

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

STARBUCKS CORPORATION,
Petitioner,

v.

AMERANTH, INC.,
Patent Owner.

Case CBM2015-00091
Patent 6,384,850 B1

**PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE IN
PATENT OWNER RESPONSE UNDER 37 C.F.R. §42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Starbucks Corporation (“Petitioner”) hereby timely objects to the evidence submitted by Patent Owner with the Patent Owner’s Response under 37 C.F.R. § 42.220 (Paper 14) filed January 6, 2016 in response to Board’s Institution Decision (Paper 9) of September 14, 2015 that instituted the trial for Covered Business Method Review of United States Patent No. 6,384,850 (“850 patent”). The objections are made based on rules under 37 C.F.R. Part 42 on CBM proceedings and relevant portions of Federal Rules of Evidence (“FRE”) that are applicable to CBM proceedings under 37 C.F.R. § 42.62.

| Exhibit | Objections |
|----------------|--|
| 2037 | Petitioner objects to this exhibit at least for the following reasons: The document is hearsay, and no exceptions to the hearsay rules apply (FRE 801 and 802). The exhibit lacks authentication (FRE 901). The document lacks relevance (at least because it relates to patents not subject to these petitions) and any relevance would also be outweighed by unfair prejudice to Petitioner (FRE 401 and 403). This exhibit is also improper because it is not cited in Patent Owner’s Response. |
| 2038 | Petitioner objects to this exhibit at least for the following reasons: The document is hearsay and hearsay within hearsay, and no exceptions to |

| Exhibit | Objections |
|---------|--|
| | <p>the hearsay rules apply (FRE 801, 802, and 805). The exhibit lacks authentication (FRE 901). The document lacks relevance (at least because it relates to patents not subject to these petitions) and any relevance would also be outweighed by unfair prejudice to Petitioner (FRE 401 and 403). This exhibit is also improper because it is not cited in Patent Owner's Response.</p> |
| 2041 | <p>By providing a declaration, Patent Owner must make Mr. Weaver available for deposition pursuant to 37 CFR § 42.51(b)(1)(ii). Petitioner objects to this exhibit if a deposition is requested and Patent Owner does not make Mr. Weaver available for deposition.</p> |
| 2044 | <p>Petitioner objects to this exhibit at least for the following reasons: The document is hearsay and hearsay within hearsay, and no exceptions to the hearsay rules apply (FRE 801, 802, and 805). The exhibit lacks authentication (FRE 901). The document lacks relevance (at least because it relates to patents not subject to these petitions) and any relevance would also be outweighed by unfair prejudice to Petitioner (FRE 401 and 403).</p> |
| 2045 | <p>Petitioner objects to this exhibit at least for the following reasons: The document is hearsay and hearsay within hearsay, and no exceptions to</p> |

| Exhibit | Objections |
|---------|---|
| | <p>the hearsay rules apply (FRE 801, 802, and 805). The exhibit lacks authentication (FRE 901). The document lacks relevance (at least because it is unrelated to the patents and other issues subject to these petitions) and any relevance would also be outweighed by unfair prejudice to Petitioner (FRE 401 and 403). Patent Owner is obligated to make Mr. Harker available for deposition if requested, and Petitioner objects to this exhibit if they Petitioner requests such a deposition and Patent Owner does not make Mr. Harker available. Petitioner also objects to the use of a rough deposition transcript. Petitioner also objects to this exhibit as containing improper lay opinion testimony (FRE 701) and improper expert testimony (FRE 702).</p> |
| 2046 | <p>Petitioner objects to this exhibit at least for the following reasons: The document is hearsay and hearsay within hearsay, and no exceptions to the hearsay rules apply (FRE 801, 802, and 805). The exhibit lacks authentication (FRE 901). The document lacks relevance (at least because it relates to patents not subject to these petitions) and any relevance would also be outweighed by unfair prejudice to Petitioner (FRE 401 and 403).</p> |

| Exhibit | Objections |
|----------------|---|
| 2047 | <p>Petitioner objects to this exhibit at least for the following reasons: The document is hearsay and hearsay within hearsay, and no exceptions to the hearsay rules apply (FRE 801, 802, and 805). The exhibit lacks authentication, and contains mark-ups which calls into question the authenticity of the document (FRE 901). The document lacks relevance (at least because it is unrelated to the patents and other issues subject to these petitions) and any relevance would also be outweighed by unfair prejudice to Petitioner (FRE 401 and 403). Given the mark-ups on this document, there is a genuine dispute about the copy provided precluding admission into evidence (FRE 1002 and 1003). Petitioner also objects to this exhibit as containing improper expert testimony (FRE 702).</p> |
| 2048 | <p>Petitioner objects to this exhibit at least for the following reasons: The document is hearsay and hearsay within hearsay, and no exceptions to the hearsay rules apply (FRE 801, 802, and 805). The exhibit lacks authentication (FRE 901). The document lacks relevance (at least because it relates to patents not subject these petitions) and any relevance would also be outweighed by unfair prejudice to Petitioner (FRE 401 and 403). Petitioner also objects to this exhibit because it</p> |

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