

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

EMG TECHNOLOGY, LLC,
Plaintiff,

v.

APPLE INC.,
AMERICAN AIRLINES, INC.,
BLOOMBERG, L.P.,
CONTINENTAL AIRLINES, INC.,
UNITED PARCEL SERVICE, INC.,
Defendants.

Case No. 6:08-cv-447-LED

JURY TRIAL DEMANDED

**JOINT MOTION TO MODIFY THE DOCKET CONTROL ORDER
WITH RESPECT TO P.R. 3-3 AND P.R. 3-4**

The Court's July 20, 2009 Docket Control Order states that Defendants shall comply with P.R. 3-3 and P.R. 3-4 by August 21, 2009. (Dkt. #100).

On August 5, 2009, the Court held a Hotline Hearing concerning a dispute that arose regarding the taking of a Rule 30(b)(6) deposition prior to the service of the Defendants' Invalidation Contentions. (Dkt. #108). The Court ordered that the deadline for serving Defendants' Invalidation Contention should be agreed upon by the parties and occur shortly after the deposition is conducted. *Id.*

The parties have since met and conferred and agreed that the Rule 30(b)(6) deposition will occur on September 9, 2009, and that the Defendants' Invalidation Contentions and accompanying P.R. 3-4 production shall be served by September 16, 2009.

Accordingly, the parties respectfully request that the Court extend the deadline for the Defendants' compliance with P.R. 3-3 and P.R. 3-4 from August 21, 2009 to September 16, 2009.

Dated: August 21, 2009

By: /s/ Charles Ainsworth with permission by John R. Lane

Charles Ainsworth
State Bar No. 00783521
Robert Christopher Bunt
State Bar No. 00787165
PARKER, BUNT & AINSWORTH, P.C.
100 E. Ferguson, Suite 1114
Tyler, TX 75702
903/531-3535
903/533-9687
E-mail: charley@pbatyler.com
E-mail: rcbunt@pbatyler.com

**ATTORNEYS FOR PLAINTIFF, EMG
TECHNOLOGY, LLC**

OF COUNSEL:

Jeffer, Mangels, Butler and Marmaro, LLP

Stanley M. Gibson
(Cal. Bar No. 162329)
smg@jmbm.com

Joshua S. Hodas, Ph.D.
(Cal. Bar No. 250812)
jsh@jmbm.com

1900 Avenue of the Stars, Seventh Floor
Los Angeles, CA 90067
Telephone: (310) 203-8080
Facsimile: (310) 203-0567

Manatt, Phelps & Phillips, LLP

Robert D. Becker
(Cal. Bar No. 160648)
rbecker@manatt.com

Shawn G. Hansen
(Cal. Bar No. 197033)
shansen@manatt.com

1001 Page Mill Road, Building 2
Palo Alto, CA 94304
Telephone: (650) 812-1300
Facsimile: (650) 213-0260

Respectfully Submitted,

By: /s/ John R. Lane
David J. Healey (09327980)
Lead Attorney
Garland T. Stephens (24053910)
John R. Lane (24057958)
Fish & Richardson P.C.
1221 McKinney Street
Suite 2800
Houston, TX 77010
713-652-0115
Fax: 713-652-0109
healey@fr.com
stephens@fr.com
jlane@fr.com

**COUNSEL FOR DEFENDANT,
APPLE INC.**

By: /s/ Mike McKool, Jr. with permission by John R. Lane

Mike McKool, Jr.
McKool Smith - Dallas
300 Crescent Court
Suite 1500
Dallas , TX 75201
214/978-4000
Fax: 12149784044
Email: mmckool@mckoolsmith.com

Elizabeth L. DeRieux
State Bar No. 05770585
S. Calvin Capshaw
State Bar No. 03783900
N. Claire Abernathy
State Bar No. 24053063
D. Jeffrey Rambin
State Bar No. 00791478
CAPSHAWDERIEUX L.L.P.
1127 Judson Road, Suite 220
P.O. Box 3999 (75606-3999)
Longview, Texas 75601-5157
(903) 236-9800 Phone
(903) 236-8787 Fax
E-mail: ederieux@capshawlaw.com
E-mail: ccapshaw@capshawlaw.com
E-mail: chenry@capshawlaw.com
E-mail: jrambin@capshawlaw.com

**ATTORNEYS FOR DEFENDANT,
AMERICAN AIRLINES, INC.**

By: /s/ Robert J. McAughan, Jr. with permission by John R. Lane

Robert J. McAughan, Jr.
Texas Bar No. 00786096
bmcaughan@lockelord.com
Steven Boyd
Texas Bar No. 24001775
sboyd@lockelord.com
Jeffrey A. Andrews
Texas Bar No. 24050227
jandrews@lockelord.com
LOCKE LIDDELL & BISSELL AND

By: /s/ Elizabeth L. DeRieux with permission by John R. Lane

Elizabeth L. DeRieux
State Bar No. 05770585
S. Calvin Capshaw
State Bar No. 03783900
N. Claire Abernathy
State Bar No. 24053063
D. Jeffrey Rambin
State Bar No. 00791478
CAPSHAW DERIEUX L.L.P.
1127 Judson Road, Suite 220
P.O. Box 3999 (75606-3999)

Longview, Texas 75601-5157
(903) 236-9800 Phone
(903) 236-8787 Fax
E-mail: ederieux@capshawlaw.com
E-mail: ccapshaw@capshawlaw.com
E-mail: chenry@capshawlaw.com
E-mail: jrambin@capshawlaw.com

Of Counsel

John M. DiMatteo
jdimatteo@willkie.com

Kelsey I. Nix
knix@willkie.com

WILLKIE FARR & GALLAGHER LLP
787 Seventh Avenue
New York, NY 10019
(212) 728-8000 Phone
(212) 728-8111 Fax

**ATTORNEYS FOR DEFENDANT
BLOOMBERG, L.P.**

By: /s/ Jason W. Cook with permission by
John R. Lane

Jason W. Cook
Texas Bar No. 24028537
jason.cook@alston.com
ALSTON & BIRD LLP
Chase Tower
2200 Ross Avenue, Suite 3601
Dallas, TX 75201
Tel: 214.922.3407
Fax: 214.922.3899

Patrick J. Flinn
Lead Attorney
Georgia Bar No. 264540
patrick.flinn@alston.com
Robert L. Lee
Georgia Bar No. 443978
bob.lee@alston.com
Siraj M. Abhyankar
Georgia Bar No. 484680
shri.abhyankar@alston.com
Jennifer R. Liotta
Georgia Bar No. 109528

LIDDELL LLP
600 Travis Street, Suite 3400
Houston, Texas 77002
Telephone: (713) 226-1200
Facsimile: (713) 223-3717

**ATTORNEYS FOR DEFENDANT
CONTINENTAL AIRLINES, INC.**

jennifer.liotta@alston.com
ALSTON & BIRD LLP
1201 West Peachtree Street
Atlanta, GA 30309-3424
Tel: 404.881.7000
Fax: 404.881.7777

Counsel for Defendant
and Counterclaim Plaintiff
UNITED PARCEL SERVICE, INC.

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record, who are deemed to have consented to electronic service, are being served this 21st day of August, 2009, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ John R. Lane

JOHN R. LANE