

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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.

Case CBM2015-00080¹ Patent 6,384,850 B1
Case CBM2015-00082² Patent 6,871,325 B1

STARBUCKS CORPORATION, APPLE, INC., EVENTBRITE INC., and
STARWOOD HOTELS & RESORTS WORLDWIDE, INC.,
Petitioner,

v.

AMERANTH, INC.,
Patent Owner.

¹ Case CBM2015-00096 has been joined with this proceeding.

² Case CBM2016-00006 has been joined with this proceeding.

CBM2015-00080, CBM2015-00091 Patent 6,384,850 B1
CBM2015-00082, CBM2015-00099 Patent 6,871,325 B1

Case CBM2015-00091³ Patent 6,384,850 B1
Case CBM2015-00099⁴ Patent 6,871,325 B1

Before MEREDITH C. PETRAVICK, RICHARD E. RICE, and
STACEY G. WHITE, *Administrative Patent Judges*.

WHITE, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

³ Case CBM2016-00007 has been joined with this proceeding.

⁴ Case CBM2016-00006 has been joined with this proceeding.

CBM2015-00080, CBM2015-00091 Patent 6,384,850 B1
CBM2015-00082, CBM2015-00099 Patent 6,871,325 B1

We instituted covered business method patent reviews in CBM2015-00080 and CBM2015-00082 on September 1, 2015, Paper 13 (CBM2015-00080 and CBM2015-00082), and September 14, 2015, Paper 9 (CBM2015-00091 and CBM2015-00099). A Scheduling Order in each proceeding was issued on the same day with the Decision Instituting Review, which set the date for oral hearing in all four proceedings as May 10, 2016, if hearing were requested by the parties and granted by the Board. Paper 14 (CBM2015-00080 and CBM2015-00082); Paper 10 (CBM2015-00091 and CBM2015-00099).

In each of these proceedings, Petitioner and Patent Owner have requested oral hearing pursuant to 37 C.F.R. § 42.70. Papers 28, 29 (CBM2015-00080); Papers 30, 31 (CBM2015-00082); Papers 23, 27 (CBM2015-00091 and CBM2015-00099). The parties' requests for oral hearing are *granted*. The four cases are consolidated for hearing. Each party will have a total of 90 minutes to present arguments.

Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue in this review are unpatentable. Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial in these four proceedings. Patent Owner will then respond to Petitioner's argument. Petitioner may reserve time to respond to arguments presented by Patent Owner. Motions to Exclude have been filed by both Petitioner and Patent Owner in each of these proceedings. The parties may address these motions during their allotted time.

The hearing will commence at 9:00 a.m. Eastern time, on May 10, 2016, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The Board will provide a court reporter for the

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hearing and the reporter's transcript will constitute the official record of the hearing. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least four business days before the hearing. The parties shall also file their demonstrative exhibits with the Board by sending them via e-mail to trials@uspto.gov at least two business days before the hearing. The parties shall not file the demonstrative exhibits using the PRPS.

When considering whether demonstrative exhibits are objectionable, the parties are reminded that the panel does not consider demonstrative exhibits to be evidence or an appropriate vehicle for making arguments that do not appear in the parties' substantive papers. *See St. Jude Med., Cardiology Div., Inc. v. The Bd. of Regents of the Univ. of Mich.*, Case IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65). The panel will disregard any newly raised argument appearing in the demonstrative exhibits when rendering the final written decision. The parties must initiate a conference call with the Board at least two business days before the hearing to present objections, if any, regarding the propriety of any demonstrative exhibit. Any objection to demonstrative exhibits that is not timely presented will be considered waived.

Requests for audio-visual equipment are to be made no later than five days in advance of the hearing date. The request is to be sent to Trials@uspto.gov. If the request is not received timely, the equipment may not be available on the day of the hearing.

The Board expects lead counsel for each party to be present in person at the oral hearing. However, either lead or backup counsel may present the

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party's argument. If any party anticipates that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

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