

# **EXHIBIT 1028**

**TO PETITIONER GOOGLE INC.'S UNOPPOSED  
MOTION FOR PRO HAC VICE ADMISSION  
OF KEVIN A. SMITH**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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**GOOGLE INC.**  
Petitioner,

v.

**SMARTFLASH LLC**  
Patent Owner.

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Case CBM2015-00126  
Patent No. 8,118,221 B2

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**DECLARATION OF KEVIN A. SMITH IN SUPPORT OF MOTION FOR *PRO*  
*HAC VICE* ADMISSION**

I, Kevin A. Smith, being duly sworn and under oath, state and declare as follows:

1. I am a member in good standing of the State Bar of California and of the State Bar of New York.
2. I have never been suspended or disbarred from practice by any court or administrative body.
3. I have never been denied an application for admission to practice before any court or administrative body.

4. I have never been sanctioned or had contempt citations imposed against me by any court or administrative body.
5. I have read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in part 42 of 37 C.F.R.
6. I will be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a).
7. I have not applied to appear *pro hac vice* before the Office in the last three (3) years.
8. I am an experienced litigation attorney and have been practicing law since 2006. My practice focuses on intellectual property litigation, and I have litigated patent infringement cases in district courts throughout the country. I have participated in all stages of district court proceedings in patent cases, including *Markman* hearings, trials, and other patent-related hearings and proceedings concerning patent validity and infringement issues.
9. I have experience and am familiar with U.S. Patent No. 8,118,221 ("the '221 patent"). I am counsel for Google Inc., Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., HTC Corporation, and HTC America, Inc. in currently stayed district court litigation where Smartflash asserts infringement of U.S. Patent Nos. 8,118,221; 7,334,720; 7,942,317; 8,033,458; 8,061,598; and 8,336,772, based in part on those defendants' use of Google Play. (*Smartflash LLC v. Google Inc.*,

E.D. Tex. No. 6:14-cv-435; *Smartflash LLC v. Samsung Elecs. Co., Ltd., et al.*,  
E.D. Tex. No. 6:13-cv-448.) As counsel in those district court proceedings, I have  
been involved in all aspects of the defense, including with respect to issues  
regarding the invalidity of the '221 patent.

I declare under penalty of perjury under the laws of the United States that  
the foregoing is true and correct. Executed on January 5, 2016, at San Francisco,  
California.

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*/Kevin A. Smith/*  
Kevin A. Smith