

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

EMG TECHNOLOGY, LLC,  
Plaintiff,

v.

APPLE INC.,  
AMERICAN AIRLINES, INC.,  
DELL, INC.,  
HYATT CORPORATION,  
MARRIOTT INTERNATIONAL, INC., &  
BARNES & NOBLE, INC.,

Defendants.

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

EMG TECHNOLOGY, LLC,  
Plaintiff,

v.

MICROSOFT CORPORATION,  
SCOTTRADE, INC.,  
SOUTHWEST AIRLINES CO.,  
PRICELINE.COM, INC.,  
ZAGAT SURVEY, LLC, &  
COMCAST CORPORATION,

Defendants.

Case No. 6:09-cv-367-LED

**JOINT MOTION TO CONTINUE JOINT STATUS CONFERENCE AND HEARING**

Plaintiff EMG Technology, LLC (“EMG”) and Defendants Apple Inc., American Airlines, Inc., Dell, Inc., Hyatt Corporation, Marriott International, Inc., Barnes & Noble, Inc., Microsoft Corporation, Scottrade, Inc., Southwest Airlines Co., Priceline.com, Inc., Zagat Survey, LLC, and Comcast Corporation (collectively, “Defendants”) hereby jointly move the Court to continue the joint status conference and hearing currently scheduled for January 4,

2010, in the above-captioned matters until February 1, 2010, or the next date that is convenient for the Court.

The Court entered Orders on December 22, 2009, in the above-captioned cases setting the joint status conference and hearing on January 4, 2010 at 1:30 p.m. (*See* Docket Nos. 73 and 74 in Case No. 09-cv-367 (“the Microsoft case”) and Docket No. 202 in Case No. 09-cv-447 (“the Apple case”).) The Court indicated that it will hear oral arguments on Defendant Apple Inc.’s Motion to Vacate the Deadlines in the Docket Control Order and Discovery Orders and For a Case Management Conference (Docket No. 199 in the Apple case) and will decide whether these two cases should be consolidated. In addition, the Court ordered the parties to meet and confer and file a joint status report by December 31, 2009, identifying any disputed issues that need to be discussed at the status conference and each party’s position on consolidation.

Consistent with the Court’s Orders, counsel for EMG and the Defendants have met and conferred and agreed that it is in each of their interests to continue the joint status conference and related meet and confer on all issues required to be addressed in the joint status report. Among other reasons, this is because party representatives and counsel have pre-existing holiday and vacation plans between now and the date the joint status report is due. The parties believe that the additional time will facilitate agreements and assist the parties to narrow the disputed issues that need to be discussed at the status conference.

EMG opposes Defendant Apple Inc.’s Motion to Vacate the Deadlines in the Docket Control Order and Discovery Orders and For a Case Management Conference (Docket No. 199 in the Apple case) and will file its Response in Opposition in due course in accordance with the Court’s Rules. However, in view of Apple’s motion, EMG and the Defendants in the Apple case have agreed that all existing deadlines in the Court’s Docket Control and Discovery Orders in the

Apple case between now and the date of the status conference may be continued until the status conference.

Accordingly, EMG and the Defendants jointly move the Court to continue the joint status conference and hearing until February 1, 2010, or the next date that is convenient for the Court. A proposed order is submitted herewith. Consistent with the Court's initial Orders setting the joint status conference and hearing, should the Court grant the motion EMG and the Defendants will meet and confer and file a joint status report four (4) days before the rescheduled joint status conference and hearing identifying any disputed issues that need to be discussed at the status conference and each party's position on consolidation.

Dated: December 24, 2009

Respectfully Submitted,

By: /s/ Charles Ainsworth

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**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record, who are deemed to have consented to electronic service, are being served this 24rd day of December, 2009, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

*/s/ Charles Ainsworth*  
CHARLES AINSWORTH