

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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STARBUCKS CORP.  
Petitioner

v.

AMERANTH, INC.  
Patent Owner

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Case CBM2015-00099  
Patent No. 6,871,325

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

**PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED**  
**WITH PETITIONER'S REPLY BRIEF**

Per 37 C.F.R. § 42.64, Patent Owner Ameranth, Inc. ("Patent Owner")

hereby objects to the exhibits and other evidence submitted by Petitioner with its

Reply Brief as indicated below. The grounds for objection are as follows:

Petitioner's Evidence	Grounds for Objection
Exhibit 1063	<p>Outside the Scope Permitted with a Reply. The declaration includes many new arguments and theories not permitted to be submitted with a reply, because they could have been presented in a prior filing. 37 C.F.R. § 42.23(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48756-48773, at 48767; <i>see also Intri-Plex Technologies, Inc., et al. v. Saint-Gobain Performance Plastics Rencol Limited</i>, IPR2014-00309, Paper 83, pgs 12 – 14.</p> <p>Relevance. Because the declaration is not even discussed in Petitioner's Reply Brief and is merely incorporated by reference in violation of 37 C.F.R. § 42.6(a)(3), it is not relevant to any issue in this proceeding and any probative value of the declaration is substantially outweighed by unfair prejudice and waste of time. Fed. R. Evid. 401-403; <i>see also Conopco, Inc. dba Unilever v. The Procter &amp; Gamble Company</i>, IPR2013-00510, Paper 9, pgs 8 - 9; <i>Juniper Networks, Inc. v. Brixham Solutions, Ltd.</i>, IPR2014-00425, Paper 16, at Footnote 1; <i>Cisco Systems, Inc. v. C-Cation Technologies, LLC</i>, IPR2014-00454, Paper 12, pgs 7 - 10.</p>
Exhibit 1064	<p>Outside the Scope Permitted with a Reply. The declaration is not permitted to be submitted with a reply, because it could have been presented in a prior filing. 37 C.F.R. § 42.23(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48756-48773, at 48767; <i>see also Intri-Plex Technologies, Inc., et al. v. Saint-Gobain Performance Plastics Rencol Limited</i>,</p>

	IPR2014-00309, Paper 83, pgs 12 – 14.
Exhibit 1065	<p>Outside the Scope Permitted with a Reply. The exhibit is not permitted to be submitted with a reply, because it could have been presented in a prior filing. 37 C.F.R. § 42.23(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48756-48773, at 48767.</p> <p>Hearsay. The statements in the exhibit used by Petitioner to prove the truth of matters described therein are hearsay. Fed. R. Evid. 801(c).</p> <p>Authentication. Petitioner has not provided sufficient evidence to establish that the exhibit is a true and correct copy of what Petitioner claims it to be. Fed. R. Evid. 901(a).</p> <p>Failure to Provide Complete Reference. Petitioner has only provided “Selected Portions” of the exhibit. Therefore, portions of the exhibit not provided by Petitioner may contradict or clarify the portions relied upon and provided by Petitioner.</p>
Exhibit 1067	<p>Outside the Scope Permitted with a Reply. The exhibit is not permitted to be submitted with a reply, because it could have been presented in a prior filing. 37 C.F.R. § 42.23(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48756-48773, at 48767.</p> <p>Hearsay. The statements in the exhibit used by Petitioner to prove the truth of matters described therein are hearsay. Fed. R. Evid. 801(c).</p> <p>Authentication. Petitioner has not provided sufficient evidence to establish that the exhibit is a true and correct copy of what Petitioner claims it to be. Fed. R. Evid. 901(a).</p> <p>Failure to Provide Complete Reference. Petitioner has only provided “Excerpts” of the exhibit.</p>

	<p>Therefore, portions of the exhibit not provided by Petitioner may contradict or clarify the portions relied upon and provided by Petitioner.</p> <p>Relevance. Because the exhibit is not discussed or even cited in the Petitioner's Reply Brief, it is not relevant to any issue in this proceeding and any probative value of the exhibit is substantially outweighed by unfair prejudice and waste of time. Fed. R. Evid. 401-403.</p>
Exhibit 1068	<p>Outside the Scope Permitted with a Reply. The exhibit is not permitted to be submitted with a reply, because it could have been presented in a prior filing. 37 C.F.R. § 42.23(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48756-48773, at 48767.</p> <p>Relevance. Because the exhibit is not discussed or even cited in the Petitioner's Reply Brief, it is not relevant to any issue in this proceeding and any probative value of the exhibit is substantially outweighed by unfair prejudice and waste of time. Fed. R. Evid. 401-403.</p>
Exhibit 1069	<p>Outside the Scope Permitted with a Reply. The exhibit is not permitted to be submitted with a reply, because it could have been presented in a prior filing. 37 C.F.R. § 42.23(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48756-48773, at 48767.</p> <p>Relevance. Because the exhibit is not discussed or even cited in the Petitioner's Reply Brief, it is not relevant to any issue in this proceeding and any probative value of the exhibit is substantially outweighed by unfair prejudice and waste of time. Fed. R. Evid. 401-403.</p> <p>Hearsay. The statements in the exhibit used by Petitioner to prove the truth of matters described therein are hearsay. Fed. R. Evid. 801(c).</p>

	<p>Authentication. Petitioner has not provided sufficient evidence to establish that the exhibit is a true and correct copy of what Petitioner claims it to be. Fed. R. Evid. 901(a).</p>
Exhibit 1070	<p>Outside the Scope Permitted with a Reply. The exhibit is not permitted to be submitted with a reply, because it could have been presented in a prior filing. 37 C.F.R. § 42.23(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48756-48773, at 48767.</p> <p>Relevance. Because the exhibit is not discussed or even cited in the Petitioner's Reply Brief, it is not relevant to any issue in this proceeding and any probative value of the exhibit is substantially outweighed by unfair prejudice and waste of time. Fed. R. Evid. 401-403.</p> <p>Hearsay. The statements in the exhibit used by Petitioner to prove the truth of matters described therein are hearsay. Fed. R. Evid. 801(c).</p> <p>Authentication. Petitioner has not provided sufficient evidence to establish that the exhibit is a true and correct copy of what Petitioner claims it to be. Fed. R. Evid. 901(a).</p>
Exhibit 1071	<p>Outside the Scope Permitted with a Reply. The exhibit is not permitted to be submitted with a reply, because it could have been presented in a prior filing. 37 C.F.R. § 42.23(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48756-48773, at 48767.</p> <p>Hearsay. The statements in the exhibit used by Petitioner to prove the truth of matters described therein are hearsay. Fed. R. Evid. 801(c).</p> <p>Authentication. Petitioner has not provided sufficient evidence to establish that the exhibit is a true and</p>

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