

CALDARELLI HEJMANOWSKI & PAGE LLP

William J. Caldarelli (SBN #149573)
12340 El Camino Real, Suite 430
San Diego, CA 92130
Tel: (858) 720-8080
Fax: (858) 720-6680
wjc@chplawfirm.com

FABIANO LAW FIRM, P.C.

Michael D. Fabiano (SBN #167058)
12526 High Bluff Drive, Suite 300
San Diego, CA 92130
Telephone: (619) 742-9631
mdfabiano@fabianolawfirm.com

OSBORNE LAW LLC

John W. Osborne (*Pro Hac Vice*)
33 Habitat Lane
Cortlandt Manor, NY 10567
Telephone: (914) 714-5936
josborne@osborneipl.com

WATTS LAW OFFICES

Ethan M. Watts (SBN #234441)
12340 El Camino Real, Suite 430
San Diego, CA 92130
Telephone: (858) 509-0808
Facsimile: (619) 878-5784
emw@ewattslaw.com

Attorneys for Plaintiff Ameranth, Inc.

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

AMERANTH, INC.,

Plaintiff,

v.

HOTEL TONIGHT, INC.,

Defendant.

Case No. 12-cv-1633 JLS (NLS)

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

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

4 **PARTIES**

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

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

23 **JURISDICTION AND VENUE**

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

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

1 cruise ships and other entertainment and sports venues). Ameranth has been
2 widely recognized as a technology leader in the provision of wireless and
3 internet-based systems and services to, *inter alia*, restaurants, hotels, casinos,
4 cruise ships and entertainment and sports venues. Ameranth's award winning
5 inventions enable, in relevant part, generation and synchronization of menus,
6 including but not limited to restaurant menus, event tickets, reservations and
7 other products across fixed, wireless and/or internet platforms as well as
8 synchronization of hospitality information and hospitality software applications
9 across fixed, wireless and internet platforms, including but not limited to,
10 computer servers, web servers, databases, affinity/social networking systems,
11 desktop computers, laptops, "smart" phones and other wireless handheld
12 computing devices.

13 9. Ameranth began development of the inventions leading to the patents in
14 this patent family in the late Summer of 1998, at a time when the then-available
15 wireless and internet hospitality offerings were extremely limited in functionality,
16 were not synchronized and did not provide an integrated system-wide solution to
17 the pervasive ordering, reservations, affinity program and information
18 management needs of the hospitality industry. Ameranth uniquely recognized the
19 actual problems that needed to be resolved in order to meet those needs, and
20 thereafter conceived and developed its breakthrough inventions and products to
21 provide systemic and comprehensive solutions directed to optimally meeting
22 these industry needs. Ameranth has expended considerable effort and resources
23 in inventing, developing and marketing its inventions and protecting its rights
24 therein.

25 10. Ameranth's pioneering inventions have been widely adopted and are
26 thus now essential to the modern wireless hospitality enterprise of the 21st
27

1 Century. Ameranth's solutions have been adopted, licensed and/or deployed by
2 numerous entities across the hospitality industry.

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

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 interface) 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.