

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC., SAMSUNG ELECTRONICS CO. LTD, SAMSUNG  
ELECTRONICS AMERICA, INC., and GOOGLE INC.  
Petitioners,

v.

SMARTFLASH LLC,  
Patent Owner.

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Case CBM2015-00032

Patent 8,336,772 B2<sup>1</sup>

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**PATENT OWNER'S NOTICE OF APPEAL**

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<sup>1</sup> Samsung's challenge to claim 14 of U.S. Patent No. 8,366,772 B2 ("the '772 Patent") in CBM 2015-00059 was consolidated with this proceeding. Paper 24, 9. Google's challenge to claims 14 and 22 of the '772 patent in CBM2015-00132 was consolidated with this proceeding. Paper 31, 11; Paper 38, 2-3 (claim 21 was initially consolidated with this case but subsequently consolidated with another case).

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 46), the *Decision Denying Patent Owner's Request for Rehearing* entered on August 24, 2016 (Paper 50) and from all underlying orders, decisions, rulings and opinions regarding U.S. Patent No. 8,336,772 (“the ‘772 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 ‘772 Patent is directed to activities that are financial in nature and in instituting Covered Business Method review of the ‘772 Patent.
- Whether the Board erred in finding that the claims of the ‘772 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 '772 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 29);
- Whether the Board erred in finding that claims 14, 19 and 22 of the '772 Patent are drawn to an abstract idea; and
- Whether the Board erred in finding that claims 14, 19 and 22 of the '772 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 24, 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:

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The undersigned hereby further certifies that on October 24, 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 Dulany Street  
Alexandria, VA 22314-5793

Dated: October 24, 2016

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