

**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.,
DELL, INC.,

Defendants.

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

JURY TRIAL DEMANDED

**JOINT MOTION OF PLAINTIFF EMG TECHNOLOGY, LLC AND DEFENDANT
UNITED PARCEL SERVICE, INC. FOR DISMISSAL WITH PREJUDICE**

Pursuant to Federal Rule of Civil Procedure 41(a)(2) and a confidential settlement agreement between Plaintiff EMG Technology, LLC (“EMG”) and Defendant United Parcel Service, Inc. (“UPS”), EMG and UPS hereby jointly move the Court to dismiss with prejudice all claims and counterclaims between them in this case. EMG and UPS agree that each party shall bear their own fees and expenses.

DATED: October 13, 2009

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

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

Respectfully submitted,

By: /s/ Charles Ainsworth

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
E-mail: charley@pbatyler.com
E-mail: rcbunt@pbatyler.com

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

By: /s/ Robert L. Lee with permission by Charles
Ainsworth

Jason W. Cook
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

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

**ATTORNEYS FOR DEFENDANT,
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 13th day of October, 2009, with a copy of this document via the Court's CM/ECF system under Local Rule CV-5(a)(3).

/s/ Charles Ainsworth
Charles Ainsworth

300002509.1