

**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. 6,384,850

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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. 6,384,850 (“the ’850 patent”) (“Apple Petition”) with the instituted and on-going CBM Trial under Case No. CBM2015-00091 (“Starbucks CBM”), which was instituted on September 14, 2015. CBM2015-00091, Paper 9. The Apple Petition seeks review of the same claims (claims 12-16) of the same patent (the ’850 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 CBM2015-00091 (“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 ’850 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 2, 2015, Starbucks filed a petition requesting CBM review of claims 12-16 of the '850 patent on eleven grounds of unpatentability under 35 U.S.C. §§ 101, 102, 103 and 112. CBM2015-00091, Paper 1. Ameranth Inc. ("Patent Owner" or "Ameranth") submitted a Preliminary Response on June 15, 2015. CBM2015-00091, Paper 7.

On September 14, 2015, the Board entered a decision instituting CBM review on two of the eleven requested grounds. Specifically, the Board instituted review as to Ground 9 of the Starbucks Petition, *i.e.* claims 12-16 of the '850 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") and

NetHopper Version 3.2 User's Manual ("Nethopper"), and as to Ground 10 of the Starbucks Petition, *i.e.* claims 12-16 of the '850 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") and Gustavo Alonso, et al., "Exotica/FMDC: A Workflow Management System for Mobile and Disconnected Clients" ("Alonso"). CBM2015-00091, Paper 9 at 42. The Board declined to institute trial on Grounds 1-8 and 11 of the Starbucks Petition.

Both Petitioner and Starbucks are among numerous defendants in infringement lawsuits asserting the '850 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 No. 6,982,733 ("the '733 patent"), U.S. Patent No. 8,146,077 (the "'077 patent") and U.S. Patent No. 6,871,325 ("the '325 patent"), for which there are multiple other pending CBM proceedings. A summary of the CBM proceedings related to the Ameranth Patents is provide below in Tables 1 and 2.

**Table 1: Related Proceedings**

Case	Petition Filed	Petitioner	Patent	Challenged Claims
CBM2014-00013	Oct. 15, 2013	Apple et al.	'733 patent	1-16

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