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Attorneys for Plaintiff Ameranth, Inc.

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

AMERANTH, INC.,

Plaintiff,

v.

HOTELS.COM, LP,

Defendant.

Case No. 12-CV-1634 JLS (NLS)

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

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

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

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

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

1 **BACKGROUND**

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

1 in inventing, developing and marketing its inventions and protecting its rights
2 therein.

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

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

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