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Attorneys for Plaintiff Ameranth, Inc.

**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**

1 **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc. (“Ameranth”), for its First Amended Complaint  
3 against defendant OpenTable, Inc. (“OpenTable” or “Defendant”), avers as  
4 follows:

5 **PARTIES**

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

17 2. Defendant OpenTable, Inc. (“OpenTable” or “Defendant”) is, on  
18 information and belief, a Delaware corporation having a principal place of  
19 business in San Francisco, California. On information and belief, OpenTable  
20 makes, uses, offers for sale or license and/or sells or licenses restaurant and  
21 foodservice information technology products, software, components and/or  
22 systems within this Judicial District, including the OpenTable System as defined  
23 herein. As is explained herein, OpenTable’s already widespread infringement of  
24 Ameranth's patents has significantly expanded recently -- with new product  
25 introductions including its new “Next Generation” system, new mobile payment  
26 processing functionality, and integration with Apple's Siri voice recognition  
27 features on iPhone, iPod Touch and iPad devices.

**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).

28 ///

## **BACKGROUND**

1  
2 8. Ameranth was established in 1996 to develop and provide its 21<sup>st</sup>  
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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