

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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APPLE INC., EVENTBRITE INC., STARWOOD HOTELS & RESORTS  
WORLDWIDE, INC., EXPEDIA, INC., FANDANGO, LLC,  
HOTELS.COM, L.P., HOTEL TONIGHT, INC., HOTWIRE, INC.,  
KAYAK SOFTWARE CORP., OPENTABLE, INC., ORBITZ, LLC, PAPA  
JOHN'S USA, INC., STUBHUB, INC., TICKETMASTER, LLC, LIVE  
NATION ENTERTAINMENT, INC., TRAVELOCITY.COM LP,  
WANDERSPOT LLC, AGILYSYS, INC., DOMINO'S PIZZA, INC.,  
DOMINO'S PIZZA, LLC, HILTON RESORTS CORPORATION,  
HILTON WORLDWIDE, INC., HILTON INTERNATIONAL CO., MOBO  
SYSTEMS, INC., PIZZA HUT OF AMERICA, INC., PIZZA HUT, INC.,  
and USABLENET, INC.,  
Petitioner,

v.

AMERANTH, INC.,

Patent Owner.

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Case CBM CBM2015-00080<sup>1</sup>  
Patent 6,384,850

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**PETITIONER'S REPLY BRIEF**

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<sup>1</sup> CBM2015-00096 has been consolidated with this proceeding.

## I. INTRODUCTION

Patent Owner Ameranth's ("PO") arguments in its Corrected Patent Owner Response ("POR") all fail. DeLorme's system synchronizes applications and data by sharing data between applications; its WCU is a handheld device that inherently stores hospitality applications and data; its Interface & Interaction Bus includes software and is a communications control module that routes communications to a WCU and an internet-only desktop PC embodiment in the same system; and its hospitality applications are integrated via an API with outside applications. PO's evidence of secondary considerations is defective for lack of nexus and other reasons, and fails to overcome the showing of obviousness over DeLorme.

## II. ARGUMENT

### A. PO Has Waived Any Standing Argument

Contrary to the assertion in the POR at 1 n.2, the Petition does not "merely" reference CBM2014-00016, but rather includes a detailed showing of standing spanning more than three pages. Pet. at 5-8. In contrast, PO's attempt to incorporate its argument from its Preliminary Response violates Board rules (37 C.F.R. § 42.6(a)(3)) and thus constitutes a waiver (Paper No. 14 at 3).

### B. DeLorme Discloses "wherein the applications and data are synchronized between" the four claimed entities

PO's primary argument is that the Petition fails to show that DeLorme discloses "wherein the **applications** and data are synchronized between the central

database, at least one wireless handheld computing device, at least one web server and at least one web page”<sup>2</sup> (the “Synchronization Clause”) as recited in claim 12. POR at 13. The Petition established that Synchronization Clause should be construed to mean that “the same *data* is present on each of the central database, at least one wireless handheld computing device, at least one web server and at least one web page at the same time.” Pet. at 23. This construction was supported by the declaration of Dr. Turnbull, who explained that a POSITA would understand synchronization of data and applications among the four claimed entities as requiring the sharing of data between those four entities. Ex. 1002 ¶¶ 81-83. Consistent with this construction, the Petition establishes that DeLorme discloses such sharing of data between the four claimed entities. Pet. at 56-57.

In its POR, PO does not dispute Petitioner’s showing that DeLorme discloses synchronizing data among the four entities recited in the Synchronization Clause. PO has thus waived any such argument.<sup>3</sup> Rather, PO appears to argue that applications cannot be synchronized by synchronizing the data used by those applications. *See, e.g.*, POR at 14 n.9 (“one of the fundamental aspects of the claims, i.e., that **both** the ‘applications’ and the ‘data’ are synchronized, not merely

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<sup>2</sup> Unless otherwise indicated, all emphases herein were added by Petitioner.

<sup>3</sup> Paper No. 14 (Scheduling Order) at 3 (“The patent owner is cautioned that any arguments for patentability not raised in the response will be deemed waived.”).

the ‘data’”; emphasis in original). PO is clearly wrong. Claim 16 establishes that one way in which **applications** can be synchronized is by sharing **data** among them. Claim 16, which depends from claim 12, recites:

16. The information management and synchronous communications system of claim 12 wherein the *applications and data are synchronized by digital data transmission* between the central database, at least one wireless handheld computing device, at least one Web Server and at least one Web page.

Ex. 1001 at 16:42-47. Because claim 16 is a species of the Synchronization Clause genus of claim 12, nothing more than digital data transmission is required to synchronize applications.

Synchronizing applications and data through the transmission of only data as recited in claim 16 is consistent with the teachings of the ’850 patent. The ’850 patent lacks any disclosure of synchronizing applications in any other manner. Instead, the ’850 patent teaches that sharing *data* among applications stored on the four claimed entities is the way in which the applications are synchronized:

The synchronous communications control module ... provides a single point of entry for all hospitality applications to communicate with one another wirelessly or over the Web ... The single point of entry works *to keep all wireless handheld devices and linked Web sites in synch with the backoffice server (central database)* so that the different components are *in equilibrium at any given time and an overall consistency is achieved*. For example, a *reservation* made

online is automatically communicated to the backoffice server which then synchronizes with all the wireless handheld devices wirelessly. Similarly, *changes* made on any of the wireless handheld devices will be reflected instantaneously on the backoffice server and the other handheld devices. Ex. 1001 at 11:24-42.

Nothing in this passage discusses the transmission of anything other than data to keep the applications in the central database in sync with those on the wireless handheld devices and web pages. Ex. 1070 ¶¶ 5-11; see also ¶¶ 12-17.

While PO repeatedly criticizes the Petition and Dr. Turnbull for allegedly “reading out” the requirement to synchronize applications, it is telling that the POR does not articulate exactly what is required to synchronize an application. The closest the POR comes is providing an “example” of application synchronization:

Data is communicated from both sides (client and server), but software/ applications are not synchronized between the server and WCU client. Thus, *for example*, the updating of a restaurant menu to achieve “consistency” between the wireless handheld device of claim element “b” and the central database *so that the updated menu is synchronized with the central database and then “stored” as part of the hospitality application* on the handheld to facilitate future ordering, was not taught by DeLorme, nor possible with the DeLorme WCU. There is no mention in DeLorme of synchronizing application software between server side and client side.

POR at 18. PO appears to contend that sending menu *data* from the central database and storing it on the wireless device *as part of the hospitality application*

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