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

AMERANTH, INC.,

Plaintiff,

v.

USABLENET, INC.,

Defendant.

Case No. 12-CV-1650 JLS (NLS)

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

FANDANGO EXHIBIT 1061

1 **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

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

4 **PARTIES**

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

16 2. Defendant Usablenet, Inc. (herein “Usablenet”) is, on information and
17 belief, a Delaware corporation having a principal place of business and
18 headquarters in New York, New York. On information and belief, Usablenet
19 makes, uses, sells and/or offers for sale, hotel and lodging, restaurant,
20 foodservice, point-of-sale and/or property management and other hospitality
21 information-technology products, software, components and/or systems within
22 this Judicial District, including the Usablenet Products 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).

28

1 cruise ships and entertainment and sports venues. Ameranth's award winning
2 inventions enable, in relevant part, generation and synchronization of menus,
3 including but not limited to restaurant menus, event tickets, and other products
4 across fixed, wireless and/or internet platforms as well as synchronization of
5 hospitality information and hospitality software applications across fixed,
6 wireless and internet platforms, including but not limited to, computer servers,
7 web servers, databases, affinity/social networking systems, desktop computers,
8 laptops, "smart" phones and other wireless handheld computing devices.

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

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

25 11. The adoption of Ameranth's technology by industry leaders and the wide
26 acclaim received by Ameranth for its technological innovations are just some of
27 the many confirmations of the breakthrough aspects of Ameranth's inventions.
28 Ameranth has received twelve different technology awards (three with "end

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

24 **RELATED CASES PREVIOUSLY FILED**

25 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the
26 “850 patent”), U.S. Patent No. 6,871,325 (the “325 patent”), and U.S. Patent
27 No. 8,146,077 (the “077 patent”), are all patents in Ameranth’s “Information
28 Management and Synchronous Communications” patent family.

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