

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC. and GOOGLE, Inc.,
Petitioner,

v.

SMARTFLASH LLC,
Patent Owner.

Case CBM2015-00133¹
Patent 8,336,772 B2

PATENT OWNER'S NOTICE OF APPEAL

¹ Google's challenge to claims 9 and 21 based on 35 U.S.C. § 101 in CBM2015-00132 was consolidated with this proceeding. Paper 10.

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 10, 2016 (Paper 38), the *Decision Denying Rehearing* entered on January 27, 2017 (Paper 40) and from all underlying orders, decisions, rulings and opinions regarding U.S. Patent No. 8,336,772 (“the ‘772 Patent”) including the *Decision - Institution of Covered Business Method Patent Review* entered on November 16, 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 2-4, 6, 7, 9, 11-13, 15-18, 20, 21, 23, 24, 27-29, 31, and 33-36 of the ‘772 Patent are unpatentable under 35 U.S.C. § 101;
- Whether the Board erred in denying Patent Owner’s Motion to Exclude (Paper 29); and
- Whether the Board erred in finding that the subject matter of the ‘772 Patent is directed to activities that are financial in nature and in instituting Covered Business Method review of the ‘772 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 /

Michael R. Casey
Registration No. 40,294
Davidson Berquist Jackson & Gowdey, LLP
8300 Greensboro Drive
Suite 500
McLean, VA 22102
Telephone: (571) 765-7705
Fax: (571) 765-7200
Email: mcasey@dbjg.com
Attorney for Patent Owner

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:

Gabrielle E. Higgins (gabrielle.higgins@ropesgray.com)
James R. Batchelder (james.batchelder@ropesgray.com)
ApplePTABService-SmartFlash@ropesgray.com

QE-SF-PTAB-Service@quinnemanuel.com
Raymond Nimrod (raynimrod@quinnemanuel.com)
Kevin Smith (kevinsmith@quinnemanuel.com)
Attorneys for Petitioner Google, Inc.

The undersigned hereby further certifies that on March 27, 2017 this PATENT OWNER'S NOTICE OF APPEAL (and its five 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

/ Michael R. Casey /
Michael R. Casey
Registration No. 40,294
Davidson Berquist Jackson & Gowdey, LLP
8300 Greensboro Drive
Suite 500
McLean, VA 22102
Telephone: (571) 765-7705
Fax: (571) 765-7200
Email: mcasey@dbjg.com
Attorney for Patent Owner