

**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. and STARWOOD HOTELS & RESORTS  
WORLDWIDE, INC.

Petitioner

v.

AMERANTH, INC.,

Patent Owner

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CASE CBM Unassigned

Patent No. 6,871,325

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**MOTION FOR JOINDER UNDER 35 U.S.C. § 325(c)  
AND 37 C.F.R. §§ 42.22 AND 42.222(b)**

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**I. STATEMENT OF RELIEF REQUESTED**

Pursuant to 35 U.S.C. § 325(c) and 37 C.F.R. §§ 42.22 and 42.222(b), Apple Inc., Eventbrite, Inc. and Starwood Hotels & Resorts Worldwide, Inc. (collectively “Petitioner”) respectfully requests joinder of the concurrently filed Petition for Covered Business Method (“CBM”) review of U.S. Patent No. 6,871,325 (“the ’325 patent”) (“Apple Petition”) with the instituted and on-going CBM Trial under Case No. CBM2015-00099 (“Starbucks CBM”), which was instituted on September 14, 2015. CBM2015-00099, Paper 9. The Apple Petition seeks review of the same claims (claims 11-13 and 15) of the same patent (the ’325 patent) on the same grounds under 35 U.S.C. § 103 as the Starbucks CBM. Further, the Apple Petition and Starbucks CBM rely on the same the same expert declarant, the same prior art and the same invalidity analysis. Indeed, in order to minimize any additional burden that would result from the joinder requested in this Motion, the substantive portions of the Apple Petition are intentionally identical to the petition submitted by Starbucks in CBM2015-00099 (“Starbucks Petition”), except that the Apple Petition excludes grounds that were not instituted by the Board.

Joinder is appropriate because it will promote efficient resolution of the validity of the ’325 patent as the timely-filed Apple Petition involves the same patent, the same claims, the same prior art, and the same instituted grounds set forth in the Starbucks CBM. No new or additional grounds of unpatentability are

set forth in the Apple Petition, and there will be no impact, or minimal impact if any, on the trial schedule for the existing review. Further, Petitioner lists procedures the Board may adopt to simplify briefing and discovery. This includes consolidated filings and discovery and eliminating the duplicate hearings and briefing that would surely accompany separate proceedings. Joinder should also provide for case management efficiencies for the Board.

In light of the similarities of the Apple Petition and Starbucks CBM and the efficiencies that can be realized via joinder, Petitioner respectfully requests that the Board join the Apple Petition and the Starbucks CBM.

## **II. BACKGROUND**

On March 6, 2015, Starbucks filed a petition requesting CBM review of claims 11-13 and 15 of the '325 patent on thirteen grounds of unpatentability under 35 U.S.C. §§ 101, 102, 103 and 112. CBM2015-00099, Paper 2. Ameranth Inc. ("Patent Owner" or "Ameranth") submitted a Preliminary Response on June 22, 2015. CBM2015-00099, Paper 7.

On September 14, 2015, the Board entered a decision instituting CBM review on four of the thirteen requested grounds. Specifically, the Board instituted review as to the following Grounds of the Starbucks Petition:

- Ground 9 – claims 11-13 of the '325 patent as being unpatentable under 35 U.S.C. § 103(a) over the combination of Japanese

Unexamined Application No. H10-247183 to Brandt et al. (“Brandt”),  
NetHopper Version 3.2 User’s Manual (“Nethopper”) and European  
Unexamined App. No. EP 0845748A2 (“Carter”);

- Ground 10 – claim 15 of the ’325 patent as being unpatentable under 35 U.S.C. § 103(a) over the combination of Brandt, NetHopper, Carter and U.S. Patent No. 5,809,415 (“Rossmann”);
- Ground 11 – claims 11-13 of the ’325 patent as being unpatentable under 35 U.S.C. § 103(a) over the combination of Brandt, Alan Demers et al., “The Bayou Architecture: Support for Data Sharing Among Mobile Users” (“Demers”), Gustavo Alonso, et al., “Exotica/FMDC: A Workflow Management System for Mobile and Disconnected Clients”) (“Alonso”) and Carter; and
- Ground 12 – claim 15 of the of the ’325 patent as being unpatentable under 35 U.S.C. § 103(a) over the combination of Brandt, Demers, Alonso, Carter and Rossmann. CBM2015-00099, Paper 9 at 46.

Both Petitioner and Starbucks are among numerous defendants in infringement lawsuits asserting the ’325 patent as well as several other Ameranth patents (collectively, the “Ameranth patents”) in the U.S. District Court for the Southern District of California. *See* Apple Petition at § II.A.2 (listing related matters). The other three Ameranth Patents asserted in litigation are U.S. Patent

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