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

AMERANTH, INC.,

Plaintiff,

v.

OPENTABLE, INC.,

Defendant.

Case No. 3:12-cv-00731-DMS-WVG
[Consolidated with lead case 3:11-cv-01810-DMS-WVG and other related cases]

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

JURISDICTION AND VENUE

1
2 3. This is an action for patent infringement arising under the Patent
3 Laws of the United States, 35 U.S.C. §§ 271, 281-285.

4 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§
5 1331 and 1338(a).

6 5. On information and belief, Defendant engages in (a) the offer for sale
7 or license and sale or license of hospitality, restaurant, food service, reservation,
8 ordering, products and/or components in the United States, including this Judicial
9 District, including services, products, software, and components, comprising
10 wireless and internet POS and/or hospitality aspects; (b) the installation and
11 maintenance of said services, products, software, components and/or systems in
12 hospitality industry, restaurant, food service, and/or entertainment information
13 technology systems in the United States, including this Judicial District; and/or
14 (c) the use of hospitality industry, restaurant, food service, and/or entertainment
15 information technology systems comprising said services, products, software,
16 components and/or systems in the United States, including this Judicial District.

17 6. This Court has personal jurisdiction over Defendant because
18 Defendant commits acts of patent infringement in this Judicial District including,
19 *inter alia*, making, using, offering for sale or license, and/or selling or licensing
20 infringing services, products, software, components and/or systems in this Judicial
21 District. Additionally, Defendant has already appeared in this action and
22 submitted to the jurisdiction of the Court. Defendant has continued to engage in
23 and perform such acts of infringement since the filing of the original complaint in
24 this matter accusing Defendant of infringement of the Ameranth patents at issue
25 herein.

26 7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§
27 1391(b) and (c) and 1400(b).

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BACKGROUND

1
2 8. Ameranth was established in 1996 to develop and provide its 21st
3 Century Communications™ innovative information technology solutions for the
4 hospitality industry (inclusive of, e.g., restaurants, hotels, casinos, nightclubs,
5 cruise ships and other entertainment and sports venues). Ameranth has been
6 widely recognized as a technology leader in the provision of wireless and
7 internet-based systems and services to, *inter alia*, restaurants, hotels, casinos,
8 cruise ships and entertainment and sports venues. Ameranth's award winning
9 inventions enable, in relevant part, generation and synchronization of menus,
10 including but not limited to restaurant menus, event tickets, reservations and
11 other products across fixed, wireless and/or internet platforms as well as
12 synchronization of hospitality information and hospitality software applications
13 across fixed, wireless and internet platforms, including but not limited to,
14 computer servers, web servers, databases, affinity/social networking systems,
15 desktop computers, laptops, "smart" phones and other wireless handheld
16 computing devices.

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

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

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

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