EXHIBIT 2014

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

AMERANTH, INC. Plaintiff, v. MENUSOFT SYSTEMS CORP., et al., Defendants.	§ § § § § § § § § §	CIVIL ACTION NO. 2-07-CV-271

MEMORANDUM OPINION AND ORDER

This memorandum opinion resolves the parties' claim construction disputes.

I. Introduction

Plaintiff Ameranth, Inc. ("Ameranth") asserts United States Patent Nos. 6,384,850 ("the '850 patent"), 6,871,325 ("the '325 patent"), and 6,982,733 ("the '733 patent") against Defendants Menusoft Systems Corp. ("Menusoft") and Cash Register Sales & Service of Houston, Inc. ("CRS") (collectively, "Defendants"). The '325 and '733 patents are continuations of the '850 patent, all of which have a priority date of September 21, 1999. The '850 patent issued May 7, 2002. The '325 patent issued March 22, 2005, and the '733 patent issued January 3, 2006. All three patents share nearly identical specifications. The claims that remain asserted are '850 patent Claims 1–4, 6, 11; '325 patent Claims 1–3, 5–10; and '733 patent, Claims 1–3. The independent claims are '850 patent claim 1; '325 patent claims 1, 7, 8, 9; and '733 patent claim 1.

II. Background of the Technology

The asserted patents are entitled "Information Management and Synchronous Communications System with Menu Generation." The patents teach synchronous menu

generation from a central computer to wireless handheld devices or the Internet, for use primarily in the restaurant industry. The menus are interactive and serve two important functions: displaying an up-to-date menu and entering an order. The invention solves a number of problems with the prior art. First, the menus can be automatically adapted to display properly on hand-held devices, personal computers connected to the Internet, or restaurant order stations. Second, the invention provides fast synchronization between a central database and multiple hand-held devices.

III. Legal Principles Relevant to Claim Construction

"A claim in a patent provides the metes and bounds of the right which the patent confers on the patentee to exclude others from making, using or selling the protected invention." *Burke, Inc. v. Bruno Indep. Living Aids, Inc.*, 183 F.3d 1334, 1340 (Fed. Cir. 1999). Claim construction is an issue of law for the court to decide. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 970-71 (Fed. Cir. 1995) (en banc), *aff'd*, 517 U.S. 370 (1996).

To ascertain the meaning of claims, the court looks to three primary sources: the claims, the specification, and the prosecution history. *Markman*, 52 F.3d at 979. Under the patent law, the specification must contain a written description of the invention that enables one of ordinary skill in the art to make and use the invention. A patent's claims must be read in view of the specification, of which they are a part. *Id*. For claim construction purposes, the description may act as a sort of dictionary, which explains the invention and may define terms used in the claims. *Id*. "One purpose for examining the specification is to determine if the patentee has limited the scope of the claims." *Watts v. XL Sys., Inc.*, 232 F.3d 877, 882 (Fed. Cir. 2000).

Nonetheless, it is the function of the claims, not the specification, to set forth the limits of the patentee's claims. Otherwise, there would be no need for claims. *SRI Int'l v. Matsushita*

Elec. Corp., 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc). The patentee is free to be his own lexicographer, but any special definition given to a word must be clearly set forth in the specification. *Intellicall, Inc. v. Phonometrics*, 952 F.2d 1384, 1388 (Fed. Cir. 1992). And, although the specification may indicate that certain embodiments are preferred, particular embodiments appearing in the specification will not be read into the claims when the claim language is broader than the embodiments. *Electro Med. Sys., S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 1054 (Fed. Cir. 1994).

This court's claim construction decision must be informed by the Federal Circuit's decision in *Phillips v. AWH Corporation*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc). In *Phillips*, the court set forth several guideposts that courts should follow when construing claims. In particular, the court reiterated that "the *claims* of a patent define the invention to which the patentee is entitled the right to exclude." 415 F.3d at 1312 (emphasis added) (*quoting Innova/Pure Water, Inc. v. Safari Water Filtration Systems, Inc.*, 381 F.3d 1111, 1115 (Fed. Cir. 2004)). To that end, the words used in a claim are generally given their ordinary and customary meaning. *Id*. The ordinary and customary meaning of a claim term "is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." *Id*. at 1313. This principle of patent law flows naturally from the recognition that inventors are usually persons who are skilled in the field of the invention. The patent is addressed to and intended to be read by others skilled in the particular art. *Id*.

The primacy of claim terms notwithstanding, *Phillips* made clear that "the person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the

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