

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

STARBUCKS CORP.
Petitioner

v.

AMERANTH, INC.
Patent Owner

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

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 MOTION TO EXCLUDE
PURSUANT TO 37 C.F.R. § 42.64(c)

TABLE OF CONTENTS

I. Introduction.....1

II. Exhibits And Paragraphs Of Dr. Helal's Declaration That Were Not Discussed Or Even Cited To In Petitioner's Reply Brief Should Be Excluded As Irrelevant. The Uncited Declaration Paragraphs Are Also Improper Under 37 C.F.R. § 42.6(a)(3).....2

III. Starbucks' Incomplete Exhibits Should Be Excluded Because They could Mislead The Board.....5

IV. Starbucks' Unauthenticated Exhibits Should Be Excluded.....9

 A. Starbucks Has The Burden Of Establishing The Exhibits Meet The Requirements Of FRE 901.....9

 B. Starbucks' Webpage Exhibits Should Be Excluded Because They Have Not Been Authenticated.....10

 C. The Incomplete Exhibits Should Be Excluded As Not Authenticated.....12

V. Many Of Starbucks' Exhibits Should Be Excluded Because They Constitute Inadmissible Hearsay.....13

VI. Conclusion.....14

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

<i>Cisco Systems, Inc. v. C-Cation Technologies, LLC</i> , IPR2014-00454, Paper 12.....	5
<i>Conopco, Inc. dba Unilever v. The Procter & Gamble Company</i> , IPR2013-00510, Paper 9.....	5
<i>DeSilva v. DiLeonardi</i> , 181 F.3d 865, (7th Cir. 1999).....	4
<i>Hilgraeve, Inc. v. Symantec Corp.</i> , 271 F. Supp. 2d 964 (E.D. Mich. 2003).....	13
<i>Juniper Networks, Inc. v. Brixham Solutions, Ltd.</i> , IPR2014-00425, Paper 16.....	5
<i>Standard Innovation Corp. v. Lelo, Inc.</i> , IPR2014-00148, Paper 41.....	10, 11, 12
<i>United States v. Harrington</i> , 923 F.2d 1371, 1374 (9th Cir. 1991).....	9
<i>United States v. Hernandez-Herrera</i> , 952 F.2d 342, 343 (10th Cir. 1991).....	9
<i>U.S. v. Tank</i> , 200 F.3d 627, 630 (9th Cir. 2000).....	9

Statutes and Rules

FRE 401.....	3
FRE 402.....	3
FRE 403.....	3

FRE 802.....13, 14

FRE 803.....14

FRE 804.....14

FRE 901.....9, 12

FRE 901(a).....9

FRE 902.....12

37 C.F.R. § 42.23(b).....4

37 C.F.R. § 42.6(a)(3).....1, 2, 3, 4, 14

37 C.F.R. § 42.62(a).....3

37 C.F.R. § 42.64(a).....1

TABLE OF EXHIBITS

Exhibits Previously Filed by Petitioner and Patent Owner's Grounds for Exclusion:

Exhibit No.	Patent Owner's Grounds for Exclusion:
1063	Paragraphs 1-30, 45, 47-53, 57, 79-82, 91-93, 107-114, 134-135, 140, 149-160, 164-188, 203, 222-231 and 270-271 are irrelevant and improper under 37 C.F.R. § 42.6(a)(3).
1065	Incomplete, unauthenticated and hearsay.
1067	Irrelevant, incomplete, unauthenticated and hearsay.
1068	Irrelevant.
1069	Irrelevant, unauthenticated and hearsay.
1070	Irrelevant, unauthenticated and hearsay.
1071	Incomplete, unauthenticated and hearsay.
1072	Irrelevant, incomplete, unauthenticated and hearsay.
1073	Irrelevant, incomplete, unauthenticated and hearsay.
1074	Irrelevant, unauthenticated and hearsay.
1075	Irrelevant, incomplete, unauthenticated and hearsay.
1081	Irrelevant, incomplete, unauthenticated and hearsay.
1083	Irrelevant.
1084	Irrelevant.
1085	Irrelevant.
1095	Irrelevant, unauthenticated and hearsay.
1096	Irrelevant, unauthenticated and hearsay.
1097	Irrelevant, unauthenticated and hearsay.

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.