

EXHIBIT 1012

**TO PETITIONER GOOGLE INC.'S
PETITION FOR COVERED BUSINESS
METHOD REVIEW OF
U.S. PATENT NO. 7,942,317**

**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**

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TABLE OF AUTHORITIES

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Catalina Mktg. Int’l, Inc. v. Coolsavings.com, Inc.,
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Constant v. Advanced Micro–Devices, Inc.,
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Energizer Holdings, Inc. v. International Trade Com’n,
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Epistar Corp. v. Int’l Trade Comm’n,
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In Spine Solutions, Inc. v. Medtronic Sofamor Danek USA, Inc.,
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