

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC. and GOOGLE INC.,
Petitioners,

v.

SMARTFLASH LLC,
Patent Owner.

Case CBM2015-00028¹

Patent 7,334,720 B2

PATENT OWNER'S NOTICE OF APPEAL

¹ The challenge to claim 1 of U.S. Patent 7,334,720 B2 in CBM2015-00125 was consolidated with this proceeding. Paper 29, 9-11.

Notice is hereby given, pursuant to 37 C.F.R. § 90.2(a), that Patent Owner Smartflash LLC appeals under 35 U.S.C. § 141 to the United States Court of Appeals for the Federal Circuit from the *Final Written Decision* entered on May 26 2016 (Paper 44), the *Decision Denying Rehearing* entered on August 16, 2016 (Paper 48) and from all underlying orders, decisions, rulings and opinions regarding U.S. Patent No. 7,334,720 (“the ‘720 Patent”) including the *Decision - Institution of Covered Business Method Patent Review* entered on May 28, 2015 (Paper 11).

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 the subject matter of the ‘720 Patent is directed to activities that are financial in nature and in instituting Covered Business Method review of the ‘720 Patent;
- Whether the Board erred in finding that the claims of the ‘720 Patent are not directed to a “technological invention” as defined in § 18(d)(1) of the Leahy-Smith America Invents Act;

- Whether the Board's decisions with respect to the '720 Patent were arbitrary and capricious in light of its decisions on other computer implemented invention patents;
- Whether the Board erred in denying in part Patent Owner's Motion to Exclude (Paper 31);
- Whether the Board erred in finding that claims 1 and 2 of the '720 Patent are drawn to an abstract idea; and
- Whether the Board erred in finding that claims 1 and 2 of the '720 Patent are unpatentable under 35 U.S.C. § 101.

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 fees may be charged to Deposit Account No. 501860.

Dated: October 17, 2016

/ Michael R. Casey /

Michael R. Casey
Registration No. 40,294
Davidson Berquist Jackson & Gowdey, LLP
8300 Greensboro Drive
Suite 500
McLean, VA 22102
Telephone: (571) 765-7705
Fax: (571) 765-7200
Email: mcasey@dbjg.com
Attorney for Patent Owner

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)
Megan Raymond (megan.raymond@ropesgray.com)
James R. Batchelder (james.batchelder@ropesgray.com)
ApplePTABService-SmartFlash@ropesgray.com
Attorneys for Petitioner Apple Inc.

Raymond Nimrod (raynimrod@quinnemanuel.com)
QE-SF-PTAB-Service@quinnemanuel.com
Attorneys for Petitioner Google Inc.

The undersigned hereby further certifies that on October 17, 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: October 17, 2016

/ Michael R. Casey /

Michael R. Casey (Reg. No. 40,294)
Davidson Berquist Jackson & Gowdey, LLP
8300 Greensboro Drive, Suite 500
McLean, VA 22102
Telephone: (571) 765-7705
Fax: (571) 765-7200
Email: mcasey@dbjg.com
Attorney for Patent Owner