

Exhibit 1030 (A)

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Attorneys for Plaintiff Ameranth, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AMERANTH, INC.

Plaintiff,

v.

EXPEDIA, INC.,

Defendant.

Case No. **'12CV1654 CAB RBB**

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendant Expedia, Inc. (“Expedia”),
3 avers as follows:

4 **PARTIES**

5 1. Plaintiff Ameranth, Inc. (“Ameranth”) is a Delaware corporation having a principal
6 place of business at 5820 Oberlin Drive, Suite 202, San Diego, California 92121. Ameranth
7 develops, manufactures and sells, *inter alia*, hospitality industry, entertainment, restaurant and
8 food service information technology solutions under the trademarks 21st Century
9 Communications™, and 21st Century Restaurant™, among others, comprising the
10 synchronization and integration of hospitality information and hospitality software applications
11 between fixed, wireless and/or internet applications, including but not limited to computer
12 servers, web servers, databases, affinity/social networking systems, desktop computers,
13 laptops, “smart” phones and other wireless handheld computing devices.

14 2. Defendant Expedia, Inc. (“Expedia”) is, on information and belief, a Washington
15 corporation having a principal place of business and headquarters in Bellevue, Washington.
16 On information and belief, Expedia makes, uses, offers for sale or license and/or sells or
17 licenses hotel and lodging, property management system (PMS) and other hospitality
18 information-technology products, software, components and/or systems within this Judicial
19 District, including the Expedia Reservation System as defined herein.

20 **JURISDICTION AND VENUE**

21 3. This is an action for patent infringement arising under the Patent Laws of the United
22 States, 35 U.S.C. §§ 271, 281-285.

23 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
24 1338(a).

25 5. On information and belief, Defendant engages in (a) the offer for sale or license and
26 sale or license of hospitality, restaurant, food service, ordering, products and/or components in
27 the United States, including this Judicial District, including services, products, software, and
28 components, comprising wireless and internet POS and/or hospitality aspects; (b) the

1 installation and maintenance of said services, products, software, components and/or systems
 2 in hospitality industry, restaurant, food service, and/or entertainment information technology
 3 systems in the United States, including this Judicial District; and/or (c) the use of hospitality
 4 industry, restaurant, food service, and/or entertainment information technology systems
 5 comprising said services, products, software, components and/or systems in the United States,
 6 including this Judicial District.

7 6. This Court has personal jurisdiction over Defendant because Defendant commits acts
 8 of patent infringement in this Judicial District including, *inter alia*, making, using, offering for
 9 sale or license, and/or selling or licensing infringing services, products, software, components
 10 and/or systems in this Judicial District.

11 7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c) and
 12 1400(b).

13 **BACKGROUND**

14 8. Ameranth was established in 1996 to develop and provide its 21st Century
 15 Communications™ innovative information technology solutions for the hospitality industry
 16 (inclusive of, e.g., restaurants, hotels, casinos, nightclubs, cruise ships and other entertainment
 17 and sports venues). Ameranth has been widely recognized as a technology leader in the
 18 provision of wireless and internet-based systems and services to, *inter alia*, restaurants, hotels,
 19 casinos, cruise ships and entertainment and sports venues. Ameranth's award winning
 20 inventions enable, in relevant part, generation and synchronization of menus, including but not
 21 limited to restaurant menus, event tickets, and other products across fixed, wireless and/or
 22 internet platforms as well as synchronization of hospitality information and hospitality
 23 software applications across fixed, wireless and internet platforms, including but not limited to,
 24 computer servers, web servers, databases, affinity/social networking systems, desktop
 25 computers, laptops, "smart" phones and other wireless handheld computing devices.

26 9. Ameranth began development of the inventions leading to the patent-in-suit and the
 27 other patents in this patent family in the late Summer of 1998, at a time when the then-
 28 available wireless and internet hospitality offerings were extremely limited in functionality,

1 were not synchronized and did not provide an integrated system-wide solution to the pervasive
2 ordering, reservations, affinity program and information management needs of the hospitality
3 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
4 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
5 and products to provide systemic and comprehensive solutions directed to optimally meeting
6 these industry needs. Ameranth has expended considerable effort and resources in inventing,
7 developing and marketing its inventions and protecting its rights therein.

8 10. Ameranth's pioneering inventions have been widely adopted and are thus now
9 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth's
10 solutions have been adopted, licensed and/or deployed by numerous entities across the
11 hospitality industry.

12 11. The adoption of Ameranth's technology by industry leaders and the wide acclaim
13 received by Ameranth for its technological innovations are just some of the many
14 confirmations of the breakthrough aspects of Ameranth's inventions. Ameranth has received
15 twelve different technology awards (three with "end customer" partners) and has been widely
16 recognized as a hospitality wireless/internet technology leader by almost all major national and
17 hospitality print publications, *e.g.*, The Wall Street Journal, New York Times, USA Today and
18 many others. Ameranth was personally nominated by Bill Gates, the Founder of Microsoft, for
19 the prestigious Computerworld Honors Award that Ameranth received in 2001 for its
20 breakthrough synchronized reservations/ticketing system with the Improv Comedy Theatres.
21 In his nomination, Mr. Gates described Ameranth as "one of the leading pioneers of
22 information technology for the betterment of mankind." This prestigious award was based on
23 Ameranth's innovative synchronization of wireless/web/fixed hospitality software technology.
24 Subsequently, the United States Patent and Trademark Office granted Ameranth a number of
25 currently-issued patents, two of which are the basis for this lawsuit. Ameranth has issued press
26 releases announcing these patent grants on business wires, on its web sites and at numerous
27 trade shows since the first of the presently-asserted patents issued in 2002. A number of
28

1 companies have licensed patents and technology from Ameranth, recognizing and confirming
2 the value of Ameranth's innovations.

3 RELATED CASES PREVIOUSLY FILED

4 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "'850 patent"),
5 U.S. Patent No. 6,871,325 (the "'325 patent"), and U.S. Patent No. 8,146,077 (the "'077
6 patent"), are all patents in Ameranth's "Information Management and Synchronous
7 Communications" patent family.

8 13. Ameranth is also currently asserting claims of these same patents in separate
9 lawsuits, against other defendants, that are already pending in this Court. The first-filed
10 lawsuit asserts claims of the '850 and '325 patents and is entitled *Ameranth v. Pizza Hut, Inc.*
11 *et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in this
12 Court, asserting claims of the '077 patent, include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-
13 cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-
14 NLS; 3:12-cv-00738-JLS-NLS; 3:12-cv-00739-JLS-NLS; and 3:12-cv-00742-JLS-NLS.
15 Another lawsuit subsequently filed by Ameranth in this Court, asserting claims of the '850,
16 '325, and '077 patents, is Case No. 3:12-cv-00858-JLS-NLS.

17 COUNT I

18 **Patent Infringement (U.S. Pat. No. 6,384,850)**

19 **(35 U.S.C. § 271)**

20 14. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-13 above
21 as if fully set forth herein.

22 15. On May 7, 2002, United States Patent No. 6,384,850 entitled "Information
23 Management and Synchronous Communications System with Menu Generation" ("the '850
24 patent") (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued
25 by the United States Patent & Trademark Office.

26 16. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
27 and to the '850 patent.

1 17. On information and belief, Defendant directly infringes and continues to directly
 2 infringe one or more valid and enforceable claims of the '850 patent, in violation of 35 U.S.C.
 3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
 4 systems, products, and/or services in the United States without authority or license from
 5 Ameranth, including but not limited to the Expedia Reservation system/product/service, which
 6 includes, *inter alia*, hotel/lodging-reservation and property management system (PMS)
 7 integration, online and mobile hotel/lodging reservations, integration with e-mail and affinity
 8 program and social media applications such as Facebook, Twitter, Groupon, and YouTube,
 9 and/or other third-party web-based applications, and other hospitality aspects ("Expedia
 10 Reservation System").

11 18. On information and belief, the Expedia Reservation System, as deployed and/or used
 12 at or from one or more locations by Expedia, its agents, distributors, partners, affiliates,
 13 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
 14 '850 patent, by, *inter alia*, doing at least one of the following: (a) Generating and transmitting
 15 menus in a system including a central processing unit, a data storage device, a computer
 16 operating system containing a graphical user interface, one or more displayable main menus,
 17 modifier menus, and sub-modifier menus, and application software for generating a second
 18 menu and transmitting it to a wireless handheld computing device or a Web page; and/or (b)
 19 Enabling reservations and other hospitality functions via iPhone, Android, and other internet-
 20 enabled wireless handheld computing devices as well as via Web pages, storing hospitality
 21 information and data on at least one central database, on at least one wireless handheld
 22 computing device, and on at least one Web server and Web page, and synchronizing
 23 applications and data, including but not limited to applications and data relating to ordering,
 24 between at least one central database, wireless handheld computing devices, and at least one
 25 Web server and Web page; utilizing an interface that provides a single point of entry that
 26 allows the synchronization of at least one wireless handheld computing device and at least one
 27 Web page with at least one central database; allowing information to be entered via Web pages,
 28 transmitted over the internet, and automatically communicated to at least one central database

1 and to wireless handheld computing devices; allowing information to be entered via wireless
2 handheld computing devices, transmitted over the internet, and automatically communicated to
3 at least one central database and to Web pages.

4 19. On information and belief, defendant Expedia has indirectly infringed and continues
5 to indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation
6 of 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement
7 by other persons.

8 20. On information and belief, customers of Expedia, including consumers and
9 hotel/restaurant operators, use the Expedia Reservation System. Expedia provides instruction
10 and direction regarding the use of the Expedia Reservation System, and advertises, promotes,
11 and encourages the use of the Expedia Reservation System.

12 21. On information and belief, the Expedia Reservation System infringes one or more
13 valid and enforceable claims of the '850 patent for the reasons set forth hereinabove.

14 22. On information and belief, Expedia has had knowledge of the '850 patent, and knew
15 or should have known that its continued offering and deployment of the Expedia Reservation
16 System, and its continued support of consumers, hotel/restaurant operators, and other users of
17 this system/product/service, would induce direct infringement by those users. Additionally,
18 Expedia intended that its actions would induce direct infringement by those users.

19 23. On information and belief, Defendant has indirectly infringed and continues to
20 indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation of
21 35 U.S.C. § 271(c).

22 24. By distributing, selling, offering, offering to sell or license and/or selling or licensing
23 the Expedia Reservation System, Expedia provides non-staple articles of commerce to others
24 for use in infringing systems, products, and/or services. Additionally, Expedia provides
25 instruction and direction regarding the use of the Expedia Reservation System, and advertises,
26 promotes, and encourages the use of the Expedia Reservation System. Users of one or more of
27 the Expedia Reservation System directly infringe one or more valid and enforceable claims of
28 the '850 patent for the reasons set forth hereinabove.

1 systems, products, and/or services in the United States without authority or license from
 2 Ameranth, including but not limited to the Expedia Reservation System.

3 33. On information and belief, the Expedia Reservation System, as deployed and/or used
 4 at or from one or more locations by Expedia, its agents, distributors, partners, affiliates,
 5 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
 6 '325 patent, by, *inter alia*, doing at least one of the following: (a) Generating and transmitting
 7 menus in a system including a central processing unit, a data storage device, a computer
 8 operating system containing a graphical user interface, one or more displayable main menus,
 9 modifier menus, and sub-modifier menus, and application software for generating a second
 10 menu and transmitting it to a wireless handheld computing device or a Web page; and/or (b)
 11 Enabling reservations and other hospitality functions via iPhone, Android, and other internet-
 12 enabled wireless handheld computing devices as well as via Web pages, storing hospitality
 13 information and data on at least one central database, on at least one wireless handheld
 14 computing device, and on at least one Web server and Web page, and synchronizing
 15 applications and data, including but not limited to applications and data relating to orders,
 16 between at least one central database, wireless handheld computing devices, and at least one
 17 Web server and Web page; and sending alerts, confirmations, and other information regarding
 18 orders to various wireless mobile devices.

19 34. On information and belief, Defendant has indirectly infringed and continues to
 20 indirectly infringe one or more valid and enforceable claims of the '325 patent, in violation of
 21 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
 22 other persons.

23 35. On information and belief, customers of Expedia, including consumers and
 24 hotel/restaurant operators, use the Expedia Reservation System in a manner that infringes upon
 25 one or more valid and enforceable claims of the '325 patent. Expedia provides instruction and
 26 direction regarding the use of the Expedia Reservation System and advertises, promotes, and
 27 encourages the use of the Expedia Reservation System.

1 36. On information and belief, Defendant actively induces others to infringe the ‘325
2 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
3 customers of Expedia, including consumers and hotel/restaurant operators, to use the infringing
4 Expedia Reservation System in the United States without authority or license from Ameranth.

5 37. On information and belief, Defendant contributorily infringes and continues to
6 contributorily infringe one or more valid and enforceable claims of the ‘325 patent, in violation
7 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
8 of the ‘325 patent read, constituting a material part of the invention, knowing that the
9 components were especially adapted for use in systems which infringe claims of the ‘325
10 patent.

11 38. By distributing, selling, offering, offering to sell or license and/or selling or licensing
12 the Expedia Reservation System, Defendant provides non-staple articles of commerce to others
13 for use in infringing systems, products, and/or services. Additionally, Expedia provides
14 instruction and direction regarding the use of the Expedia Reservation System and advertises,
15 promotes, and encourages the use of the Expedia Reservation System. Users of the Expedia
16 Reservation System directly infringe one or more valid and enforceable claims of the ‘325
17 patent, for the reasons set forth hereinabove.

18 39. On information and belief, the Expedia Reservation System infringes one or more
19 valid and enforceable claims of the ‘325 patent, for the reasons set forth hereinabove.

20 40. On information and belief, Expedia has had knowledge of the ‘325 patent, including
21 knowledge that the Expedia Reservation System, which is a non-staple articles of commerce,
22 has been used as a material part of the claimed invention of the ‘325 patent, and that there are
23 no substantial non-infringing uses for the Expedia Reservation System.

24 41. On information and belief, the aforesaid infringing activities of defendant Expedia
25 have been done with knowledge and willful disregard of Ameranth’s patent rights, making this
26 an exceptional case within the meaning of 35 U.S.C. § 285.

27 42. The aforesaid infringing activity of defendant Expedia has directly and proximately
28 caused damage to plaintiff Ameranth, including loss of profits from sales it would have made

1 but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and
 2 cause irreparable injury to Ameranth for which there is no adequate remedy at law.

3 COUNT III

4 **Patent Infringement (U.S. Pat. No. 8,146,077)**

5 **(35 U.S.C. § 271)**

6 43. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-42 above
 7 as if fully set forth herein.

8 44. On March 27, 2012, United States Patent No. 8,146,077 entitled "Information
 9 Management and Synchronous Communications System with Menu Generation, and
 10 Handwriting and Voice Modification of Orders" (a true copy of which is attached hereto as
 11 **Exhibit C** and incorporated herein by reference) was duly and legally issued by the United
 12 States Patent & Trademark Office.

13 45. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
 14 and to the '077 patent.

15 46. On information and belief, Defendant directly infringes and continues to directly
 16 infringe one or more valid and enforceable claims of the '077 patent, in violation of 35 U.S.C.
 17 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
 18 systems, products, and/or services in the United States without authority or license from
 19 Ameranth, including but not limited to the Expedia Reservation System.

20 47. On information and belief, the Expedia Reservation System, as deployed and/or used
 21 at or from one or more locations by Expedia, its agents, distributors, partners, affiliates,
 22 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
 23 '077 patent, by, *inter alia*, doing at least one of the following: (a) Configuring and transmitting
 24 menus in a system including a central processing unit, a data storage device, a computer
 25 operating system containing a graphical user interface, one or more displayable master menus,
 26 menu configuration software enabled to generate a menu configuration for a wireless handheld
 27 computing device in conformity with a customized display layout, and enabled for
 28 synchronous communications and to format the menu configuration for a customized display

1 layout of at least two different wireless handheld computing device display sizes, and/or (b)
 2 Enabling reservations and other hospitality functions via iPhone, Android, and other internet-
 3 enabled wireless handheld computing devices as well as via Web pages, storing hospitality
 4 information and data on at least one database, on at least one wireless handheld computing
 5 device, and on at least one Web server and Web page, and synchronizing applications and data,
 6 including but not limited to applications and data relating to orders, between at least one
 7 database, wireless handheld computing devices, and at least one Web server and Web page;
 8 utilizing communications control software enabled to link and synchronize hospitality
 9 information between at least one database, wireless handheld computing device, and web page,
 10 to display information on web pages and on different wireless handheld computing device
 11 display sizes, and to allow information to be entered via Web pages, transmitted over the
 12 internet, and automatically communicated to at least one database and to wireless handheld
 13 computing devices; allowing information to be entered via wireless handheld computing
 14 devices, transmitted over the internet, and automatically communicated to at least one database
 15 and to Web pages.

16 48. On information and belief, Defendant has indirectly infringed and continues to
 17 indirectly infringe one or more valid and enforceable claims of the '077 patent, in violation of
 18 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
 19 other persons.

20 49. On information and belief, customers of Expedia, including consumers and
 21 hotel/restaurant operators, use the Expedia Reservation System in a manner that infringes upon
 22 one or more valid and enforceable claims of the '077 patent. Expedia provides instruction and
 23 direction regarding the use of the Expedia Reservation System and advertises, promotes, and
 24 encourages the use of the Expedia Reservation System.

25 50. On information and belief, Defendant actively induces others to infringe the '077
 26 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
 27 customers of Expedia, including consumers and hotel/restaurant operators, to use the infringing
 28 Expedia Reservation System in the United States without authority or license from Ameranth.

1 51. On information and belief, Defendant contributorily infringes and continues to
2 contributorily infringe one or more valid and enforceable claims of the '077 patent, in violation
3 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
4 of the '077 patent read, constituting a material part of the invention, knowing that the
5 components were especially adapted for use in systems which infringe claims of the '077
6 patent.

7 52. By distributing, selling, offering, offering to sell or license and/or selling or licensing
8 the Expedia Reservation System, Defendant provides non-staple articles of commerce to others
9 for use in infringing systems, products, and/or services. Additionally, Expedia provides
10 instruction and direction regarding the use of the Expedia Reservation System and advertises,
11 promotes, and encourages the use of the Expedia Reservation System. Users of the Expedia
12 Reservation System directly infringe one or more valid and enforceable claims of the '077
13 patent, for the reasons set forth hereinabove.

14 53. On information and belief, each of the Expedia Reservation System infringes one or
15 more valid and enforceable claims of the '077 patent, for the reasons set forth hereinabove.

16 54. On information and belief, Expedia has had knowledge of the '077 patent, including
17 knowledge that the Expedia Reservation System, which is a non-staple article of commerce,
18 has been used as a material part of the claimed invention of the '077 patent, and that there are
19 no substantial non-infringing uses for the Expedia Reservation System.

20 55. On information and belief, the aforesaid infringing activities of defendant Expedia
21 have been done with knowledge and willful disregard of Ameranth's patent rights, making this
22 an exceptional case within the meaning of 35 U.S.C. § 285.

23 56. The aforesaid infringing activity of defendant Expedia has directly and proximately
24 caused damage to plaintiff Ameranth, including loss of profits from sales it would have made
25 but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and
26 cause irreparable injury to Ameranth for which there is no adequate remedy at law.

27 ///

PRAYER FOR RELIEF

WHEREFORE, plaintiff Ameranth respectfully prays for judgment against Defendant, as follows:

1. Adjudging that the manufacture, use, offer for sale or license and /or sale or license of the Expedia Reservation System infringes valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

2. Adjudging that Defendant has infringed, actively induced others to infringe and/or contributorily infringed valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

3. Adjudging that Defendant's infringement of the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, has been knowing and willful;

4. Enjoining Defendant, and its officers, directors, employees, attorneys, agents, representatives, parents, subsidiaries, affiliates and all other persons acting in concert, participation or privity with Defendant, and their successors and assigns, from infringing, contributorily infringing and/or inducing others to infringe the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent;

5. Awarding Ameranth the damages it has sustained by reason of Defendant's infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

6. Awarding Ameranth increased damages of three times the amount of damages found or assessed against Defendant by reason of the knowing, willful and deliberate nature of Defendant's acts of infringement pursuant to 35 U.S.C. § 284;

7. Adjudging this to be an exceptional case and awarding Ameranth its attorney's fees pursuant to 35 U.S.C. §285;

8. Awarding to Ameranth its costs of suit, and interest as provided by law; and

9. Awarding to Ameranth such other and further relief that this Court may deem just and proper.

//

DEMAND FOR JURY TRIAL

Ameranth demands trial by jury of its claims set forth herein to the maximum extent permitted by law.

Respectfully submitted,

Dated: June 29, 2012

CALDARELLI HEJMANOWSKI & PAGE LLP

By: /s/ William J. Caldarelli
William J. Caldarelli

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Exhibit 1030 (B)

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Attorneys for Plaintiff Ameranth, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AMERANTH, INC.

Plaintiff,

v.

FANDANGO, INC.,

Defendant.

Case No. **'12CV1651 DMS WMC**

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendant Fandango, Inc.
3 (“Fandango”), avers as follows:

4 **PARTIES**

5 1. Plaintiff Ameranth, Inc. (“Ameranth”) is a Delaware corporation having a principal
6 place of business at 5820 Oberlin Drive, Suite 202, San Diego, California 92121. Ameranth
7 develops, manufactures and sells, *inter alia*, hospitality industry, entertainment, restaurant and
8 food service information technology solutions under the trademarks 21st Century
9 Communications™, and 21st Century Restaurant™, among others, comprising the
10 synchronization and integration of hospitality information and hospitality software applications
11 between fixed, wireless and/or internet applications, including but not limited to computer
12 servers, web servers, databases, affinity/social networking systems, desktop computers,
13 laptops, “smart” phones and other wireless handheld computing devices.

14 2. Defendant Fandango, Inc. (“Fandango”) is, on information and belief, a Delaware
15 corporation having a principal place of business and headquarters in Los Angeles, California.
16 On information and belief, Fandango makes, uses, offers for sale or license and/or sells or
17 licenses entertainment box office management and ticketing/ticket sales/ticket purchases
18 information-technology products, software, components and/or systems within this Judicial
19 District, including the Fandango System as defined herein.

20 **JURISDICTION AND VENUE**

21 3. This is an action for patent infringement arising under the Patent Laws of the United
22 States, 35 U.S.C. §§ 271, 281-285.

23 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
24 1338(a).

25 5. On information and belief, Defendant engages in (a) the offer for sale or license and
26 sale or license of hospitality industry, ticketing, reservations, and/or ordering products and/or
27 components in the United States, including this Judicial District, including services, products,
28 software, and components, comprising wireless and internet POS and/or hospitality aspects;

(b) the installation and maintenance of said services, products, software, components and/or systems in hospitality industry, ticketing, reservations, ordering, and/or entertainment information technology systems in the United States, including this Judicial District; and/or (c) the use of hospitality industry, ticketing, reservations, ordering, and/or entertainment information technology systems comprising said services, products, software, components and/or systems in the United States, including this Judicial District.

6. This Court has personal jurisdiction over Defendant because Defendant commits acts of patent infringement in this Judicial District including, *inter alia*, making, using, offering for sale or license, and/or selling or licensing infringing services, products, software, components and/or systems in this Judicial District.

7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

BACKGROUND

8. Ameranth was established in 1996 to develop and provide its 21st Century Communications™ innovative information technology solutions for the hospitality industry (inclusive of, e.g., restaurants, hotels, casinos, nightclubs, cruise ships and other entertainment and sports venues). Ameranth has been widely recognized as a technology leader in the provision of wireless and internet-based systems and services to, *inter alia*, restaurants, hotels, casinos, cruise ships and entertainment and sports venues. Ameranth's award winning inventions enable, in relevant part, generation and synchronization of menus, including but not limited to restaurant menus, event tickets, and other products across fixed, wireless and/or internet platforms as well as synchronization of hospitality information and hospitality software applications across fixed, wireless and internet platforms, including but not limited to, computer servers, web servers, databases, affinity/social networking systems, desktop computers, laptops, "smart" phones and other wireless handheld computing devices.

9. Ameranth began development of the inventions leading to the patent-in-suit and the other patents in this patent family in the late Summer of 1998, at a time when the then-available wireless and internet hospitality offerings were extremely limited in functionality,

1 were not synchronized and did not provide an integrated system-wide solution to the pervasive
2 ordering, reservations, affinity program and information management needs of the hospitality
3 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
4 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
5 and products to provide systemic and comprehensive solutions directed to optimally meeting
6 these industry needs. Ameranth has expended considerable effort and resources in inventing,
7 developing and marketing its inventions and protecting its rights therein.

8 10. Ameranth's pioneering inventions have been widely adopted and are thus now
9 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth's
10 solutions have been adopted, licensed and/or deployed by numerous entities across the
11 hospitality industry.

12 11. The adoption of Ameranth's technology by industry leaders and the wide acclaim
13 received by Ameranth for its technological innovations are just some of the many
14 confirmations of the breakthrough aspects of Ameranth's inventions. Ameranth has received
15 twelve different technology awards (three with "end customer" partners) and has been widely
16 recognized as a hospitality wireless/internet technology leader by almost all major national and
17 hospitality print publications, *e.g.*, The Wall Street Journal, New York Times, USA Today and
18 many others. Ameranth was personally nominated by Bill Gates, the Founder of Microsoft, for
19 the prestigious Computerworld Honors Award that Ameranth received in 2001 for its
20 breakthrough synchronized reservations/ticketing system with the Improv Comedy Theatres.
21 In his nomination, Mr. Gates described Ameranth as "one of the leading pioneers of
22 information technology for the betterment of mankind." This prestigious award was based on
23 Ameranth's innovative synchronization of wireless/web/fixed hospitality software technology.
24 Subsequently, the United States Patent and Trademark Office granted Ameranth a number of
25 currently-issued patents, two of which are the basis for this lawsuit. Ameranth has issued press
26 releases announcing these patent grants on business wires, on its web sites and at numerous
27 trade shows since the first of the presently-asserted patents issued in 2002. A number of
28

1 companies have licensed patents and technology from Ameranth, recognizing and confirming
2 the value of Ameranth's innovations.

3 RELATED CASES PREVIOUSLY FILED

4 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "'850 patent"),
5 U.S. Patent No. 6,871,325 (the "'325 patent"), and U.S. Patent No. 8,146,077 (the "'077
6 patent"), are all patents in Ameranth's "Information Management and Synchronous
7 Communications" patent family.

8 13. Ameranth is also currently asserting claims of these same patents in separate
9 lawsuits, against other defendants, that are already pending in this Court. The first-filed
10 lawsuit asserts claims of the '850 and '325 patents and is entitled *Ameranth v. Pizza Hut, Inc.*
11 *et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in this
12 Court, asserting claims of the '077 patent, include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-
13 cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-
14 NLS; 3:12-cv-00738-JLS-NLS; 3:12-cv-00739-JLS-NLS; and 3:12-cv-00742-JLS-NLS.
15 Another lawsuit subsequently filed by Ameranth in this Court, asserting claims of the '850,
16 '325, and '077 patents, is Case No. 3:12-cv-00858-JLS-NLS.

17 COUNT I

18 **Patent Infringement (U.S. Pat. No. 6,384,850)**

19 **(35 U.S.C. § 271)**

20 14. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-13 above
21 as if fully set forth herein.

22 15. On May 7, 2002, United States Patent No. 6,384,850 entitled "Information
23 Management and Synchronous Communications System with Menu Generation" ("the '850
24 patent") (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued
25 by the United States Patent & Trademark Office.

26 16. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
27 and to the '850 patent.

1 17. On information and belief, Defendant directly infringes and continues to directly
2 infringe one or more valid and enforceable claims of the '850 patent, in violation of 35 U.S.C.
3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
4 systems, products, and/or services in the United States without authority or license from
5 Ameranth, including but not limited to the Fandango system/product/service, which includes,
6 *inter alia*, wireless and internet ticketing integration, online and mobile ticketing/ticket
7 sales/ticket purchases, integration with e-mail and affinity program and social media
8 applications such as Facebook, Twitter, Groupon, and YouTube, and/or other third-party web-
9 based applications, and other hospitality aspects ("Fandango System").

10 18. On information and belief, the Fandango System, as deployed and/or used at or from
11 one or more locations by Fandango, its agents, distributors, partners, affiliates, licensees,
12 and/or their customers, infringes one or more valid and enforceable claims of the '850 patent,
13 by, *inter alia*, doing at least one of the following: (a) Generating and transmitting menus in a
14 system including a central processing unit, a data storage device, a computer operating system
15 containing a graphical user interface, one or more displayable main menus, modifier menus,
16 and sub-modifier menus, and application software for generating a second menu and
17 transmitting it to a wireless handheld computing device or a Web page; and/or (b) Enabling
18 ticketing/ticket sales/ticket purchases and other hospitality functions via iPhone, Android, and
19 other internet-enabled wireless handheld computing devices as well as via Web pages, storing
20 hospitality information and data on at least one central database, on at least one wireless
21 handheld computing device, and on at least one Web server and Web page, and synchronizing
22 applications and data, including but not limited to applications and data relating to ordering,
23 between at least one central database, wireless handheld computing devices, and at least one
24 Web server and Web page; utilizing an interface that provides a single point of entry that
25 allows the synchronization of at least one wireless handheld computing device and at least one
26 Web page with at least one central database; allowing information to be entered via Web pages,
27 transmitted over the internet, and automatically communicated to at least one central database
28 and to wireless handheld computing devices; allowing information to be entered via wireless

1 handheld computing devices, transmitted over the internet, and automatically communicated to
2 at least one central database and to Web pages.

3 19. On information and belief, defendant Fandango has indirectly infringed and
4 continues to indirectly infringe one or more valid and enforceable claims of the '850 patent, in
5 violation of 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct
6 infringement by other persons.

7 20. On information and belief, customers of Fandango, including consumers, theatre
8 operators, and others, use the Fandango System. Fandango provides instruction and direction
9 regarding the use of the Fandango System, and advertises, promotes, and encourages the use of
10 the Fandango System.

11 21. On information and belief, the Fandango System infringes one or more valid and
12 enforceable claims of the '850 patent for the reasons set forth hereinabove.

13 22. On information and belief, Fandango has had knowledge of the '850 patent, and
14 knew or should have known that its continued offering and deployment of the Fandango
15 System, and its continued support of consumers and other users of this system/product/service,
16 would induce direct infringement by those users. Additionally, Fandango intended that its
17 actions would induce direct infringement by those users.

18 23. On information and belief, Defendant has indirectly infringed and continues to
19 indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation of
20 35 U.S.C. § 271(c).

21 24. By distributing, selling, offering, offering to sell or license and/or selling or licensing
22 the Fandango System, Fandango provides non-staple articles of commerce to others for use in
23 infringing systems, products, and/or services. Additionally, Fandango provides instruction and
24 direction regarding the use of the Fandango System, and advertises, promotes, and encourages
25 the use of the Fandango System. Users of one or more of the Fandango System directly
26 infringe one or more valid and enforceable claims of the '850 patent for the reasons set forth
27 hereinabove.

1 systems, products, and/or services in the United States without authority or license from
2 Ameranth, including but not limited to the Fandango System.

3 33. On information and belief, the Fandango System, as deployed and/or used at or from
4 one or more locations by Fandango, its agents, distributors, partners, affiliates, licensees,
5 and/or their customers, infringes one or more valid and enforceable claims of the '325 patent,
6 by, *inter alia*, doing at least one of the following: (a) Generating and transmitting menus in a
7 system including a central processing unit, a data storage device, a computer operating system
8 containing a graphical user interface, one or more displayable main menus, modifier menus,
9 and sub-modifier menus, and application software for generating a second menu and
10 transmitting it to a wireless handheld computing device or a Web page; and/or (b) Enabling
11 ticketing/ticket sales/ticket purchases and other hospitality functions via iPhone, Android, and
12 other internet-enabled wireless handheld computing devices as well as via Web pages, storing
13 hospitality information and data on at least one central database, on at least one wireless
14 handheld computing device, and on at least one Web server and Web page, and synchronizing
15 applications and data, including but not limited to applications and data relating to orders,
16 between at least one central database, wireless handheld computing devices, and at least one
17 Web server and Web page; and sending alerts, confirmations, and other information regarding
18 orders to various wireless mobile devices.

19 34. On information and belief, Defendant has indirectly infringed and continues to
20 indirectly infringe one or more valid and enforceable claims of the '325 patent, in violation of
21 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
22 other persons.

23 35. On information and belief, customers of Fandango, including consumers, theatre
24 operators, and others, use the Fandango System in a manner that infringes upon one or more
25 valid and enforceable claims of the '325 patent. Fandango provides instruction and direction
26 regarding the use of the Fandango System and advertises, promotes, and encourages the use of
27 the Fandango System.

1 36. On information and belief, Defendant actively induces others to infringe the ‘325
2 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
3 customers of Fandango, including consumers, theatre operators, and others, to use the
4 infringing Fandango System in the United States without authority or license from Ameranth.

5 37. On information and belief, Defendant contributorily infringes and continues to
6 contributorily infringe one or more valid and enforceable claims of the ‘325 patent, in violation
7 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
8 of the ‘325 patent read, constituting a material part of the invention, knowing that the
9 components were especially adapted for use in systems which infringe claims of the ‘325
10 patent.

11 38. By distributing, selling, offering, offering to sell or license and/or selling or licensing
12 the Fandango System, Defendant provides non-staple articles of commerce to others for use in
13 infringing systems, products, and/or services. Additionally, Fandango provides instruction and
14 direction regarding the use of the Fandango System and advertises, promotes, and encourages
15 the use of the Fandango System. Users of the Fandango System directly infringe one or more
16 valid and enforceable claims of the ‘325 patent, for the reasons set forth hereinabove.

17 39. On information and belief, the Fandango System infringes one or more valid and
18 enforceable claims of the ‘325 patent, for the reasons set forth hereinabove.

19 40. On information and belief, Fandango has had knowledge of the ‘325 patent,
20 including knowledge that the Fandango System, which is a non-staple articles of commerce,
21 has been used as a material part of the claimed invention of the ‘325 patent, and that there are
22 no substantial non-infringing uses for the Fandango System.

23 41. On information and belief, the aforesaid infringing activities of defendant Fandango
24 have been done with knowledge and willful disregard of Ameranth’s patent rights, making this
25 an exceptional case within the meaning of 35 U.S.C. § 285.

26 42. The aforesaid infringing activity of defendant Fandango has directly and proximately
27 caused damage to plaintiff Ameranth, including loss of profits from sales it would have made
28

1 but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and
2 cause irreparable injury to Ameranth for which there is no adequate remedy at law.

3 **COUNT III**

4 **Patent Infringement (U.S. Pat. No. 8,146,077)**

5 **(35 U.S.C. § 271)**

6 43. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-42 above
7 as if fully set forth herein.

8 44. On March 27, 2012, United States Patent No. 8,146,077 entitled “Information
9 Management and Synchronous Communications System with Menu Generation, and
10 Handwriting and Voice Modification of Orders” (a true copy of which is attached hereto as
11 **Exhibit C** and incorporated herein by reference) was duly and legally issued by the United
12 States Patent & Trademark Office.

13 45. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
14 and to the ‘077 patent.

15 46. On information and belief, Defendant directly infringes and continues to directly
16 infringe one or more valid and enforceable claims of the ‘077 patent, in violation of 35 U.S.C.
17 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
18 systems, products, and/or services in the United States without authority or license from
19 Ameranth, including but not limited to the Fandango System.

20 47. On information and belief, the Fandango System, as deployed and/or used at or from
21 one or more locations by Fandango, its agents, distributors, partners, affiliates, licensees,
22 and/or their customers, infringes one or more valid and enforceable claims of the ‘077 patent,
23 by, *inter alia*, doing at least one of the following: (a) Configuring and transmitting menus in a
24 system including a central processing unit, a data storage device, a computer operating system
25 containing a graphical user interface, one or more displayable master menus, menu
26 configuration software enabled to generate a menu configuration for a wireless handheld
27 computing device in conformity with a customized display layout, and enabled for
28 synchronous communications and to format the menu configuration for a customized display

1 layout of at least two different wireless handheld computing device display sizes, and/or (b)
2 Enabling ticketing/ticket sales/ticket purchases and other hospitality functions via iPhone,
3 Android, and other internet-enabled wireless handheld computing devices as well as via Web
4 pages, storing hospitality information and data on at least one database, on at least one wireless
5 handheld computing device, and on at least one Web server and Web page, and synchronizing
6 applications and data, including but not limited to applications and data relating to orders,
7 between at least one database, wireless handheld computing devices, and at least one Web
8 server and Web page; utilizing communications control software enabled to link and
9 synchronize hospitality information between at least one database, wireless handheld
10 computing device, and web page, to display information on web pages and on different
11 wireless handheld computing device display sizes, and to allow information to be entered via
12 Web pages, transmitted over the internet, and automatically communicated to at least one
13 database and to wireless handheld computing devices; allowing information to be entered via
14 wireless handheld computing devices, transmitted over the internet, and automatically
15 communicated to at least one database and to Web pages.

16 48. On information and belief, Defendant has indirectly infringed and continues to
17 indirectly infringe one or more valid and enforceable claims of the '077 patent, in violation of
18 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
19 other persons.

20 49. On information and belief, customers of Fandango, including consumers, theatre
21 operators, and others, use the Fandango System in a manner that infringes upon one or more
22 valid and enforceable claims of the '077 patent. Fandango provides instruction and direction
23 regarding the use of the Fandango System and advertises, promotes, and encourages the use of
24 the Fandango System.

25 50. On information and belief, Defendant actively induces others to infringe the '077
26 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
27 customers of Fandango, including consumers, theatre operators, and others, to use the
28 infringing Fandango System in the United States without authority or license from Ameranth.

51. On information and belief, Defendant contributorily infringes and continues to contributorily infringe one or more valid and enforceable claims of the '077 patent, in violation of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims of the '077 patent read, constituting a material part of the invention, knowing that the components were especially adapted for use in systems which infringe claims of the '077 patent.

52. By distributing, selling, offering, offering to sell or license and/or selling or licensing the Fandango System, Defendant provides non-staple articles of commerce to others for use in infringing systems, products, and/or services. Additionally, Fandango provides instruction and direction regarding the use of the Fandango System and advertises, promotes, and encourages the use of the Fandango System. Users of the Fandango System directly infringe one or more valid and enforceable claims of the '077 patent, for the reasons set forth hereinabove.

53. On information and belief, each of the Fandango System infringes one or more valid and enforceable claims of the '077 patent, for the reasons set forth hereinabove.

54. On information and belief, Fandango has had knowledge of the '077 patent, including knowledge that the Fandango System, which is a non-staple article of commerce, has been used as a material part of the claimed invention of the '077 patent, and that there are no substantial non-infringing uses for the Fandango System.

55. On information and belief, the aforesaid infringing activities of defendant Fandango have been done with knowledge and willful disregard of Ameranth's patent rights, making this an exceptional case within the meaning of 35 U.S.C. § 285.

56. The aforesaid infringing activity of defendant Fandango has directly and proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would have made but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and cause irreparable injury to Ameranth for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Ameranth respectfully prays for judgment against Defendant,
as follows:

1 1. Adjudging that the manufacture, use, offer for sale or license and /or sale or
2 license of the Fandango System infringes valid and enforceable claims of the '850 patent, and
3 the '325 patent, and the '077 patent, as set forth hereinabove;

4 2. Adjudging that Defendant has infringed, actively induced others to infringe
5 and/or contributorily infringed valid and enforceable claims of the '850 patent, and the '325
6 patent, and the '077 patent, as set forth hereinabove;

7 3. Adjudging that Defendant's infringement of the valid and enforceable claims of
8 the '850 patent, and the '325 patent, and the '077 patent, has been knowing and willful;

9 4. Enjoining Defendant, and its officers, directors, employees, attorneys, agents,
10 representatives, parents, subsidiaries, affiliates and all other persons acting in concert,
11 participation or privity with Defendant, and their successors and assigns, from infringing,
12 contributorily infringing and/or inducing others to infringe the valid and enforceable claims of
13 the '850 patent, and the '325 patent, and the '077 patent;

14 5. Awarding Ameranth the damages it has sustained by reason of Defendant's
15 infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

16 6. Awarding Ameranth increased damages of three times the amount of damages
17 found or assessed against Defendant by reason of the knowing, willful and deliberate nature of
18 Defendant's acts of infringement pursuant to 35 U.S.C. § 284;

19 7. Adjudging this to be an exceptional case and awarding Ameranth its attorney's
20 fees pursuant to 35 U.S.C. §285;

21 8. Awarding to Ameranth its costs of suit, and interest as provided by law; and

22 9. Awarding to Ameranth such other and further relief that this Court may deem
23 just and proper.

24 ///

25 ///

26 ///

DEMAND FOR JURY TRIAL

Ameranth demands trial by jury of its claims set forth herein to the maximum extent permitted by law.

Respectfully submitted,

Dated: June 29, 2012

CALDARELLI HEJMANOWSKI & PAGE LLP

By: /s/ William J. Caldarelli
William J. Caldarelli

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Michael D. Fabiano

OSBORNE LAW LLC
John W. Osborne

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Ethan M. Watts

Attorneys for Plaintiff AMERANTH, INC.

Exhibit 1030 (C)

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Attorneys for Plaintiff Ameranth, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AMERANTH, INC.

Plaintiff,

v.

HOTELS.COM, LP,

Defendant.

Case No. **'12CV1634 WQHBLM**

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendant Hotels.com, LP
3 (“Hotels.com”), avers as follows:

4 **PARTIES**

5 1. Plaintiff Ameranth, Inc. (“Ameranth”) is a Delaware corporation having a principal
6 place of business at 5820 Oberlin Drive, Suite 202, San Diego, California 92121. Ameranth
7 develops, manufactures and sells, *inter alia*, hospitality industry, entertainment, restaurant and
8 food service information technology solutions under the trademarks 21st Century
9 Communications™, and 21st Century Restaurant™, among others, comprising the
10 synchronization and integration of hospitality information and hospitality software applications
11 between fixed, wireless and/or internet applications, including but not limited to computer
12 servers, web servers, databases, affinity/social networking systems, desktop computers,
13 laptops, “smart” phones and other wireless handheld computing devices.

14 2. Defendant Hotels.com, LP. (“Hotels.com”) is, on information and belief, a Texas
15 limited partnership having a principal place of business and headquarters in Dallas, Texas. On
16 information and belief, Hotels.com, LP is owned by Expedia, Inc. On information and belief,
17 Hotels.com makes, uses, offers for sale or license and/or sells or licenses hotel and lodging,
18 property management system (PMS) and other hospitality information-technology products,
19 software, components and/or systems within this Judicial District, including the Hotels.com
20 Reservation System as defined herein.

21 **JURISDICTION AND VENUE**

22 3. This is an action for patent infringement arising under the Patent Laws of the United
23 States, 35 U.S.C. §§ 271, 281-285.

24 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
25 1338(a).

26 5. On information and belief, Defendant engages in (a) the offer for sale or license and
27 sale or license of hospitality, restaurant, food service, ordering, products and/or components in
28 the United States, including this Judicial District, including services, products, software, and

1 components, comprising wireless and internet POS and/or hospitality aspects; (b) the
2 installation and maintenance of said services, products, software, components and/or systems
3 in hospitality industry, restaurant, food service, and/or entertainment information technology
4 systems in the United States, including this Judicial District; and/or (c) the use of hospitality
5 industry, restaurant, food service, and/or entertainment information technology systems
6 comprising said services, products, software, components and/or systems in the United States,
7 including this Judicial District.

8 6. This Court has personal jurisdiction over Defendant because Defendant commits acts
9 of patent infringement in this Judicial District including, *inter alia*, making, using, offering for
10 sale or license, and/or selling or licensing infringing services, products, software, components
11 and/or systems in this Judicial District.

12 7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c) and
13 1400(b).

14 **BACKGROUND**

15 8. Ameranth was established in 1996 to develop and provide its 21st Century
16 Communications™ innovative information technology solutions for the hospitality industry
17 (inclusive of, e.g., restaurants, hotels, casinos, nightclubs, cruise ships and other entertainment
18 and sports venues). Ameranth has been widely recognized as a technology leader in the
19 provision of wireless and internet-based systems and services to, *inter alia*, restaurants, hotels,
20 casinos, cruise ships and entertainment and sports venues. Ameranth's award winning
21 inventions enable, in relevant part, generation and synchronization of menus, including but not
22 limited to restaurant menus, event tickets, and other products across fixed, wireless and/or
23 internet platforms as well as synchronization of hospitality information and hospitality
24 software applications across fixed, wireless and internet platforms, including but not limited to,
25 computer servers, web servers, databases, affinity/social networking systems, desktop
26 computers, laptops, "smart" phones and other wireless handheld computing devices.

27 9. Ameranth began development of the inventions leading to the patent-in-suit and the
28 other patents in this patent family in the late Summer of 1998, at a time when the then-

1 available wireless and internet hospitality offerings were extremely limited in functionality,
2 were not synchronized and did not provide an integrated system-wide solution to the pervasive
3 ordering, reservations, affinity program and information management needs of the hospitality
4 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
5 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
6 and products to provide systemic and comprehensive solutions directed to optimally meeting
7 these industry needs. Ameranth has expended considerable effort and resources in inventing,
8 developing and marketing its inventions and protecting its rights therein.

9 10. Ameranth's pioneering inventions have been widely adopted and are thus now
10 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth's
11 solutions have been adopted, licensed and/or deployed by numerous entities across the
12 hospitality industry.

13 11. The adoption of Ameranth's technology by industry leaders and the wide acclaim
14 received by Ameranth for its technological innovations are just some of the many
15 confirmations of the breakthrough aspects of Ameranth's inventions. Ameranth has received
16 twelve different technology awards (three with "end customer" partners) and has been widely
17 recognized as a hospitality wireless/internet technology leader by almost all major national and
18 hospitality print publications, *e.g.*, The Wall Street Journal, New York Times, USA Today and
19 many others. Ameranth was personally nominated by Bill Gates, the Founder of Microsoft, for
20 the prestigious Computerworld Honors Award that Ameranth received in 2001 for its
21 breakthrough synchronized reservations/ticketing system with the Improv Comedy Theatres.
22 In his nomination, Mr. Gates described Ameranth as "one of the leading pioneers of
23 information technology for the betterment of mankind." This prestigious award was based on
24 Ameranth's innovative synchronization of wireless/web/fixed hospitality software technology.
25 Subsequently, the United States Patent and Trademark Office granted Ameranth a number of
26 currently-issued patents, two of which are the basis for this lawsuit. Ameranth has issued press
27 releases announcing these patent grants on business wires, on its web sites and at numerous
28 trade shows since the first of the presently-asserted patents issued in 2002. A number of

1 companies have licensed patents and technology from Ameranth, recognizing and confirming
2 the value of Ameranth's innovations.

3 RELATED CASES PREVIOUSLY FILED

4 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "'850 patent"),
5 U.S. Patent No. 6,871,325 (the "'325 patent"), and U.S. Patent No. 8,146,077 (the "'077
6 patent"), are all patents in Ameranth's "Information Management and Synchronous
7 Communications" patent family.

8 13. Ameranth is also currently asserting claims of these same patents in separate
9 lawsuits, against other defendants, that are already pending in this Court. The first-filed
10 lawsuit asserts claims of the '850 and '325 patents and is entitled *Ameranth v. Pizza Hut, Inc.*
11 *et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in this
12 Court, asserting claims of the '077 patent, include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-
13 cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-
14 NLS; 3:12-cv-00738-JLS-NLS; 3:12-cv-00739-JLS-NLS; and 3:12-cv-00742-JLS-NLS.
15 Another lawsuit subsequently filed by Ameranth in this Court, asserting claims of the '850,
16 '325, and '077 patents, is Case No. 3:12-cv-00858-JLS-NLS.

17 COUNT I

18 **Patent Infringement (U.S. Pat. No. 6,384,850)**

19 **(35 U.S.C. § 271)**

20 14. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-13 above
21 as if fully set forth herein.

22 15. On May 7, 2002, United States Patent No. 6,384,850 entitled "Information
23 Management and Synchronous Communications System with Menu Generation" ("the '850
24 patent") (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued
25 by the United States Patent & Trademark Office.

26 16. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
27 and to the '850 patent.

1 17. On information and belief, Defendant directly infringes and continues to directly
2 infringe one or more valid and enforceable claims of the '850 patent, in violation of 35 U.S.C.
3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
4 systems, products, and/or services in the United States without authority or license from
5 Ameranth, including but not limited to the Hotels.com Reservation system/product/service,
6 which includes, inter alia, hotel/lodging-reservation and property management system (PMS)
7 integration, online and mobile hotel/lodging reservations, integration with e-mail and affinity
8 program and social media applications such as Facebook, Twitter, Groupon, and YouTube,
9 and/or other third-party web-based applications, and other hospitality aspects ("Hotels.com
10 Reservation System").

11 18. On information and belief, the Hotels.com Reservation System, as deployed and/or
12 used at or from one or more locations by Hotels.com, its agents, distributors, partners,
13 affiliates, licensees, and/or their customers, infringes one or more valid and enforceable claims
14 of the '850 patent, by, *inter alia*, doing at least one of the following: (a) Generating and
15 transmitting menus in a system including a central processing unit, a data storage device, a
16 computer operating system containing a graphical user interface, one or more displayable main
17 menus, modifier menus, and sub-modifier menus, and application software for generating a
18 second menu and transmitting it to a wireless handheld computing device or a Web page;
19 and/or (b) Enabling reservations and other hospitality functions via iPhone, Android, and other
20 internet-enabled wireless handheld computing devices as well as via Web pages, storing
21 hospitality information and data on at least one central database, on at least one wireless
22 handheld computing device, and on at least one Web server and Web page, and synchronizing
23 applications and data, including but not limited to applications and data relating to ordering,
24 between at least one central database, wireless handheld computing devices, and at least one
25 Web server and Web page; utilizing an interface that provides a single point of entry that
26 allows the synchronization of at least one wireless handheld computing device and at least one
27 Web page with at least one central database; allowing information to be entered via Web pages,
28 transmitted over the internet, and automatically communicated to at least one central database

1 and to wireless handheld computing devices; allowing information to be entered via wireless
2 handheld computing devices, transmitted over the internet, and automatically communicated to
3 at least one central database and to Web pages.

4 19. On information and belief, defendant Hotels.com has indirectly infringed and
5 continues to indirectly infringe one or more valid and enforceable claims of the '850 patent, in
6 violation of 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct
7 infringement by other persons.

8 20. On information and belief, customers of Hotels.com, including consumers and
9 hotel/restaurant operators, use the Hotels.com Reservation System. Hotels.com provides
10 instruction and direction regarding the use of the Hotels.com Reservation System, and
11 advertises, promotes, and encourages the use of the Hotels.com Reservation System.

12 21. On information and belief, the Hotels.com Reservation System infringes one or more
13 valid and enforceable claims of the '850 patent for the reasons set forth hereinabove.

14 22. On information and belief, Hotels.com has had knowledge of the '850 patent, and
15 knew or should have known that its continued offering and deployment of the Hotels.com
16 Reservation System, and its continued support of consumers, hotel/restaurant operators, and
17 other users of this system/product/service, would induce direct infringement by those users.
18 Additionally, Hotels.com intended that its actions would induce direct infringement by those
19 users.

20 23. On information and belief, Defendant has indirectly infringed and continues to
21 indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation of
22 35 U.S.C. § 271(c).

23 24. By distributing, selling, offering, offering to sell or license and/or selling or licensing
24 the Hotels.com Reservation System, Hotels.com provides non-staple articles of commerce to
25 others for use in infringing systems, products, and/or services. Additionally, Hotels.com
26 provides instruction and direction regarding the use of the Hotels.com Reservation System, and
27 advertises, promotes, and encourages the use of the Hotels.com Reservation System. Users of
28

one or more of the Hotels.com Reservation System directly infringe one or more valid and enforceable claims of the ‘850 patent for the reasons set forth hereinabove.

25. On information and belief, the Hotels.com Reservation System infringes one or more valid and enforceable claims of the ‘850 patent, for the reasons set forth hereinabove.

26. On information and belief, Hotels.com has had knowledge of the ‘850 patent, including knowledge that the Hotels.com Reservation System, which is a non-staple article of commerce, has been used as a material part of the claimed invention of the ‘850 patent, and that there are no substantial non-infringing uses for the Hotels.com Reservation System.

27. On information and belief, the aforesaid infringing activities of defendant Hotels.com have been done with knowledge and willful disregard of Ameranth’s patent rights, making this an exceptional case within the meaning of 35 U.S.C. § 285.

28. The aforesaid infringing activity of defendant Hotels.com has directly and proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would have made but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and cause irreparable injury to Ameranth for which there is no adequate remedy at law.

COUNT II

Patent Infringement (U.S. Pat. No. 6,871,325)

(35 U.S.C. § 271)

29. Plaintiff reiterates and reincorporates the allegations set forth in paragraphs 1-28 above as if fully set forth herein.

30. On March 22, 2005, United States Patent No. 6,871,325 entitled “Information Management and Synchronous Communications System with Menu Generation” (“the ‘325 patent”) (a true and correct copy of which is attached hereto as **Exhibit B**) was duly and legally issued by the United States Patent & Trademark Office.

31. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in and to the ‘325 patent.

1 32. On information and belief, Defendant directly infringes and continues to directly
2 infringe one or more valid and enforceable claims of the '325 patent, in violation of 35 U.S.C.
3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
4 systems, products, and/or services in the United States without authority or license from
5 Ameranth, including but not limited to the Hotels.com Reservation System.

6 33. On information and belief, the Hotels.com Reservation System, as deployed and/or
7 used at or from one or more locations by Hotels.com, its agents, distributors, partners,
8 affiliates, licensees, and/or their customers, infringes one or more valid and enforceable claims
9 of the '325 patent, by, *inter alia*, doing at least one of the following: (a) Generating and
10 transmitting menus in a system including a central processing unit, a data storage device, a
11 computer operating system containing a graphical user interface, one or more displayable main
12 menus, modifier menus, and sub-modifier menus, and application software for generating a
13 second menu and transmitting it to a wireless handheld computing device or a Web page;
14 and/or (b) Enabling reservations and other hospitality functions via iPhone, Android, and other
15 internet-enabled wireless handheld computing devices as well as via Web pages, storing
16 hospitality information and data on at least one central database, on at least one wireless
17 handheld computing device, and on at least one Web server and Web page, and synchronizing
18 applications and data, including but not limited to applications and data relating to orders,
19 between at least one central database, wireless handheld computing devices, and at least one
20 Web server and Web page; and sending alerts, confirmations, and other information regarding
21 orders to various wireless mobile devices.

22 34. On information and belief, Defendant has indirectly infringed and continues to
23 indirectly infringe one or more valid and enforceable claims of the '325 patent, in violation of
24 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
25 other persons.

26 35. On information and belief, customers of Hotels.com, including consumers and
27 hotel/restaurant operators, use the Hotels.com Reservation System in a manner that infringes
28 upon one or more valid and enforceable claims of the '325 patent. Hotels.com provides

1 instruction and direction regarding the use of the Hotels.com Reservation System and
2 advertises, promotes, and encourages the use of the Hotels.com Reservation System.

3 36. On information and belief, Defendant actively induces others to infringe the '325
4 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
5 customers of Hotels.com, including consumers and hotel/restaurant operators, to use the
6 infringing Hotels.com Reservation System in the United States without authority or license
7 from Ameranth.

8 37. On information and belief, Defendant contributorily infringes and continues to
9 contributorily infringe one or more valid and enforceable claims of the '325 patent, in violation
10 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
11 of the '325 patent read, constituting a material part of the invention, knowing that the
12 components were especially adapted for use in systems which infringe claims of the '325
13 patent.

14 38. By distributing, selling, offering, offering to sell or license and/or selling or licensing
15 the Hotels.com Reservation System, Defendant provides non-staple articles of commerce to
16 others for use in infringing systems, products, and/or services. Additionally, Hotels.com
17 provides instruction and direction regarding the use of the Hotels.com Reservation System and
18 advertises, promotes, and encourages the use of the Hotels.com Reservation System. Users of
19 the Hotels.com Reservation System directly infringe one or more valid and enforceable claims
20 of the '325 patent, for the reasons set forth hereinabove.

21 39. On information and belief, the Hotels.com Reservation System infringes one or more
22 valid and enforceable claims of the '325 patent, for the reasons set forth hereinabove.

23 40. On information and belief, Hotels.com has had knowledge of the '325 patent,
24 including knowledge that the Hotels.com Reservation System, which is a non-staple articles of
25 commerce, has been used as a material part of the claimed invention of the '325 patent, and
26 that there are no substantial non-infringing uses for the Hotels.com Reservation System.

1 41. On information and belief, the aforesaid infringing activities of defendant
2 Hotels.com have been done with knowledge and willful disregard of Ameranth's patent rights,
3 making this an exceptional case within the meaning of 35 U.S.C. § 285.

4 42. The aforesaid infringing activity of defendant Hotels.com has directly and
5 proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would
6 have made but for the infringements. Unless enjoined, the aforesaid infringing activity will
7 continue and cause irreparable injury to Ameranth for which there is no adequate remedy at
8 law.

9 **COUNT III**

10 **Patent Infringement (U.S. Pat. No. 8,146,077)**

11 **(35 U.S.C. § 271)**

12 43. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-42 above
13 as if fully set forth herein.

14 44. On March 27, 2012, United States Patent No. 8,146,077 entitled "Information
15 Management and Synchronous Communications System with Menu Generation, and
16 Handwriting and Voice Modification of Orders" (a true copy of which is attached hereto as
17 **Exhibit C** and incorporated herein by reference) was duly and legally issued by the United
18 States Patent & Trademark Office.

19 45. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
20 and to the '077 patent.

21 46. On information and belief, Defendant directly infringes and continues to directly
22 infringe one or more valid and enforceable claims of the '077 patent, in violation of 35 U.S.C.
23 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
24 systems, products, and/or services in the United States without authority or license from
25 Ameranth, including but not limited to the Hotels.com Reservation System.

26 47. On information and belief, the Hotels.com Reservation System, as deployed and/or
27 used at or from one or more locations by Hotels.com, its agents, distributors, partners,
28 affiliates, licensees, and/or their customers, infringes one or more valid and enforceable claims

1 of the '077 patent, by, *inter alia*, doing at least one of the following: (a) Configuring and
2 transmitting menus in a system including a central processing unit, a data storage device, a
3 computer operating system containing a graphical user interface, one or more displayable
4 master menus, menu configuration software enabled to generate a menu configuration for a
5 wireless handheld computing device in conformity with a customized display layout, and
6 enabled for synchronous communications and to format the menu configuration for a
7 customized display layout of at least two different wireless handheld computing device display
8 sizes, and/or (b) Enabling reservations and other hospitality functions via iPhone, Android, and
9 other internet-enabled wireless handheld computing devices as well as via Web pages, storing
10 hospitality information and data on at least one database, on at least one wireless handheld
11 computing device, and on at least one Web server and Web page, and synchronizing
12 applications and data, including but not limited to applications and data relating to orders,
13 between at least one database, wireless handheld computing devices, and at least one Web
14 server and Web page; utilizing communications control software enabled to link and
15 synchronize hospitality information between at least one database, wireless handheld
16 computing device, and web page, to display information on web pages and on different
17 wireless handheld computing device display sizes, and to allow information to be entered via
18 Web pages, transmitted over the internet, and automatically communicated to at least one
19 database and to wireless handheld computing devices; allowing information to be entered via
20 wireless handheld computing devices, transmitted over the internet, and automatically
21 communicated to at least one database and to Web pages.

22 48. On information and belief, Defendant has indirectly infringed and continues to
23 indirectly infringe one or more valid and enforceable claims of the '077 patent, in violation of
24 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
25 other persons.

26 49. On information and belief, customers of Hotels.com, including consumers and
27 hotel/restaurant operators, use the Hotels.com Reservation System in a manner that infringes
28 upon one or more valid and enforceable claims of the '077 patent. Hotels.com provides

1 instruction and direction regarding the use of the Hotels.com Reservation System and
2 advertises, promotes, and encourages the use of the Hotels.com Reservation System.

3 50. On information and belief, Defendant actively induces others to infringe the '077
4 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
5 customers of Hotels.com, including consumers and hotel/restaurant operators, to use the
6 infringing Hotels.com Reservation System in the United States without authority or license
7 from Ameranth.

8 51. On information and belief, Defendant contributorily infringes and continues to
9 contributorily infringe one or more valid and enforceable claims of the '077 patent, in violation
10 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
11 of the '077 patent read, constituting a material part of the invention, knowing that the
12 components were especially adapted for use in systems which infringe claims of the '077
13 patent.

14 52. By distributing, selling, offering, offering to sell or license and/or selling or licensing
15 the Hotels.com Reservation System, Defendant provides non-staple articles of commerce to
16 others for use in infringing systems, products, and/or services. Additionally, Hotels.com
17 provides instruction and direction regarding the use of the Hotels.com Reservation System and
18 advertises, promotes, and encourages the use of the Hotels.com Reservation System. Users of
19 the Hotels.com Reservation System directly infringe one or more valid and enforceable claims
20 of the '077 patent, for the reasons set forth hereinabove.

21 53. On information and belief, each of the Hotels.com Reservation System infringes one
22 or more valid and enforceable claims of the '077 patent, for the reasons set forth hereinabove.

23 54. On information and belief, Hotels.com has had knowledge of the '077 patent,
24 including knowledge that the Hotels.com Reservation System, which is a non-staple article of
25 commerce, has been used as a material part of the claimed invention of the '077 patent, and
26 that there are no substantial non-infringing uses for the Hotels.com Reservation System.

55. On information and belief, the aforesaid infringing activities of defendant Hotels.com have been done with knowledge and willful disregard of Ameranth's patent rights, making this an exceptional case within the meaning of 35 U.S.C. § 285.

56. The aforesaid infringing activity of defendant Hotels.com has directly and proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would have made but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and cause irreparable injury to Ameranth for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Ameranth respectfully prays for judgment against Defendant, as follows:

1. Adjudging that the manufacture, use, offer for sale or license and /or sale or license of the Hotels.com Reservation System infringes valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

2. Adjudging that Defendant has infringed, actively induced others to infringe and/or contributorily infringed valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

3. Adjudging that Defendant's infringement of the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, has been knowing and willful;

4. Enjoining Defendant, and its officers, directors, employees, attorneys, agents, representatives, parents, subsidiaries, affiliates and all other persons acting in concert, participation or privity with Defendant, and their successors and assigns, from infringing, contributorily infringing and/or inducing others to infringe the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent;

5. Awarding Ameranth the damages it has sustained by reason of Defendant's infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

Exhibit 1030 (D)

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Attorneys for Plaintiff Ameranth, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AMERANTH, INC.

Plaintiff,

v.

HOTEL TONIGHT, INC.,

Defendant.

Case No. **'12CV1633 LAB JMA**

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendant Hotel Tonight, Inc.
3 (“Hotel Tonight”), avers as follows:

4 **PARTIES**

5 1. Plaintiff Ameranth, Inc. (“Ameranth”) is a Delaware corporation having a principal
6 place of business at 5820 Oberlin Drive, Suite 202, San Diego, California 92121. Ameranth
7 develops, manufactures and sells, *inter alia*, hospitality industry, entertainment, restaurant and
8 food service information technology solutions under the trademarks 21st Century
9 Communications™, and 21st Century Restaurant™, among others, comprising the
10 synchronization and integration of hospitality information and hospitality software applications
11 between fixed, wireless and/or internet applications, including but not limited to computer
12 servers, web servers, databases, affinity/social networking systems, desktop computers,
13 laptops, “smart” phones and other wireless handheld computing devices.

14 2. Defendant Hotel Tonight, Inc. (“Hotel Tonight”) is, on information and belief, a
15 Delaware corporation having a principal place of business and headquarters in San Francisco,
16 California. On information and belief, Hotel Tonight makes, uses, offers for sale or license
17 and/or sells or licenses hotel and lodging, property management system (PMS) and other
18 hospitality information-technology products, software, components and/or systems within this
19 Judicial District, including the Hotel Tonight Reservation System as defined herein.

20 **JURISDICTION AND VENUE**

21 3. This is an action for patent infringement arising under the Patent Laws of the United
22 States, 35 U.S.C. §§ 271, 281-285.

23 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
24 1338(a).

25 5. On information and belief, Defendant engages in (a) the offer for sale or license and
26 sale or license of hospitality, restaurant, food service, ordering, products and/or components in
27 the United States, including this Judicial District, including services, products, software, and
28 components, comprising wireless and internet POS and/or hospitality aspects; (b) the

1 installation and maintenance of said services, products, software, components and/or systems
2 in hospitality industry, restaurant, food service, and/or entertainment information technology
3 systems in the United States, including this Judicial District; and/or (c) the use of hospitality
4 industry, restaurant, food service, and/or entertainment information technology systems
5 comprising said services, products, software, components and/or systems in the United States,
6 including this Judicial District.

7 6. This Court has personal jurisdiction over Defendant because Defendant commits acts
8 of patent infringement in this Judicial District including, *inter alia*, making, using, offering for
9 sale or license, and/or selling or licensing infringing services, products, software, components
10 and/or systems in this Judicial District.

11 7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c) and
12 1400(b).

13 **BACKGROUND**

14 8. Ameranth was established in 1996 to develop and provide its 21st Century
15 Communications™ innovative information technology solutions for the hospitality industry
16 (inclusive of, e.g., restaurants, hotels, casinos, nightclubs, cruise ships and other entertainment
17 and sports venues). Ameranth has been widely recognized as a technology leader in the
18 provision of wireless and internet-based systems and services to, *inter alia*, restaurants, hotels,
19 casinos, cruise ships and entertainment and sports venues. Ameranth's award winning
20 inventions enable, in relevant part, generation and synchronization of menus, including but not
21 limited to restaurant menus, event tickets, and other products across fixed, wireless and/or
22 internet platforms as well as synchronization of hospitality information and hospitality
23 software applications across fixed, wireless and internet platforms, including but not limited to,
24 computer servers, web servers, databases, affinity/social networking systems, desktop
25 computers, laptops, "smart" phones and other wireless handheld computing devices.

26 9. Ameranth began development of the inventions leading to the patent-in-suit and the
27 other patents in this patent family in the late Summer of 1998, at a time when the then-
28 available wireless and internet hospitality offerings were extremely limited in functionality,

1 were not synchronized and did not provide an integrated system-wide solution to the pervasive
2 ordering, reservations, affinity program and information management needs of the hospitality
3 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
4 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
5 and products to provide systemic and comprehensive solutions directed to optimally meeting
6 these industry needs. Ameranth has expended considerable effort and resources in inventing,
7 developing and marketing its inventions and protecting its rights therein.

8 10. Ameranth's pioneering inventions have been widely adopted and are thus now
9 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth's
10 solutions have been adopted, licensed and/or deployed by numerous entities across the
11 hospitality industry.

12 11. The adoption of Ameranth's technology by industry leaders and the wide acclaim
13 received by Ameranth for its technological innovations are just some of the many
14 confirmations of the breakthrough aspects of Ameranth's inventions. Ameranth has received
15 twelve different technology awards (three with "end customer" partners) and has been widely
16 recognized as a hospitality wireless/internet technology leader by almost all major national and
17 hospitality print publications, *e.g.*, The Wall Street Journal, New York Times, USA Today and
18 many others. Ameranth was personally nominated by Bill Gates, the Founder of Microsoft, for
19 the prestigious Computerworld Honors Award that Ameranth received in 2001 for its
20 breakthrough synchronized reservations/ticketing system with the Improv Comedy Theatres.
21 In his nomination, Mr. Gates described Ameranth as "one of the leading pioneers of
22 information technology for the betterment of mankind." This prestigious award was based on
23 Ameranth's innovative synchronization of wireless/web/fixed hospitality software technology.
24 Subsequently, the United States Patent and Trademark Office granted Ameranth a number of
25 currently-issued patents, two of which are the basis for this lawsuit. Ameranth has issued press
26 releases announcing these patent grants on business wires, on its web sites and at numerous
27 trade shows since the first of the presently-asserted patents issued in 2002. A number of
28

1 companies have licensed patents and technology from Ameranth, recognizing and confirming
2 the value of Ameranth's innovations.

3 RELATED CASES PREVIOUSLY FILED

4 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "'850 patent"),
5 U.S. Patent No. 6,871,325 (the "'325 patent"), and U.S. Patent No. 8,146,077 (the "'077
6 patent"), are all patents in Ameranth's "Information Management and Synchronous
7 Communications" patent family.

8 13. Ameranth is also currently asserting claims of these same patents in separate
9 lawsuits, against other defendants, that are already pending in this Court. The first-filed
10 lawsuit asserts claims of the '850 and '325 patents and is entitled *Ameranth v. Pizza Hut, Inc.*
11 *et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in this
12 Court, asserting claims of the '077 patent, include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-
13 cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-
14 NLS; 3:12-cv-00738-JLS-NLS; 3:12-cv-00739-JLS-NLS; and 3:12-cv-00742-JLS-NLS.
15 Another lawsuit subsequently filed by Ameranth in this Court, asserting claims of the '850,
16 '325, and '077 patents, is Case No. 3:12-cv-00858-JLS-NLS.

17 COUNT I

18 **Patent Infringement (U.S. Pat. No. 6,384,850)**

19 **(35 U.S.C. § 271)**

20 14. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-13 above
21 as if fully set forth herein.

22 15. On May 7, 2002, United States Patent No. 6,384,850 entitled "Information
23 Management and Synchronous Communications System with Menu Generation" ("the '850
24 patent") (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued
25 by the United States Patent & Trademark Office.

26 16. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
27 and to the '850 patent.

1 17. On information and belief, Defendant directly infringes and continues to directly
2 infringe one or more valid and enforceable claims of the '850 patent, in violation of 35 U.S.C.
3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
4 systems, products, and/or services in the United States without authority or license from
5 Ameranth, including but not limited to the Hotel Tonight Reservation system/product/service,
6 which includes, *inter alia*, hotel/lodging-reservation and property management system (PMS)
7 integration, online and mobile hotel/lodging reservations, integration with e-mail and affinity
8 program and social media applications such as Facebook, Twitter, Groupon, and YouTube,
9 and/or other third-party web-based applications, and other hospitality aspects ("Hotel Tonight
10 Reservation System").

11 18. On information and belief, the Hotel Tonight Reservation System, as
12 deployed and/or used at or from one or more locations by Hotel Tonight, its
13 agents, distributors, partners, affiliates, licensees, and/or their customers, infringes one or more
14 valid and enforceable claims of the '850 patent, by, *inter alia*, doing at least one of the
15 following: (a) Generating and transmitting menus in a system including a central processing
16 unit, a data storage device, a computer operating system containing a graphical user interface,
17 one or more displayable main menus, modifier menus, and sub-modifier menus, and
18 application software for generating a second menu and transmitting it to a wireless handheld
19 computing device or a Web page; and/or (b) Enabling reservations and other hospitality
20 functions via iPhone, Android, and other internet-enabled wireless handheld computing
21 devices as well as via Web pages, storing hospitality information and data on at least one
22 central database, on at least one wireless handheld computing device, and on at least one Web
23 server and Web page, and synchronizing applications and data, including but not limited to
24 applications and data relating to ordering, between at least one central database, wireless
25 handheld computing devices, and at least one Web server and Web page; utilizing an interface
26 that provides a single point of entry that allows the synchronization of at least one wireless
27 handheld computing device and at least one Web page with at least one central database;
28 allowing information to be entered via Web pages, transmitted over the internet, and

1 automatically communicated to at least one central database and to wireless handheld
2 computing devices; allowing information to be entered via wireless handheld computing
3 devices, transmitted over the internet, and automatically communicated to at least one central
4 database and to Web pages.

5 19. On information and belief, defendant Hotel Tonight has indirectly infringed and
6 continues to indirectly infringe one or more valid and enforceable claims of the '850 patent, in
7 violation of 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct
8 infringement by other persons.

9 20. On information and belief, customers of Hotel Tonight, including consumers and
10 hotel/restaurant operators, use the Hotel Tonight Reservation System. Hotel Tonight provides
11 instruction and direction regarding the use of the Hotel Tonight Reservation System, and
12 advertises, promotes, and encourages the use of the Hotel Tonight Reservation System.

13 21. On information and belief, the Hotel Tonight Reservation System infringes one or
14 more valid and enforceable claims of the '850 patent for the reasons set forth hereinabove.

15 22. On information and belief, Hotel Tonight has had knowledge of the '850 patent, and
16 knew or should have known that its continued offering and deployment of the Hotel Tonight
17 Reservation System, and its continued support of consumers, hotel/restaurant operators, and
18 other users of this system/product/service, would induce direct infringement by those users.
19 Additionally, Hotel Tonight intended that its actions would induce direct infringement by those
20 users.

21 23. On information and belief, Defendant has indirectly infringed and continues to
22 indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation of
23 35 U.S.C. § 271(c).

24 24. By distributing, selling, offering, offering to sell or license and/or selling or licensing
25 the Hotel Tonight Reservation System, Hotel Tonight provides non-staple articles of commerce
26 to others for use in infringing systems, products, and/or services. Additionally, Hotel Tonight
27 provides instruction and direction regarding the use of the Hotel Tonight Reservation System,
28 and advertises, promotes, and encourages the use of the Hotel Tonight Reservation System.

1 Users of one or more of the Hotel Tonight Reservation System directly infringe one or more
2 valid and enforceable claims of the '850 patent for the reasons set forth hereinabove.

3 25. On information and belief, the Hotel Tonight Reservation System infringes one or
4 more valid and enforceable claims of the '850 patent, for the reasons set forth hereinabove.

5 26. On information and belief, Hotel Tonight has had knowledge of the '850 patent,
6 including knowledge that the Hotel Tonight Reservation System, which is a non-staple article
7 of commerce, has been used as a material part of the claimed invention of the '850 patent, and
8 that there are no substantial non-infringing uses for the Hotel Tonight Reservation System.

9 27. On information and belief, the aforesaid infringing activities of defendant Hotel
10 Tonight have been done with knowledge and willful disregard of Ameranth's patent rights,
11 making this an exceptional case within the meaning of 35 U.S.C. § 285.

12 28. The aforesaid infringing activity of defendant Hotel Tonight has directly and
13 proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would
14 have made but for the infringements. Unless enjoined, the aforesaid infringing activity will
15 continue and cause irreparable injury to Ameranth for which there is no adequate remedy at
16 law.

17 COUNT II

18 **Patent Infringement (U.S. Pat. No. 6,871,325)**

19 **(35 U.S.C. § 271)**

20 29. Plaintiff reiterates and reincorporates the allegations set forth in paragraphs 1-28
21 above as if fully set forth herein.

22 30. On March 22, 2005, United States Patent No. 6,871,325 entitled "Information
23 Management and Synchronous Communications System with Menu Generation" ("the '325
24 patent") (a true and correct copy of which is attached hereto as **Exhibit B**) was duly and legally
25 issued by the United States Patent & Trademark Office.

26 31. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
27 and to the '325 patent.

1 32. On information and belief, Defendant directly infringes and continues to directly
2 infringe one or more valid and enforceable claims of the '325 patent, in violation of 35 U.S.C.
3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
4 systems, products, and/or services in the United States without authority or license from
5 Ameranth, including but not limited to the Hotel Tonight Reservation System.

6 33. On information and belief, the Hotel Tonight Reservation System, as
7 deployed and/or used at or from one or more locations by Hotel Tonight, its
8 agents, distributors, partners, affiliates, licensees, and/or their customers, infringes one or more
9 valid and enforceable claims of the '325 patent, by, *inter alia*, doing at least one of the
10 following: (a) Generating and transmitting menus in a system including a central processing
11 unit, a data storage device, a computer operating system containing a graphical user interface,
12 one or more displayable main menus, modifier menus, and sub-modifier menus, and
13 application software for generating a second menu and transmitting it to a wireless handheld
14 computing device or a Web page; and/or (b) Enabling reservations and other hospitality
15 functions via iPhone, Android, and other internet-enabled wireless handheld computing
16 devices as well as via Web pages, storing hospitality information and data on at least one
17 central database, on at least one wireless handheld computing device, and on at least one Web
18 server and Web page, and synchronizing applications and data, including but not limited to
19 applications and data relating to orders, between at least one central database, wireless
20 handheld computing devices, and at least one Web server and Web page; and sending alerts,
21 confirmations, and other information regarding orders to various wireless mobile devices.

22 34. On information and belief, Defendant has indirectly infringed and continues to
23 indirectly infringe one or more valid and enforceable claims of the '325 patent, in violation of
24 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
25 other persons.

26 35. On information and belief, customers of Hotel Tonight, including consumers and
27 hotel/restaurant operators, use the Hotel Tonight Reservation System in a manner that infringes
28 upon one or more valid and enforceable claims of the '325 patent. Hotel Tonight provides

1 instruction and direction regarding the use of the Hotel Tonight Reservation System and
2 advertises, promotes, and encourages the use of the Hotel Tonight Reservation System.

3 36. On information and belief, Defendant actively induces others to infringe the '325
4 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
5 customers of Hotel Tonight, including consumers and hotel/restaurant operators, to use the
6 infringing Hotel Tonight Reservation System in the United States without authority or license
7 from Ameranth.

8 37. On information and belief, Defendant contributorily infringes and continues to
9 contributorily infringe one or more valid and enforceable claims of the '325 patent, in violation
10 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
11 of the '325 patent read, constituting a material part of the invention, knowing that the
12 components were especially adapted for use in systems which infringe claims of the '325
13 patent.

14 38. By distributing, selling, offering, offering to sell or license and/or selling or licensing
15 the Hotel Tonight Reservation System, Defendant provides non-staple articles of commerce to
16 others for use in infringing systems, products, and/or services. Additionally, Hotel Tonight
17 provides instruction and direction regarding the use of the Hotel Tonight Reservation System
18 and advertises, promotes, and encourages the use of the Hotel Tonight Reservation System.
19 Users of the Hotel Tonight Reservation System directly infringe one or more valid and
20 enforceable claims of the '325 patent, for the reasons set forth hereinabove.

21 39. On information and belief, the Hotel Tonight Reservation System infringes one or
22 more valid and enforceable claims of the '325 patent, for the reasons set forth hereinabove.

23 40. On information and belief, Hotel Tonight has had knowledge of the '325 patent,
24 including knowledge that the Hotel Tonight Reservation System, which is a non-staple articles
25 of commerce, has been used as a material part of the claimed invention of the '325 patent, and
26 that there are no substantial non-infringing uses for the Hotel Tonight Reservation System.

1 41. On information and belief, the aforesaid infringing activities of defendant Hotel
2 Tonight have been done with knowledge and willful disregard of Ameranth's patent rights,
3 making this an exceptional case within the meaning of 35 U.S.C. § 285.

4 42. The aforesaid infringing activity of defendant Hotel Tonight has directly and
5 proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would
6 have made but for the infringements. Unless enjoined, the aforesaid infringing activity will
7 continue and cause irreparable injury to Ameranth for which there is no adequate remedy at
8 law.

9 **COUNT III**

10 **Patent Infringement (U.S. Pat. No. 8,146,077)**

11 **(35 U.S.C. § 271)**

12 43. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-42 above
13 as if fully set forth herein.

14 44. On March 27, 2012, United States Patent No. 8,146,077 entitled "Information
15 Management and Synchronous Communications System with Menu Generation, and
16 Handwriting and Voice Modification of Orders" (a true copy of which is attached hereto as
17 **Exhibit C** and incorporated herein by reference) was duly and legally issued by the United
18 States Patent & Trademark Office.

19 45. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
20 and to the '077 patent.

21 46. On information and belief, Defendant directly infringes and continues to directly
22 infringe one or more valid and enforceable claims of the '077 patent, in violation of 35 U.S.C.
23 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
24 systems, products, and/or services in the United States without authority or license from
25 Ameranth, including but not limited to the Hotel Tonight Reservation System.

26 47. On information and belief, the Hotel Tonight Reservation System, as
27 deployed and/or used at or from one or more locations by Hotel Tonight, its
28 agents, distributors, partners, affiliates, licensees, and/or their customers, infringes one or more

1 valid and enforceable claims of the '077 patent, by, *inter alia*, doing at least one of the
2 following: (a) Configuring and transmitting menus in a system including a central processing
3 unit, a data storage device, a computer operating system containing a graphical user interface,
4 one or more displayable master menus, menu configuration software enabled to generate a
5 menu configuration for a wireless handheld computing device in conformity with a customized
6 display layout, and enabled for synchronous communications and to format the menu
7 configuration for a customized display layout of at least two different wireless handheld
8 computing device display sizes, and/or (b) Enabling reservations and other hospitality
9 functions via iPhone, Android, and other internet-enabled wireless handheld computing
10 devices as well as via Web pages, storing hospitality information and data on at least one
11 database, on at least one wireless handheld computing device, and on at least one Web server
12 and Web page, and synchronizing applications and data, including but not limited to
13 applications and data relating to orders, between at least one database, wireless handheld
14 computing devices, and at least one Web server and Web page; utilizing communications
15 control software enabled to link and synchronize hospitality information between at least one
16 database, wireless handheld computing device, and web page, to display information on web
17 pages and on different wireless handheld computing device display sizes, and to allow
18 information to be entered via Web pages, transmitted over the internet, and automatically
19 communicated to at least one database and to wireless handheld computing devices; allowing
20 information to be entered via wireless handheld computing devices, transmitted over the
21 internet, and automatically communicated to at least one database and to Web pages.

22 48. On information and belief, Defendant has indirectly infringed and continues to
23 indirectly infringe one or more valid and enforceable claims of the '077 patent, in violation of
24 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
25 other persons.

26 49. On information and belief, customers of Hotel Tonight, including consumers and
27 hotel/restaurant operators, use the Hotel Tonight Reservation System in a manner that infringes
28 upon one or more valid and enforceable claims of the '077 patent. Hotel Tonight provides

1 instruction and direction regarding the use of the Hotel Tonight Reservation System and
2 advertises, promotes, and encourages the use of the Hotel Tonight Reservation System.

3 50. On information and belief, Defendant actively induces others to infringe the '077
4 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
5 customers of Hotel Tonight, including consumers and hotel/restaurant operators, to use the
6 infringing Hotel Tonight Reservation System in the United States without authority or license
7 from Ameranth.

8 51. On information and belief, Defendant contributorily infringes and continues to
9 contributorily infringe one or more valid and enforceable claims of the '077 patent, in violation
10 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
11 of the '077 patent read, constituting a material part of the invention, knowing that the
12 components were especially adapted for use in systems which infringe claims of the '077
13 patent.

14 52. By distributing, selling, offering, offering to sell or license and/or selling or licensing
15 the Hotel Tonight Reservation System, Defendant provides non-staple articles of commerce to
16 others for use in infringing systems, products, and/or services. Additionally, Hotel Tonight
17 provides instruction and direction regarding the use of the Hotel Tonight Reservation System
18 and advertises, promotes, and encourages the use of the Hotel Tonight Reservation System.
19 Users of the Hotel Tonight Reservation System directly infringe one or more valid and
20 enforceable claims of the '077 patent, for the reasons set forth hereinabove.

21 53. On information and belief, each of the Hotel Tonight Reservation System infringes
22 one or more valid and enforceable claims of the '077 patent, for the reasons set forth
23 hereinabove.

24 54. On information and belief, Hotel Tonight has had knowledge of the '077 patent,
25 including knowledge that the Hotel Tonight Reservation System, which is a non-staple article
26 of commerce, has been used as a material part of the claimed invention of the '077 patent, and
27 that there are no substantial non-infringing uses for the Hotel Tonight Reservation System.

55. On information and belief, the aforesaid infringing activities of defendant Hotel Tonight have been done with knowledge and willful disregard of Ameranth's patent rights, making this an exceptional case within the meaning of 35 U.S.C. § 285.

56. The aforesaid infringing activity of defendant Hotel Tonight has directly and proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would have made but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and cause irreparable injury to Ameranth for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Ameranth respectfully prays for judgment against Defendant,
as follows:

1. Adjudging that the manufacture, use, offer for sale or license and /or sale or license of the Hotel Tonight Reservation System infringes valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

2. Adjudging that Defendant has infringed, actively induced others to infringe and/or contributorily infringed valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

3. Adjudging that Defendant's infringement of the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, has been knowing and willful;

4. Enjoining Defendant, and its officers, directors, employees, attorneys, agents, representatives, parents, subsidiaries, affiliates and all other persons acting in concert, participation or privity with Defendant, and their successors and assigns, from infringing, contributorily infringing and/or inducing others to infringe the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent;

5. Awarding Ameranth the damages it has sustained by reason of Defendant's infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

6. Awarding Ameranth increased damages of three times the amount of damages found or assessed against Defendant by reason of the knowing, willful and deliberate nature of Defendant's acts of infringement pursuant to 35 U.S.C. § 284;

7. Adjudging this to be an exceptional case and awarding Ameranth its attorney's fees pursuant to 35 U.S.C. §285;

8. Awarding to Ameranth its costs of suit, and interest as provided by law; and

9. Awarding to Ameranth such other and further relief that this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Ameranth demands trial by jury of its claims set forth herein to the maximum extent permitted by law.

Respectfully submitted,

Dated: June 29, 2012

CALDARELLI HEJMANOWSKI & PAGE LLP

By: /s/ William J. Caldarelli
William J. Caldarelli

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Exhibit 1030 (E)

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Attorneys for Plaintiff Ameranth, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AMERANTH, INC.

Plaintiff,

v.

HOTWIRE, INC.,

Defendant.

Case No. **'12CV1653 MMABGS**

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendant Hotwire, Inc. (“Hotwire”),
3 avers as follows:

4 **PARTIES**

5 1. Plaintiff Ameranth, Inc. (“Ameranth”) is a Delaware corporation having a principal
6 place of business at 5820 Oberlin Drive, Suite 202, San Diego, California 92121. Ameranth
7 develops, manufactures and sells, *inter alia*, hospitality industry, entertainment, restaurant and
8 food service information technology solutions under the trademarks 21st Century
9 Communications™, and 21st Century Restaurant™, among others, comprising the
10 synchronization and integration of hospitality information and hospitality software applications
11 between fixed, wireless and/or internet applications, including but not limited to computer
12 servers, web servers, databases, affinity/social networking systems, desktop computers,
13 laptops, “smart” phones and other wireless handheld computing devices.

14 2. Defendant Hotwire, Inc. (“Hotwire”) is, on information and belief, a Delaware
15 corporation having a principal place of business and headquarters in San Francisco, California.
16 On information and belief, Hotwire makes, uses, offers for sale or license and/or sells or
17 licenses hotel and lodging, property management system (PMS) and other hospitality
18 information-technology products, software, components and/or systems within this Judicial
19 District, including the Hotwire Reservation System as defined herein.

20 **JURISDICTION AND VENUE**

21 3. This is an action for patent infringement arising under the Patent Laws of the United
22 States, 35 U.S.C. §§ 271, 281-285.

23 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
24 1338(a).

25 5. On information and belief, Defendant engages in (a) the offer for sale or license and
26 sale or license of hospitality, restaurant, food service, ordering, products and/or components in
27 the United States, including this Judicial District, including services, products, software, and
28 components, comprising wireless and internet POS and/or hospitality aspects; (b) the

1 installation and maintenance of said services, products, software, components and/or systems
2 in hospitality industry, restaurant, food service, and/or entertainment information technology
3 systems in the United States, including this Judicial District; and/or (c) the use of hospitality
4 industry, restaurant, food service, and/or entertainment information technology systems
5 comprising said services, products, software, components and/or systems in the United States,
6 including this Judicial District.

7 6. This Court has personal jurisdiction over Defendant because Defendant commits acts
8 of patent infringement in this Judicial District including, *inter alia*, making, using, offering for
9 sale or license, and/or selling or licensing infringing services, products, software, components
10 and/or systems in this Judicial District.

11 7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c) and
12 1400(b).

13 **BACKGROUND**

14 8. Ameranth was established in 1996 to develop and provide its 21st Century
15 Communications™ innovative information technology solutions for the hospitality industry
16 (inclusive of, e.g., restaurants, hotels, casinos, nightclubs, cruise ships and other entertainment
17 and sports venues). Ameranth has been widely recognized as a technology leader in the
18 provision of wireless and internet-based systems and services to, *inter alia*, restaurants, hotels,
19 casinos, cruise ships and entertainment and sports venues. Ameranth's award winning
20 inventions enable, in relevant part, generation and synchronization of menus, including but not
21 limited to restaurant menus, event tickets, and other products across fixed, wireless and/or
22 internet platforms as well as synchronization of hospitality information and hospitality
23 software applications across fixed, wireless and internet platforms, including but not limited to,
24 computer servers, web servers, databases, affinity/social networking systems, desktop
25 computers, laptops, "smart" phones and other wireless handheld computing devices.

26 9. Ameranth began development of the inventions leading to the patent-in-suit and the
27 other patents in this patent family in the late Summer of 1998, at a time when the then-
28 available wireless and internet hospitality offerings were extremely limited in functionality,

1 were not synchronized and did not provide an integrated system-wide solution to the pervasive
2 ordering, reservations, affinity program and information management needs of the hospitality
3 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
4 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
5 and products to provide systemic and comprehensive solutions directed to optimally meeting
6 these industry needs. Ameranth has expended considerable effort and resources in inventing,
7 developing and marketing its inventions and protecting its rights therein.

8 10. Ameranth's pioneering inventions have been widely adopted and are thus now
9 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth's
10 solutions have been adopted, licensed and/or deployed by numerous entities across the
11 hospitality industry.

12 11. The adoption of Ameranth's technology by industry leaders and the wide acclaim
13 received by Ameranth for its technological innovations are just some of the many
14 confirmations of the breakthrough aspects of Ameranth's inventions. Ameranth has received
15 twelve different technology awards (three with "end customer" partners) and has been widely
16 recognized as a hospitality wireless/internet technology leader by almost all major national and
17 hospitality print publications, *e.g.*, The Wall Street Journal, New York Times, USA Today and
18 many others. Ameranth was personally nominated by Bill Gates, the Founder of Microsoft, for
19 the prestigious Computerworld Honors Award that Ameranth received in 2001 for its
20 breakthrough synchronized reservations/ticketing system with the Improv Comedy Theatres.
21 In his nomination, Mr. Gates described Ameranth as "one of the leading pioneers of
22 information technology for the betterment of mankind." This prestigious award was based on
23 Ameranth's innovative synchronization of wireless/web/fixed hospitality software technology.
24 Subsequently, the United States Patent and Trademark Office granted Ameranth a number of
25 currently-issued patents, two of which are the basis for this lawsuit. Ameranth has issued press
26 releases announcing these patent grants on business wires, on its web sites and at numerous
27 trade shows since the first of the presently-asserted patents issued in 2002. A number of
28

1 companies have licensed patents and technology from Ameranth, recognizing and confirming
2 the value of Ameranth's innovations.

3 RELATED CASES PREVIOUSLY FILED

4 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "'850 patent"),
5 U.S. Patent No. 6,871,325 (the "'325 patent"), and U.S. Patent No. 8,146,077 (the "'077
6 patent"), are all patents in Ameranth's "Information Management and Synchronous
7 Communications" patent family.

8 13. Ameranth is also currently asserting claims of these same patents in separate
9 lawsuits, against other defendants, that are already pending in this Court. The first-filed
10 lawsuit asserts claims of the '850 and '325 patents and is entitled *Ameranth v. Pizza Hut, Inc.*
11 *et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in this
12 Court, asserting claims of the '077 patent, include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-
13 cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-
14 NLS; 3:12-cv-00738-JLS-NLS; 3:12-cv-00739-JLS-NLS; and 3:12-cv-00742-JLS-NLS.
15 Another lawsuit subsequently filed by Ameranth in this Court, asserting claims of the '850,
16 '325, and '077 patents, is Case No. 3:12-cv-00858-JLS-NLS.

17 COUNT I

18 **Patent Infringement (U.S. Pat. No. 6,384,850)**

19 **(35 U.S.C. § 271)**

20 14. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-13 above
21 as if fully set forth herein.

22 15. On May 7, 2002, United States Patent No. 6,384,850 entitled "Information
23 Management and Synchronous Communications System with Menu Generation" ("the '850
24 patent") (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued
25 by the United States Patent & Trademark Office.

26 16. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
27 and to the '850 patent.

1 17. On information and belief, Defendant directly infringes and continues to directly
2 infringe one or more valid and enforceable claims of the '850 patent, in violation of 35 U.S.C.
3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
4 systems, products, and/or services in the United States without authority or license from
5 Ameranth, including but not limited to the Hotwire Reservation system/product/service, which
6 includes, *inter alia*, hotel/lodging-reservation and property management system (PMS)
7 integration, online and mobile hotel/lodging reservations, integration with e-mail and affinity
8 program and social media applications such as Facebook, Twitter, Groupon, and YouTube,
9 and/or other third-party web-based applications, and other hospitality aspects ("Hotwire
10 Reservation System").

11 18. On information and belief, the Hotwire Reservation System, as deployed and/or used
12 at or from one or more locations by Hotwire, its agents, distributors, partners, affiliates,
13 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
14 '850 patent, by, *inter alia*, doing at least one of the following: (a) Generating and transmitting
15 menus in a system including a central processing unit, a data storage device, a computer
16 operating system containing a graphical user interface, one or more displayable main menus,
17 modifier menus, and sub-modifier menus, and application software for generating a second
18 menu and transmitting it to a wireless handheld computing device or a Web page; and/or (b)
19 Enabling reservations and other hospitality functions via iPhone, Android, and other internet-
20 enabled wireless handheld computing devices as well as via Web pages, storing hospitality
21 information and data on at least one central database, on at least one wireless handheld
22 computing device, and on at least one Web server and Web page, and synchronizing
23 applications and data, including but not limited to applications and data relating to reservations,
24 between at least one central database, wireless handheld computing devices, and at least one
25 Web server and Web page; utilizing an interface that provides a single point of entry that
26 allows the synchronization of at least one wireless handheld computing device and at least one
27 Web page with at least one central database; allowing information to be entered via Web pages,
28 transmitted over the internet, and automatically communicated to at least one central database

1 and to wireless handheld computing devices; allowing information to be entered via wireless
2 handheld computing devices, transmitted over the internet, and automatically communicated to
3 at least one central database and to Web pages.

4 19. On information and belief, defendant Hotwire has indirectly infringed and continues
5 to indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation
6 of 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement
7 by other persons.

8 20. On information and belief, customers of Hotwire, including consumers and
9 hotel/restaurant operators, use the Hotwire Reservation System. Hotwire provides instruction
10 and direction regarding the use of the Hotwire Reservation System, and advertises, promotes,
11 and encourages the use of the Hotwire Reservation System.

12 21. On information and belief, the Hotwire Reservation System infringes one or more
13 valid and enforceable claims of the '850 patent for the reasons set forth hereinabove.

14 22. On information and belief, Hotwire has had knowledge of the '850 patent, and knew
15 or should have known that its continued offering and deployment of the Hotwire Reservation
16 System, and its continued support of consumers, hotel/restaurant operators, and other users of
17 this system/product/service, would induce direct infringement by those users. Additionally,
18 Hotwire intended that its actions would induce direct infringement by those users.

19 23. On information and belief, Defendant has indirectly infringed and continues to
20 indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation of
21 35 U.S.C. § 271(c).

22 24. By distributing, selling, offering, offering to sell or license and/or selling or licensing
23 the Hotwire Reservation System, Hotwire provides non-staple articles of commerce to others
24 for use in infringing systems, products, and/or services. Additionally, Hotwire provides
25 instruction and direction regarding the use of the Hotwire Reservation System, and advertises,
26 promotes, and encourages the use of the Hotwire Reservation System. Users of one or more of
27 the Hotwire Reservation System directly infringe one or more valid and enforceable claims of
28 the '850 patent for the reasons set forth hereinabove.

1 systems, products, and/or services in the United States without authority or license from
2 Ameranth, including but not limited to the Hotwire Reservation System.

3 33. On information and belief, the Hotwire Reservation System, as deployed and/or used
4 at or from one or more locations by Hotwire, its agents, distributors, partners, affiliates,
5 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
6 '325 patent, by, *inter alia*, doing at least one of the following: (a) Generating and transmitting
7 menus in a system including a central processing unit, a data storage device, a computer
8 operating system containing a graphical user interface, one or more displayable main menus,
9 modifier menus, and sub-modifier menus, and application software for generating a second
10 menu and transmitting it to a wireless handheld computing device or a Web page; and/or (b)
11 Enabling reservations and other hospitality functions via iPhone, Android, and other internet-
12 enabled wireless handheld computing devices as well as via Web pages, storing hospitality
13 information and data on at least one central database, on at least one wireless handheld
14 computing device, and on at least one Web server and Web page, and synchronizing
15 applications and data, including but not limited to applications and data relating to orders,
16 between at least one central database, wireless handheld computing devices, and at least one
17 Web server and Web page; and sending alerts, confirmations, and other information regarding
18 orders to various wireless mobile devices.

19 34. On information and belief, Defendant has indirectly infringed and continues to
20 indirectly infringe one or more valid and enforceable claims of the '325 patent, in violation of
21 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
22 other persons.

23 35. On information and belief, customers of Hotwire, including consumers and
24 hotel/restaurant operators, use the Hotwire Reservation System in a manner that infringes upon
25 one or more valid and enforceable claims of the '325 patent. Hotwire provides instruction and
26 direction regarding the use of the Hotwire Reservation System and advertises, promotes, and
27 encourages the use of the Hotwire Reservation System.

1 36. On information and belief, Defendant actively induces others to infringe the ‘325
2 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
3 customers of Hotwire, including consumers and hotel/restaurant operators, to use the infringing
4 Hotwire Reservation System in the United States without authority or license from Ameranth.

5 37. On information and belief, Defendant contributorily infringes and continues to
6 contributorily infringe one or more valid and enforceable claims of the ‘325 patent, in violation
7 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
8 of the ‘325 patent read, constituting a material part of the invention, knowing that the
9 components were especially adapted for use in systems which infringe claims of the ‘325
10 patent.

11 38. By distributing, selling, offering, offering to sell or license and/or selling or licensing
12 the Hotwire Reservation System, Defendant provides non-staple articles of commerce to others
13 for use in infringing systems, products, and/or services. Additionally, Hotwire provides
14 instruction and direction regarding the use of the Hotwire Reservation System and advertises,
15 promotes, and encourages the use of the Hotwire Reservation System. Users of the Hotwire
16 Reservation System directly infringe one or more valid and enforceable claims of the ‘325
17 patent, for the reasons set forth hereinabove.

18 39. On information and belief, the Hotwire Reservation System infringes one or more
19 valid and enforceable claims of the ‘325 patent, for the reasons set forth hereinabove.

20 40. On information and belief, Hotwire has had knowledge of the ‘325 patent, including
21 knowledge that the Hotwire Reservation System, which is a non-staple articles of commerce,
22 has been used as a material part of the claimed invention of the ‘325 patent, and that there are
23 no substantial non-infringing uses for the Hotwire Reservation System.

24 41. On information and belief, the aforesaid infringing activities of defendant Hotwire
25 have been done with knowledge and willful disregard of Ameranth’s patent rights, making this
26 an exceptional case within the meaning of 35 U.S.C. § 285.

27 42. The aforesaid infringing activity of defendant Hotwire has directly and proximately
28 caused damage to plaintiff Ameranth, including loss of profits from sales it would have made

1 but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and
 2 cause irreparable injury to Ameranth for which there is no adequate remedy at law.

3 **COUNT III**

4 **Patent Infringement (U.S. Pat. No. 8,146,077)**

5 **(35 U.S.C. § 271)**

6 43. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-42 above
 7 as if fully set forth herein.

8 44. On March 27, 2012, United States Patent No. 8,146,077 entitled “Information
 9 Management and Synchronous Communications System with Menu Generation, and
 10 Handwriting and Voice Modification of Orders” (a true copy of which is attached hereto as
 11 **Exhibit C** and incorporated herein by reference) was duly and legally issued by the United
 12 States Patent & Trademark Office.

13 45. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
 14 and to the ‘077 patent.

15 46. On information and belief, Defendant directly infringes and continues to directly
 16 infringe one or more valid and enforceable claims of the ‘077 patent, in violation of 35 U.S.C.
 17 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
 18 systems, products, and/or services in the United States without authority or license from
 19 Ameranth, including but not limited to the Hotwire Reservation System.

20 47. On information and belief, the Hotwire Reservation System, as deployed and/or used
 21 at or from one or more locations by Hotwire, its agents, distributors, partners, affiliates,
 22 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
 23 ‘077 patent, by, *inter alia*, doing at least one of the following: (a) Configuring and transmitting
 24 menus in a system including a central processing unit, a data storage device, a computer
 25 operating system containing a graphical user interface, one or more displayable master menus,
 26 menu configuration software enabled to generate a menu configuration for a wireless handheld
 27 computing device in conformity with a customized display layout, and enabled for
 28 synchronous communications and to format the menu configuration for a customized display

1 layout of at least two different wireless handheld computing device display sizes, and/or (b)
2 Enabling reservations and other hospitality functions via iPhone, Android, and other internet-
3 enabled wireless handheld computing devices as well as via Web pages, storing hospitality
4 information and data on at least one database, on at least one wireless handheld computing
5 device, and on at least one Web server and Web page, and synchronizing applications and data,
6 including but not limited to applications and data relating to orders, between at least one
7 database, wireless handheld computing devices, and at least one Web server and Web page;
8 utilizing communications control software enabled to link and synchronize hospitality
9 information between at least one database, wireless handheld computing device, and web page,
10 to display information on web pages and on different wireless handheld computing device
11 display sizes, and to allow information to be entered via Web pages, transmitted over the
12 internet, and automatically communicated to at least one database and to wireless handheld
13 computing devices; allowing information to be entered via wireless handheld computing
14 devices, transmitted over the internet, and automatically communicated to at least one database
15 and to Web pages.

16 48. On information and belief, Defendant has indirectly infringed and continues to
17 indirectly infringe one or more valid and enforceable claims of the '077 patent, in violation of
18 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
19 other persons.

20 49. On information and belief, customers of Hotwire, including consumers and
21 hotel/restaurant operators, use the Hotwire Reservation System in a manner that infringes upon
22 one or more valid and enforceable claims of the '077 patent. Hotwire provides instruction and
23 direction regarding the use of the Hotwire Reservation System and advertises, promotes, and
24 encourages the use of the Hotwire Reservation System.

25 50. On information and belief, Defendant actively induces others to infringe the '077
26 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
27 customers of Hotwire, including consumers and hotel/restaurant operators, to use the infringing
28 Hotwire Reservation System in the United States without authority or license from Ameranth.

1 51. On information and belief, Defendant contributorily infringes and continues to
2 contributorily infringe one or more valid and enforceable claims of the '077 patent, in violation
3 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
4 of the '077 patent read, constituting a material part of the invention, knowing that the
5 components were especially adapted for use in systems which infringe claims of the '077
6 patent.

7 52. By distributing, selling, offering, offering to sell or license and/or selling or licensing
8 the Hotwire Reservation System, Defendant provides non-staple articles of commerce to others
9 for use in infringing systems, products, and/or services. Additionally, Hotwire provides
10 instruction and direction regarding the use of the Hotwire Reservation System and advertises,
11 promotes, and encourages the use of the Hotwire Reservation System. Users of the Hotwire
12 Reservation System directly infringe one or more valid and enforceable claims of the '077
13 patent, for the reasons set forth hereinabove.

14 53. On information and belief, each of the Hotwire Reservation System infringes one or
15 more valid and enforceable claims of the '077 patent, for the reasons set forth hereinabove.

16 54. On information and belief, Hotwire has had knowledge of the '077 patent, including
17 knowledge that the Hotwire Reservation System, which is a non-staple article of commerce,
18 has been used as a material part of the claimed invention of the '077 patent, and that there are
19 no substantial non-infringing uses for the Hotwire Reservation System.

20 55. On information and belief, the aforesaid infringing activities of defendant Hotwire
21 have been done with knowledge and willful disregard of Ameranth's patent rights, making this
22 an exceptional case within the meaning of 35 U.S.C. § 285.

23 56. The aforesaid infringing activity of defendant Hotwire has directly and proximately
24 caused damage to plaintiff Ameranth, including loss of profits from sales it would have made
25 but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and
26 cause irreparable injury to Ameranth for which there is no adequate remedy at law.

27 ///

PRAYER FOR RELIEF

WHEREFORE, plaintiff Ameranth respectfully prays for judgment against Defendant, as follows:

1. Adjudging that the manufacture, use, offer for sale or license and /or sale or license of the Hotwire Reservation System infringes valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

2. Adjudging that Defendant has infringed, actively induced others to infringe and/or contributorily infringed valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

3. Adjudging that Defendant's infringement of the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, has been knowing and willful;

4. Enjoining Defendant, and its officers, directors, employees, attorneys, agents, representatives, parents, subsidiaries, affiliates and all other persons acting in concert, participation or privity with Defendant, and their successors and assigns, from infringing, contributorily infringing and/or inducing others to infringe the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent;

5. Awarding Ameranth the damages it has sustained by reason of Defendant's infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

6. Awarding Ameranth increased damages of three times the amount of damages found or assessed against Defendant by reason of the knowing, willful and deliberate nature of Defendant's acts of infringement pursuant to 35 U.S.C. § 284;

7. Adjudging this to be an exceptional case and awarding Ameranth its attorney's fees pursuant to 35 U.S.C. §285;

8. Awarding to Ameranth its costs of suit, and interest as provided by law; and

9. Awarding to Ameranth such other and further relief that this Court may deem just and proper.

///

DEMAND FOR JURY TRIAL

Ameranth demands trial by jury of its claims set forth herein to the maximum extent permitted by law.

Respectfully submitted,

Dated: June 29, 2012

CALDARELLI HEJMANOWSKI & PAGE LLP

By: /s/ William J. Caldarelli
William J. Caldarelli

FABIANO LAW FIRM, P.C.
Michael D. Fabiano

OSBORNE LAW LLC
John W. Osborne

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Exhibit 1030 (F)

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Attorneys for Plaintiff Ameranth, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AMERANTH, INC.

Plaintiff,

v.

KAYAK SOFTWARE CORPORATION,

Defendant.

Case No. **'12CV1640 BEN RBB**

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendant Kayak Software
3 Corporation (“KAYAK”), avers as follows:

4 **PARTIES**

5 1. Plaintiff Ameranth, Inc. (“Ameranth”) is a Delaware corporation having a principal
6 place of business at 5820 Oberlin Drive, Suite 202, San Diego, California 92121. Ameranth
7 develops, manufactures and sells, *inter alia*, hospitality industry, entertainment, restaurant and
8 food service information technology solutions under the trademarks 21st Century
9 Communications™, and 21st Century Restaurant™, among others, comprising the
10 synchronization and integration of hospitality information and hospitality software applications
11 between fixed, wireless and/or internet applications, including but not limited to computer
12 servers, web servers, databases, affinity/social networking systems, desktop computers,
13 laptops, “smart” phones and other wireless handheld computing devices.

14 2. Defendant Kayak Software Corporation (“KAYAK”) is, on information and belief, a
15 Delaware corporation having a principal place of business and headquarters in Norwalk,
16 Connecticut. On information and belief, KAYAK makes, uses, offers for sale or license and/or
17 sells or licenses hotel and lodging, property management system (PMS) and other hospitality
18 information-technology products, software, components and/or systems within this Judicial
19 District, including the KAYAK Reservation System as defined herein.

20 **JURISDICTION AND VENUE**

21 3. This is an action for patent infringement arising under the Patent Laws of the United
22 States, 35 U.S.C. §§ 271, 281-285.

23 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
24 1338(a).

25 5. On information and belief, Defendant engages in (a) the offer for sale or license and
26 sale or license of hospitality, restaurant, food service, ordering, products and/or components in
27 the United States, including this Judicial District, including services, products, software, and
28 components, comprising wireless and internet POS and/or hospitality aspects; (b) the

1 installation and maintenance of said services, products, software, components and/or systems
2 in hospitality industry, restaurant, food service, and/or entertainment information technology
3 systems in the United States, including this Judicial District; and/or (c) the use of hospitality
4 industry, restaurant, food service, and/or entertainment information technology systems
5 comprising said services, products, software, components and/or systems in the United States,
6 including this Judicial District.

7 6. This Court has personal jurisdiction over Defendant because Defendant commits acts
8 of patent infringement in this Judicial District including, *inter alia*, making, using, offering for
9 sale or license, and/or selling or licensing infringing services, products, software, components
10 and/or systems in this Judicial District.

11 7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c) and
12 1400(b).

13 **BACKGROUND**

14 8. Ameranth was established in 1996 to develop and provide its 21st Century
15 Communications™ innovative information technology solutions for the hospitality industry
16 (inclusive of, e.g., restaurants, hotels, casinos, nightclubs, cruise ships and other entertainment
17 and sports venues). Ameranth has been widely recognized as a technology leader in the
18 provision of wireless and internet-based systems and services to, *inter alia*, restaurants, hotels,
19 casinos, cruise ships and entertainment and sports venues. Ameranth's award winning
20 inventions enable, in relevant part, generation and synchronization of menus, including but not
21 limited to restaurant menus, event tickets, and other products across fixed, wireless and/or
22 internet platforms as well as synchronization of hospitality information and hospitality
23 software applications across fixed, wireless and internet platforms, including but not limited to,
24 computer servers, web servers, databases, affinity/social networking systems, desktop
25 computers, laptops, "smart" phones and other wireless handheld computing devices.

26 9. Ameranth began development of the inventions leading to the patent-in-suit and the
27 other patents in this patent family in the late Summer of 1998, at a time when the then-
28 available wireless and internet hospitality offerings were extremely limited in functionality,

1 were not synchronized and did not provide an integrated system-wide solution to the pervasive
2 ordering, reservations, affinity program and information management needs of the hospitality
3 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
4 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
5 and products to provide systemic and comprehensive solutions directed to optimally meeting
6 these industry needs. Ameranth has expended considerable effort and resources in inventing,
7 developing and marketing its inventions and protecting its rights therein.

8 10. Ameranth's pioneering inventions have been widely adopted and are thus now
9 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth's
10 solutions have been adopted, licensed and/or deployed by numerous entities across the
11 hospitality industry.

12 11. The adoption of Ameranth's technology by industry leaders and the wide acclaim
13 received by Ameranth for its technological innovations are just some of the many
14 confirmations of the breakthrough aspects of Ameranth's inventions. Ameranth has received
15 twelve different technology awards (three with "end customer" partners) and has been widely
16 recognized as a hospitality wireless/internet technology leader by almost all major national and
17 hospitality print publications, *e.g.*, The Wall Street Journal, New York Times, USA Today and
18 many others. Ameranth was personally nominated by Bill Gates, the Founder of Microsoft, for
19 the prestigious Computerworld Honors Award that Ameranth received in 2001 for its
20 breakthrough synchronized reservations/ticketing system with the Improv Comedy Theatres.
21 In his nomination, Mr. Gates described Ameranth as "one of the leading pioneers of
22 information technology for the betterment of mankind." This prestigious award was based on
23 Ameranth's innovative synchronization of wireless/web/fixed hospitality software technology.
24 Subsequently, the United States Patent and Trademark Office granted Ameranth a number of
25 currently-issued patents, two of which are the basis for this lawsuit. Ameranth has issued press
26 releases announcing these patent grants on business wires, on its web sites and at numerous
27 trade shows since the first of the presently-asserted patents issued in 2002. A number of
28

1 companies have licensed patents and technology from Ameranth, recognizing and confirming
2 the value of Ameranth's innovations.

3 RELATED CASES PREVIOUSLY FILED

4 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "'850 patent"),
5 U.S. Patent No. 6,871,325 (the "'325 patent"), and U.S. Patent No. 8,146,077 (the "'077
6 patent"), are all patents in Ameranth's "Information Management and Synchronous
7 Communications" patent family.

8 13. Ameranth is also currently asserting claims of these same patents in separate
9 lawsuits, against other defendants, that are already pending in this Court. The first-filed
10 lawsuit asserts claims of the '850 and '325 patents and is entitled *Ameranth v. Pizza Hut, Inc.*
11 *et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in this
12 Court, asserting claims of the '077 patent, include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-
13 cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-
14 NLS; 3:12-cv-00738-JLS-NLS; 3:12-cv-00739-JLS-NLS; and 3:12-cv-00742-JLS-NLS.
15 Another lawsuit subsequently filed by Ameranth in this Court, asserting claims of the '850,
16 '325, and '077 patents, is Case No. 3:12-cv-00858-JLS-NLS.

17 COUNT I

18 **Patent Infringement (U.S. Pat. No. 6,384,850)**

19 **(35 U.S.C. § 271)**

20 14. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-13 above
21 as if fully set forth herein.

22 15. On May 7, 2002, United States Patent No. 6,384,850 entitled "Information
23 Management and Synchronous Communications System with Menu Generation" ("the '850
24 patent") (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued
25 by the United States Patent & Trademark Office.

26 16. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
27 and to the '850 patent.

1 17. On information and belief, Defendant directly infringes and continues to directly
2 infringe one or more valid and enforceable claims of the '850 patent, in violation of 35 U.S.C.
3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
4 systems, products, and/or services in the United States without authority or license from
5 Ameranth, including but not limited to the KAYAK Reservation system/product/service, which
6 includes, *inter alia*, hotel/lodging-reservation and property management system (PMS)
7 integration, online and mobile hotel/lodging reservations, integration with e-mail and affinity
8 program and social media applications such as Facebook, Twitter, Groupon, and YouTube,
9 and/or other third-party web-based applications, and other hospitality aspects ("KAYAK
10 Reservation System").

11 18. On information and belief, the KAYAK Reservation System, as deployed and/or
12 used at or from one or more locations by KAYAK, its agents, distributors, partners, affiliates,
13 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
14 '850 patent, by, *inter alia*, doing at least one of the following: (a) Generating and transmitting
15 menus in a system including a central processing unit, a data storage device, a computer
16 operating system containing a graphical user interface, one or more displayable main menus,
17 modifier menus, and sub-modifier menus, and application software for generating a second
18 menu and transmitting it to a wireless handheld computing device or a Web page; and/or (b)
19 Enabling reservations and other hospitality functions via iPhone, Android, and other internet-
20 enabled wireless handheld computing devices as well as via Web pages, storing hospitality
21 information and data on at least one central database, on at least one wireless handheld
22 computing device, and on at least one Web server and Web page, and synchronizing
23 applications and data, including but not limited to applications and data relating to ordering,
24 between at least one central database, wireless handheld computing devices, and at least one
25 Web server and Web page; utilizing an interface that provides a single point of entry that
26 allows the synchronization of at least one wireless handheld computing device and at least one
27 Web page with at least one central database; allowing information to be entered via Web pages,
28 transmitted over the internet, and automatically communicated to at least one central database

1 and to wireless handheld computing devices; allowing information to be entered via wireless
2 handheld computing devices, transmitted over the internet, and automatically communicated to
3 at least one central database and to Web pages.

4 19. On information and belief, defendant KAYAK has indirectly infringed and continues
5 to indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation
6 of 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement
7 by other persons.

8 20. On information and belief, customers of KAYAK, including consumers and
9 hotel/restaurant operators, use the KAYAK Reservation System. KAYAK provides instruction
10 and direction regarding the use of the KAYAK Reservation System, and advertises, promotes,
11 and encourages the use of the KAYAK Reservation System.

12 21. On information and belief, the KAYAK Reservation System infringes one or more
13 valid and enforceable claims of the '850 patent for the reasons set forth hereinabove.

14 22. On information and belief, KAYAK has had knowledge of the '850 patent, and knew
15 or should have known that its continued offering and deployment of the KAYAK Reservation
16 System, and its continued support of consumers, hotel/restaurant operators, and other users of
17 this system/product/service, would induce direct infringement by those users. Additionally,
18 KAYAK intended that its actions would induce direct infringement by those users.

19 23. On information and belief, Defendant has indirectly infringed and continues to
20 indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation of
21 35 U.S.C. § 271(c).

22 24. By distributing, selling, offering, offering to sell or license and/or selling or licensing
23 the KAYAK Reservation System, KAYAK provides non-staple articles of commerce to others
24 for use in infringing systems, products, and/or services. Additionally, KAYAK provides
25 instruction and direction regarding the use of the KAYAK Reservation System, and advertises,
26 promotes, and encourages the use of the KAYAK Reservation System. Users of one or more
27 of the KAYAK Reservation System directly infringe one or more valid and enforceable claims
28 of the '850 patent for the reasons set forth hereinabove.

1 systems, products, and/or services in the United States without authority or license from
2 Ameranth, including but not limited to the KAYAK Reservation System.

3 33. On information and belief, the KAYAK Reservation System, as deployed and/or
4 used at or from one or more locations by KAYAK, its agents, distributors, partners, affiliates,
5 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
6 '325 patent, by, *inter alia*, doing at least one of the following: (a) Generating and transmitting
7 menus in a system including a central processing unit, a data storage device, a computer
8 operating system containing a graphical user interface, one or more displayable main menus,
9 modifier menus, and sub-modifier menus, and application software for generating a second
10 menu and transmitting it to a wireless handheld computing device or a Web page; and/or (b)
11 Enabling reservations and other hospitality functions via iPhone, Android, and other internet-
12 enabled wireless handheld computing devices as well as via Web pages, storing hospitality
13 information and data on at least one central database, on at least one wireless handheld
14 computing device, and on at least one Web server and Web page, and synchronizing
15 applications and data, including but not limited to applications and data relating to orders,
16 between at least one central database, wireless handheld computing devices, and at least one
17 Web server and Web page; and sending alerts, confirmations, and other information regarding
18 orders to various wireless mobile devices.

19 34. On information and belief, Defendant has indirectly infringed and continues to
20 indirectly infringe one or more valid and enforceable claims of the '325 patent, in violation of
21 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
22 other persons.

23 35. On information and belief, customers of KAYAK, including consumers and
24 hotel/restaurant operators, use the KAYAK Reservation System in a manner that infringes
25 upon one or more valid and enforceable claims of the '325 patent. KAYAK provides
26 instruction and direction regarding the use of the KAYAK Reservation System and advertises,
27 promotes, and encourages the use of the KAYAK Reservation System.

1 36. On information and belief, Defendant actively induces others to infringe the '325
2 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
3 customers of KAYAK, including consumers and hotel/restaurant operators, to use the
4 infringing KAYAK Reservation System in the United States without authority or license from
5 Ameranth.

6 37. On information and belief, Defendant contributorily infringes and continues to
7 contributorily infringe one or more valid and enforceable claims of the '325 patent, in violation
8 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
9 of the '325 patent read, constituting a material part of the invention, knowing that the
10 components were especially adapted for use in systems which infringe claims of the '325
11 patent.

12 38. By distributing, selling, offering, offering to sell or license and/or selling or licensing
13 the KAYAK Reservation System, Defendant provides non-staple articles of commerce to
14 others for use in infringing systems, products, and/or services. Additionally, KAYAK provides
15 instruction and direction regarding the use of the KAYAK Reservation System and advertises,
16 promotes, and encourages the use of the KAYAK Reservation System. Users of the KAYAK
17 Reservation System directly infringe one or more valid and enforceable claims of the '325
18 patent, for the reasons set forth hereinabove.

19 39. On information and belief, the KAYAK Reservation System infringes one or more
20 valid and enforceable claims of the '325 patent, for the reasons set forth hereinabove.

21 40. On information and belief, KAYAK has had knowledge of the '325 patent, including
22 knowledge that the KAYAK Reservation System, which is a non-staple articles of commerce,
23 has been used as a material part of the claimed invention of the '325 patent, and that there are
24 no substantial non-infringing uses for the KAYAK Reservation System.

25 41. On information and belief, the aforesaid infringing activities of defendant KAYAK
26 have been done with knowledge and willful disregard of Ameranth's patent rights, making this
27 an exceptional case within the meaning of 35 U.S.C. § 285.

42. The aforesaid infringing activity of defendant KAYAK has directly and proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would have made but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and cause irreparable injury to Ameranth for which there is no adequate remedy at law.

COUNT III

Patent Infringement (U.S. Pat. No. 8,146,077)

(35 U.S.C. § 271)

43. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-42 above as if fully set forth herein.

44. On March 27, 2012, United States Patent No. 8,146,077 entitled “Information Management and Synchronous Communications System with Menu Generation, and Handwriting and Voice Modification of Orders” (a true copy of which is attached hereto as **Exhibit C** and incorporated herein by reference) was duly and legally issued by the United States Patent & Trademark Office.

45. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in and to the ‘077 patent.

46. On information and belief, Defendant directly infringes and continues to directly infringe one or more valid and enforceable claims of the ‘077 patent, in violation of 35 U.S.C. § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing systems, products, and/or services in the United States without authority or license from Ameranth, including but not limited to the KAYAK Reservation System.

47. On information and belief, the KAYAK Reservation System, as deployed and/or used at or from one or more locations by KAYAK, its agents, distributors, partners, affiliates, licensees, and/or their customers, infringes one or more valid and enforceable claims of the ‘077 patent, by, *inter alia*, doing at least one of the following: (a) Configuring and transmitting menus in a system including a central processing unit, a data storage device, a computer operating system containing a graphical user interface, one or more displayable master menus, menu configuration software enabled to generate a menu configuration for a wireless handheld

1 computing device in conformity with a customized display layout, and enabled for
2 synchronous communications and to format the menu configuration for a customized display
3 layout of at least two different wireless handheld computing device display sizes, and/or (b)
4 Enabling reservations and other hospitality functions via iPhone, Android, and other internet-
5 enabled wireless handheld computing devices as well as via Web pages, storing hospitality
6 information and data on at least one database, on at least one wireless handheld computing
7 device, and on at least one Web server and Web page, and synchronizing applications and data,
8 including but not limited to applications and data relating to orders, between at least one
9 database, wireless handheld computing devices, and at least one Web server and Web page;
10 utilizing communications control software enabled to link and synchronize hospitality
11 information between at least one database, wireless handheld computing device, and web page,
12 to display information on web pages and on different wireless handheld computing device
13 display sizes, and to allow information to be entered via Web pages, transmitted over the
14 internet, and automatically communicated to at least one database and to wireless handheld
15 computing devices; allowing information to be entered via wireless handheld computing
16 devices, transmitted over the internet, and automatically communicated to at least one database
17 and to Web pages.

18 48. On information and belief, Defendant has indirectly infringed and continues to
19 indirectly infringe one or more valid and enforceable claims of the '077 patent, in violation of
20 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
21 other persons.

22 49. On information and belief, customers of KAYAK, including consumers and
23 hotel/restaurant operators, use the KAYAK Reservation System in a manner that infringes
24 upon one or more valid and enforceable claims of the '077 patent. KAYAK provides
25 instruction and direction regarding the use of the KAYAK Reservation System and advertises,
26 promotes, and encourages the use of the KAYAK Reservation System.

27 50. On information and belief, Defendant actively induces others to infringe the '077
28 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting

1 customers of KAYAK, including consumers and hotel/restaurant operators, to use the
2 infringing KAYAK Reservation System in the United States without authority or license from
3 Ameranth.

4 51. On information and belief, Defendant contributorily infringes and continues to
5 contributorily infringe one or more valid and enforceable claims of the '077 patent, in violation
6 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
7 of the '077 patent read, constituting a material part of the invention, knowing that the
8 components were especially adapted for use in systems which infringe claims of the '077
9 patent.

10 52. By distributing, selling, offering, offering to sell or license and/or selling or licensing
11 the KAYAK Reservation System, Defendant provides non-staple articles of commerce to
12 others for use in infringing systems, products, and/or services. Additionally, KAYAK provides
13 instruction and direction regarding the use of the KAYAK Reservation System and advertises,
14 promotes, and encourages the use of the KAYAK Reservation System. Users of the KAYAK
15 Reservation System directly infringe one or more valid and enforceable claims of the '077
16 patent, for the reasons set forth hereinabove.

17 53. On information and belief, each of the KAYAK Reservation System infringes one or
18 more valid and enforceable claims of the '077 patent, for the reasons set forth hereinabove.

19 54. On information and belief, KAYAK has had knowledge of the '077 patent, including
20 knowledge that the KAYAK Reservation System, which is a non-staple article of commerce,
21 has been used as a material part of the claimed invention of the '077 patent, and that there are
22 no substantial non-infringing uses for the KAYAK Reservation System.

23 55. On information and belief, the aforesaid infringing activities of defendant KAYAK
24 have been done with knowledge and willful disregard of Ameranth's patent rights, making this
25 an exceptional case within the meaning of 35 U.S.C. § 285.

26 56. The aforesaid infringing activity of defendant KAYAK has directly and proximately
27 caused damage to plaintiff Ameranth, including loss of profits from sales it would have made
28

1 but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and
2 cause irreparable injury to Ameranth for which there is no adequate remedy at law.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, plaintiff Ameranth respectfully prays for judgment against Defendant,
5 as follows:

6 1. Adjudging that the manufacture, use, offer for sale or license and /or sale or
7 license of the KAYAK Reservation System infringes valid and enforceable claims of the '850
8 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

9 2. Adjudging that Defendant has infringed, actively induced others to infringe
10 and/or contributorily infringed valid and enforceable claims of the '850 patent, and the '325
11 patent, and the '077 patent, as set forth hereinabove;

12 3. Adjudging that Defendant's infringement of the valid and enforceable claims of
13 the '850 patent, and the '325 patent, and the '077 patent, has been knowing and willful;

14 4. Enjoining Defendant, and its officers, directors, employees, attorneys, agents,
15 representatives, parents, subsidiaries, affiliates and all other persons acting in concert,
16 participation or privity with Defendant, and their successors and assigns, from infringing,
17 contributorily infringing and/or inducing others to infringe the valid and enforceable claims of
18 the '850 patent, and the '325 patent, and the '077 patent;

19 5. Awarding Ameranth the damages it has sustained by reason of Defendant's
20 infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

21 6. Awarding Ameranth increased damages of three times the amount of damages
22 found or assessed against Defendant by reason of the knowing, willful and deliberate nature of
23 Defendant's acts of infringement pursuant to 35 U.S.C. § 284;

24 7. Adjudging this to be an exceptional case and awarding Ameranth its attorney's
25 fees pursuant to 35 U.S.C. §285;

26 8. Awarding to Ameranth its costs of suit, and interest as provided by law; and

27 9. Awarding to Ameranth such other and further relief that this Court may deem
28 just and proper.

DEMAND FOR JURY TRIAL

Ameranth demands trial by jury of its claims set forth herein to the maximum extent permitted by law.

Respectfully submitted,

Dated: June 29, 2012

CALDARELLI HEJMANOWSKI & PAGE LLP

By: /s/ William J. Caldarelli
William J. Caldarelli

FABIANO LAW FIRM, P.C.
Michael D. Fabiano

OSBORNE LAW LLC
John W. Osborne

WATTS LAW OFFICES
Ethan M. Watts

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Exhibit 1030 (G)

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Attorneys for Plaintiff Ameranth, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AMERANTH, INC.

Plaintiff,

v.

OPENTABLE, INC.,

Defendant.

Case No. **'12CV0731 MMABGS**

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendant OpenTable, Inc.
3 (“OpenTable”), avers as follows:

4 **PARTIES**

5 1. Plaintiff Ameranth, Inc. (“Ameranth”) is a Delaware corporation having a principal
6 place of business at 5820 Oberlin Drive, Suite 202, San Diego, California 92121. Ameranth
7 develops, manufactures and sells, *inter alia*, hospitality industry, entertainment, restaurant and
8 food service information technology solutions under the trademarks 21st Century
9 Communications™, and 21st Century Restaurant™, among others, comprising the
10 synchronization and integration of hospitality information and hospitality software applications
11 between fixed, wireless and/or internet applications, including but not limited to computer
12 servers, web servers, databases, affinity/social networking systems, desktop computers,
13 laptops, “smart” phones and other wireless handheld computing devices.

14 2. Defendant OpenTable, Inc. (“OpenTable”) is, on information and belief, a Delaware
15 corporation having a principal place of business in San Francisco, California. On information
16 and belief, OpenTable makes, uses, offers for sale or license and/or sells or licenses restaurant
17 and foodservice information technology products, software, components and/or systems within
18 this Judicial District, including the OpenTable Reservation System as defined herein.

19 **JURISDICTION AND VENUE**

20 3. This is an action for patent infringement arising under the Patent Laws of the United
21 States, 35 U.S.C. §§ 271, 281-285.

22 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
23 1338(a).

24 5. On information and belief, Defendant engages in (a) the offer for sale or license and
25 sale or license of hospitality, restaurant, food service, ordering, products and/or components in
26 the United States, including this Judicial District, including services, products, software, and
27 components, comprising wireless and internet POS and/or hospitality aspects; (b) the
28 installation and maintenance of said services, products, software, components and/or systems

1 in hospitality industry, restaurant, food service, and/or entertainment information technology
2 systems in the United States, including this Judicial District; and/or (c) the use of hospitality
3 industry, restaurant, food service, and/or entertainment information technology systems
4 comprising said services, products, software, components and/or systems in the United States,
5 including this Judicial District.

6 6. This Court has personal jurisdiction over Defendant because Defendant commits acts
7 of patent infringement in this Judicial District including, *inter alia*, making, using, offering for
8 sale or license, and/or selling or licensing infringing services, products, software, components
9 and/or systems in this Judicial District.

10 7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c) and
11 1400(b).

12 **BACKGROUND**

13 8. Ameranth was established in 1996 to develop and provide its 21st Century
14 Communications™ innovative information technology solutions for the hospitality industry
15 (inclusive of, e.g., restaurants, hotels, casinos, nightclubs, cruise ships and other entertainment
16 and sports venues). Ameranth has been widely recognized as a technology leader in the
17 provision of wireless and internet-based systems and services to, *inter alia*, restaurants, hotels,
18 casinos, cruise ships and entertainment and sports venues. Ameranth's award winning
19 inventions enable, in relevant part, generation and synchronization of menus, including but not
20 limited to restaurant menus, event tickets, and other products across fixed, wireless and/or
21 internet platforms as well as synchronization of hospitality information and hospitality
22 software applications across fixed, wireless and internet platforms, including but not limited to,
23 computer servers, web servers, databases, affinity/social networking systems, desktop
24 computers, laptops, "smart" phones and other wireless handheld computing devices.

25 9. Ameranth began development of the inventions leading to the patent-in-suit and the
26 other patents in this patent family in the late Summer of 1998, at a time when the then-
27 available wireless and internet hospitality offerings were extremely limited in functionality,
28 were not synchronized and did not provide an integrated system-wide solution to the pervasive

1 ordering, reservations, affinity program and information management needs of the hospitality
2 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
3 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
4 and products to provide systemic and comprehensive solutions directed to optimally meeting
5 these industry needs. Ameranth has expended considerable effort and resources in inventing,
6 developing and marketing its inventions and protecting its rights therein.

7 10. Ameranth's pioneering inventions have been widely adopted and are thus now
8 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth's
9 solutions have been adopted, licensed and/or deployed by numerous entities across the
10 hospitality industry.

11 11. The adoption of Ameranth's technology by industry leaders and the wide acclaim
12 received by Ameranth for its technological innovations are just some of the many
13 confirmations of the breakthrough aspects of Ameranth's inventions. Ameranth has received
14 twelve different technology awards (three with "end customer" partners) and has been widely
15 recognized as a hospitality wireless/internet technology leader by almost all major national and
16 hospitality print publications, *e.g.*, The Wall Street Journal, New York Times, USA Today and
17 many others. Ameranth was personally nominated by Bill Gates, the Founder of Microsoft, for
18 the prestigious Computerworld Honors Award that Ameranth received in 2001 for its
19 breakthrough synchronized reservations/ticketing system with the Improv Comedy Theatres.
20 In his nomination, Mr. Gates described Ameranth as "one of the leading pioneers of
21 information technology for the betterment of mankind." This prestigious award was based on
22 Ameranth's innovative synchronization of wireless/web/fixed hospitality software technology.
23 Subsequently, the United States Patent and Trademark Office granted Ameranth a number of
24 currently-issued patents, two of which are the basis for this lawsuit. Ameranth has issued press
25 releases announcing these patent grants on business wires, on its web sites and at numerous
26 trade shows attended by various of the Defendants since the first of the two presently-asserted
27 patents issued in 2002. A number of companies have licensed patents and technology from
28 Ameranth, recognizing the value of Ameranth's innovations.

RELATED CASE PREVIOUSLY FILED

12. The Ameranth patent asserted herein, U.S. Patent No. 8,146,077 (the “’077 patent”), is the fourth patent to issue in Ameranth’s “Information Management and Synchronous Communications” patent family.

13. Ameranth is also currently asserting eight claims of the first three of its patents in a separate litigation pending in this Court (*Ameranth v. Pizza Hut, Inc. et al.*, Case No. 3:11-cv-01810-JLS-NLS) against several parties, including OpenTable.

COUNT I

Patent Infringement (U.S. Pat. No. 8,146,077)

(35 U.S.C. § 271)

14. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-14 above as if fully set forth herein.

15. On March 27, 2012, United States Patent No. 8,146,077 entitled “Information Management and Synchronous Communications System with Menu Generation, and Handwriting and Voice Modification of Orders” (a true copy of which is attached hereto as **Exhibit A** and incorporated herein by reference) was duly and legally issued by the United States Patent & Trademark Office.

16. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in and to the ‘077 patent.

17. On information and belief, Defendant directly infringes and continues to directly infringe one or more valid and enforceable claims of the ‘077 patent, in violation of 35 U.S.C. § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing systems, products, and/or services in the United States without authority or license from Ameranth, including but not limited to the OpenTable system/product/service, which includes, inter alia, wireless and internet POS and restaurant-reservation and table management integration, online and mobile reservations, integration with e-mail and affinity program and social media applications such as Facebook, Twitter, Groupon, and YouTube, and/or other

1 third-party web-based applications, and other hospitality aspects (“OpenTable Reservation
2 System”).

3 18. On information and belief, the OpenTable Reservation System, as deployed and/or
4 used at or from one or more locations by OpenTable, its agents, distributors, partners, affiliates,
5 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
6 ‘077 patent, by, *inter alia*, enabling reservations and other hospitality functions via iPhone,
7 Android, and other internet-enabled wireless handheld computing devices as well as via Web
8 pages, storing hospitality information and data on at least one database, on at least one wireless
9 handheld computing device, and on at least one Web server and Web page, and synchronizing
10 applications and data, including but not limited to applications and data relating to orders,
11 between at least one database, wireless handheld computing devices, and at least one Web
12 server and Web page; utilizing communications control software enabled to link and
13 synchronize hospitality information between at least one database, wireless handheld
14 computing device, and web page, to display information on web pages and on different
15 wireless handheld computing device display sizes, and to allow information to be entered via
16 Web pages, transmitted over the internet, and automatically communicated to at least one
17 database and to wireless handheld computing devices; allowing information to be entered via
18 wireless handheld computing devices, transmitted over the internet, and automatically
19 communicated to at least one database and to Web pages.

20 19. On information and belief, Defendant indirectly infringes, as of the date of filing
21 and/or service of this complaint, one or more valid and enforceable claims of the ‘077 patent,
22 in violation of 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct
23 infringement by other persons.

24 20. On information and belief, customers of OpenTable, including consumers and
25 restaurant operators, use the OpenTable Reservation System in a manner that infringes upon
26 one or more valid and enforceable claims of the ‘077 patent. OpenTable provides instruction
27 and direction regarding the use of the OpenTable Reservation System and advertises, promotes,
28 and encourages the use of the OpenTable Reservation System.

1 21. On information and belief, Defendant actively induces others to infringe the '077
2 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
3 customers of OpenTable, including consumers and restaurant operators, to use the infringing
4 OpenTable Reservation System in the United States without authority or license from
5 Ameranth.

6 22. On information and belief, Defendant contributorily infringes and continues to
7 contributorily infringe one or more valid and enforceable claims of the '077 patent, in violation
8 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
9 of the '077 patent read, constituting a material part of the invention, knowing that the
10 components were especially adapted for use in systems which infringe claims of the '077
11 patent.

12 23. By distributing, selling, offering, offering to sell or license and/or selling or licensing
13 the OpenTable Reservation System, Defendant provides non-staple articles of commerce to
14 others for use in infringing systems, products, and/or services. Additionally, OpenTable
15 provides instruction and direction regarding the use of the OpenTable Reservation System and
16 advertises, promotes, and encourages the use of the OpenTable Reservation System. Users of
17 the OpenTable Reservation System directly infringe one or more valid and enforceable claims
18 of the '077 patent, for the reasons set forth hereinabove.

19 24. On information and belief, the OpenTable Reservation System infringes one or more
20 valid and enforceable claims of the '077 patent, for the reasons set forth hereinabove.

21 25. If Defendant does not cease and desist the aforesaid infringing activities, and instead
22 continues to infringe valid and enforceable claims of the '077 patent after the date of filing
23 and/or service of this complaint, then such infringing actions will have been done with
24 knowledge and willful disregard of Ameranth's patent rights, making this an exceptional case
25 within the meaning of 35 U.S.C. § 285.

26 26. The aforesaid infringing activity of Defendant directly and proximately causes
27 damage to plaintiff Ameranth, including loss of profits from sales it would have made but for
28

1 the infringements. Unless enjoined, the aforesaid infringing activity will continue and cause
2 irreparable injury to Ameranth for which there is no adequate remedy at law.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, plaintiff Ameranth respectfully prays for judgment against Defendants,
5 and each of them, as follows:

6 1. Adjudging that the manufacture, use, offer for sale or license and /or sale or
7 license of the OpenTable Reservation System infringes valid and enforceable claims of the
8 '077 patent, as set forth hereinabove;

9 2. Adjudging that Defendant has infringed, actively induced others to infringe
10 and/or contributorily infringed valid and enforceable claims of the '077 patent, as set forth
11 hereinabove;

12 3. If Defendant does not cease and desist the aforesaid infringing activities and
13 instead continues to infringe valid and enforceable claims of the '077 patent after the date of
14 filing and/or service of this Complaint, adjudging that Defendant's infringement of the valid
15 and enforceable claims of the '077 patent has been knowing and willful;

16 4. Enjoining Defendant, and its officers, directors, employees, attorneys, agents,
17 representatives, parents, subsidiaries, affiliates and all other persons acting in concert,
18 participation or privity with Defendant, and their successors and assigns, from infringing,
19 contributorily infringing and/or inducing others to infringe the valid and enforceable claims of
20 the '077 patent;

21 5. Awarding Ameranth the damages it has sustained by reason of Defendant's
22 infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

23 6. If Defendant does not cease and desist the aforesaid infringing activities and
24 instead continues to infringe valid and enforceable claims of the '077 patent after the date of
25 filing and/or service of this Complaint, awarding Ameranth increased damages of three times
26 the amount found or assessed against Defendant by reason of the knowing, willful and
27 deliberate nature of Defendant's acts of infringement pursuant to 35 U.S.C. § 284;

9. Awarding to Ameranth such other and further relief that this Court may deem just and proper.

Ameranth demands trial by jury of its claims set forth herein to the maximum extent permitted by law.

Dated: March 27, 2012

WATTS LAW OFFICES
Ethan M. Watts

Attorneys for Plaintiff AMERANTH, INC.

Exhibit 1030 (H)

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Attorneys for Plaintiff Ameranth, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AMERANTH, INC.

Plaintiff,

v.

ORBITZ, LLC,

Defendant.

Case No. **'12CV1644 AJB BGS**

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 installation and maintenance of said services, products, software, components and/or systems
2 in hospitality industry, restaurant, food service, and/or entertainment information technology
3 systems in the United States, including this Judicial District; and/or (c) the use of hospitality
4 industry, restaurant, food service, and/or entertainment information technology systems
5 comprising said services, products, software, components and/or systems in the United States,
6 including this Judicial District.

7 6. This Court has personal jurisdiction over Defendant because Defendant commits acts
8 of patent infringement in this Judicial District including, *inter alia*, making, using, offering for
9 sale or license, and/or selling or licensing infringing services, products, software, components
10 and/or systems in this Judicial District.

11 7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c) and
12 1400(b).

13 **BACKGROUND**

14 8. Ameranth was established in 1996 to develop and provide its 21st Century
15 Communications™ innovative information technology solutions for the hospitality industry
16 (inclusive of, e.g., restaurants, hotels, casinos, nightclubs, cruise ships and other entertainment
17 and sports venues). Ameranth has been widely recognized as a technology leader in the
18 provision of wireless and internet-based systems and services to, *inter alia*, restaurants, hotels,
19 casinos, cruise ships and entertainment and sports venues. Ameranth's award winning
20 inventions enable, in relevant part, generation and synchronization of menus, including but not
21 limited to restaurant menus, event tickets, and other products across fixed, wireless and/or
22 internet platforms as well as synchronization of hospitality information and hospitality
23 software applications across fixed, wireless and internet platforms, including but not limited to,
24 computer servers, web servers, databases, affinity/social networking systems, desktop
25 computers, laptops, "smart" phones and other wireless handheld computing devices.

26 9. Ameranth began development of the inventions leading to the patent-in-suit and the
27 other patents in this patent family in the late Summer of 1998, at a time when the then-
28 available wireless and internet hospitality offerings were extremely limited in functionality,

1 were not synchronized and did not provide an integrated system-wide solution to the pervasive
2 ordering, reservations, affinity program and information management needs of the hospitality
3 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
4 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
5 and products to provide systemic and comprehensive solutions directed to optimally meeting
6 these industry needs. Ameranth has expended considerable effort and resources in inventing,
7 developing and marketing its inventions and protecting its rights therein.

8 10. Ameranth's pioneering inventions have been widely adopted and are thus now
9 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth's
10 solutions have been adopted, licensed and/or deployed by numerous entities across the
11 hospitality industry.

12 11. The adoption of Ameranth's technology by industry leaders and the wide acclaim
13 received by Ameranth for its technological innovations are just some of the many
14 confirmations of the breakthrough aspects of Ameranth's inventions. Ameranth has received
15 twelve different technology awards (three with "end customer" partners) and has been widely
16 recognized as a hospitality wireless/internet technology leader by almost all major national and
17 hospitality print publications, *e.g.*, The Wall Street Journal, New York Times, USA Today and
18 many others. Ameranth was personally nominated by Bill Gates, the Founder of Microsoft, for
19 the prestigious Computerworld Honors Award that Ameranth received in 2001 for its
20 breakthrough synchronized reservations/ticketing system with the Improv Comedy Theatres.
21 In his nomination, Mr. Gates described Ameranth as "one of the leading pioneers of
22 information technology for the betterment of mankind." This prestigious award was based on
23 Ameranth's innovative synchronization of wireless/web/fixed hospitality software technology.
24 Subsequently, the United States Patent and Trademark Office granted Ameranth a number of
25 currently-issued patents, two of which are the basis for this lawsuit. Ameranth has issued press
26 releases announcing these patent grants on business wires, on its web sites and at numerous
27 trade shows since the first of the presently-asserted patents issued in 2002. A number of
28

1 companies have licensed patents and technology from Ameranth, recognizing and confirming
2 the value of Ameranth's innovations.

3 RELATED CASES PREVIOUSLY FILED

4 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "'850 patent"),
5 U.S. Patent No. 6,871,325 (the "'325 patent"), and U.S. Patent No. 8,146,077 (the "'077
6 patent"), are all patents in Ameranth's "Information Management and Synchronous
7 Communications" patent family.

8 13. Ameranth is also currently asserting claims of these same patents in separate
9 lawsuits, against other defendants, that are already pending in this Court. The first-filed
10 lawsuit asserts claims of the '850 and '325 patents and is entitled *Ameranth v. Pizza Hut, Inc.*
11 *et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in this
12 Court, asserting claims of the '077 patent, include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-
13 cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-
14 NLS; 3:12-cv-00738-JLS-NLS; 3:12-cv-00739-JLS-NLS; and 3:12-cv-00742-JLS-NLS.
15 Another lawsuit subsequently filed by Ameranth in this Court, asserting claims of the '850,
16 '325, and '077 patents, is Case No. 3:12-cv-00858-JLS-NLS.

17 COUNT I

18 **Patent Infringement (U.S. Pat. No. 6,384,850)**

19 **(35 U.S.C. § 271)**

20 14. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-13 above
21 as if fully set forth herein.

22 15. On May 7, 2002, United States Patent No. 6,384,850 entitled "Information
23 Management and Synchronous Communications System with Menu Generation" ("the '850
24 patent") (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued
25 by the United States Patent & Trademark Office.

26 16. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
27 and to the '850 patent.

1 17. On information and belief, Defendant directly infringes and continues to directly
2 infringe one or more valid and enforceable claims of the '850 patent, in violation of 35 U.S.C.
3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
4 systems, products, and/or services in the United States without authority or license from
5 Ameranth, including but not limited to the Orbitz Reservation system/product/service, which
6 includes, *inter alia*, hotel/lodging-reservation and property management system (PMS)
7 integration, online and mobile hotel/lodging reservations, integration with e-mail and affinity
8 program and social media applications such as Facebook, Twitter, Groupon, and YouTube,
9 and/or other third-party web-based applications, and other hospitality aspects ("Orbitz
10 Reservation System").

11 18. On information and belief, the Orbitz Reservation System, as deployed and/or used
12 at or from one or more locations by Orbitz, its agents, distributors, partners, affiliates,
13 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
14 '850 patent, by, *inter alia*, doing at least one of the following: (a) Generating and transmitting
15 menus in a system including a central processing unit, a data storage device, a computer
16 operating system containing a graphical user interface, one or more displayable main menus,
17 modifier menus, and sub-modifier menus, and application software for generating a second
18 menu and transmitting it to a wireless handheld computing device or a Web page; and/or (b)
19 Enabling reservations and other hospitality functions via iPhone, Android, and other internet-
20 enabled wireless handheld computing devices as well as via Web pages, storing hospitality
21 information and data on at least one central database, on at least one wireless handheld
22 computing device, and on at least one Web server and Web page, and synchronizing
23 applications and data, including but not limited to applications and data relating to ordering,
24 between at least one central database, wireless handheld computing devices, and at least one
25 Web server and Web page; utilizing an interface that provides a single point of entry that
26 allows the synchronization of at least one wireless handheld computing device and at least one
27 Web page with at least one central database; allowing information to be entered via Web pages,
28 transmitted over the internet, and automatically communicated to at least one central database

1 and to wireless handheld computing devices; allowing information to be entered via wireless
2 handheld computing devices, transmitted over the internet, and automatically communicated to
3 at least one central database and to Web pages.

4 19. On information and belief, defendant Orbitz has indirectly infringed and continues to
5 indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation of
6 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
7 other persons.

8 20. On information and belief, customers of Orbitz, including consumers and
9 hotel/restaurant operators, use the Orbitz Reservation System. Orbitz provides instruction and
10 direction regarding the use of the Orbitz Reservation System, and advertises, promotes, and
11 encourages the use of the Orbitz Reservation System.

12 21. On information and belief, the Orbitz Reservation System infringes one or more
13 valid and enforceable claims of the '850 patent for the reasons set forth hereinabove.

14 22. On information and belief, Orbitz has had knowledge of the '850 patent, and knew or
15 should have known that its continued offering and deployment of the Orbitz Reservation
16 System, and its continued support of consumers, hotel/restaurant operators, and other users of
17 this system/product/service, would induce direct infringement by those users. Additionally,
18 Orbitz intended that its actions would induce direct infringement by those users.

19 23. On information and belief, Defendant has indirectly infringed and continues to
20 indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation of
21 35 U.S.C. § 271(c).

22 24. By distributing, selling, offering, offering to sell or license and/or selling or licensing
23 the Orbitz Reservation System, Orbitz provides non-staple articles of commerce to others for
24 use in infringing systems, products, and/or services. Additionally, Orbitz provides instruction
25 and direction regarding the use of the Orbitz Reservation System, and advertises, promotes,
26 and encourages the use of the Orbitz Reservation System. Users of one or more of the Orbitz
27 Reservation System directly infringe one or more valid and enforceable claims of the '850
28 patent for the reasons set forth hereinabove.

1 systems, products, and/or services in the United States without authority or license from
2 Ameranth, including but not limited to the Orbitz Reservation System.

3 33. On information and belief, the Orbitz Reservation System, as deployed and/or used
4 at or from one or more locations by Orbitz, its agents, distributors, partners, affiliates,
5 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
6 '325 patent, by, *inter alia*, doing at least one of the following: (a) Generating and transmitting
7 menus in a system including a central processing unit, a data storage device, a computer
8 operating system containing a graphical user interface, one or more displayable main menus,
9 modifier menus, and sub-modifier menus, and application software for generating a second
10 menu and transmitting it to a wireless handheld computing device or a Web page; and/or (b)
11 Enabling reservations and other hospitality functions via iPhone, Android, and other internet-
12 enabled wireless handheld computing devices as well as via Web pages, storing hospitality
13 information and data on at least one central database, on at least one wireless handheld
14 computing device, and on at least one Web server and Web page, and synchronizing
15 applications and data, including but not limited to applications and data relating to orders,
16 between at least one central database, wireless handheld computing devices, and at least one
17 Web server and Web page; and sending alerts, confirmations, and other information regarding
18 orders to various wireless mobile devices.

19 34. On information and belief, Defendant has indirectly infringed and continues to
20 indirectly infringe one or more valid and enforceable claims of the '325 patent, in violation of
21 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
22 other persons.

23 35. On information and belief, customers of Orbitz, including consumers and
24 hotel/restaurant operators, use the Orbitz Reservation System in a manner that infringes upon
25 one or more valid and enforceable claims of the '325 patent. Orbitz provides instruction and
26 direction regarding the use of the Orbitz Reservation System and advertises, promotes, and
27 encourages the use of the Orbitz Reservation System.

1 36. On information and belief, Defendant actively induces others to infringe the ‘325
2 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
3 customers of Orbitz, including consumers and hotel/restaurant operators, to use the infringing
4 Orbitz Reservation System in the United States without authority or license from Ameranth.

5 37. On information and belief, Defendant contributorily infringes and continues to
6 contributorily infringe one or more valid and enforceable claims of the ‘325 patent, in violation
7 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
8 of the ‘325 patent read, constituting a material part of the invention, knowing that the
9 components were especially adapted for use in systems which infringe claims of the ‘325
10 patent.

11 38. By distributing, selling, offering, offering to sell or license and/or selling or licensing
12 the Orbitz Reservation System, Defendant provides non-staple articles of commerce to others
13 for use in infringing systems, products, and/or services. Additionally, Orbitz provides
14 instruction and direction regarding the use of the Orbitz Reservation System and advertises,
15 promotes, and encourages the use of the Orbitz Reservation System. Users of the Orbitz
16 Reservation System directly infringe one or more valid and enforceable claims of the ‘325
17 patent, for the reasons set forth hereinabove.

18 39. On information and belief, the Orbitz Reservation System infringes one or more
19 valid and enforceable claims of the ‘325 patent, for the reasons set forth hereinabove.

20 40. On information and belief, Orbitz has had knowledge of the ‘325 patent, including
21 knowledge that the Orbitz Reservation System, which is a non-staple articles of commerce, has
22 been used as a material part of the claimed invention of the ‘325 patent, and that there are no
23 substantial non-infringing uses for the Orbitz Reservation System.

24 41. On information and belief, the aforesaid infringing activities of defendant Orbitz
25 have been done with knowledge and willful disregard of Ameranth’s patent rights, making this
26 an exceptional case within the meaning of 35 U.S.C. § 285.

27 42. The aforesaid infringing activity of defendant Orbitz has directly and proximately
28 caused damage to plaintiff Ameranth, including loss of profits from sales it would have made

1 but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and
 2 cause irreparable injury to Ameranth for which there is no adequate remedy at law.

3 **COUNT III**

4 **Patent Infringement (U.S. Pat. No. 8,146,077)**

5 **(35 U.S.C. § 271)**

6 43. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-42 above
 7 as if fully set forth herein.

8 44. On March 27, 2012, United States Patent No. 8,146,077 entitled “Information
 9 Management and Synchronous Communications System with Menu Generation, and
 10 Handwriting and Voice Modification of Orders” (a true copy of which is attached hereto as
 11 **Exhibit C** and incorporated herein by reference) was duly and legally issued by the United
 12 States Patent & Trademark Office.

13 45. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
 14 and to the ‘077 patent.

15 46. On information and belief, Defendant directly infringes and continues to directly
 16 infringe one or more valid and enforceable claims of the ‘077 patent, in violation of 35 U.S.C.
 17 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
 18 systems, products, and/or services in the United States without authority or license from
 19 Ameranth, including but not limited to the Orbitz Reservation System.

20 47. On information and belief, the Orbitz Reservation System, as deployed and/or used
 21 at or from one or more locations by Orbitz, its agents, distributors, partners, affiliates,
 22 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
 23 ‘077 patent, by, *inter alia*, doing at least one of the following: (a) Configuring and transmitting
 24 menus in a system including a central processing unit, a data storage device, a computer
 25 operating system containing a graphical user interface, one or more displayable master menus,
 26 menu configuration software enabled to generate a menu configuration for a wireless handheld
 27 computing device in conformity with a customized display layout, and enabled for
 28 synchronous communications and to format the menu configuration for a customized display

1 layout of at least two different wireless handheld computing device display sizes, and/or (b)
2 Enabling reservations and other hospitality functions via iPhone, Android, and other internet-
3 enabled wireless handheld computing devices as well as via Web pages, storing hospitality
4 information and data on at least one database, on at least one wireless handheld computing
5 device, and on at least one Web server and Web page, and synchronizing applications and data,
6 including but not limited to applications and data relating to orders, between at least one
7 database, wireless handheld computing devices, and at least one Web server and Web page;
8 utilizing communications control software enabled to link and synchronize hospitality
9 information between at least one database, wireless handheld computing device, and web page,
10 to display information on web pages and on different wireless handheld computing device
11 display sizes, and to allow information to be entered via Web pages, transmitted over the
12 internet, and automatically communicated to at least one database and to wireless handheld
13 computing devices; allowing information to be entered via wireless handheld computing
14 devices, transmitted over the internet, and automatically communicated to at least one database
15 and to Web pages.

16 48. On information and belief, Defendant has indirectly infringed and continues to
17 indirectly infringe one or more valid and enforceable claims of the '077 patent, in violation of
18 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
19 other persons.

20 49. On information and belief, customers of Orbitz, including consumers and
21 hotel/restaurant operators, use the Orbitz Reservation System in a manner that infringes upon
22 one or more valid and enforceable claims of the '077 patent. Orbitz provides instruction and
23 direction regarding the use of the Orbitz Reservation System and advertises, promotes, and
24 encourages the use of the Orbitz Reservation System.

25 50. On information and belief, Defendant actively induces others to infringe the '077
26 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
27 customers of Orbitz, including consumers and hotel/restaurant operators, to use the infringing
28 Orbitz Reservation System in the United States without authority or license from Ameranth.

1 51. On information and belief, Defendant contributorily infringes and continues to
2 contributorily infringe one or more valid and enforceable claims of the '077 patent, in violation
3 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
4 of the '077 patent read, constituting a material part of the invention, knowing that the
5 components were especially adapted for use in systems which infringe claims of the '077
6 patent.

7 52. By distributing, selling, offering, offering to sell or license and/or selling or licensing
8 the Orbitz Reservation System, Defendant provides non-staple articles of commerce to others
9 for use in infringing systems, products, and/or services. Additionally, Orbitz provides
10 instruction and direction regarding the use of the Orbitz Reservation System and advertises,
11 promotes, and encourages the use of the Orbitz Reservation System. Users of the Orbitz
12 Reservation System directly infringe one or more valid and enforceable claims of the '077
13 patent, for the reasons set forth hereinabove.

14 53. On information and belief, each of the Orbitz Reservation System infringes one or
15 more valid and enforceable claims of the '077 patent, for the reasons set forth hereinabove.

16 54. On information and belief, Orbitz has had knowledge of the '077 patent, including
17 knowledge that the Orbitz Reservation System, which is a non-staple article of commerce, has
18 been used as a material part of the claimed invention of the '077 patent, and that there are no
19 substantial non-infringing uses for the Orbitz Reservation System.

20 55. On information and belief, the aforesaid infringing activities of defendant Orbitz
21 have been done with knowledge and willful disregard of Ameranth's patent rights, making this
22 an exceptional case within the meaning of 35 U.S.C. § 285.

23 56. The aforesaid infringing activity of defendant Orbitz has directly and proximately
24 caused damage to plaintiff Ameranth, including loss of profits from sales it would have made
25 but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and
26 cause irreparable injury to Ameranth for which there is no adequate remedy at law.

27 ///

PRAYER FOR RELIEF

WHEREFORE, plaintiff Ameranth respectfully prays for judgment against Defendant, as follows:

1. Adjudging that the manufacture, use, offer for sale or license and /or sale or license of the Orbitz Reservation System infringes valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

2. Adjudging that Defendant has infringed, actively induced others to infringe and/or contributorily infringed valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

3. Adjudging that Defendant's infringement of the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, has been knowing and willful;

4. Enjoining Defendant, and its officers, directors, employees, attorneys, agents, representatives, parents, subsidiaries, affiliates and all other persons acting in concert, participation or privity with Defendant, and their successors and assigns, from infringing, contributorily infringing and/or inducing others to infringe the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent;

5. Awarding Ameranth the damages it has sustained by reason of Defendant's infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

6. Awarding Ameranth increased damages of three times the amount of damages found or assessed against Defendant by reason of the knowing, willful and deliberate nature of Defendant's acts of infringement pursuant to 35 U.S.C. § 284;

7. Adjudging this to be an exceptional case and awarding Ameranth its attorney's fees pursuant to 35 U.S.C. §285;

8. Awarding to Ameranth its costs of suit, and interest as provided by law; and

9. Awarding to Ameranth such other and further relief that this Court may deem just and proper.

///

DEMAND FOR JURY TRIAL

Ameranth demands trial by jury of its claims set forth herein to the maximum extent permitted by law.

Respectfully submitted,

Dated: June 29, 2012

CALDARELLI HEJMANOWSKI & PAGE LLP

By: /s/ William J. Caldarelli
William J. Caldarelli

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Exhibit 1030 (I)

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7
8 **UNITED STATES DISTRICT COURT**
9
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 AMERANTH, INC.

12 Plaintiff,

13 v.

14 PIZZA HUT, INC., PIZZA HUT OF
15 AMERICA, INC., DOMINO'S PIZZA, LLC,
16 DOMINO'S PIZZA, INC., PAPA JOHN'S
17 USA, INC., OPENTABLE, INC.,
GRUBHUB, INC., NETWAITER, LLC and
LAUGHSTUB LLC,

18 Defendants.

Civil Action No.: **'11CV1810 JLS NLS**

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

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1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendants Pizza Hut, Inc., Pizza
3 Hut of America, Inc., Domino's Pizza, LLC, Domino's Pizza, Inc., Papa John's USA, Inc.,
4 OpenTable, Inc., GrubHub, Inc., Netwaiter, LLC and LaughStub LLC (collectively,
5 "Defendants"), avers as follows:

6 **PARTIES**

7 1. Plaintiff Ameranth, Inc. ("Ameranth") is a Delaware corporation having a
8 principal place of business at 5820 Oberlin Drive, Suite 202, San Diego, California 92121.
9 Ameranth develops, manufactures and sells, *inter alia*, hospitality industry, entertainment,
10 restaurant and food service information technology solutions under the trademarks 21st
11 Century Communications™, 21st Century Restaurant™, among others, comprising the
12 synchronization and integration of hospitality information and hospitality software
13 applications between fixed, wireless and/or internet applications, including but not limited to
14 computer servers, web servers, databases, affinity/social networking systems, desktop
15 computers, laptops, "smart" phones and other wireless handheld devices..

16 2. Defendant Pizza Hut, Inc., is, on information and belief, a California
17 corporation having a principal place of business in Plano, Texas. Defendant Pizza Hut of
18 America, Inc., is, on information and belief, a Delaware corporation having a principal place
19 of business in Plano, Texas. On information and belief, Pizza Hut, Inc. and Pizza Hut of
20 America, Inc. are agents and affiliates of one another and knowingly and intentionally acted
21 in concert and under common and coordinated plan, design and control in committing the acts
22 alleged herein, such that each entity is jointly and severally liable for the acts of each other.
23 Pizza Hut, Inc. and Pizza Hut of America, Inc. shall be referred to herein collectively as
24 "Pizza Hut." On information and belief, Pizza Hut makes, uses, sells and/or offers for sale
25 restaurant and foodservice information technology products, software, components and/or
26 systems within this Judicial District, including products, software, components and/or systems
27 comprising wireless and internet Point of Sale ("POS") and/or hospitality aspects.
28

1 3. Defendant Domino's Pizza, LLC, is, on information and belief, a Michigan
2 limited liability company having a principal place of business in Ann Arbor, Michigan.
3 Defendant Domino's Pizza, Inc. is, on information and belief, a Delaware corporation having
4 a principal place of business in Ann Arbor, Michigan. On information and belief, Domino's
5 Pizza, LLC and Domino's Pizza, Inc. are agents and affiliates of one another and knowingly
6 and intentionally acted in concert and under common and coordinated plan, design and
7 control in committing the acts alleged herein, such that each entity is jointly and severally
8 liable for the acts of each other. Domino's Pizza, LLC and Domino's Pizza, Inc. shall be
9 referred to herein collectively as "Domino's." On information and belief, Domino's makes,
10 uses, sells and/or offers for sale restaurant and foodservice information technology products,
11 software, components and/or systems within this Judicial District, including products,
12 software, components and/or systems comprising wireless and internet POS and/or hospitality
13 aspects.

14 4. Defendant Papa John's USA, Inc., ("Papa John's") is, on information and
15 belief, a Kentucky corporation having a principal place of business in Louisville, Kentucky.
16 On information and belief, Papa John's makes, uses, sells and/or offers for sale restaurant and
17 foodservice information technology products, software, components and/or systems within
18 this Judicial District, including products, software, components and/or systems comprising
19 wireless and internet POS and/or hospitality aspects.

20 5. Defendant OpenTable, Inc., ("OpenTable") is, on information and belief, a
21 Delaware corporation having a principal place of business in San Francisco, California. On
22 information and belief, OpenTable makes, uses, sells and/or offers for sale restaurant and
23 foodservice information technology products, software, components and/or systems within
24 this Judicial District, including products, software, components and/or systems comprising
25 wireless and internet hospitality aspects.

26 6. Defendant GrubHub, Inc. ("GrubHub") is, on information and belief, a
27 Delaware corporation having a principal place of business in Chicago, Illinois. On
28 information and belief, GrubHub makes, uses, sells and/or offers for sale restaurant and

1 foodservice information technology products, software, components and/or systems within
2 this Judicial District, including products, software, components and/or systems comprising
3 wireless and internet POS and/or hospitality aspects.

4 7. Defendant Netwaiter, LLC ("Netwaiter") is, on information and belief, a
5 California limited liability company having a principal place of business in Redlands,
6 California. On information and belief, Netwaiter makes, uses, sells and/or offers for sale
7 restaurant and foodservice information technology products, software, components and/or
8 systems within this Judicial District, including products, software, components and/or systems
9 comprising wireless and internet POS and/or hospitality aspects.

10 8. Defendant LaughStub LLC, ("LaughStub") is, on information and belief, a
11 California limited liability company having a principal place of business in Los Angeles,
12 California. On information and belief, LaughStub makes, uses, sells and/or offers for sale
13 entertainment box office management and ticketing information technology products,
14 software, components and/or systems within this Judicial District, including products,
15 software, components and/or systems comprising wireless and internet hospitality aspects.

16 **JURISDICTION AND VENUE**

17 9. This is an action for patent infringement arising under the Patent Laws of the
18 United States, 35 U.S.C. §§ 271, 281-285.

19 10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
20 1338(a).

21 11. On information and belief, Defendants, and each of them, have engaged in (a)
22 the offer for sale or license and sale or license of hospitality, restaurant, food service, ticketing
23 and/or entertainment technology services, products and/or components in the United States,
24 including this Judicial District, including services, products, software, components, tickets
25 and/or systems comprising wireless and internet POS and/or hospitality aspects; (b) the
26 installation and maintenance of said services, products, software, components and/or systems
27 in hospitality industry, restaurant, food service, and/or entertainment information technology
28 systems in the United States, including this Judicial District; and/or (c) the use of hospitality

1 industry, restaurant, food service, and/or entertainment information technology systems
2 comprising said services, products, software, components and/or systems in the United States,
3 including this Judicial District.

4 12. This Court has personal jurisdiction over Defendants, and each of them, as
5 each Defendant has committed acts of patent infringement in this Judicial District including,
6 *inter alia*, making, using, offering for sale or license, and/or selling or licensing infringing
7 services, products, software, components and/or systems in this Judicial District.

8 13. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and
9 (c) and 1400(b) as regards all Defendants, both separately and together.

10 **BACKGROUND**

11 14. Ameranth was established in 1996 to develop and provide its 21st Century
12 Communications™ innovative information technology solutions for the hospitality industry
13 (inclusive of e.g. restaurants, hotels, casinos, nightclubs, cruise ships and other entertainment
14 and sports venues). Ameranth has been widely recognized as a technology leader in the
15 provision of wireless and internet-based systems and services to, *inter alia*, restaurants, hotels,
16 casinos, cruise ships and entertainment and sports venues. Ameranth's award winning
17 inventions enable, in relevant part, generation and synchronization of menus, including but
18 not limited to restaurant menus, event tickets, and other products across fixed, wireless and/or
19 internet platforms as well as synchronization of hospitality information and hospitality
20 software applications across fixed, wireless and internet platforms, including but not limited
21 to, computer servers, web servers, databases, affinity/social networking systems, desktop
22 computers, laptops, "smart" phones and other wireless handheld devices.

23 15. Ameranth began development of the inventions leading to the patents-in-suit in
24 the late Summer of 1998, at a time when the then-available wireless and internet hospitality
25 offerings were extremely limited in functionality, were not synchronized and did not provide
26 an integrated system-wide solution to the pervasive ordering, reservations, affinity program
27 and information management needs of the hospitality industry. Ameranth uniquely recognized
28 the actual problems that needed to be resolved in order to meet those needs, and thereafter

1 conceived and developed its breakthrough inventions and products to provide systemic and
2 comprehensive solutions directed to optimally meeting these industry needs. Ameranth has
3 expended considerable effort and resources in inventing, developing and marketing its
4 inventions and protecting its rights therein.

5 16. Ameranth's pioneering inventions have been widely adopted and are thus now
6 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth's
7 solutions have been adopted, licensed and/or deployed by numerous entities across the
8 hospitality industry.

9 17. The adoption of Ameranth's technology by industry leaders and the wide
10 acclaim received by Ameranth for its technological innovations are just some of the many
11 confirmations of the breakthrough aspects of Ameranth's inventions. Ameranth has received
12 twelve different technology awards (three with "end customer" partners) and has been widely
13 recognized as a hospitality wireless/internet technology leader by almost all major national
14 and hospitality print publications, *e.g.*, The Wall Street Journal, New York Times, USA
15 Today and many others. Ameranth was personally nominated by Bill Gates, the Founder of
16 Microsoft, for the prestigious Computerworld Honors Award that Ameranth received in 2001
17 for its breakthrough synchronized reservations/ticketing system with the Improv Comedy
18 Theatres. In his nomination, Mr. Gates described Ameranth as "one of the leading pioneers of
19 information technology for the betterment of mankind." This prestigious award was based on
20 Ameranth's innovative synchronization of wireless/web/fixed hospitality software
21 technology. Subsequently, the United States Patent and Trademark Office granted Ameranth
22 a number of currently-issued patents, two of which are the basis for this lawsuit. Ameranth
23 has issued press releases announcing these patent grants on business wires, on its web sites
24 and at numerous trade shows attended by various of the Defendants since the first of the three
25 presently-asserted patents issued in 2002.

26 ///

COUNT I

Patent Infringement (U.S. Pat. No. 6,384,850)

(35 U.S.C. § 271)

18. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-17 above as if fully set forth herein.

19. On May 7, 2002, United States Patent No. 6,384,850 entitled "Information Management and Synchronous Communications System with Menu Generation" ("the '850 patent") (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued by the United States Patent & Trademark Office.

20. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in and to the '850 patent.

21. On information and belief, defendant Pizza Hut has infringed one or more valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or license and/or selling or licensing infringing systems, including but not limited to systems including wireless and internet POS and/or hospitality aspects in the United States without authority or license from Ameranth.

22. On information and belief, defendant Pizza Hut has actively induced others to infringe one or more valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting restaurant and food service users to use infringing systems and services, including but not limited to systems and services including wireless and internet POS and/or hospitality aspects in the United States without authority or license from Ameranth.

23. On information and belief, defendant Pizza Hut has contributorily infringed one or more valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems on which valid and enforceable

1 claims of the '850 patent read, constituting a material part of the invention, knowing that the
2 components were especially adapted for use in systems which infringe valid and enforceable
3 claims of the '850 patent, to distributors and/or to restaurant and foodservice users for use in
4 infringing systems and services, including but not limited to systems and services including
5 wireless and internet POS and/or hospitality aspects in the United States without authority or
6 license from Ameranth.

7 24. On information and belief, the infringement of defendant Pizza Hut has been
8 done with knowledge and willful disregard of Ameranth's patent rights, making this an
9 exceptional case within the meaning of 35 U.S.C. §285.

10 25. The aforesaid infringing activity has caused damage to plaintiff Ameranth,
11 including loss of profits from sales it would have made but for the infringements. Unless
12 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to
13 Ameranth for which there is no adequate remedy at law.

14 26. On information and belief, defendant Domino's has infringed one or more
15 valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through
16 16 of the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or
17 license and/or selling or licensing infringing systems including but not limited to systems
18 including wireless and internet POS and/or hospitality aspects in the United States without
19 authority or license from Ameranth.

20 27. On information and belief, defendant Domino's has actively induced others to
21 infringe one or more valid and enforceable claims of the '850 patent, specifically one or more
22 of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by knowingly
23 encouraging, aiding and abetting restaurant and food service users to use infringing systems
24 and services, including but not limited to systems and services including wireless and internet
25 POS and/or hospitality aspects in the United States without authority or license from
26 Ameranth.

27 28. On information and belief, defendant Domino's has contributorily infringed
28 one or more valid and enforceable claims of the '850 patent, specifically one or more of

1 claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or
2 license and/or selling or licensing components of systems on which valid and enforceable
3 claims of the '850 patent read, constituting a material part of the invention, knowing that the
4 components were especially adapted for use in systems which infringe valid and enforceable
5 claims of the '850 patent, to distributors and/or to restaurant and foodservice users for use in
6 infringing systems and services, including but not limited to systems and services including
7 wireless and internet POS and/or hospitality aspects in the United States without authority or
8 license from Ameranth.

9 29. On information and belief, the infringement of defendant Domino's has been
10 done with knowledge and willful disregard of Ameranth's patent rights, making this an
11 exceptional case within the meaning of 35 U.S.C. §285.

12 30. The aforesaid infringing activity has caused damage to plaintiff Ameranth,
13 including loss of profits from sales it would have made but for the infringements. Unless
14 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to
15 Ameranth for which there is no adequate remedy at law.

16 31. On information and belief, defendant Papa John's has infringed one or more
17 valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through
18 16 of the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or
19 license and/or selling or licensing infringing systems, including but not limited to systems
20 including wireless and internet POS and/or hospitality aspects in the United States without
21 authority or license from Ameranth.

22 32. On information and belief, defendant Papa John's has actively induced others
23 to infringe one or more valid and enforceable claims of the '850 patent, specifically one or
24 more of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by
25 knowingly encouraging, aiding and abetting restaurant and food service users to use
26 infringing systems and services, including but not limited to systems and services including
27 wireless and internet POS and/or hospitality aspects in the United States without authority or
28 license from Ameranth.

1 33. On information and belief, defendant Papa John's has contributorily infringed
2 one or more valid and enforceable claims of the '850 patent, specifically one or more of
3 claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or
4 license and/or selling or licensing components of systems on which valid and enforceable
5 claims of the '850 patent read, constituting a material part of the invention, knowing that the
6 components were especially adapted for use in systems which infringe valid and enforceable
7 claims of the '850 patent, to distributors and/or to restaurant and foodservice users for use in
8 infringing systems and services, including but not limited to systems and services including
9 wireless and internet POS and/or hospitality aspects in the United States without authority or
10 license from Ameranth.

11 34. On information and belief, the infringement of defendant Papa John's has been
12 done with knowledge and willful disregard of Ameranth's patent rights, making this an
13 exceptional case within the meaning of 35 U.S.C. §285.

14 35. The aforesaid infringing activity has caused damage to plaintiff Ameranth,
15 including loss of profits from sales it would have made but for the infringements. Unless
16 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to
17 Ameranth for which there is no adequate remedy at law.

18 36. On information and belief, defendant OpenTable has infringed one or more
19 valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through
20 16 of the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or
21 license and/or selling or licensing infringing systems, including but not limited to systems
22 including wireless and internet hospitality aspects in the United States without authority or
23 license from Ameranth.

24 37. On information and belief, defendant OpenTable has actively induced others to
25 infringe one or more valid and enforceable claims of the '850 patent, specifically one or more
26 of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by knowingly
27 encouraging, aiding and abetting restaurant and food service users to use infringing systems
28

1 and services, including but not limited to systems and services including wireless and internet
2 hospitality aspects in the United States without authority or license from Ameranth.

3 38. On information and belief, defendant OpenTable has contributorily infringed
4 one or more valid and enforceable claims of the '850 patent, specifically one or more of
5 claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or
6 license and/or selling or licensing components of systems on which valid and enforceable
7 claims of the '850 patent read, constituting a material part of the invention, knowing that the
8 components were especially adapted for use in systems which infringe valid and enforceable
9 claims of the '850 patent, to distributors and/or to restaurant and foodservice users for use in
10 infringing systems and services including but not limited to systems and services including
11 wireless and internet hospitality aspects in the United States without authority or license
12 from Ameranth.

13 39. On information and belief, the infringement of defendant OpenTable has been
14 done with knowledge and willful disregard of Ameranth's patent rights, making this an
15 exceptional case within the meaning of 35 U.S.C. §285.

16 40. The aforesaid infringing activity has caused damage to plaintiff Ameranth,
17 including loss of profits from sales it would have made but for the infringements. Unless
18 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to
19 Ameranth for which there is no adequate remedy at law.

20 41. On information and belief, defendant GrubHub has infringed one or more valid
21 and enforceable claims of the '850 patent, specifically one or more of claims 5 through 16 of
22 the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or
23 license and/or selling or licensing infringing systems, including but not limited to systems
24 including wireless and internet POS and/or hospitality aspects in the United States without
25 authority or license from Ameranth.

26 42. On information and belief, defendant GrubHub has actively induced others to
27 infringe one or more valid and enforceable claims of the '850 patent, specifically one or more
28 of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by knowingly

1 encouraging, aiding and abetting restaurant and food service users to use infringing systems
2 and services, including but not limited to systems and services including wireless and internet
3 POS and/or hospitality aspects in the United States without authority or license from
4 Ameranth.

5 43. On information and belief, defendant GrubHub has contributorily infringed
6 one or more valid and enforceable claims of the '850 patent, specifically one or more of
7 claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or
8 license and/or selling or licensing components of systems on which valid and enforceable
9 claims of the '850 patent read, constituting a material part of the invention, knowing that the
10 components were especially adapted for use in systems which infringe valid and enforceable
11 claims of the '850 patent, to distributors and/or to restaurant and foodservice users for use in
12 infringing systems and services, including but not limited to systems and services including
13 wireless and internet POS and/or hospitality aspects in the United States without authority or
14 license from Ameranth.

15 44. On information and belief, the infringement of defendant GrubHub has been
16 done with knowledge and willful disregard of Ameranth's patent rights, making this an
17 exceptional case within the meaning of 35 U.S.C. §285.

18 45. The aforesaid infringing activity has caused damage to plaintiff Ameranth,
19 including loss of profits from sales it would have made but for the infringements. Unless
20 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to
21 Ameranth for which there is no adequate remedy at law.

22 46. On information and belief, defendant Netwaiter has infringed one or more
23 valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through
24 16 of the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or
25 license and/or selling or licensing infringing systems, including but not limited to systems
26 including wireless and internet POS and/or hospitality aspects in the United States without
27 authority or license from Ameranth.

1 47. On information and belief, defendant Netwaiter has actively induced others to
2 infringe one or more valid and enforceable claims of the '850 patent, specifically one or more
3 of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by knowingly
4 encouraging, aiding and abetting restaurant and food service users to use infringing systems
5 and services, including but not limited to systems and services including wireless and internet
6 POS and/or hospitality aspects in the United States without authority or license from
7 Ameranth.

8 48. On information and belief, defendant Netwaiter has contributorily infringed
9 one or more valid and enforceable claims of the '850 patent, specifically one or more of
10 claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or
11 license and/or selling or licensing components of systems on which valid and enforceable
12 claims of the '850 patent read, constituting a material part of the invention, knowing that the
13 components were especially adapted for use in systems which infringe valid and enforceable
14 claims of the '850 patent, to distributors and/or to restaurant and foodservice users for use in
15 infringing systems and services, including but not limited to systems and services including
16 wireless and internet POS and/or hospitality aspects in the United States without authority or
17 license from Ameranth.

18 49. On information and belief, the infringement of defendant Netwaiter has been
19 done with knowledge and willful disregard of Ameranth's patent rights, making this an
20 exceptional case within the meaning of 35 U.S.C. §285.

21 50. The aforesaid infringing activity has caused damage to plaintiff Ameranth,
22 including loss of profits from sales it would have made but for the infringements. Unless
23 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to
24 Ameranth for which there is no adequate remedy at law.

25 51. On information and belief, defendant LaughStub has infringed one or more
26 valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through
27 16 of the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or
28 license and/or selling or licensing infringing systems, including but not limited to systems

1 including wireless and internet hospitality aspects in the United States without authority or
2 license from Ameranth.

3 52. On information and belief, defendant LaughStub has actively induced others to
4 infringe one or more valid and enforceable claims of the '850 patent, specifically one or more
5 of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by knowingly
6 encouraging, aiding and abetting entertainment venue users to use infringing ticketing and
7 box office management systems and services, including but not limited to systems and
8 services including wireless and internet hospitality aspects in the United States without
9 authority or license from Ameranth.

10 53. On information and belief, defendant LaughStub has contributorily infringed
11 one or more valid and enforceable claims of the '850 patent, specifically one or more of
12 claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or
13 license and/or selling or licensing components of systems on which valid and enforceable
14 claims of the '850 patent read, constituting a material part of the invention, knowing that the
15 components were especially adapted for use in systems which infringe valid and enforceable
16 claims of the '850 patent, to distributors and/or to entertainment venue users for use in
17 infringing ticketing and box office management systems and services, including but not
18 limited to systems and services including wireless and internet hospitality aspects in the
19 United States without authority or license from Ameranth.

20 54. On information and belief, the infringement of defendant LaughStub has been
21 done with knowledge and willful disregard of Ameranth's patent rights, making this an
22 exceptional case within the meaning of 35 U.S.C. §285.

23 55. The aforesaid infringing activity has caused damage to plaintiff Ameranth,
24 including loss of profits from sales it would have made but for the infringements. Unless
25 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to
26 Ameranth for which there is no adequate remedy at law.

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COUNT II

Patent Infringement (U.S. Pat. No. 6,871,325)

(35 U.S.C. § 271)

56. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-18 above as if fully set forth herein.

57. On March 22, 2005, United States Patent No. 6,871,325 entitled "Information Management and Synchronous Communications System with Menu Generation" ("the '325 patent") (a true and correct copy of which is attached hereto as **Exhibit B**) was duly and legally issued by the United States Patent & Trademark Office.

58. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in and to the '325 patent.

59. On information and belief, defendant Pizza Hut has infringed one or more valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or license and/or selling or licensing infringing systems, including but not limited to systems including wireless and internet POS and/or hospitality aspects in the United States without authority or license from Ameranth.

60. On information and belief, defendant Pizza Hut has actively induced others to one or more valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting restaurant and food service users to use infringing systems and services, including but not limited to systems and services including wireless and internet POS and/or hospitality aspects in the United States without authority or license from Ameranth.

61. On information and belief, defendant Pizza Hut has contributorily infringed one or more valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems

1 on which valid and enforceable claims of the '325 patent read, constituting a material part of
2 the invention, knowing that the components were especially adapted for use in systems which
3 infringe valid and enforceable claims of the '325 patent, to distributors and/or to restaurant
4 and foodservice users for use in infringing systems and services, including but not limited to
5 systems and services including wireless and internet POS and/or hospitality aspects in the
6 United States without authority or license from Ameranth.

7 62. On information and belief, the infringement of defendant Pizza Hut has been
8 done with knowledge and willful disregard of Ameranth's patent rights, making this an
9 exceptional case within the meaning of 35 U.S.C. §285.

10 63. The aforesaid infringing activity has caused damage to plaintiff Ameranth,
11 including loss of profits from sales it would have made but for the infringements. Unless
12 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to
13 Ameranth for which there is no adequate remedy at law.

14 64. On information and belief, defendant Domino's has infringed one or more
15 valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through
16 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by
17 making, using, offering for sale or license and/or selling or licensing infringing systems,
18 including but not limited to systems including wireless and internet POS and/or hospitality
19 aspects in the United States without authority or license from Ameranth.

20 65. On information and belief, defendant Domino's has actively induced others to
21 infringe one or more valid and enforceable claims of the '325 patent, specifically one or more
22 of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35
23 U.S.C. §271(b) by knowingly encouraging, aiding and abetting restaurant and food service
24 users to use infringing systems and services, including but not limited to systems and services
25 including wireless and internet POS and/or hospitality aspects in the United States without
26 authority or license from Ameranth.

27 66. On information and belief, defendant Domino's has contributorily infringed
28 one or more valid and enforceable claims of the '325 patent, specifically one or more of

claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems on which valid and enforceable claims of the '325 patent read, constituting a material part of the invention, knowing that the components were especially adapted for use in systems which infringe valid and enforceable claims of the '325 patent, to distributors and/or to restaurant and foodservice users for use in infringing systems and services, including but not limited to systems and services including wireless and internet POS and/or hospitality aspects in the United States without authority or license from Ameranth.

67. On information and belief, the infringement of defendant Domino's has been done with knowledge and willful disregard of Ameranth's patent rights, making this an exceptional case within the meaning of 35 U.S.C. §285.

68. The aforesaid infringing activity has caused damage to plaintiff Ameranth, including loss of profits from sales it would have made but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and cause irreparable injury to Ameranth for which there is no adequate remedy at law.

69. On information and belief, defendant Papa John's has infringed one or more valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or license and/or selling or licensing infringing systems, including but not limited to systems including wireless and internet POS and/or hospitality aspects in the United States without authority or license from Ameranth.

70. On information and belief, defendant Papa John's has actively induced others to infringe one or more valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting restaurant and food service users to use infringing systems and services, including but not limited to systems and services including wireless and internet POS and/or hospitality aspects in the United States without authority or license from Ameranth.

1 71. On information and belief, defendant Papa John's has contributorily infringed
2 one or more valid and enforceable claims of the '325 patent, specifically one or more of
3 claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35
4 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems
5 on which valid and enforceable claims of the '325 patent read, constituting a material part of
6 the invention, knowing that the components were especially adapted for use in systems which
7 infringe valid and enforceable claims of the '325 patent, to distributors and/or to restaurant
8 and foodservice users for use in infringing systems and services, including but not limited to
9 systems and services including wireless and internet POS and/or hospitality aspects in the
10 United States without authority or license from Ameranth.

11 72. On information and belief, the infringement of defendant Papa John's has been
12 done with knowledge and willful disregard of Ameranth's patent rights, making this an
13 exceptional case within the meaning of 35 U.S.C. §285.

14 73. The aforesaid infringing activity has caused damage to plaintiff Ameranth,
15 including loss of profits from sales it would have made but for the infringements. Unless
16 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to
17 Ameranth for which there is no adequate remedy at law.

18 74. On information and belief, defendant OpenTable has infringed one or more
19 valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through
20 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by
21 making, using, offering for sale or license and/or selling or licensing infringing systems,
22 including but not limited to systems including wireless and internet hospitality aspects in the
23 United States without authority or license from Ameranth.

24 75. On information and belief, defendant OpenTable has actively induced others to
25 infringe one or more valid and enforceable claims of the '325 patent, specifically one or more
26 of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35
27 U.S.C. §271(b) by knowingly encouraging, aiding and abetting restaurant and food service
28 users to use infringing systems and services, including but not limited to systems and services

1 including wireless and internet hospitality aspects in the United States without authority or
2 license from Ameranth.

3 76. On information and belief, defendant OpenTable has contributorily infringed
4 one or more valid and enforceable claims of the '325 patent, specifically one or more of
5 claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35
6 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems
7 on which valid and enforceable claims of the '325 patent read, constituting a material part of
8 the invention, knowing that the components were especially adapted for use in systems which
9 infringe valid and enforceable claims of the '325 patent, to distributors and/or to restaurant
10 and foodservice users for use in infringing systems and services, including but not limited to
11 systems and services including wireless and internet hospitality aspects in the United States
12 without authority or license from Ameranth.

13 77. On information and belief, the infringement of defendant OpenTable has been
14 done with knowledge and willful disregard of Ameranth's patent rights, making this an
15 exceptional case within the meaning of 35 U.S.C. §285.

16 78. The aforesaid infringing activity has caused damage to plaintiff Ameranth,
17 including loss of profits from sales it would have made but for the infringements. Unless
18 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to
19 Ameranth for which there is no adequate remedy at law.

20 79. On information and belief, defendant GrubHub has infringed one or more valid
21 and enforceable claims of the '325 patent, specifically one or more of claims 2 through 5, 7
22 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by making,
23 using, offering for sale or license and/or selling or licensing infringing systems, including but
24 not limited to systems including wireless and internet POS and/or hospitality aspects in the
25 United States without authority or license from Ameranth.

26 80. On information and belief, defendant GrubHub has actively induced others to
27 infringe one or more valid and enforceable claims of the '325 patent, specifically one or more
28 of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35

1 U.S.C. §271(b) by knowingly encouraging, aiding and abetting restaurant and food service
2 users to use infringing systems and services including but not limited to systems and services,
3 including wireless and internet POS and/or hospitality aspects in the United States without
4 authority or license from Ameranth.

5 81. On information and belief, defendant GrubHub has contributorily infringed
6 one or more valid and enforceable claims of the '325 patent, specifically one or more of
7 claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35
8 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems
9 on which valid and enforceable claims of the '325 patent read, constituting a material part of
10 the invention, knowing that the components were especially adapted for use in systems which
11 infringe valid and enforceable claims of the '325 patent, to distributors and/or to restaurant
12 and foodservice users for use in infringing systems and services, including but not limited to
13 systems and services including wireless and internet POS and/or hospitality aspects in the
14 United States without authority or license from Ameranth.

15 82. On information and belief, the infringement of defendant GrubHub has been
16 done with knowledge and willful disregard of Ameranth's patent rights, making this an
17 exceptional case within the meaning of 35 U.S.C. §285.

18 83. The aforesaid infringing activity has caused damage to plaintiff Ameranth,
19 including loss of profits from sales it would have made but for the infringements. Unless
20 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to
21 Ameranth for which there is no adequate remedy at law.

22 84. On information and belief, defendant Netwaiter has infringed one or more
23 valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through
24 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by
25 making, using, offering for sale or license and/or selling or licensing infringing systems,
26 including but not limited to systems including wireless and internet POS and/or hospitality
27 aspects in the United States without authority or license from Ameranth.
28

1 85. On information and belief, defendant Netwaiter has actively induced others to
2 infringe one or more valid and enforceable claims of the '325 patent, specifically one or more
3 of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35
4 U.S.C. §271(b) by knowingly encouraging, aiding and abetting restaurant and food service
5 users to use infringing systems and services, including but not limited to systems and services
6 including wireless and internet POS and/or hospitality aspects in the United States without
7 authority or license from Ameranth.

8 86. On information and belief, defendant Netwaiter has contributorily infringed
9 one or more valid and enforceable claims of the '325 patent, specifically one or more of
10 claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35
11 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems
12 on which valid and enforceable claims of the '325 patent read, constituting a material part of
13 the invention, knowing that the components were especially adapted for use in systems which
14 infringe valid and enforceable claims of the '325 patent, to distributors and/or to restaurant
15 and foodservice users for use in infringing systems and services, including but not limited to
16 systems and services including wireless and internet POS and/or hospitality aspects in the
17 United States without authority or license from Ameranth.

18 87. On information and belief, the infringement of defendant Netwaiter has been
19 done with knowledge and willful disregard of Ameranth's patent rights, making this an
20 exceptional case within the meaning of 35 U.S.C. §285.

21 88. The aforesaid infringing activity has caused damage to plaintiff Ameranth,
22 including loss of profits from sales it would have made but for the infringements. Unless
23 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to
24 Ameranth for which there is no adequate remedy at law.

25 89. On information and belief, defendant LaughStub has infringed one or more
26 valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through
27 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by
28 making, using, offering for sale or license and/or selling or licensing infringing systems,

1 including but not limited to systems including wireless and internet hospitality aspects in the
2 United States without authority or license from Ameranth.

3 90. On information and belief, defendant LaughStub has actively induced others to
4 infringe one or more valid and enforceable claims of the '325 patent, specifically one or more
5 of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35
6 U.S.C. §271(b) by knowingly encouraging, aiding and abetting entertainment venue users to
7 use infringing ticketing and box office management systems and services, including but not
8 limited to systems and services including wireless and internet hospitality aspects in the
9 United States without authority or license from Ameranth.

10 91. On information and belief, defendant LaughStub has contributorily infringed
11 one or more valid and enforceable claims of the '325 patent, specifically one or more of
12 claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35
13 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems
14 on which valid and enforceable claims of the '325 patent read, constituting a material part of
15 the invention, knowing that the components were especially adapted for use in systems which
16 infringe valid and enforceable claims of the '325 patent, to distributors and/or to
17 entertainment venue users for use in infringing ticketing and box office management systems
18 and services including but not limited to systems and services, including wireless and internet
19 hospitality aspects in the United States without authority or license from Ameranth.

20 92. On information and belief, the infringement of defendant LaughStub has been
21 done with knowledge and willful disregard of Ameranth's patent rights, making this an
22 exceptional case within the meaning of 35 U.S.C. §285.

23 93. The aforesaid infringing activity has caused damage to plaintiff Ameranth,
24 including loss of profits from sales it would have made but for the infringements. Unless
25 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to
26 Ameranth for which there is no adequate remedy at law.

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28

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, plaintiff Ameranth respectfully prays for judgment against
3 Defendants, and each of them, as follows:

4 1. Adjudging that the manufacture, use, offer for sale or license and /or sale or
5 license of each of the Defendants' accused products, services, software and/or hardware
6 infringes valid and enforceable claims of the '850 patent, specifically one or more of claims 5
7 through 16 of the '850 patent, and valid and enforceable claims of the '325 patent, specifically
8 one or more of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent;

9 2. Adjudging that each of the Defendants has infringed, actively induced others to
10 infringe and/or contributorily infringed valid and enforceable claims of the '850 patent,
11 specifically one or more of claims 5 through 16 of the '850 patent, and valid and enforceable
12 claims of the '325 patent, specifically one or more of claims 2 through 5, 7 through 8, and 11
13 through 15 of the '325 patent;

14 3. Adjudging that each of the Defendants has infringed, actively induced others to
15 infringe and/or contributorily infringed valid and enforceable claims of the '850 patent,
16 specifically one or more of claims 5 through 16 of the '850 patent, and valid and enforceable
17 claims of the '325 patent, specifically one or more of claims 2 through 5, 7 through 8, and 11
18 through 15 of the '325 patent;

19 4. Adjudging that Defendants' infringement of the valid and enforceable claims
20 of the '850 and '325 patents has been knowing and willful;

21 5. Enjoining each of the Defendants, and their respective officers, directors,
22 employees, attorneys, agents, representatives, parents, subsidiaries, affiliates and all other
23 persons acting in concert, participation or privity with them, and their successors and assigns,
24 from infringing, contributorily infringing and/or inducing others to infringe the valid and
25 enforceable claims of the '850 and '325 patents;

26 6. Awarding Ameranth the damages it has sustained by reason of Defendants'
27 infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

7. Awarding Ameranth increased damages of three times the amount of damages found or assessed against Defendants by reason of the knowing, willful and deliberate nature of Defendants' acts of infringement pursuant to 35 U.S.C. § 284;

8. Adjudging this to be an exceptional case and awarding Ameranth its attorney's fees pursuant to 35 U.S.C. §285;

9. Awarding to Ameranth its costs of suit, and interest as provided by law; and

10. Awarding to Ameranth such other and further relief that this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Ameranth demands trial by jury of its claims set forth herein to the maximum extent permitted by law.

Respectfully submitted,

Dated: August 15, 2011

MAZZARELLA ■ CALDARELLI LLP

By: /s/ William J. Caldarelli
WILLIAM J. CALDARELLI
MICHAEL D. FABIANO

Attorneys for Plaintiff Ameranth, Inc.

Exhibit 1030 (J)

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Attorneys for Plaintiff Ameranth, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AMERANTH, INC.

Plaintiff,

v.

STUBHUB, INC.,

Defendant.

Case No. **'12CV1646 DMS JMA**

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendant StubHub, Inc.
3 (“StubHub”), avers as follows:

4 **PARTIES**

5 1. Plaintiff Ameranth, Inc. (“Ameranth”) is a Delaware corporation having a principal
6 place of business at 5820 Oberlin Drive, Suite 202, San Diego, California 92121. Ameranth
7 develops, manufactures and sells, *inter alia*, hospitality industry, entertainment, restaurant and
8 food service information technology solutions under the trademarks 21st Century
9 Communications™, and 21st Century Restaurant™, among others, comprising the
10 synchronization and integration of hospitality information and hospitality software applications
11 between fixed, wireless and/or internet applications, including but not limited to computer
12 servers, web servers, databases, affinity/social networking systems, desktop computers,
13 laptops, “smart” phones and other wireless handheld computing devices.

14 2. Defendant StubHub, Inc. (“StubHub”) is, on information and belief, a Delaware
15 corporation having a principal place of business and headquarters in San Jose, California. On
16 information and belief, StubHub makes, uses, offers for sale or license and/or sells or licenses
17 entertainment box office management and ticketing/ticket sales/ticket purchases information-
18 technology products, software, components and/or systems within this Judicial District,
19 including the StubHub System as defined herein.

20 **JURISDICTION AND VENUE**

21 3. This is an action for patent infringement arising under the Patent Laws of the United
22 States, 35 U.S.C. §§ 271, 281-285.

23 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
24 1338(a).

25 5. On information and belief, Defendant engages in (a) the offer for sale or license and
26 sale or license of hospitality industry, ticketing, reservations, and/or ordering products and/or
27 components in the United States, including this Judicial District, including services, products,
28 software, and components, comprising wireless and internet POS and/or hospitality aspects;

(b) the installation and maintenance of said services, products, software, components and/or systems in hospitality industry, ticketing, reservations, ordering, and/or entertainment information technology systems in the United States, including this Judicial District; and/or (c) the use of hospitality industry, ticketing, reservations, ordering, and/or entertainment information technology systems comprising said services, products, software, components and/or systems in the United States, including this Judicial District.

6. This Court has personal jurisdiction over Defendant because Defendant commits acts of patent infringement in this Judicial District including, *inter alia*, making, using, offering for sale or license, and/or selling or licensing infringing services, products, software, components and/or systems in this Judicial District.

7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

BACKGROUND

8. Ameranth was established in 1996 to develop and provide its 21st Century Communications™ innovative information technology solutions for the hospitality industry (inclusive of, e.g., restaurants, hotels, casinos, nightclubs, cruise ships and other entertainment and sports venues). Ameranth has been widely recognized as a technology leader in the provision of wireless and internet-based systems and services to, *inter alia*, restaurants, hotels, casinos, cruise ships and entertainment and sports venues. Ameranth's award winning inventions enable, in relevant part, generation and synchronization of menus, including but not limited to restaurant menus, event tickets, and other products across fixed, wireless and/or internet platforms as well as synchronization of hospitality information and hospitality software applications across fixed, wireless and internet platforms, including but not limited to, computer servers, web servers, databases, affinity/social networking systems, desktop computers, laptops, "smart" phones and other wireless handheld computing devices.

9. Ameranth began development of the inventions leading to the patent-in-suit and the other patents in this patent family in the late Summer of 1998, at a time when the then-available wireless and internet hospitality offerings were extremely limited in functionality,

1 were not synchronized and did not provide an integrated system-wide solution to the pervasive
2 ordering, reservations, affinity program and information management needs of the hospitality
3 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
4 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
5 and products to provide systemic and comprehensive solutions directed to optimally meeting
6 these industry needs. Ameranth has expended considerable effort and resources in inventing,
7 developing and marketing its inventions and protecting its rights therein.

8 10. Ameranth's pioneering inventions have been widely adopted and are thus now
9 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth's
10 solutions have been adopted, licensed and/or deployed by numerous entities across the
11 hospitality industry.

12 11. The adoption of Ameranth's technology by industry leaders and the wide acclaim
13 received by Ameranth for its technological innovations are just some of the many
14 confirmations of the breakthrough aspects of Ameranth's inventions. Ameranth has received
15 twelve different technology awards (three with "end customer" partners) and has been widely
16 recognized as a hospitality wireless/internet technology leader by almost all major national and
17 hospitality print publications, *e.g.*, The Wall Street Journal, New York Times, USA Today and
18 many others. Ameranth was personally nominated by Bill Gates, the Founder of Microsoft, for
19 the prestigious Computerworld Honors Award that Ameranth received in 2001 for its
20 breakthrough synchronized reservations/ticketing system with the Improv Comedy Theatres.
21 In his nomination, Mr. Gates described Ameranth as "one of the leading pioneers of
22 information technology for the betterment of mankind." This prestigious award was based on
23 Ameranth's innovative synchronization of wireless/web/fixed hospitality software technology.
24 Subsequently, the United States Patent and Trademark Office granted Ameranth a number of
25 currently-issued patents, two of which are the basis for this lawsuit. Ameranth has issued press
26 releases announcing these patent grants on business wires, on its web sites and at numerous
27 trade shows since the first of the presently-asserted patents issued in 2002. A number of
28

1 companies have licensed patents and technology from Ameranth, recognizing and confirming
2 the value of Ameranth's innovations.

3 RELATED CASES PREVIOUSLY FILED

4 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "'850 patent"),
5 U.S. Patent No. 6,871,325 (the "'325 patent"), and U.S. Patent No. 8,146,077 (the "'077
6 patent"), are all patents in Ameranth's "Information Management and Synchronous
7 Communications" patent family.

8 13. Ameranth is also currently asserting claims of these same patents in separate
9 lawsuits, against other defendants, that are already pending in this Court. The first-filed
10 lawsuit asserts claims of the '850 and '325 patents and is entitled *Ameranth v. Pizza Hut, Inc.*
11 *et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in this
12 Court, asserting claims of the '077 patent, include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-
13 cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-
14 NLS; 3:12-cv-00738-JLS-NLS; 3:12-cv-00739-JLS-NLS; and 3:12-cv-00742-JLS-NLS.
15 Another lawsuit subsequently filed by Ameranth in this Court, asserting claims of the '850,
16 '325, and '077 patents, is Case No. 3:12-cv-00858-JLS-NLS.

17 COUNT I

18 **Patent Infringement (U.S. Pat. No. 6,384,850)**

19 **(35 U.S.C. § 271)**

20 14. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-13 above
21 as if fully set forth herein.

22 15. On May 7, 2002, United States Patent No. 6,384,850 entitled "Information
23 Management and Synchronous Communications System with Menu Generation" ("the '850
24 patent") (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued
25 by the United States Patent & Trademark Office.

26 16. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
27 and to the '850 patent.

1 17. On information and belief, Defendant directly infringes and continues to directly
2 infringe one or more valid and enforceable claims of the '850 patent, in violation of 35 U.S.C.
3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
4 systems, products, and/or services in the United States without authority or license from
5 Ameranth, including but not limited to the StubHub system/product/service, which includes,
6 inter alia, wireless and internet ticketing integration, online and mobile ticketing/ticket
7 sales/ticket purchases, integration with e-mail and affinity program and social media
8 applications such as Facebook, Twitter, Groupon, and YouTube, and/or other third-party web-
9 based applications, and other hospitality aspects ("StubHub System").

10 18. On information and belief, the StubHub System, as deployed and/or used at or from
11 one or more locations by StubHub, its agents, distributors, partners, affiliates, licensees, and/or
12 their customers, infringes one or more valid and enforceable claims of the '850 patent, by, *inter*
13 *alia*, doing at least one of the following: (a) Generating and transmitting menus in a system
14 including a central processing unit, a data storage device, a computer operating system
15 containing a graphical user interface, one or more displayable main menus, modifier menus,
16 and sub-modifier menus, and application software for generating a second menu and
17 transmitting it to a wireless handheld computing device or a Web page; and/or (b) Enabling
18 ticketing/ticket sales/ticket purchases and other hospitality functions via iPhone, Android, and
19 other internet-enabled wireless handheld computing devices as well as via Web pages, storing
20 hospitality information and data on at least one central database, on at least one wireless
21 handheld computing device, and on at least one Web server and Web page, and synchronizing
22 applications and data, including but not limited to applications and data relating to ordering,
23 between at least one central database, wireless handheld computing devices, and at least one
24 Web server and Web page; utilizing an interface that provides a single point of entry that
25 allows the synchronization of at least one wireless handheld computing device and at least one
26 Web page with at least one central database; allowing information to be entered via Web pages,
27 transmitted over the internet, and automatically communicated to at least one central database
28 and to wireless handheld computing devices; allowing information to be entered via wireless

1 handheld computing devices, transmitted over the internet, and automatically communicated to
2 at least one central database and to Web pages.

3 19. On information and belief, defendant StubHub has indirectly infringed and continues
4 to indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation
5 of 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement
6 by other persons.

7 20. On information and belief, customers of StubHub, including consumers and others,
8 use the StubHub System. StubHub provides instruction and direction regarding the use of the
9 StubHub System, and advertises, promotes, and encourages the use of the StubHub System.

10 21. On information and belief, the StubHub System infringes one or more valid and
11 enforceable claims of the '850 patent for the reasons set forth hereinabove.

12 22. On information and belief, StubHub has had knowledge of the '850 patent, and knew
13 or should have known that its continued offering and deployment of the StubHub System, and
14 its continued support of consumers and other users of this system/product/service, would
15 induce direct infringement by those users. Additionally, StubHub intended that its actions
16 would induce direct infringement by those users.

17 23. On information and belief, Defendant has indirectly infringed and continues to
18 indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation of
19 35 U.S.C. § 271(c).

20 24. By distributing, selling, offering, offering to sell or license and/or selling or licensing
21 the StubHub System, StubHub provides non-staple articles of commerce to others for use in
22 infringing systems, products, and/or services. Additionally, StubHub provides instruction and
23 direction regarding the use of the StubHub System, and advertises, promotes, and encourages
24 the use of the StubHub System. Users of one or more of the StubHub System directly infringe
25 one or more valid and enforceable claims of the '850 patent for the reasons set forth
26 hereinabove.

27 25. On information and belief, the StubHub System infringes one or more valid and
28 enforceable claims of the '850 patent, for the reasons set forth hereinabove.

1 26. On information and belief, StubHub has had knowledge of the ‘850 patent, including
2 knowledge that the StubHub System, which is a non-staple article of commerce, has been used
3 as a material part of the claimed invention of the ‘850 patent, and that there are no substantial
4 non-infringing uses for the StubHub System.

5 27. On information and belief, the aforesaid infringing activities of defendant StubHub
6 have been done with knowledge and willful disregard of Ameranth’s patent rights, making this
7 an exceptional case within the meaning of 35 U.S.C. § 285.

8 28. The aforesaid infringing activity of defendant StubHub has directly and proximately
9 caused damage to plaintiff Ameranth, including loss of profits from sales it would have made
10 but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and
11 cause irreparable injury to Ameranth for which there is no adequate remedy at law.

12 **COUNT II**

13 **Patent Infringement (U.S. Pat. No. 6,871,325)**

14 **(35 U.S.C. § 271)**

15 29. Plaintiff reiterates and reincorporates the allegations set forth in paragraphs 1-28
16 above as if fully set forth herein.

17 30. On March 22, 2005, United States Patent No. 6,871,325 entitled “Information
18 Management and Synchronous Communications System with Menu Generation” (“the ‘325
19 patent”) (a true and correct copy of which is attached hereto as **Exhibit B**) was duly and legally
20 issued by the United States Patent & Trademark Office.

21 31. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
22 and to the ‘325 patent.

23 32. On information and belief, Defendant directly infringes and continues to directly
24 infringe one or more valid and enforceable claims of the ‘325 patent, in violation of 35 U.S.C.
25 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
26 systems, products, and/or services in the United States without authority or license from
27 Ameranth, including but not limited to the StubHub System.

1 33. On information and belief, the StubHub System, as deployed and/or used at or from
2 one or more locations by StubHub, its agents, distributors, partners, affiliates, licensees, and/or
3 their customers, infringes one or more valid and enforceable claims of the '325 patent, by, *inter*
4 *alia*, doing at least one of the following: (a) Generating and transmitting menus in a system
5 including a central processing unit, a data storage device, a computer operating system
6 containing a graphical user interface, one or more displayable main menus, modifier menus,
7 and sub-modifier menus, and application software for generating a second menu and
8 transmitting it to a wireless handheld computing device or a Web page; and/or (b) Enabling
9 ticketing/ticket sales/ticket purchases and other hospitality functions via iPhone, Android, and
10 other internet-enabled wireless handheld computing devices as well as via Web pages, storing
11 hospitality information and data on at least one central database, on at least one wireless
12 handheld computing device, and on at least one Web server and Web page, and synchronizing
13 applications and data, including but not limited to applications and data relating to orders,
14 between at least one central database, wireless handheld computing devices, and at least one
15 Web server and Web page; and sending alerts, confirmations, and other information regarding
16 orders to various wireless mobile devices.

17 34. On information and belief, Defendant has indirectly infringed and continues to
18 indirectly infringe one or more valid and enforceable claims of the '325 patent, in violation of
19 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
20 other persons.

21 35. On information and belief, customers of StubHub, including consumers and others,
22 use the StubHub System in a manner that infringes upon one or more valid and enforceable
23 claims of the '325 patent. StubHub provides instruction and direction regarding the use of the
24 StubHub System and advertises, promotes, and encourages the use of the StubHub System.

25 36. On information and belief, Defendant actively induces others to infringe the '325
26 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
27 customers of StubHub, including consumers and others, to use the infringing StubHub System
28 in the United States without authority or license from Ameranth.

1 37. On information and belief, Defendant contributorily infringes and continues to
2 contributorily infringe one or more valid and enforceable claims of the '325 patent, in violation
3 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
4 of the '325 patent read, constituting a material part of the invention, knowing that the
5 components were especially adapted for use in systems which infringe claims of the '325
6 patent.

7 38. By distributing, selling, offering, offering to sell or license and/or selling or licensing
8 the StubHub System, Defendant provides non-staple articles of commerce to others for use in
9 infringing systems, products, and/or services. Additionally, StubHub provides instruction and
10 direction regarding the use of the StubHub System and advertises, promotes, and encourages
11 the use of the StubHub System. Users of the StubHub System directly infringe one or more
12 valid and enforceable claims of the '325 patent, for the reasons set forth hereinabove.

13 39. On information and belief, the StubHub System infringes one or more valid and
14 enforceable claims of the '325 patent, for the reasons set forth hereinabove.

15 40. On information and belief, StubHub has had knowledge of the '325 patent, including
16 knowledge that the StubHub System, which is a non-staple articles of commerce, has been
17 used as a material part of the claimed invention of the '325 patent, and that there are no
18 substantial non-infringing uses for the StubHub System.

19 41. On information and belief, the aforesaid infringing activities of defendant StubHub
20 have been done with knowledge and willful disregard of Ameranth's patent rights, making this
21 an exceptional case within the meaning of 35 U.S.C. § 285.

22 42. The aforesaid infringing activity of defendant StubHub has directly and proximately
23 caused damage to plaintiff Ameranth, including loss of profits from sales it would have made
24 but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and
25 cause irreparable injury to Ameranth for which there is no adequate remedy at law.

26 ///

COUNT III

Patent Infringement (U.S. Pat. No. 8,146,077)

(35 U.S.C. § 271)

43. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-42 above as if fully set forth herein.

44. On March 27, 2012, United States Patent No. 8,146,077 entitled “Information Management and Synchronous Communications System with Menu Generation, and Handwriting and Voice Modification of Orders” (a true copy of which is attached hereto as **Exhibit C** and incorporated herein by reference) was duly and legally issued by the United States Patent & Trademark Office.

45. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in and to the ‘077 patent.

46. On information and belief, Defendant directly infringes and continues to directly infringe one or more valid and enforceable claims of the ‘077 patent, in violation of 35 U.S.C. § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing systems, products, and/or services in the United States without authority or license from Ameranth, including but not limited to the StubHub System.

47. On information and belief, the StubHub System, as deployed and/or used at or from one or more locations by StubHub, its agents, distributors, partners, affiliates, licensees, and/or their customers, infringes one or more valid and enforceable claims of the ‘077 patent, by, *inter alia*, doing at least one of the following: (a) Configuring and transmitting menus in a system including a central processing unit, a data storage device, a computer operating system containing a graphical user interface, one or more displayable master menus, menu configuration software enabled to generate a menu configuration for a wireless handheld computing device in conformity with a customized display layout, and enabled for synchronous communications and to format the menu configuration for a customized display layout of at least two different wireless handheld computing device display sizes, and/or (b) Enabling ticketing/ticket sales/ticket purchases and other hospitality functions via iPhone,

1 Android, and other internet-enabled wireless handheld computing devices as well as via Web
2 pages, storing hospitality information and data on at least one database, on at least one wireless
3 handheld computing device, and on at least one Web server and Web page, and synchronizing
4 applications and data, including but not limited to applications and data relating to orders,
5 between at least one database, wireless handheld computing devices, and at least one Web
6 server and Web page; utilizing communications control software enabled to link and
7 synchronize hospitality information between at least one database, wireless handheld
8 computing device, and web page, to display information on web pages and on different
9 wireless handheld computing device display sizes, and to allow information to be entered via
10 Web pages, transmitted over the internet, and automatically communicated to at least one
11 database and to wireless handheld computing devices; allowing information to be entered via
12 wireless handheld computing devices, transmitted over the internet, and automatically
13 communicated to at least one database and to Web pages.

14 48. On information and belief, Defendant has indirectly infringed and continues to
15 indirectly infringe one or more valid and enforceable claims of the '077 patent, in violation of
16 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
17 other persons.

18 49. On information and belief, customers of StubHub, including consumers and others,
19 use the StubHub System in a manner that infringes upon one or more valid and enforceable
20 claims of the '077 patent. StubHub provides instruction and direction regarding the use of the
21 StubHub System and advertises, promotes, and encourages the use of the StubHub System.

22 50. On information and belief, Defendant actively induces others to infringe the '077
23 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
24 customers of StubHub, including consumers and others, to use the infringing StubHub System
25 in the United States without authority or license from Ameranth.

26 51. On information and belief, Defendant contributorily infringes and continues to
27 contributorily infringe one or more valid and enforceable claims of the '077 patent, in violation
28 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims

1 of the '077 patent read, constituting a material part of the invention, knowing that the
2 components were especially adapted for use in systems which infringe claims of the '077
3 patent.

4 52. By distributing, selling, offering, offering to sell or license and/or selling or licensing
5 the StubHub System, Defendant provides non-staple articles of commerce to others for use in
6 infringing systems, products, and/or services. Additionally, StubHub provides instruction and
7 direction regarding the use of the StubHub System and advertises, promotes, and encourages
8 the use of the StubHub System. Users of the StubHub System directly infringe one or more
9 valid and enforceable claims of the '077 patent, for the reasons set forth hereinabove.

10 53. On information and belief, each of the StubHub System infringes one or more valid
11 and enforceable claims of the '077 patent, for the reasons set forth hereinabove.

12 54. On information and belief, StubHub has had knowledge of the '077 patent, including
13 knowledge that the StubHub System, which is a non-staple article of commerce, has been used
14 as a material part of the claimed invention of the '077 patent, and that there are no substantial
15 non-infringing uses for the StubHub System.

16 55. On information and belief, the aforesaid infringing activities of defendant StubHub
17 have been done with knowledge and willful disregard of Ameranth's patent rights, making this
18 an exceptional case within the meaning of 35 U.S.C. § 285.

19 56. The aforesaid infringing activity of defendant StubHub has directly and proximately
20 caused damage to plaintiff Ameranth, including loss of profits from sales it would have made
21 but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and
22 cause irreparable injury to Ameranth for which there is no adequate remedy at law.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, plaintiff Ameranth respectfully prays for judgment against Defendant,
25 as follows:

26 1. Adjudging that the manufacture, use, offer for sale or license and /or sale or
27 license of the StubHub System infringes valid and enforceable claims of the '850 patent, and
28 the '325 patent, and the '077 patent, as set forth hereinabove;

2. Adjudging that Defendant has infringed, actively induced others to infringe and/or contributorily infringed valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

3. Adjudging that Defendant's infringement of the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, has been knowing and willful;

4. Enjoining Defendant, and its officers, directors, employees, attorneys, agents, representatives, parents, subsidiaries, affiliates and all other persons acting in concert, participation or privity with Defendant, and their successors and assigns, from infringing, contributorily infringing and/or inducing others to infringe the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent;

5. Awarding Ameranth the damages it has sustained by reason of Defendant's infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

6. Awarding Ameranth increased damages of three times the amount of damages found or assessed against Defendant by reason of the knowing, willful and deliberate nature of Defendant's acts of infringement pursuant to 35 U.S.C. § 284;

7. Adjudging this to be an exceptional case and awarding Ameranth its attorney's fees pursuant to 35 U.S.C. §285;

8. Awarding to Ameranth its costs of suit, and interest as provided by law; and

9. Awarding to Ameranth such other and further relief that this Court may deem just and proper.

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DEMAND FOR JURY TRIAL

Ameranth demands trial by jury of its claims set forth herein to the maximum extent permitted by law.

Respectfully submitted,

Dated: June 29, 2012

CALDARELLI HEJMANOWSKI & PAGE LLP

By: /s/ William J. Caldarelli
William J. Caldarelli

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Michael D. Fabiano

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Exhibit 1030 (K)

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Attorneys for Plaintiff Ameranth, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AMERANTH, INC.

Plaintiff,

v.

TICKETMASTER, LLC and LIVE NATION
ENTERTAINMENT, INC.,

Defendants.

Case No. **'12CV1648 WQHJMA**

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 computer servers, web servers, databases, affinity/social networking systems, desktop
2 computers, laptops, “smart” phones and other wireless handheld computing devices.

3 9. Ameranth began development of the inventions leading to the patent-in-suit and the
4 other patents in this patent family in the late Summer of 1998, at a time when the then-
5 available wireless and internet hospitality offerings were extremely limited in functionality,
6 were not synchronized and did not provide an integrated system-wide solution to the pervasive
7 ordering, reservations, affinity program and information management needs of the hospitality
8 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
9 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
10 and products to provide systemic and comprehensive solutions directed to optimally meeting
11 these industry needs. Ameranth has expended considerable effort and resources in inventing,
12 developing and marketing its inventions and protecting its rights therein.

13 10. Ameranth’s pioneering inventions have been widely adopted and are thus now
14 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth’s
15 solutions have been adopted, licensed and/or deployed by numerous entities across the
16 hospitality industry.

17 11. The adoption of Ameranth’s technology by industry leaders and the wide acclaim
18 received by Ameranth for its technological innovations are just some of the many
19 confirmations of the breakthrough aspects of Ameranth’s inventions. Ameranth has received
20 twelve different technology awards (three with “end customer” partners) and has been widely
21 recognized as a hospitality wireless/internet technology leader by almost all major national and
22 hospitality print publications, *e.g.*, The Wall Street Journal, New York Times, USA Today and
23 many others. Ameranth was personally nominated by Bill Gates, the Founder of Microsoft, for
24 the prestigious Computerworld Honors Award that Ameranth received in 2001 for its
25 breakthrough synchronized reservations/ticketing system with the Improv Comedy Theatres.
26 In his nomination, Mr. Gates described Ameranth as “one of the leading pioneers of
27 information technology for the betterment of mankind.” This prestigious award was based on
28 Ameranth’s innovative synchronization of wireless/web/fixed hospitality software technology.

Subsequently, the United States Patent and Trademark Office granted Ameranth a number of currently-issued patents, two of which are the basis for this lawsuit. Ameranth has issued press releases announcing these patent grants on business wires, on its web sites and at numerous trade shows since the first of the presently-asserted patents issued in 2002. A number of companies have licensed patents and technology from Ameranth, recognizing and confirming the value of Ameranth's innovations.

RELATED CASES PREVIOUSLY FILED

12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "'850 patent"), U.S. Patent No. 6,871,325 (the "'325 patent"), and U.S. Patent No. 8,146,077 (the "'077 patent"), are all patents in Ameranth's "Information Management and Synchronous Communications" patent family.

13. Ameranth is also currently asserting claims of these same patents in separate lawsuits, against other defendants, that are already pending in this Court. The first-filed lawsuit asserts claims of the '850 and '325 patents and is entitled *Ameranth v. Pizza Hut, Inc. et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in this Court, asserting claims of the '077 patent, include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-NLS; 3:12-cv-00738-JLS-NLS; 3:12-cv-00739-JLS-NLS; and 3:12-cv-00742-JLS-NLS. Another lawsuit subsequently filed by Ameranth in this Court, asserting claims of the '850, '325, and '077 patents, is Case No. 3:12-cv-00858-JLS-NLS.

COUNT I

Patent Infringement (U.S. Pat. No. 6,384,850)

(35 U.S.C. § 271)

14. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-13 above as if fully set forth herein.

15. On May 7, 2002, United States Patent No. 6,384,850 entitled "Information Management and Synchronous Communications System with Menu Generation" ("the '850

1 patent”) (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued
2 by the United States Patent & Trademark Office.

3 16. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
4 and to the ‘850 patent.

5 17. On information and belief, TicketMaster directly infringes and continues to directly
6 infringe one or more valid and enforceable claims of the ‘850 patent, in violation of 35 U.S.C.
7 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
8 systems, products, and/or services in the United States without authority or license from
9 Ameranth, including but not limited to the TicketMaster system/product/service, which
10 includes, *inter alia*, wireless and internet ticketing integration, online and mobile
11 ticketing/ticket sales/ticket purchases, integration with e-mail and affinity program and social
12 media applications such as Facebook, Twitter, Groupon, and YouTube, and/or other third-party
13 web-based applications, and other hospitality aspects (“TicketMaster System”).

14 18. On information and belief, the TicketMaster System, as deployed and/or used at or
15 from one or more locations by TicketMaster, its agents, distributors, partners, affiliates,
16 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
17 ‘850 patent, by, *inter alia*, doing at least one of the following: (a) Generating and transmitting
18 menus in a system including a central processing unit, a data storage device, a computer
19 operating system containing a graphical user interface, one or more displayable main menus,
20 modifier menus, and sub-modifier menus, and application software for generating a second
21 menu and transmitting it to a wireless handheld computing device or a Web page; and/or (b)
22 Enabling ticketing/ticket sales/ticket purchases and other hospitality functions via iPhone,
23 Android, and other internet-enabled wireless handheld computing devices as well as via Web
24 pages, storing hospitality information and data on at least one central database, on at least one
25 wireless handheld computing device, and on at least one Web server and Web page, and
26 synchronizing applications and data, including but not limited to applications and data relating
27 to ordering, between at least one central database, wireless handheld computing devices, and at
28 least one Web server and Web page; utilizing an interface that provides a single point of entry

1 that allows the synchronization of at least one wireless handheld computing device and at least
2 one Web page with at least one central database; allowing information to be entered via Web
3 pages, transmitted over the internet, and automatically communicated to at least one central
4 database and to wireless handheld computing devices; allowing information to be entered via
5 wireless handheld computing devices, transmitted over the internet, and automatically
6 communicated to at least one central database and to Web pages.

7 19. On information and belief, TicketMaster has indirectly infringed and continues to
8 indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation of
9 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
10 other persons.

11 20. On information and belief, customers of TicketMaster, including consumers, venue
12 operators, and others, use the TicketMaster System. TicketMaster provides instruction and
13 direction regarding the use of the TicketMaster System, and advertises, promotes, and
14 encourages the use of the TicketMaster System.

15 21. On information and belief, the TicketMaster System infringes one or more valid and
16 enforceable claims of the '850 patent for the reasons set forth hereinabove.

17 22. On information and belief, TicketMaster has had knowledge of the '850 patent, and
18 knew or should have known that its continued offering and deployment of the TicketMaster
19 System, and its continued support of consumers and other users of this system/product/service,
20 would induce direct infringement by those users. Additionally, TicketMaster intended that its
21 actions would induce direct infringement by those users.

22 23. On information and belief, TicketMaster has indirectly infringed and continues to
23 indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation of
24 35 U.S.C. § 271(c).

25 24. By distributing, selling, offering, offering to sell or license and/or selling or licensing
26 the TicketMaster System, TicketMaster provides non-staple articles of commerce to others for
27 use in infringing systems, products, and/or services. Additionally, TicketMaster provides
28 instruction and direction regarding the use of the TicketMaster System, and advertises,

1 promotes, and encourages the use of the TicketMaster System. Users of one or more of the
2 TicketMaster System directly infringe one or more valid and enforceable claims of the '850
3 patent for the reasons set forth hereinabove.

4 25. On information and belief, the TicketMaster System infringes one or more valid and
5 enforceable claims of the '850 patent, for the reasons set forth hereinabove.

6 26. On information and belief, TicketMaster has had knowledge of the '850 patent,
7 including knowledge that the TicketMaster System, which is a non-staple article of commerce,
8 has been used as a material part of the claimed invention of the '850 patent, and that there are
9 no substantial non-infringing uses for the TicketMaster System.

10 27. On information and belief, the aforesaid infringing activities of TicketMaster have
11 been done with knowledge and willful disregard of Ameranth's patent rights, making this an
12 exceptional case within the meaning of 35 U.S.C. § 285.

13 28. The aforesaid infringing activity of TicketMaster has directly and proximately caused
14 damage to plaintiff Ameranth, including loss of profits from sales it would have made but for
15 the infringements. Unless enjoined, the aforesaid infringing activity will continue and cause
16 irreparable injury to Ameranth for which there is no adequate remedy at law.

17 **COUNT II**

18 **Patent Infringement (U.S. Pat. No. 6,871,325)**

19 **(35 U.S.C. § 271)**

20 29. Plaintiff reiterates and reincorporates the allegations set forth in paragraphs 1-28
21 above as if fully set forth herein.

22 30. On March 22, 2005, United States Patent No. 6,871,325 entitled "Information
23 Management and Synchronous Communications System with Menu Generation" ("the '325
24 patent") (a true and correct copy of which is attached hereto as **Exhibit B**) was duly and legally
25 issued by the United States Patent & Trademark Office.

26 31. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
27 and to the '325 patent.

1 32. On information and belief, TicketMaster directly infringes and continues to directly
2 infringe one or more valid and enforceable claims of the '325 patent, in violation of 35 U.S.C.
3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
4 systems, products, and/or services in the United States without authority or license from
5 Ameranth, including but not limited to the TicketMaster System.

6 33. On information and belief, the TicketMaster System, as deployed and/or used at or
7 from one or more locations by TicketMaster, its agents, distributors, partners, affiliates,
8 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
9 '325 patent, by, *inter alia*, doing at least one of the following: (a) Generating and transmitting
10 menus in a system including a central processing unit, a data storage device, a computer
11 operating system containing a graphical user interface, one or more displayable main menus,
12 modifier menus, and sub-modifier menus, and application software for generating a second
13 menu and transmitting it to a wireless handheld computing device or a Web page; and/or (b)
14 Enabling ticketing/ticket sales/ticket purchases and other hospitality functions via iPhone,
15 Android, and other internet-enabled wireless handheld computing devices as well as via Web
16 pages, storing hospitality information and data on at least one central database, on at least one
17 wireless handheld computing device, and on at least one Web server and Web page, and
18 synchronizing applications and data, including but not limited to applications and data relating
19 to orders, between at least one central database, wireless handheld computing devices, and at
20 least one Web server and Web page; and sending alerts, confirmations, and other information
21 regarding orders to various wireless mobile devices.

22 34. On information and belief, TicketMaster has indirectly infringed and continues to
23 indirectly infringe one or more valid and enforceable claims of the '325 patent, in violation of
24 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
25 other persons.

26 35. On information and belief, customers of TicketMaster, including consumers, venue
27 operators, and others, use the TicketMaster System in a manner that infringes upon one or
28 more valid and enforceable claims of the '325 patent. TicketMaster provides instruction and

1 direction regarding the use of the TicketMaster System and advertises, promotes, and
2 encourages the use of the TicketMaster System.

3 36. On information and belief, TicketMaster actively induces others to infringe the '325
4 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
5 customers of TicketMaster, including consumers, venue operators, and others, to use the
6 infringing TicketMaster System in the United States without authority or license from
7 Ameranth.

8 37. On information and belief, TicketMaster contributorily infringes and continues to
9 contributorily infringe one or more valid and enforceable claims of the '325 patent, in violation
10 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
11 of the '325 patent read, constituting a material part of the invention, knowing that the
12 components were especially adapted for use in systems which infringe claims of the '325
13 patent.

14 38. By distributing, selling, offering, offering to sell or license and/or selling or licensing
15 the TicketMaster System, TicketMaster provides non-staple articles of commerce to others for
16 use in infringing systems, products, and/or services. Additionally, TicketMaster provides
17 instruction and direction regarding the use of the TicketMaster System and advertises,
18 promotes, and encourages the use of the TicketMaster System. Users of the TicketMaster
19 System directly infringe one or more valid and enforceable claims of the '325 patent, for the
20 reasons set forth hereinabove.

21 39. On information and belief, the TicketMaster System infringes one or more valid and
22 enforceable claims of the '325 patent, for the reasons set forth hereinabove.

23 40. On information and belief, TicketMaster has had knowledge of the '325 patent,
24 including knowledge that the TicketMaster System, which is a non-staple articles of commerce,
25 has been used as a material part of the claimed invention of the '325 patent, and that there are
26 no substantial non-infringing uses for the TicketMaster System.

1 menus in a system including a central processing unit, a data storage device, a computer
2 operating system containing a graphical user interface, one or more displayable master menus,
3 menu configuration software enabled to generate a menu configuration for a wireless handheld
4 computing device in conformity with a customized display layout, and enabled for
5 synchronous communications and to format the menu configuration for a customized display
6 layout of at least two different wireless handheld computing device display sizes, and/or (b)
7 Enabling ticketing/ticket sales/ticket purchases and other hospitality functions via iPhone,
8 Android, and other internet-enabled wireless handheld computing devices as well as via Web
9 pages, storing hospitality information and data on at least one database, on at least one wireless
10 handheld computing device, and on at least one Web server and Web page, and synchronizing
11 applications and data, including but not limited to applications and data relating to orders,
12 between at least one database, wireless handheld computing devices, and at least one Web
13 server and Web page; utilizing communications control software enabled to link and
14 synchronize hospitality information between at least one database, wireless handheld
15 computing device, and web page, to display information on web pages and on different
16 wireless handheld computing device display sizes, and to allow information to be entered via
17 Web pages, transmitted over the internet, and automatically communicated to at least one
18 database and to wireless handheld computing devices; allowing information to be entered via
19 wireless handheld computing devices, transmitted over the internet, and automatically
20 communicated to at least one database and to Web pages.

21 48. On information and belief, TicketMaster has indirectly infringed and continues to
22 indirectly infringe one or more valid and enforceable claims of the '077 patent, in violation of
23 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
24 other persons.

25 49. On information and belief, customers of TicketMaster, including consumers, venue
26 operators, and others, use the TicketMaster System in a manner that infringes upon one or
27 more valid and enforceable claims of the '077 patent. TicketMaster provides instruction and
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1 direction regarding the use of the TicketMaster System and advertises, promotes, and
2 encourages the use of the TicketMaster System.

3 50. On information and belief, TicketMaster actively induces others to infringe the '077
4 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
5 customers of TicketMaster, including consumers, venue operators, and others, to use the
6 infringing TicketMaster System in the United States without authority or license from
7 Ameranth.

8 51. On information and belief, TicketMaster contributorily infringes and continues to
9 contributorily infringe one or more valid and enforceable claims of the '077 patent, in violation
10 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
11 of the '077 patent read, constituting a material part of the invention, knowing that the
12 components were especially adapted for use in systems which infringe claims of the '077
13 patent.

14 52. By distributing, selling, offering, offering to sell or license and/or selling or licensing
15 the TicketMaster System, TicketMaster provides non-staple articles of commerce to others for
16 use in infringing systems, products, and/or services. Additionally, TicketMaster provides
17 instruction and direction regarding the use of the TicketMaster System and advertises,
18 promotes, and encourages the use of the TicketMaster System. Users of the TicketMaster
19 System directly infringe one or more valid and enforceable claims of the '077 patent, for the
20 reasons set forth hereinabove.

21 53. On information and belief, each of the TicketMaster System infringes one or more
22 valid and enforceable claims of the '077 patent, for the reasons set forth hereinabove.

23 54. On information and belief, TicketMaster has had knowledge of the '077 patent,
24 including knowledge that the TicketMaster System, which is a non-staple article of commerce,
25 has been used as a material part of the claimed invention of the '077 patent, and that there are
26 no substantial non-infringing uses for the TicketMaster System.

55. On information and belief, the aforesaid infringing activities of TicketMaster have been done with knowledge and willful disregard of Ameranth's patent rights, making this an exceptional case within the meaning of 35 U.S.C. § 285.

56. The aforesaid infringing activity of TicketMaster has directly and proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would have made but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and cause irreparable injury to Ameranth for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Ameranth respectfully prays for judgment against TicketMaster, as follows:

1. Adjudging that the manufacture, use, offer for sale or license and /or sale or license of the TicketMaster System infringes valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

2. Adjudging that TicketMaster has infringed, actively induced others to infringe and/or contributorily infringed valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

3. Adjudging that TicketMaster's infringement of the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, has been knowing and willful;

4. Enjoining TicketMaster, and its officers, directors, employees, attorneys, agents, representatives, parents, subsidiaries, affiliates and all other persons acting in concert, participation or privity with TicketMaster, and their successors and assigns, from infringing, contributorily infringing and/or inducing others to infringe the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent;

5. Awarding Ameranth the damages it has sustained by reason of TicketMaster's infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

6. Awarding Ameranth increased damages of three times the amount of damages found or assessed against TicketMaster by reason of the knowing, willful and deliberate nature of TicketMaster's acts of infringement pursuant to 35 U.S.C. § 284;

9. Awarding to Ameranth such other and further relief that this Court may deem just and proper.

Ameranth demands trial by jury of its claims set forth herein to the maximum extent permitted by law.

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Exhibit 1030 (L)

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Attorneys for Plaintiff Ameranth, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AMERANTH, INC.

Plaintiff,

v.

TRAVELOCITY.COM, LP,

Defendant.

Case No. '12CV1649 JAH WMc

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendant Travelocity.com, LP
3 (“Travelocity”), avers as follows:

4 **PARTIES**

5 1. Plaintiff Ameranth, Inc. (“Ameranth”) is a Delaware corporation having a principal
6 place of business at 5820 Oberlin Drive, Suite 202, San Diego, California 92121. Ameranth
7 develops, manufactures and sells, *inter alia*, hospitality industry, entertainment, restaurant and
8 food service information technology solutions under the trademarks 21st Century
9 Communications™, and 21st Century Restaurant™, among others, comprising the
10 synchronization and integration of hospitality information and hospitality software applications
11 between fixed, wireless and/or internet applications, including but not limited to computer
12 servers, web servers, databases, affinity/social networking systems, desktop computers,
13 laptops, “smart” phones and other wireless handheld computing devices.

14 2. Defendant Travelocity.com, LP (“Travelocity”) is, on information and belief, a
15 Delaware limited partnership having a principal place of business and headquarters in
16 Southlake, Texas. On information and belief, Travelocity makes, uses, offers for sale or
17 license and/or sells or licenses hotel and lodging, property management system (PMS) and
18 other hospitality information-technology products, software, components and/or systems within
19 this Judicial District, including the Travelocity Reservation System as defined herein.

20 **JURISDICTION AND VENUE**

21 3. This is an action for patent infringement arising under the Patent Laws of the United
22 States, 35 U.S.C. §§ 271, 281-285.

23 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
24 1338(a).

25 5. On information and belief, Defendant engages in (a) the offer for sale or license and
26 sale or license of hospitality, restaurant, food service, ordering, products and/or components in
27 the United States, including this Judicial District, including services, products, software, and
28 components, comprising wireless and internet POS and/or hospitality aspects; (b) the

1 installation and maintenance of said services, products, software, components and/or systems
2 in hospitality industry, restaurant, food service, and/or entertainment information technology
3 systems in the United States, including this Judicial District; and/or (c) the use of hospitality
4 industry, restaurant, food service, and/or entertainment information technology systems
5 comprising said services, products, software, components and/or systems in the United States,
6 including this Judicial District.

7 6. This Court has personal jurisdiction over Defendant because Defendant commits acts
8 of patent infringement in this Judicial District including, *inter alia*, making, using, offering for
9 sale or license, and/or selling or licensing infringing services, products, software, components
10 and/or systems in this Judicial District.

11 7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c) and
12 1400(b).

13 **BACKGROUND**

14 8. Ameranth was established in 1996 to develop and provide its 21st Century
15 Communications™ innovative information technology solutions for the hospitality industry
16 (inclusive of, e.g., restaurants, hotels, casinos, nightclubs, cruise ships and other entertainment
17 and sports venues). Ameranth has been widely recognized as a technology leader in the
18 provision of wireless and internet-based systems and services to, *inter alia*, restaurants, hotels,
19 casinos, cruise ships and entertainment and sports venues. Ameranth's award winning
20 inventions enable, in relevant part, generation and synchronization of menus, including but not
21 limited to restaurant menus, event tickets, and other products across fixed, wireless and/or
22 internet platforms as well as synchronization of hospitality information and hospitality
23 software applications across fixed, wireless and internet platforms, including but not limited to,
24 computer servers, web servers, databases, affinity/social networking systems, desktop
25 computers, laptops, "smart" phones and other wireless handheld computing devices.

26 9. Ameranth began development of the inventions leading to the patent-in-suit and the
27 other patents in this patent family in the late Summer of 1998, at a time when the then-
28 available wireless and internet hospitality offerings were extremely limited in functionality,

1 were not synchronized and did not provide an integrated system-wide solution to the pervasive
2 ordering, reservations, affinity program and information management needs of the hospitality
3 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
4 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
5 and products to provide systemic and comprehensive solutions directed to optimally meeting
6 these industry needs. Ameranth has expended considerable effort and resources in inventing,
7 developing and marketing its inventions and protecting its rights therein.

8 10. Ameranth's pioneering inventions have been widely adopted and are thus now
9 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth's
10 solutions have been adopted, licensed and/or deployed by numerous entities across the
11 hospitality industry.

12 11. The adoption of Ameranth's technology by industry leaders and the wide acclaim
13 received by Ameranth for its technological innovations are just some of the many
14 confirmations of the breakthrough aspects of Ameranth's inventions. Ameranth has received
15 twelve different technology awards (three with "end customer" partners) and has been widely
16 recognized as a hospitality wireless/internet technology leader by almost all major national and
17 hospitality print publications, *e.g.*, The Wall Street Journal, New York Times, USA Today and
18 many others. Ameranth was personally nominated by Bill Gates, the Founder of Microsoft, for
19 the prestigious Computerworld Honors Award that Ameranth received in 2001 for its
20 breakthrough synchronized reservations/ticketing system with the Improv Comedy Theatres.
21 In his nomination, Mr. Gates described Ameranth as "one of the leading pioneers of
22 information technology for the betterment of mankind." This prestigious award was based on
23 Ameranth's innovative synchronization of wireless/web/fixed hospitality software technology.
24 Subsequently, the United States Patent and Trademark Office granted Ameranth a number of
25 currently-issued patents, two of which are the basis for this lawsuit. Ameranth has issued press
26 releases announcing these patent grants on business wires, on its web sites and at numerous
27 trade shows since the first of the presently-asserted patents issued in 2002. A number of
28

1 companies have licensed patents and technology from Ameranth, recognizing and confirming
2 the value of Ameranth's innovations.

3 RELATED CASES PREVIOUSLY FILED

4 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "'850 patent"),
5 U.S. Patent No. 6,871,325 (the "'325 patent"), and U.S. Patent No. 8,146,077 (the "'077
6 patent"), are all patents in Ameranth's "Information Management and Synchronous
7 Communications" patent family.

8 13. Ameranth is also currently asserting claims of these same patents in separate
9 lawsuits, against other defendants, that are already pending in this Court. The first-filed
10 lawsuit asserts claims of the '850 and '325 patents and is entitled *Ameranth v. Pizza Hut, Inc.*
11 *et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in this
12 Court, asserting claims of the '077 patent, include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-
13 cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-
14 NLS; 3:12-cv-00738-JLS-NLS; 3:12-cv-00739-JLS-NLS; and 3:12-cv-00742-JLS-NLS.
15 Another lawsuit subsequently filed by Ameranth in this Court, asserting claims of the '850,
16 '325, and '077 patents, is Case No. 3:12-cv-00858-JLS-NLS.

17 COUNT I

18 **Patent Infringement (U.S. Pat. No. 6,384,850)**

19 **(35 U.S.C. § 271)**

20 14. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-13 above
21 as if fully set forth herein.

22 15. On May 7, 2002, United States Patent No. 6,384,850 entitled "Information
23 Management and Synchronous Communications System with Menu Generation" ("the '850
24 patent") (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued
25 by the United States Patent & Trademark Office.

26 16. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
27 and to the '850 patent.

1 17. On information and belief, Defendant directly infringes and continues to directly
2 infringe one or more valid and enforceable claims of the '850 patent, in violation of 35 U.S.C.
3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
4 systems, products, and/or services in the United States without authority or license from
5 Ameranth, including but not limited to the Travelocity Reservation system/product/service,
6 which includes, inter alia, hotel/lodging-reservation and property management system (PMS)
7 integration, online and mobile hotel/lodging reservations, integration with e-mail and affinity
8 program and social media applications such as Facebook, Twitter, Groupon, and YouTube,
9 and/or other third-party web-based applications, and other hospitality aspects ("Travelocity
10 Reservation System").

11 18. On information and belief, the Travelocity Reservation System, as deployed and/or
12 used at or from one or more locations by Travelocity, its agents, distributors, partners,
13 affiliates, licensees, and/or their customers, infringes one or more valid and enforceable claims
14 of the '850 patent, by, *inter alia*, doing at least one of the following: (a) Generating and
15 transmitting menus in a system including a central processing unit, a data storage device, a
16 computer operating system containing a graphical user interface, one or more displayable main
17 menus, modifier menus, and sub-modifier menus, and application software for generating a
18 second menu and transmitting it to a wireless handheld computing device or a Web page;
19 and/or (b) Enabling reservations and other hospitality functions via iPhone, Android, and other
20 internet-enabled wireless handheld computing devices as well as via Web pages, storing
21 hospitality information and data on at least one central database, on at least one wireless
22 handheld computing device, and on at least one Web server and Web page, and synchronizing
23 applications and data, including but not limited to applications and data relating to ordering,
24 between at least one central database, wireless handheld computing devices, and at least one
25 Web server and Web page; utilizing an interface that provides a single point of entry that
26 allows the synchronization of at least one wireless handheld computing device and at least one
27 Web page with at least one central database; allowing information to be entered via Web pages,
28 transmitted over the internet, and automatically communicated to at least one central database

1 and to wireless handheld computing devices; allowing information to be entered via wireless
2 handheld computing devices, transmitted over the internet, and automatically communicated to
3 at least one central database and to Web pages.

4 19. On information and belief, defendant Travelocity has indirectly infringed and
5 continues to indirectly infringe one or more valid and enforceable claims of the '850 patent, in
6 violation of 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct
7 infringement by other persons.

8 20. On information and belief, customers of Travelocity, including consumers and
9 hotel/restaurant operators, use the Travelocity Reservation System. Travelocity provides
10 instruction and direction regarding the use of the Travelocity Reservation System, and
11 advertises, promotes, and encourages the use of the Travelocity Reservation System.

12 21. On information and belief, the Travelocity Reservation System infringes one or more
13 valid and enforceable claims of the '850 patent for the reasons set forth hereinabove.

14 22. On information and belief, Travelocity has had knowledge of the '850 patent, and
15 knew or should have known that its continued offering and deployment of the Travelocity
16 Reservation System, and its continued support of consumers, hotel/restaurant operators, and
17 other users of this system/product/service, would induce direct infringement by those users.
18 Additionally, Travelocity intended that its actions would induce direct infringement by those
19 users.

20 23. On information and belief, Defendant has indirectly infringed and continues to
21 indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation of
22 35 U.S.C. § 271(c).

23 24. By distributing, selling, offering, offering to sell or license and/or selling or licensing
24 the Travelocity Reservation System, Travelocity provides non-staple articles of commerce to
25 others for use in infringing systems, products, and/or services. Additionally, Travelocity
26 provides instruction and direction regarding the use of the Travelocity Reservation System, and
27 advertises, promotes, and encourages the use of the Travelocity Reservation System. Users of
28

one or more of the Travelocity Reservation System directly infringe one or more valid and enforceable claims of the '850 patent for the reasons set forth hereinabove.

25. On information and belief, the Travelocity Reservation System infringes one or more valid and enforceable claims of the '850 patent, for the reasons set forth hereinabove.

26. On information and belief, Travelocity has had knowledge of the '850 patent, including knowledge that the Travelocity Reservation System, which is a non-staple article of commerce, has been used as a material part of the claimed invention of the '850 patent, and that there are no substantial non-infringing uses for the Travelocity Reservation System.

27. On information and belief, the aforesaid infringing activities of defendant Travelocity have been done with knowledge and willful disregard of Ameranth's patent rights, making this an exceptional case within the meaning of 35 U.S.C. § 285.

28. The aforesaid infringing activity of defendant Travelocity has directly and proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would have made but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and cause irreparable injury to Ameranth for which there is no adequate remedy at law.

COUNT II

Patent Infringement (U.S. Pat. No. 6,871,325)

(35 U.S.C. § 271)

29. Plaintiff reiterates and reincorporates the allegations set forth in paragraphs 1-28 above as if fully set forth herein.

30. On March 22, 2005, United States Patent No. 6,871,325 entitled "Information Management and Synchronous Communications System with Menu Generation" ("the '325 patent") (a true and correct copy of which is attached hereto as **Exhibit B**) was duly and legally issued by the United States Patent & Trademark Office.

31. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in and to the '325 patent.

1 32. On information and belief, Defendant directly infringes and continues to directly
2 infringe one or more valid and enforceable claims of the '325 patent, in violation of 35 U.S.C.
3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
4 systems, products, and/or services in the United States without authority or license from
5 Ameranth, including but not limited to the Travelocity Reservation System.

6 33. On information and belief, the Travelocity Reservation System, as deployed and/or
7 used at or from one or more locations by Travelocity, its agents, distributors, partners,
8 affiliates, licensees, and/or their customers, infringes one or more valid and enforceable claims
9 of the '325 patent, by, *inter alia*, doing at least one of the following: (a) Generating and
10 transmitting menus in a system including a central processing unit, a data storage device, a
11 computer operating system containing a graphical user interface, one or more displayable main
12 menus, modifier menus, and sub-modifier menus, and application software for generating a
13 second menu and transmitting it to a wireless handheld computing device or a Web page;
14 and/or (b) Enabling reservations and other hospitality functions via iPhone, Android, and other
15 internet-enabled wireless handheld computing devices as well as via Web pages, storing
16 hospitality information and data on at least one central database, on at least one wireless
17 handheld computing device, and on at least one Web server and Web page, and synchronizing
18 applications and data, including but not limited to applications and data relating to orders,
19 between at least one central database, wireless handheld computing devices, and at least one
20 Web server and Web page; and sending alerts, confirmations, and other information regarding
21 orders to various wireless mobile devices.

22 34. On information and belief, Defendant has indirectly infringed and continues to
23 indirectly infringe one or more valid and enforceable claims of the '325 patent, in violation of
24 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
25 other persons.

26 35. On information and belief, customers of Travelocity, including consumers and
27 hotel/restaurant operators, use the Travelocity Reservation System in a manner that infringes
28 upon one or more valid and enforceable claims of the '325 patent. Travelocity provides

1 instruction and direction regarding the use of the Travelocity Reservation System and
2 advertises, promotes, and encourages the use of the Travelocity Reservation System.

3 36. On information and belief, Defendant actively induces others to infringe the '325
4 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
5 customers of Travelocity, including consumers and hotel/restaurant operators, to use the
6 infringing Travelocity Reservation System in the United States without authority or license
7 from Ameranth.

8 37. On information and belief, Defendant contributorily infringes and continues to
9 contributorily infringe one or more valid and enforceable claims of the '325 patent, in violation
10 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
11 of the '325 patent read, constituting a material part of the invention, knowing that the
12 components were especially adapted for use in systems which infringe claims of the '325
13 patent.

14 38. By distributing, selling, offering, offering to sell or license and/or selling or licensing
15 the Travelocity Reservation System, Defendant provides non-staple articles of commerce to
16 others for use in infringing systems, products, and/or services. Additionally, Travelocity
17 provides instruction and direction regarding the use of the Travelocity Reservation System and
18 advertises, promotes, and encourages the use of the Travelocity Reservation System. Users of
19 the Travelocity Reservation System directly infringe one or more valid and enforceable claims
20 of the '325 patent, for the reasons set forth hereinabove.

21 39. On information and belief, the Travelocity Reservation System infringes one or more
22 valid and enforceable claims of the '325 patent, for the reasons set forth hereinabove.

23 40. On information and belief, Travelocity has had knowledge of the '325 patent,
24 including knowledge that the Travelocity Reservation System, which is a non-staple articles of
25 commerce, has been used as a material part of the claimed invention of the '325 patent, and
26 that there are no substantial non-infringing uses for the Travelocity Reservation System.

1 41. On information and belief, the aforesaid infringing activities of defendant
2 Travelocity have been done with knowledge and willful disregard of Ameranth's patent rights,
3 making this an exceptional case within the meaning of 35 U.S.C. § 285.

4 42. The aforesaid infringing activity of defendant Travelocity has directly and
5 proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would
6 have made but for the infringements. Unless enjoined, the aforesaid infringing activity will
7 continue and cause irreparable injury to Ameranth for which there is no adequate remedy at
8 law.

9 **COUNT III**

10 **Patent Infringement (U.S. Pat. No. 8,146,077)**

11 **(35 U.S.C. § 271)**

12 43. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-42 above
13 as if fully set forth herein.

14 44. On March 27, 2012, United States Patent No. 8,146,077 entitled "Information
15 Management and Synchronous Communications System with Menu Generation, and
16 Handwriting and Voice Modification of Orders" (a true copy of which is attached hereto as
17 **Exhibit C** and incorporated herein by reference) was duly and legally issued by the United
18 States Patent & Trademark Office.

19 45. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
20 and to the '077 patent.

21 46. On information and belief, Defendant directly infringes and continues to directly
22 infringe one or more valid and enforceable claims of the '077 patent, in violation of 35 U.S.C.
23 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
24 systems, products, and/or services in the United States without authority or license from
25 Ameranth, including but not limited to the Travelocity Reservation System.

26 47. On information and belief, the Travelocity Reservation System, as deployed and/or
27 used at or from one or more locations by Travelocity, its agents, distributors, partners,
28 affiliates, licensees, and/or their customers, infringes one or more valid and enforceable claims

1 of the '077 patent, by, *inter alia*, doing at least one of the following: (a) Configuring and
2 transmitting menus in a system including a central processing unit, a data storage device, a
3 computer operating system containing a graphical user interface, one or more displayable
4 master menus, menu configuration software enabled to generate a menu configuration for a
5 wireless handheld computing device in conformity with a customized display layout, and
6 enabled for synchronous communications and to format the menu configuration for a
7 customized display layout of at least two different wireless handheld computing device display
8 sizes, and/or (b) Enabling reservations and other hospitality functions via iPhone, Android, and
9 other internet-enabled wireless handheld computing devices as well as via Web pages, storing
10 hospitality information and data on at least one database, on at least one wireless handheld
11 computing device, and on at least one Web server and Web page, and synchronizing
12 applications and data, including but not limited to applications and data relating to orders,
13 between at least one database, wireless handheld computing devices, and at least one Web
14 server and Web page; utilizing communications control software enabled to link and
15 synchronize hospitality information between at least one database, wireless handheld
16 computing device, and web page, to display information on web pages and on different
17 wireless handheld computing device display sizes, and to allow information to be entered via
18 Web pages, transmitted over the internet, and automatically communicated to at least one
19 database and to wireless handheld computing devices; allowing information to be entered via
20 wireless handheld computing devices, transmitted over the internet, and automatically
21 communicated to at least one database and to Web pages.

22 48. On information and belief, Defendant has indirectly infringed and continues to
23 indirectly infringe one or more valid and enforceable claims of the '077 patent, in violation of
24 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
25 other persons.

26 49. On information and belief, customers of Travelocity, including consumers and
27 hotel/restaurant operators, use the Travelocity Reservation System in a manner that infringes
28 upon one or more valid and enforceable claims of the '077 patent. Travelocity provides

1 instruction and direction regarding the use of the Travelocity Reservation System and
2 advertises, promotes, and encourages the use of the Travelocity Reservation System.

3 50. On information and belief, Defendant actively induces others to infringe the '077
4 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
5 customers of Travelocity, including consumers and hotel/restaurant operators, to use the
6 infringing Travelocity Reservation System in the United States without authority or license
7 from Ameranth.

8 51. On information and belief, Defendant contributorily infringes and continues to
9 contributorily infringe one or more valid and enforceable claims of the '077 patent, in violation
10 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
11 of the '077 patent read, constituting a material part of the invention, knowing that the
12 components were especially adapted for use in systems which infringe claims of the '077
13 patent.

14 52. By distributing, selling, offering, offering to sell or license and/or selling or licensing
15 the Travelocity Reservation System, Defendant provides non-staple articles of commerce to
16 others for use in infringing systems, products, and/or services. Additionally, Travelocity
17 provides instruction and direction regarding the use of the Travelocity Reservation System and
18 advertises, promotes, and encourages the use of the Travelocity Reservation System. Users of
19 the Travelocity Reservation System directly infringe one or more valid and enforceable claims
20 of the '077 patent, for the reasons set forth hereinabove.

21 53. On information and belief, each of the Travelocity Reservation System infringes one
22 or more valid and enforceable claims of the '077 patent, for the reasons set forth hereinabove.

23 54. On information and belief, Travelocity has had knowledge of the '077 patent,
24 including knowledge that the Travelocity Reservation System, which is a non-staple article of
25 commerce, has been used as a material part of the claimed invention of the '077 patent, and
26 that there are no substantial non-infringing uses for the Travelocity Reservation System.

55. On information and belief, the aforesaid infringing activities of defendant Travelocity have been done with knowledge and willful disregard of Ameranth's patent rights, making this an exceptional case within the meaning of 35 U.S.C. § 285.

56. The aforesaid infringing activity of defendant Travelocity has directly and proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would have made but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and cause irreparable injury to Ameranth for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Ameranth respectfully prays for judgment against Defendant, as follows:

1. Adjudging that the manufacture, use, offer for sale or license and /or sale or license of the Travelocity Reservation System infringes valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

2. Adjudging that Defendant has infringed, actively induced others to infringe and/or contributorily infringed valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

3. Adjudging that Defendant's infringement of the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, has been knowing and willful;

4. Enjoining Defendant, and its officers, directors, employees, attorneys, agents, representatives, parents, subsidiaries, affiliates and all other persons acting in concert, participation or privity with Defendant, and their successors and assigns, from infringing, contributorily infringing and/or inducing others to infringe the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent;

5. Awarding Ameranth the damages it has sustained by reason of Defendant's infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

6. Awarding Ameranth increased damages of three times the amount of damages found or assessed against Defendant by reason of the knowing, willful and deliberate nature of Defendant's acts of infringement pursuant to 35 U.S.C. § 284;

7. Adjudging this to be an exceptional case and awarding Ameranth its attorney's fees pursuant to 35 U.S.C. §285;

8. Awarding to Ameranth its costs of suit, and interest as provided by law; and

9. Awarding to Ameranth such other and further relief that this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Ameranth demands trial by jury of its claims set forth herein to the maximum extent permitted by law.

Respectfully submitted,

Dated: June 29, 2012

CALDARELLI HEJMANOWSKI & PAGE LLP

By: /s/ William J. Caldarelli
William J. Caldarelli

FABIANO LAW FIRM, P.C.
Michael D. Fabiano

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John W. Osborne

WATTS LAW OFFICES
Ethan M. Watts

Attorneys for Plaintiff AMERANTH, INC.

Exhibit 1030 (M)

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Attorneys for Plaintiff Ameranth, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

AMERANTH, INC.

Plaintiff,

v.

WANDERSPOT LLC,

Defendant.

Case No. **'12CV1652 JAH DHB**

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendant Wanderspot LLC (referred
3 to herein as “Urbanspoon”), avers as follows:

4 **PARTIES**

5 1. Plaintiff Ameranth, Inc. (“Ameranth”) is a Delaware corporation having a principal
6 place of business at 5820 Oberlin Drive, Suite 202, San Diego, California 92121. Ameranth
7 develops, manufactures and sells, *inter alia*, hospitality industry, entertainment, restaurant and
8 food service information technology solutions under the trademarks 21st Century
9 Communications™, and 21st Century Restaurant™, among others, comprising the
10 synchronization and integration of hospitality information and hospitality software applications
11 between fixed, wireless and/or internet applications, including but not limited to computer
12 servers, web servers, databases, affinity/social networking systems, desktop computers,
13 laptops, “smart” phones and other wireless handheld computing devices.

14 2. Defendant Wanderspot LLC (referred to herein as “Urbanspoon”) is, on information
15 and belief, a Washington limited liability corporation having a principal place of business in
16 Seattle, Washington. On information and belief, Urbanspoon makes, uses, offers for sale or
17 license and/or sells or licenses restaurant and foodservice information technology products,
18 software, components and/or systems within this Judicial District, including the Urbanspoon
19 System as defined herein.

20 **JURISDICTION AND VENUE**

21 3. This is an action for patent infringement arising under the Patent Laws of the United
22 States, 35 U.S.C. §§ 271, 281-285.

23 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
24 1338(a).

25 5. On information and belief, Defendant engages in (a) the offer for sale or license and
26 sale or license of hospitality industry, ticketing, reservations, and/or ordering products and/or
27 components in the United States, including this Judicial District, including services, products,
28 software, and components, comprising wireless and internet POS and/or hospitality aspects;

(b) the installation and maintenance of said services, products, software, components and/or systems in hospitality industry, ticketing, reservations, ordering, and/or entertainment information technology systems in the United States, including this Judicial District; and/or (c) the use of hospitality industry, ticketing, reservations, ordering, and/or entertainment information technology systems comprising said services, products, software, components and/or systems in the United States, including this Judicial District.

6. This Court has personal jurisdiction over Defendant because Defendant commits acts of patent infringement in this Judicial District including, *inter alia*, making, using, offering for sale or license, and/or selling or licensing infringing services, products, software, components and/or systems in this Judicial District.

7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

BACKGROUND

8. Ameranth was established in 1996 to develop and provide its 21st Century Communications™ innovative information technology solutions for the hospitality industry (inclusive of, e.g., restaurants, hotels, casinos, nightclubs, cruise ships and other entertainment and sports venues). Ameranth has been widely recognized as a technology leader in the provision of wireless and internet-based systems and services to, *inter alia*, restaurants, hotels, casinos, cruise ships and entertainment and sports venues. Ameranth's award winning inventions enable, in relevant part, generation and synchronization of menus, including but not limited to restaurant menus, event tickets, and other products across fixed, wireless and/or internet platforms as well as synchronization of hospitality information and hospitality software applications across fixed, wireless and internet platforms, including but not limited to, computer servers, web servers, databases, affinity/social networking systems, desktop computers, laptops, "smart" phones and other wireless handheld computing devices.

9. Ameranth began development of the inventions leading to the patent-in-suit and the other patents in this patent family in the late Summer of 1998, at a time when the then-available wireless and internet hospitality offerings were extremely limited in functionality,

1 were not synchronized and did not provide an integrated system-wide solution to the pervasive
2 ordering, reservations, affinity program and information management needs of the hospitality
3 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
4 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
5 and products to provide systemic and comprehensive solutions directed to optimally meeting
6 these industry needs. Ameranth has expended considerable effort and resources in inventing,
7 developing and marketing its inventions and protecting its rights therein.

8 10. Ameranth's pioneering inventions have been widely adopted and are thus now
9 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth's
10 solutions have been adopted, licensed and/or deployed by numerous entities across the
11 hospitality industry.

12 11. The adoption of Ameranth's technology by industry leaders and the wide acclaim
13 received by Ameranth for its technological innovations are just some of the many
14 confirmations of the breakthrough aspects of Ameranth's inventions. Ameranth has received
15 twelve different technology awards (three with "end customer" partners) and has been widely
16 recognized as a hospitality wireless/internet technology leader by almost all major national and
17 hospitality print publications, *e.g.*, The Wall Street Journal, New York Times, USA Today and
18 many others. Ameranth was personally nominated by Bill Gates, the Founder of Microsoft, for
19 the prestigious Computerworld Honors Award that Ameranth received in 2001 for its
20 breakthrough synchronized reservations/ticketing system with the Improv Comedy Theatres.
21 In his nomination, Mr. Gates described Ameranth as "one of the leading pioneers of
22 information technology for the betterment of mankind." This prestigious award was based on
23 Ameranth's innovative synchronization of wireless/web/fixed hospitality software technology.
24 Subsequently, the United States Patent and Trademark Office granted Ameranth a number of
25 currently-issued patents, two of which are the basis for this lawsuit. Ameranth has issued press
26 releases announcing these patent grants on business wires, on its web sites and at numerous
27 trade shows since the first of the presently-asserted patents issued in 2002. A number of
28

1 companies have licensed patents and technology from Ameranth, recognizing and confirming
2 the value of Ameranth's innovations.

3 RELATED CASES PREVIOUSLY FILED

4 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "'850 patent"),
5 U.S. Patent No. 6,871,325 (the "'325 patent"), and U.S. Patent No. 8,146,077 (the "'077
6 patent"), are all patents in Ameranth's "Information Management and Synchronous
7 Communications" patent family.

8 13. Ameranth is also currently asserting claims of these same patents in separate
9 lawsuits, against other defendants, that are already pending in this Court. The first-filed
10 lawsuit asserts claims of the '850 and '325 patents and is entitled *Ameranth v. Pizza Hut, Inc.*
11 *et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in this
12 Court, asserting claims of the '077 patent, include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-
13 cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-
14 NLS; 3:12-cv-00738-JLS-NLS; 3:12-cv-00739-JLS-NLS; and 3:12-cv-00742-JLS-NLS.
15 Another lawsuit subsequently filed by Ameranth in this Court, asserting claims of the '850,
16 '325, and '077 patents, is Case No. 3:12-cv-00858-JLS-NLS.

17 COUNT I

18 **Patent Infringement (U.S. Pat. No. 6,384,850)**

19 **(35 U.S.C. § 271)**

20 14. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-13 above
21 as if fully set forth herein.

22 15. On May 7, 2002, United States Patent No. 6,384,850 entitled "Information
23 Management and Synchronous Communications System with Menu Generation" ("the '850
24 patent") (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued
25 by the United States Patent & Trademark Office.

26 16. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
27 and to the '850 patent.

1 17. On information and belief, Defendant directly infringes and continues to directly
2 infringe one or more valid and enforceable claims of the '850 patent, in violation of 35 U.S.C.
3 § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing
4 systems, products, and/or services in the United States without authority or license from
5 Ameranth, including but not limited to the Urbanspoon system/product/service, which
6 includes, *inter alia*, wireless and internet POS and restaurant-reservation and table management
7 integration, online and mobile reservations, integration with e-mail and affinity program and
8 social media applications such as Facebook, Twitter, Groupon, and YouTube, and/or other
9 third-party web-based applications, and other hospitality aspects ("Urbanspoon System").

10 18. On information and belief, the Urbanspoon System, as deployed and/or used at or
11 from one or more locations by Urbanspoon, its agents, distributors, partners, affiliates,
12 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
13 '850 patent, by, *inter alia*, doing at least one of the following: (a) Generating and transmitting
14 menus in a system including a central processing unit, a data storage device, a computer
15 operating system containing a graphical user interface, one or more displayable main menus,
16 modifier menus, and sub-modifier menus, and application software for generating a second
17 menu and transmitting it to a wireless handheld computing device or a Web page; and/or (b)
18 Enabling ticketing/ticket sales/ticket purchases and other hospitality functions via iPhone,
19 Android, and other internet-enabled wireless handheld computing devices as well as via Web
20 pages, storing hospitality information and data on at least one central database, on at least one
21 wireless handheld computing device, and on at least one Web server and Web page, and
22 synchronizing applications and data, including but not limited to applications and data relating
23 to reservations, between at least one central database, wireless handheld computing devices,
24 and at least one Web server and Web page; utilizing an interface that provides a single point of
25 entry that allows the synchronization of at least one wireless handheld computing device and at
26 least one Web page with at least one central database; allowing information to be entered via
27 Web pages, transmitted over the internet, and automatically communicated to at least one
28 central database and to wireless handheld computing devices; allowing information to be

1 entered via wireless handheld computing devices, transmitted over the internet, and
2 automatically communicated to at least one central database and to Web pages.

3 19. On information and belief, defendant Urbanspoon has indirectly infringed and
4 continues to indirectly infringe one or more valid and enforceable claims of the '850 patent, in
5 violation of 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct
6 infringement by other persons.

7 20. On information and belief, customers of Urbanspoon, including consumers, theatre
8 operators, and others, use the Urbanspoon System. Urbanspoon provides instruction and
9 direction regarding the use of the Urbanspoon System, and advertises, promotes, and
10 encourages the use of the Urbanspoon System.

11 21. On information and belief, the Urbanspoon System infringes one or more valid and
12 enforceable claims of the '850 patent for the reasons set forth hereinabove.

13 22. On information and belief, Urbanspoon has had knowledge of the '850 patent, and
14 knew or should have known that its continued offering and deployment of the Urbanspoon
15 System, and its continued support of consumers and other users of this system/product/service,
16 would induce direct infringement by those users. Additionally, Urbanspoon intended that its
17 actions would induce direct infringement by those users.

18 23. On information and belief, Defendant has indirectly infringed and continues to
19 indirectly infringe one or more valid and enforceable claims of the '850 patent, in violation of
20 35 U.S.C. § 271(c).

21 24. By distributing, selling, offering, offering to sell or license and/or selling or licensing
22 the Urbanspoon System, Urbanspoon provides non-staple articles of commerce to others for
23 use in infringing systems, products, and/or services. Additionally, Urbanspoon provides
24 instruction and direction regarding the use of the Urbanspoon System, and advertises,
25 promotes, and encourages the use of the Urbanspoon System. Users of one or more of the
26 Urbanspoon System directly infringe one or more valid and enforceable claims of the '850
27 patent for the reasons set forth hereinabove.

1 systems, products, and/or services in the United States without authority or license from
2 Ameranth, including but not limited to the Urbanspoon System.

3 33. On information and belief, the Urbanspoon System, as deployed and/or used at or
4 from one or more locations by Urbanspoon, its agents, distributors, partners, affiliates,
5 licensees, and/or their customers, infringes one or more valid and enforceable claims of the
6 '325 patent, by, *inter alia*, doing at least one of the following: (a) Generating and transmitting
7 menus in a system including a central processing unit, a data storage device, a computer
8 operating system containing a graphical user interface, one or more displayable main menus,
9 modifier menus, and sub-modifier menus, and application software for generating a second
10 menu and transmitting it to a wireless handheld computing device or a Web page; and/or (b)
11 Enabling ticketing/ticket sales/ticket purchases and other hospitality functions via iPhone,
12 Android, and other internet-enabled wireless handheld computing devices as well as via Web
13 pages, storing hospitality information and data on at least one central database, on at least one
14 wireless handheld computing device, and on at least one Web server and Web page, and
15 synchronizing applications and data, including but not limited to applications and data relating
16 to orders, between at least one central database, wireless handheld computing devices, and at
17 least one Web server and Web page; and sending alerts, confirmations, and other information
18 regarding orders to various wireless mobile devices.

19 34. On information and belief, Defendant has indirectly infringed and continues to
20 indirectly infringe one or more valid and enforceable claims of the '325 patent, in violation of
21 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
22 other persons.

23 35. On information and belief, customers of Urbanspoon, including consumers, theatre
24 operators, and others, use the Urbanspoon System in a manner that infringes upon one or more
25 valid and enforceable claims of the '325 patent. Urbanspoon provides instruction and direction
26 regarding the use of the Urbanspoon System and advertises, promotes, and encourages the use
27 of the Urbanspoon System.

1 36. On information and belief, Defendant actively induces others to infringe the ‘325
2 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
3 customers of Urbanspoon, including consumers, theatre operators, and others, to use the
4 infringing Urbanspoon System in the United States without authority or license from
5 Ameranth.

6 37. On information and belief, Defendant contributorily infringes and continues to
7 contributorily infringe one or more valid and enforceable claims of the ‘325 patent, in violation
8 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
9 of the ‘325 patent read, constituting a material part of the invention, knowing that the
10 components were especially adapted for use in systems which infringe claims of the ‘325
11 patent.

12 38. By distributing, selling, offering, offering to sell or license and/or selling or licensing
13 the Urbanspoon System, Defendant provides non-staple articles of commerce to others for use
14 in infringing systems, products, and/or services. Additionally, Urbanspoon provides
15 instruction and direction regarding the use of the Urbanspoon System and advertises, promotes,
16 and encourages the use of the Urbanspoon System. Users of the Urbanspoon System directly
17 infringe one or more valid and enforceable claims of the ‘325 patent, for the reasons set forth
18 hereinabove.

19 39. On information and belief, the Urbanspoon System infringes one or more valid and
20 enforceable claims of the ‘325 patent, for the reasons set forth hereinabove.

21 40. On information and belief, Urbanspoon has had knowledge of the ‘325 patent,
22 including knowledge that the Urbanspoon System, which is a non-staple articles of commerce,
23 has been used as a material part of the claimed invention of the ‘325 patent, and that there are
24 no substantial non-infringing uses for the Urbanspoon System.

25 41. On information and belief, the aforesaid infringing activities of defendant
26 Urbanspoon have been done with knowledge and willful disregard of Ameranth’s patent rights,
27 making this an exceptional case within the meaning of 35 U.S.C. § 285.
28

42. The aforesaid infringing activity of defendant Urbanspoon has directly and proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would have made but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and cause irreparable injury to Ameranth for which there is no adequate remedy at law.

COUNT III

Patent Infringement (U.S. Pat. No. 8,146,077)

(35 U.S.C. § 271)

43. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-42 above as if fully set forth herein.

44. On March 27, 2012, United States Patent No. 8,146,077 entitled “Information Management and Synchronous Communications System with Menu Generation, and Handwriting and Voice Modification of Orders” (a true copy of which is attached hereto as **Exhibit C** and incorporated herein by reference) was duly and legally issued by the United States Patent & Trademark Office.

45. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in and to the ‘077 patent.

46. On information and belief, Defendant directly infringes and continues to directly infringe one or more valid and enforceable claims of the ‘077 patent, in violation of 35 U.S.C. § 271(a) by making, using, offering for sale or license and/or selling or licensing infringing systems, products, and/or services in the United States without authority or license from Ameranth, including but not limited to the Urbanspoon System.

47. On information and belief, the Urbanspoon System, as deployed and/or used at or from one or more locations by Urbanspoon, its agents, distributors, partners, affiliates, licensees, and/or their customers, infringes one or more valid and enforceable claims of the ‘077 patent, by, *inter alia*, doing at least one of the following: (a) Configuring and transmitting menus in a system including a central processing unit, a data storage device, a computer operating system containing a graphical user interface, one or more displayable master menus,

1 menu configuration software enabled to generate a menu configuration for a wireless handheld
2 computing device in conformity with a customized display layout, and enabled for
3 synchronous communications and to format the menu configuration for a customized display
4 layout of at least two different wireless handheld computing device display sizes, and/or (b)
5 Enabling ticketing/ticket sales/ticket purchases and other hospitality functions via iPhone,
6 Android, and other internet-enabled wireless handheld computing devices as well as via Web
7 pages, storing hospitality information and data on at least one database, on at least one wireless
8 handheld computing device, and on at least one Web server and Web page, and synchronizing
9 applications and data, including but not limited to applications and data relating to orders,
10 between at least one database, wireless handheld computing devices, and at least one Web
11 server and Web page; utilizing communications control software enabled to link and
12 synchronize hospitality information between at least one database, wireless handheld
13 computing device, and web page, to display information on web pages and on different
14 wireless handheld computing device display sizes, and to allow information to be entered via
15 Web pages, transmitted over the internet, and automatically communicated to at least one
16 database and to wireless handheld computing devices; allowing information to be entered via
17 wireless handheld computing devices, transmitted over the internet, and automatically
18 communicated to at least one database and to Web pages.

19 48. On information and belief, Defendant has indirectly infringed and continues to
20 indirectly infringe one or more valid and enforceable claims of the '077 patent, in violation of
21 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by
22 other persons.

23 49. On information and belief, customers of Urbanspoon, including consumers, theatre
24 operators, and others, use the Urbanspoon System in a manner that infringes upon one or more
25 valid and enforceable claims of the '077 patent. Urbanspoon provides instruction and direction
26 regarding the use of the Urbanspoon System and advertises, promotes, and encourages the use
27 of the Urbanspoon System.

1 50. On information and belief, Defendant actively induces others to infringe the '077
2 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting
3 customers of Urbanspoon, including consumers, theatre operators, and others, to use the
4 infringing Urbanspoon System in the United States without authority or license from
5 Ameranth.

6 51. On information and belief, Defendant contributorily infringes and continues to
7 contributorily infringe one or more valid and enforceable claims of the '077 patent, in violation
8 of 35 U.S.C. § 271(c) by offering to sell and/or selling components of systems on which claims
9 of the '077 patent read, constituting a material part of the invention, knowing that the
10 components were especially adapted for use in systems which infringe claims of the '077
11 patent.

12 52. By distributing, selling, offering, offering to sell or license and/or selling or licensing
13 the Urbanspoon System, Defendant provides non-staple articles of commerce to others for use
14 in infringing systems, products, and/or services. Additionally, Urbanspoon provides
15 instruction and direction regarding the use of the Urbanspoon System and advertises, promotes,
16 and encourages the use of the Urbanspoon System. Users of the Urbanspoon System directly
17 infringe one or more valid and enforceable claims of the '077 patent, for the reasons set forth
18 hereinabove.

19 53. On information and belief, each of the Urbanspoon System infringes one or more
20 valid and enforceable claims of the '077 patent, for the reasons set forth hereinabove.

21 54. On information and belief, Urbanspoon has had knowledge of the '077 patent,
22 including knowledge that the Urbanspoon System, which is a non-staple article of commerce,
23 has been used as a material part of the claimed invention of the '077 patent, and that there are
24 no substantial non-infringing uses for the Urbanspoon System.

25 55. On information and belief, the aforesaid infringing activities of defendant
26 Urbanspoon have been done with knowledge and willful disregard of Ameranth's patent rights,
27 making this an exceptional case within the meaning of 35 U.S.C. § 285.

56. The aforesaid infringing activity of defendant Urbanspoon has directly and proximately caused damage to plaintiff Ameranth, including loss of profits from sales it would have made but for the infringements. Unless enjoined, the aforesaid infringing activity will continue and cause irreparable injury to Ameranth for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Ameranth respectfully prays for judgment against Defendant, as follows:

1. Adjudging that the manufacture, use, offer for sale or license and /or sale or license of the Urbanspoon System infringes valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

2. Adjudging that Defendant has infringed, actively induced others to infringe and/or contributorily infringed valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth hereinabove;

3. Adjudging that Defendant's infringement of the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent, has been knowing and willful;

4. Enjoining Defendant, and its officers, directors, employees, attorneys, agents, representatives, parents, subsidiaries, affiliates and all other persons acting in concert, participation or privity with Defendant, and their successors and assigns, from infringing, contributorily infringing and/or inducing others to infringe the valid and enforceable claims of the '850 patent, and the '325 patent, and the '077 patent;

5. Awarding Ameranth the damages it has sustained by reason of Defendant's infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

6. Awarding Ameranth increased damages of three times the amount of damages found or assessed against Defendant by reason of the knowing, willful and deliberate nature of Defendant's acts of infringement pursuant to 35 U.S.C. § 284;

7. Adjudging this to be an exceptional case and awarding Ameranth its attorney's fees pursuant to 35 U.S.C. §285;

- 1 8. Awarding to Ameranth its costs of suit, and interest as provided by law; and
2 9. Awarding to Ameranth such other and further relief that this Court may deem
3 just and proper.

4 **DEMAND FOR JURY TRIAL**

5 Ameranth demands trial by jury of its claims set forth herein to the maximum extent
6 permitted by law.

7 Respectfully submitted,
8 Dated: June 29, 2012 CALDARELLI HEJMANOWSKI & PAGE LLP
9 By: /s/ William J. Caldarelli
10 William J. Caldarelli
11 FABIANO LAW FIRM, P.C.
12 Michael D. Fabiano
13 OSBORNE LAW LLC
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17 Attorneys for Plaintiff AMERANTH, INC.
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