

**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.,
UNITED PARCEL SERVICE, INC.,
DELL, INC.

Defendants.

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

JURY TRIAL DEMANDED

**UNOPPOSED 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 24, 2009, the Court granted the parties Joint Motion to Modify the Docket Control Order With Respect to P.R. 3-3 and P.R. 3-4. (Dkt. #112). The Court ordered that the deadline for the Defendants' compliance with P.R. 3-3 and P.R. 3-4 be extended from August 21, 2009 to September 16, 2009. *Id.* On September 16, 2009, the Court granted the Defendants' Unopposed Motion to Modify the Docket Control Order With Respect to P.R. 3-3 and P.R. 3-4. (Dkt. #127). The Court ordered that the deadline for the Defendants' compliance with P.R. 3-3 and P.R. 3-4 be extended from September 16, 2009 to September 30, 2009. *Id.*

The parties have since met and conferred and Plaintiff does not oppose extending the deadline for Defendants' compliance with P.R. 3-3 and P.R. 3-4 from September 30, 2009 to October 14, 2009.

Accordingly, the Defendants respectfully request that the Court extend the deadline for the Defendants' compliance with P.R. 3-3 and P.R. 3-4 from September 30, 2009 to October 14, 2009.

<p>Dated: September 28, 2009</p> <p>By: <u>/s/ Jason W. Cook with permission by John R. Lane</u> Jason W. Cook Lead Attorney Texas Bar No. 24028537 ALSTON & BIRD LLP Chase Tower 2200 Ross Avenue, Suite 3601 Dallas, TX 75201 Tel: 214-922-3407 Fax: 214-922-3899 Email: jason.cook@alston.com</p> <p>Patrick J. Flinn Georgia Bar No. 264540 Robert L. Lee Georgia Bar No. 443978 Siraj M. Abhyankar Georgia Bar No. 484680 Jennifer R. Liotta Georgia Bar No. 109528 ALSTON & BIRD LLP 1201 West Peachtree Street Atlanta, GA 30309-3424 Tel: 404-881-7000 Fax: 404-881-7777 Email: patrick.flinn@alston.com Email: bob.lee@alston.com Email: shri.abhyankar@alston.com Email: jennifer.liotta@alston.com</p> <p>ATTORNEYS FOR DEFENDANT-COUNTERCLAIM PLAINTIFF, UNITED PARCEL SERVICE, INC.</p>	<p>Respectfully Submitted,</p> <p>By: <u>/s/ John R. Lane</u> David J. Healey Lead Attorney Texas Bar No. 09327980 Garland T. Stephens Texas Bar No. 24053910 John R. Lane Texas Bar No. 24057985 FISH & RICHARDSON P.C. 1221 McKinney Street Suite 2800 Houston, TX 77010 Tel: 713-652-0115 Fax: 713-652-0109 Email: healey@fr.com Email: stephens@fr.com Email: jlane@fr.com</p> <p>ATTORNEYS FOR DEFENDANT-COUNTERCLAIM PLAINTIFF, APPLE INC.</p>
<p>By: <u>/s/ Elizabeth L. DeRieux with permission by John R. Lane</u></p>	<p>By: <u>/s/ Mike McKool, Jr. with permission by John R. Lane</u></p>

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	<p>By: <u>/s/ Michael C. Barrett with permission by John R. Lane</u> Michael C. Barrett Lead Attorney Texas Bar No. 24006803 FULBRIGHT & JAWORSKI LLP 600 Congress Avenue Suite 2400 Austin, TX 78701 Tel: 512.474.5201 Fax: 512.536.4598 mbarrett@fulbright.com</p> <p>ATTORNEYS FOR DEFENDANT,</p>

DELL 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 28th day of September, 2009, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Jason Bonilla

JASON BONILLA