IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF DELAWARE

AMERANTH, INC.	)
	)
Plaintiff,	)
	) Civil Action No. _____
v.	)
	) **JURY TRIAL DEMANDED**
OLO INC.	)
	)
Defendant.	)
	)

COMPLAINT

For its Complaint, Plaintiff Ameranth, Inc. ("Ameranth"), by and through the undersigned counsel, alleges as follows:

THE PARTIES

1.   Ameranth is a Delaware corporation having a principal place of business at 5820 Oberlin Drive, Suite 202, San Diego, California 92121.

2.   Ameranth has developed, licensed, manufactured and sold, *inter alia*, multiple, award winning, hospitality industry systems and products, including, e.g., restaurant and food service information technology solutions.

3.   Defendant Olo Inc. is a Delaware company, with, upon information and belief, a place of business located at One World Trade Center, 82nd Floor, New York, New York 10007.

JURISDICTION AND VENUE

4.   This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*

5.   Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.

6.   Upon information and belief, Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements

alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in this district.

7.   Venue is proper in this district pursuant to 28 U.S.C. § 1400(b).

THE PATENT-IN-SUIT

8.   On August 29, 2017, U.S. Patent No. 9,747,651 (the "'651 patent"), entitled "Application Software Based Information Management and Real Time Communications System Including Intelligent Automated Assistants (Bots) in a Computing Ecosystem Including Different Types of Remote Computing Devices with Different User Interfaces and with a Master Database that is Accessible from and Stored at a Central Location," was duly and lawfully issued by the U.S. Patent and Trademark Office. A true and correct copy of the '651 patent is attached hereto as Exhibit A.

9.   The '651 patent specifies it is a continuation-in-part of U.S. Patent No. 8,146,077, which is a continuation of U.S. Patent No. 6,982,733, which is a continuation-in-part of U.S. Patent No. 6,384,850. The '651 patent contains significant new material not disclosed in these earlier patents.

10.   The '651 patent's claims are directed to materially different concepts from those claimed in U.S. Patent Nos. 8,146,077, 6,982,733 and 6,384,850, and this is Ameranth's first litigation where it has asserted the concepts claimed in the '651 patent.

11.   Ameranth incorporates in its entirety the Declaration of Dr. Ricardo Valerdi (the "Valerdi Declaration"), attached hereto as Exhibit B, into the pleadings here.

12.   The Valerdi Declaration provides expert testimony defining a person of ordinary skill in the art.

13.   The Valerdi Declaration provides expert testimony demonstrating, among other things, that the technologies described and claimed in the '651 patent were non-conventional at the time of the invention in 2005 and contain at least three inventive concepts that enhance computer technology: (1) as found in claim 1, element (a) and claim 3, element (a), the ability to understand and convert both fixed format and free format messaging; (2) as found in Claim 1, elements (f) and (g) and claim 3, elements (f), (g), and (h), the ability to concurrently handle both free and fixed format messaging through a variety of communication conversions; and (3) as found in claim 1, elements (a) and (f) and claim 3, elements (a) and (f), the ability to make and execute intelligent decisions by accessing and applying intelligent automated assistant technology; and the implementation of these inventive concepts is detailed in the specification and claims.

14.   Ameranth's non-generic and non-conventional application software based communications control module, claimed in claims 1 and 3 of the '651 patent, improved "web servers" as of the time of the invention because it (a) concurrently handled both free and fixed format messaging from multiple and different remote wireless handhelds, (b) integrated with intelligent automated assistant technology, (c) enabled the performance of intelligent decisions in real time (considering multiple criteria and rules) for hospitality market users (e.g., placing orders or making reservations), and (d) enabled the use of multiple and different Application Programming Interfaces and between both hospitality and non hospitality applications.

15.   The '651 patent claimed inventions were innovative and enhanced the operation of computer systems in multiple ways, including remote wireless handheld devices.

16.   The ability for a system to use mobile devices to send, accept and understand unstructured, free text data, convert unstructured data, and leverage intelligence capabilities, including via remote, wireless handheld computers had not been integrated into a, consistent and

holistic ecosystem prior to July 2005.

17.   The '651 patent claimed inventions were not available prior to July 2005, and they were neither routine nor conventional.

18.   The preambles of claims 1 and 3 of the '651 patent are limiting.

19.   The claims of the '651 patent, including the asserted claims, when viewed as a whole, including as ordered combinations, are not merely the recitation of well-understood, routine, or conventional technologies or components. The claimed inventions were not well-known, routine, or conventional at the time of the invention, over approximately fifteen years ago, and represent specific improvements over the prior art and prior existing systems.

20.   The prosecution history of the '651 patent evidences that the inventor and the examiner at the U.S. Patent and Trademark Office ("USPTO") understood that the issued claims were directed to the inventive concept of "IAA [intelligent automated assistant] functionality," i.e., a rule capable intelligent automated assistants systems for use with remote wireless handheld computing devices and the internet, based upon rules functionality, which improve the communications and overall computer functionality of the claimed computer system when considered as a whole, and as an ordered combination and is thus further not an abstract idea.

Thus, clearly, the claims as newly revised are <u>directed to IAA functionality</u>, based upon rules functionality, which improve the communications and overall functionality of the claimed computer system when considered as a whole and is thus further not an abstract idea.

Ex. C (Dec. 9, 2016 Response to Office Action) at p. 16.

21.   The USPTO examiner further confirmed the non-conventionality and inventive concepts of the '651 patent claims in the Notice of Allowance:

> However, Blinn et al. fail to teach the combination of the elements as recited in the claims. For example, Blinn et al. lack the hospitality software back-office application with at least one IAA-based interface and enabled to execute one or more rules while communicating via free format messaging and at least one interface with fixed format messaging communications for and with web browsers; and enabled to execute one or more rules while communicating via free format, or fixed format messaging and at least one interface with fixed format messaging communications for and with web browsers.

Ex. D at p. 7 (June 9, 2017 Notice of Allowance at p. 3).

22.   Ameranth is the assignee and owner of the right, title and interest in and to the '651 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of them.

23.   Ameranth developed and deployed its Magellan Restaurant Reservations System from the disclosures in the '651 patent, and deployed it into/with the thousands of Zagat restaurants in partnership with Zagat Survey, LLC, initially on November 7, 2005, which was the first deployment of an IAA integrated intelligent automated assistant system. Many of the numerous beneficial improvements and benefits of the Magellan System are shown in the Magellan Partnership Vision System Diagram, attached hereto at Exhibit E, as well as detailed and confirmed by Ted Zagat, Chief Operating Officer of Zagat Survey, in the November 7, 2005 joint press release with Ameranth, attached hereto as Exhibit F: "We are pleased to have partnered with Ameranth to provide web-based reservation services to our zagat.com users. We believe that Magellan's many positive attributes will provide a great solution for our customers."

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 9,747,651

24.   Ameranth repeats and realleges the allegations of paragraphs 1 through 23 as if fully set forth herein.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming inter-face) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.