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FANDANGO EXHIBIT 1023

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

AMERANTH, INC.,

Plaintiff,

v.

STUBHUB, INC.,

Defendant.

Civil Action No. 12-cv-1646 DMS-WVG

Consolidated with
11-cv-01810-DMS-WVG

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT AGAINST
STUBHUB, INC.**

DEMAND FOR JURY TRIAL

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FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

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

PARTIES

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

2. Defendant StubHub, is, on information and belief, a Delaware corporation having a principal place of business and headquarters in San Jose, California. On information and belief, StubHub makes, uses, offers for sale or license and/or sells or licenses entertainment box office management and ticketing/ticket sales/ticket purchases information-technology products, software, components and/or systems within this Judicial District, including the StubHub System as defined herein.

JURISDICTION AND VENUE

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

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

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

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

22 7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§
23 1391(b) and (c) and 1400(b).

24 **BACKGROUND**

25 8. Ameranth was established in 1996 to develop and provide its 21st
26 Century Communications™ innovative information technology solutions for
27 the hospitality industry (inclusive of, e.g., restaurants, hotels, casinos,

1 nightclubs, cruise ships and other entertainment and sports venues). Ameranth
2 has been widely recognized as a technology leader in the provision of wireless
3 and internet-based systems and services to, *inter alia*, restaurants, hotels,
4 casinos, cruise ships and entertainment and sports venues. Ameranth's award
5 winning inventions enable, in relevant part, generation and synchronization of
6 menus, including but not limited to restaurant menus, event tickets, reservations
7 and 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
14 in this patent family, including the patents-in-suit, in the late Summer of 1998,
15 at a time when the then-available wireless and internet hospitality offerings
16 were extremely limited in functionality, were not synchronized and did not
17 provide an integrated system-wide solution to the pervasive ordering,
18 reservations, affinity program and information management needs of the
19 hospitality industry. Ameranth uniquely recognized the actual problems that
20 needed to be resolved in order to meet those needs, and thereafter conceived
21 and developed its breakthrough inventions and products to provide systemic
22 and comprehensive solutions directed to optimally meeting these industry
23 needs. Ameranth has expended considerable effort and resources in inventing,
24 developing and marketing its inventions and protecting its rights 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

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