support of Apple Inc.'s Petition for Covered Business Method Patent Review
1223	Claim Construction Memorandum Opinion from <i>Smartflash LLC v. Apple Inc.</i> , No. 6:13cv447 (Dkt. 229)
1224	File History for U.S. Patent No. 8,061,598
1225	U.S. Patent No. 4,337,483
1226	U.S. Patent No. 7,725,375
1227	International Publication No. WO 95/34857

I. INTRODUCTION

Pursuant to § 321 and Rule § 42.304,² the undersigned, on behalf of and acting in a representative capacity for Apple Inc. (“Petitioner”), petitions for review under the transitional program for covered business method (“CBM”) patents of claims 1, 2, 7, 15, and 31 of U.S. Pat. No. 8,061,598 (“the ’598 Patent” or “’598”), issued to Smartflash Technologies Limited and assigned to Smartflash LLC (“Patentee”). Petitioner asserts that it is more likely than not that the challenged claims are unpatentable, and respectfully requests review of, and judgment against the challenged claims as unpatentable under § 101, and claims 1, 2, 15, and 31 as unpatentable under § 103 as obvious. As discussed in Section III.B, *infra*, Petitioner previously filed CBM2014-00108 and CBM2014-00109 seeking CBM review of the ’598 Patent on §§ 102 and 103 grounds. Those petitions were instituted for trial (and consolidated) with respect to claim 26 on grounds based on § 103, but the Board did not institute trial on claims 1, 2, 7, 15, or 31. In its Institution Decision, the Board construed the term “use rule” as “a rule specifying a condition under which access to content is permitted,” *id.* Pap. 8, 7, and determined that Petitioner had not shown it was more likely than not that it would prevail in demonstrating that Stefik renders obvious “use rules” under the

² Petitioner is demonstrating, in pending litigation, that these claims are invalid for numerous additional reasons. All section cites herein are to 35 U.S.C. or 37 C.F.R., as the context indicates, and all emphasis herein is added unless otherwise noted.

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