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Paper No. \_\_\_\_

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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DELTA AIR LINES, FRONTIER AIRLINES, INC., UNITED AIRLINES, INC.,  
US AIRWAYS, INC., AND AMERICAN AIRLINES, INC.  
Petitioner

v.

LOYALTY CONVERSION SYSTEMS CORPORATION  
Patent Owner

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Case CBM2014-00095  
Patent 8,313,023

Patent Owner Preliminary Response

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## **I. Prudential and Standing Issues Why Trial Should not be Instituted**

1 A petitioner has the burden of proof to establish that it is entitled to any  
2 relief. 37 CFR 42.20(c).

3 The petition contains standing , statutory, and regulatory violations that  
4 should result in non-institution; fails to show that any claim is unpatentable; and in  
5 fact all claims are patentable. This section identifies the standing , statutory, and  
6 regulatory violations.

7 (1) petition is not authorized by the named Petitioner, violating 35 USC  
8 312(a)(4), and 37 CFR 42.8(a)(1) and (b)(3);

9 (2) the filer failed to comply with mandatory rules for backup counsel,  
10 violating 35 USC 312(a)(4); and 37 CFR 42.8(b)(3), and 42.10(a);

11 (3) the petition fails to show with particularity where each element of the  
12 claims is found in the prior art, violating 35 USC 312(a)(3) and 37 CFR  
13 42.204(b)(4); and

14 (4) the petition *still* contains arguments in single spaced claim charts,  
15 violating 37 CFR 42.6(a)(2)(iii) and the Notice, paper 7, page 2, lines 5-25.

16 Basis (1): The Petitioner is named at petition page 1, lines 4-8. That named  
17 Petitioner is:

1 Delta Air Lines, Inc. ("Delta"), Frontier Airlines, Inc. ("Frontier"),  
2 United Airlines, Inc. ("United"), *US Airways, Inc.* (US Airways), and  
3 American Airlines, Inc. ("American") (collectively, "Petitioners")

4 A power of attorney by the petitioner, "as part of the petition," was mandatory.

5 There is no power of attorney in this proceeding from *US Airways, Inc.* to the  
6 person signing the petition. The filing of the petition on behalf of the named  
7 Petitioner was not authorized by US Airways. In CBM2015-00096, there is a  
8 power filed by US Airways, but that power is ultra vires because at the time shown  
9 therein that it was signed, the person that signed it was a "Managing Director" of  
10 American Airlines, and no longer employed by US Airways. At least so his public  
11 and private LinkedIn records show. **Exhibit (hereinafter "Ex") 2004 and Ex**  
12 **2005.** See, for example, **Ex 2005**, page 1, under "Experience", stating:

13 **Managing Director & Associate General Counsel**, US Airways  
14 September 2010 - February 2014 (3 years 6 months) | Washington  
15 D.C. Metro Area

16 **Managing Director American Airlines** February 2014 – Present (5  
17 months) | Phoenix, Arizona Area

18 **Exhibit 2006** indicates this same person is an attorney registered with the New  
19 York Unified Court System.

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