Case: 16-1059 Document: 40 Page: 1 Filed: 03/21/2016

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

2016-1059

SMARTFLASH LLC, SMARTFLASH TECHNOLOGIES LIMITED,

Plaintiffs-Appellees,

v.

APPLE INC.,

Defendant-Appellant.

Appeal from the United States District Court for the Eastern District of Texas in Case No. 6:13-cv-00447-JRG, Judge J. Rodney Gilstrap

BRIEF FOR PLAINTIFFS-APPELLEES SMARTFLASH LLC AND SMARTFLASH TECHNOLOGIES LIMITED

Bradley W. Caldwell
Jason D. Cassady
John Austin Curry
Hamad M. Hamad
John F. Summers
CALDWELL CASSADY & CURRY
2101 Cedar Springs Road
Suite 1000
Dallas, Texas 75201
(214) 888-4848

Aaron M. Panner Nicholas O. Hunter Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C. 1615 M Street, N.W., Suite 400 Washington, D.C. 20036 (202) 326-7900

Counsel for Plaintiffs-Appellees Smartflash LLC and Smartflash Technologies Limited

March 21, 2016



Case: 16-1059 Document: 40 Page: 2 Filed: 03/21/2016

CERTIFICATE OF INTEREST

Counsel for Plaintiffs-Appellees Smartflash LLC and Smartflash Technologies Limited certifies the following:

- The full name of every party or *amicus* represented by me is:
 Smartflash LLC and Smartflash Technologies Limited.
- 2. The name of the real party in interest represented by me is:

 None.
- 3. All parent corporations and any publicly held companies that own 10% or more of the stock of the party or *amicus curiae* represented by me are:

Smartflash LLC is a wholly owned subsidiary of Smartflash Technologies Limited. The following entities own 10% or more of the shares of Smartflash Technologies Limited: Latitude Investments Limited, Celtic Trust Company Limited, and Eastbrook Business Inc.

4. The names of all law firms and the partners or associates that appeared for the party or *amicus* now represented by me in the trial court or agency or are expected to appear in this Court are:

Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C. – Aaron M. Panner, Nicholas O. Hunter.

Law Office of Aaron M. Panner, PLLC – Aaron M. Panner (no longer with firm).



Caldwell Cassady & Curry – Bradley W. Caldwell, Jason D. Cassady, John Austin Curry, Daniel R. Pearson, Hamad M. Hamad, Justin T. Nemunaitis, Christopher S. Stewart, John F. Summers, Jason S. McManis, Warren J. McCarthy, III.

Ward, Smith & Hill, PLLC (formerly Ward & Smith Law Firm) – T. John Ward, T. John Ward, Jr., Claire A. Henry.

March 21, 2016

/s/ Aaron M. Panner

Aaron M. Panner KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C. 1615 M Street, N.W., Suite 400 Washington, D.C. 20036 (202) 326-7900

Counsel for Plaintiffs-Appellees



TABLE OF CONTENTS

		I	Page			
CER	TIFICA	ATE OF INTEREST	i			
TAB	LE OF	AUTHORITIES	V			
STA	ГЕМЕ	NT OF RELATED CASES	xi			
COU	NTER	STATEMENT OF JURISDICTION	1			
COU	NTER	STATEMENT OF THE ISSUES	4			
COU	NTER	STATEMENT OF THE CASE	5			
	A.	The Invention	7			
	B.	Patent Eligibility, Claim Construction, and Indefiniteness Rulings	13			
	C.	Apple's Knowing Infringement	16			
SUMMARY OF ARGUMENT						
STANDARD OF REVIEW21						
ARGUMENT2						
I.	CLA	CLAIMS ARE PATENT ELIGIBLE BECAUSE THEY IM SPECIFIC DEVICES THAT SOLVE NOVEL BLEMS PRESENTED BY DIGITAL COMMERCE	22			
	A.	The Claims Are Not Directed to an Abstract Idea	22			
	В.	The Claims Contain Inventive Concepts and Are Not Limited to Generic Computer Implementation	28			
II.		ASSERTED CLAIMS DO NOT CONTAIN MEANS- S-FUNCTION LIMITATIONS	35			
	A.	The "Processor" Running "Code" Connotes Structure	36			



	B.	Apple's Assertion That a "Processor" Carrying Out Specific Functions Is Non-Structural Is Incorrect					
	C.	If Any Claim Is Governed by § 112(f), a New Trial Is Required					
III.	APPLE'S CHALLENGES TO THE DISTRICT COURT'S CLAIM CONSTRUCTIONS FAIL						
	A.	The District Court Correctly Rejected Apple's Effort To Import Negative Limitations into the Term "Payment Data"					
		1.	The Language of the Claims and the Specification Support the District Court's Construction	50			
		2.	Apple's Challenge Is Without Merit and Waived in Part	51			
	B.	Validation of Payment Data Does Not Necessarily Entail Payment Authorization					
		1.	Apple's Argument Is Waived	55			
		2.	Apple's Challenge Fails on the Merits	55			
	C.	A New Trial Would Be Required					
IV.	APPLE FAILS TO SHOW THAT THE DISTRICT COURT'S REFUSAL TO GIVE ITS INCOMPLETE <i>i4i</i> INSTRUCTION WAS EITHER ERRONEOUS OR PREJUDICIAL						
CON	CLUSI	ION		62			
CERT	ΓIFICA	ATE O	F SERVICE				
CERT	ΓIFICA	ATE O	F COMPLIANCE				



DOCKET

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.

