

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

SMARTFLASH LLC,
Patent Owner.

Case CBM2015-00123
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 appeals to the United States Court of Appeals for the Federal Circuit from the *Final Written Decision* entered on November 7, 2016 (Paper 31), the *Decision Denying Rehearing* entered on January 27, 2017 (Paper 33) 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 November 10, 2015 (Paper 7).

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 2-5, 7, 9, and 12 of the ‘458 Patent are unpatentable under 35 U.S.C. § 101;
- Whether the Board erred in finding that claims 3-5 of the ‘458 patent are unpatentable as being indefinite under 35 U.S.C. § 112.
- Whether the Board erred in denying Patent Owner’s Motion to Exclude (Paper 24); 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 fees may be charged to Deposit Account No. 501860.

Dated March 27, 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 March 27, 2017 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: March 27, 2017

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