

# **EXHIBIT 1012**

**TO PETITIONER GOOGLE INC.'S  
PETITION FOR COVERED BUSINESS  
METHOD REVIEW OF  
U.S. PATENT NO. 7,334,720**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**SMARTFLASH LLC, *et al.*,**

**Plaintiffs,**

**v.**

**APPLE, INC., *et al.*,**

**Defendants.**

**Case No. 6:13-cv-00447-KNM**

**JURY TRIAL DEMANDED**

**SMARTFLASH LLC, *et al.*,**

**Plaintiffs,**

**v.**

**SAMSUNG ELECTRONICS CO.,  
LTD., *et al.*,**

**Defendants.**

**Case No. 6:13-CV-00448-KNM**

**JURY TRIAL DEMANDED**

**PLAINTIFFS SMARTFLASH LLC'S AND SMARTFLASH  
TECHNOLOGIES LIMITED'S OPENING CLAIM CONSTRUCTION BRIEF**

**TABLE OF CONTENTS**

I. Introduction.....1

II. Technology Background.....1

III. Applicable Law .....3

IV. Argument .....4

    A. “payment data”.....4

    B. “payment validation system” .....7

        1. Defendants’ proposal improperly excludes  
embodiments.....7

        2. Defendants’ proposal imports unnecessary  
functional requirements into the claims.....9

    C. “payment validation data”.....11

    D. “content data memory” “non-volatile data memory”  
“memory ... for storing data” “memory configured to store  
... content” “parameter memory” “use rule memory”.....12

    E. “data carrier” .....17

        1. A data carrier is not limited to a “removable smart  
card or integrated circuit (IC) card.”.....18

        2. A data carrier is not limited to a “having two or  
more separate non-volatile memories, for storing  
both payment data and content data.” .....20

        3. A data carrier is “for storing both payment data and  
content data.” .....20

        4. A data carrier is not required to “incorporate[e] a  
processor.” .....21

    F. “portable data carrier” .....22

    G. “use rule(s)” “use rule(s) data” “data use rule data” .....23

    H. “access rule(s)” .....24

        1. Use/access rules need not be “separately stored”  
from content.....24

2.	Defendants’ proposed “indicating permissible use...” and “specifying under what conditions...” limitations are unnecessary and potentially confusing.....	26
3.	Defendants’ reference to a “content data item” is confusing.....	26
I.	“use status data”.....	26
J.	“said code to control access permitting access to said second selected one or more items of retrieved multimedia content”.....	28
K.	“the card”.....	31
L.	Alleged Means Plus Function Terms.....	33
V.	Conclusion.....	35

..

**TABLE OF AUTHORITIES**

*Alloc, Inc. v. Int’l Trade Comm’n*,  
342 F.3d 1361 (Fed. Cir. 2003)..... 3

*Becton, Dickinson & Co. v. Tyco Healthcare Grp., LP*,  
616 F.3d 1249 (Fed. Cir. 2010)..... 5, 6, 14, 25

*Bose Corp. v. JBL, Inc.*,  
274 F.3d 1354 (Fed. Cir. 2001)..... 31

*C.R. Bard, Inc. v. U.S. Surgical Corp.*,  
388 F.3d 858 (Fed. Cir. 2004)..... 3

*Cannon Rubber Ltd. v. First Years, Inc.*,  
163 Fed. Appx. 870 (Fed. Cir. 2005)..... 6, 13

*Catalina Mktg. Int’l, Inc. v. Coolsavings.com, Inc.*,  
289 F.3d 801 (Fed. Cir. 2002)..... 11

*Cheetah Omni LLC v. Alcatel-Lucent Inc.*,  
939 F.Supp.2d 649 (E.D. Tex. Apr. 11, 2013)..... 29

*Comark Commc’ns, Inc. v. Harris Corp.*,  
156 F.3d 1182 (Fed. Cir. 1998)..... 3, 20

*Constant v. Advanced Micro–Devices, Inc.*,  
848 F.2d 1560 (Fed. Cir. 1988)..... 3

*Cordis Corp. v. Medtronic AVE, Inc.*,  
339 F.3d 1352 (Fed. Cir. 2003)..... 15

*Energizer Holdings, Inc. v. International Trade Com’n*,  
435 F.3d 1366 (Fed. Cir. 2006)..... 29, 31

*Epistar Corp. v. Int’l Trade Comm’n*,  
566 F.3d 1321 (Fed. Cir. 2009)..... 4

*Golight, Inc. v. Wal–Mart Stores, Inc.*,  
355 F.3d 1327 (Fed. Cir. 2004)..... 15

*In Spine Solutions, Inc. v. Medtronic Sofamor Danek USA, Inc.*,  
620 F.3d 1305 (Fed. Cir. 2010)..... 4

*Innova/Pure Water Inc. v. Safari Water Filtration Sys., Inc.*,  
381 F.3d 1111 (Fed. Cir. 2004)..... 3

...

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.