

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

APPLE, INC., ET AL.  
Petitioner

v.

AMERANTH, INC.  
Patent Owner

---

Case CBM2014-00013  
Patent No. 6,982,733

---

MAIL STOP PATENT BOARD  
Patent Trial and Appeal Board  
United States Patent and Trademark Office  
Post Office Box 1450  
Alexandria, Virginia 22313-1450

*Submitted Electronically via the Patent Review Processing System*

**PATENT OWNER AMERANTH'S RESPONSE**

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
I. INTRODUCTION.....	1
II. BACKGROUND.....	13
A. Claims 1-16 Of The ‘733 Patent Are Directed To A New And Useful Solution To A Previously Unrecognized Problem.....	14
1. The Practical And Technological Nature Of The ‘733 Patent.....	14
2. Many In The Relevant Industry Have Found Ameranth’s Claimed Inventions To Be Novel and Innovative.....	19
3. The Petition Fails To Provide Any Credible Basis For Its Contention That The Claims Are Not Novel And Unobvious Over The Prior Art .....	22
III. CLAIM CONSTRUCTION .....	30
A. The Petition Mischaracterized The Actual Claims And The Board Erroneously Adopted Petitioner’s Characterizations.....	31
B. Proposed Constructions .....	34
IV. CLAIMS 1-16 ARE CLEARLY PATENT ELIGIBLE UNDER 35 U.S.C. §101 .....	44
A. Controlling Authority Of The Supreme Court Confers Patent Eligibility On Computer Applications Directed To New And Useful Results.....	44
B. Neither Petitioner Nor The Board Has Established That Claims 1-16 Of The ‘733 Patent Are Ineligible Under 35 U.S.C. §101 .....	45
1. The Petition Mischaracterized, And The Board Misunderstood, The Actual Claimed Subject Matter And Failed To Consider The Claims As A Whole .....	49
2. The Petition And The Board’s Decision Failed To Consider The Novelty And Usefulness Of The Claimed Invention As Required By <i>Alice v. CLS</i> .....	57

- 3. The Board’s “Computer Languages” And “Common Programming” Based Conclusions Were Incorrect..... 60
- 4. The ‘733 Patent Claims Fall Squarely Within The Bounds Of Patent Eligible Subject Matter..... 69
- V. CONCLUSION ..... 80

**TABLE OF AUTHORITIES****Page****Cases**

<i>Alice Corp. v. CLS Bank Int'l</i> No. 13-298, Slip op. 6 (U.S. June 19, 2014).....	<i>Passim</i>
<i>Ameranth v. Menusoft et al.</i> No. 2:07-cv-271 (E.D. Texas) .....	5, 36
<i>Apple v. SightSound</i> CBM2013-00019, Paper No. 17 .....	30, 71
<i>Bilski v. Kappos</i> 130 S. Ct. 3218 (2010).....	44, 46, 51, 73, 79
<i>Catalina Mktg., Int'l v. Coolsavings.com</i> 289 F.3d 801 (Fed. Cir. 2002) .....	8, 36
<i>CLS Bank Intl v. Alice Corp. Pty. Ltd.</i> 717 F.3d 1269 (Fed. Cir. 2013) .....	44
<i>Continental Can Co. USA, Inc. v. Monsanto Co.</i> 948 F.2d 1264 (Fed. Cir. 1991) .....	4, 19
<i>Diamond v. Diehr</i> 450 U.S. 175 (1981) .....	51, 62, 64, 73
<i>Fonar Corp. v. General Elec. Co.</i> 107 F.3d 1543 (Fed. Cir. 1997) .....	52
<i>Gottschalk v. Benson</i> 409 U.S. 63 (1972) .....	59, 79
<i>Heidelberger Druckmaschinen AG v. Hantscho Prods.</i> 21 F.3d 1068 (Fed. Cir. 1994).....	5
<i>In re Alappat</i> 33 F.3d 1526 (Fed. Cir. 1994).....	10, 72

<i>In re Bilski</i> 545 F.3d 943 (Fed. Cir. 2008) .....	79
<i>In re Skvorecz</i> 580 F.3d 1262 (Fed. Cir. 2009) .....	30
<i>Inter-connect Planning Corp. v. Feil</i> 774 F.2d 1132 (Fed. Cir. 1985) .....	4
<i>Mayo Coll. Svcs. v. Prometheus Labs., Inc.</i> 132 S. Ct. 1289 (2012).....	3, 4, 7, 32, 44, 45
<i>Medical Inst. &amp; Diag. Corp. v. Elekta AB</i> 344 F.3d 1205 (Fed. Cir. 2003) .....	52
<i>Pitney Bowes, Inc. v. Hewlett-Packard Co.</i> 182 F.3d 1298 (Fed. Cir. 1999) .....	36
<i>Poly-America, LP v. GSE Lining Tech., Inc.</i> 383 F.3d 1303 (Fed. Cir. 2004) .....	8
<i>Research Corp. Tech., Inc. v. Microsoft Corp.</i> 627 F.3d 859 (Fed. Cir. 2010) .....	51
<i>Rotatable Technologies LLC v. Motorola Mobility LLC et al.</i> No. 2014-1042 (Fed. Cir. June 27, 2014).....	8, 36
<i>SAP, Inc. v. Pi-Net Intl. Inc.</i> CBM2013-00013, Paper No. 15 .....	78
<i>S3 Inc. v. nVIDIA Corp.</i> 259 F.3d 1364 (Fed. Cir. 2001) .....	53
<i>SiRF Tech., Inc. v. ITC</i> 601 F.3d 1319 (Fed. Cir. 2010) .....	74
<i>State St. Bank &amp; Trust Co. v. Signature Fin. Group</i> 149 F.3d 1368 (Fed. Cir. 1998) .....	6, 49
<i>Ultramercial, LLC v. Hulu, LLC</i> 722 F.3d 1335 (Fed. Cir. 2013) .....	10, 71, 72, 75, 77, 78

# 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.