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Attorneys for Plaintiff Ameranth, Inc.

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

AMERANTH, INC.,

Plaintiff,

v.

APPLE, INC.,

Defendant.

Case No. 3:12-CV-2350-IEG -BGS

**SECOND AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

FANDANGO EXHIBIT 1044

1 including their integrated Passbook System (“PBS”), which includes the “pass
2 styles” that Apple has defined as “boarding pass” and “event ticketing”
3 applications within Passbook, and which permits the management, maintenance,
4 downloading, and/or storage of, *inter alia*, airline boarding passes, hotel
5 reservations, movie tickets, and event tickets, and is integrated with iPhone 5 and
6 other iPhone and iPod Touch devices that are running Apple’s iOS 6 software,
7 and linked to/with Apple’s iCloud, the “Apple Notification Service”, and Apple’s
8 Safari browser. Apple has already announced and/or implemented Passbook
9 partnerships integrating Passbook-enabled systems with defendants in other
10 Ameranth patent enforcement actions including Ticketmaster, StubHub,
11 Starwood Hotels, Fandango, Ticketfly, Eventbrite, Ticketbiscuit, Starbucks and
12 others, as well as integrating Apple’s Siri speech-recognition and voice
13 control/command application with the systems of defendants such as OpenTable
14 and Fandango. Industry analysts have called Passbook a “game changer.”
15 Former Apple senior vice president Scott Forstall, in demonstrating Passbook in
16 2012 with stored tickets and passes including movie tickets, airline boarding
17 passes, and concert tickets, asserted that “Passbook is the best way to collect all
18 of your passes in one place.” As Apple describes it, within the Passbook
19 application itself, “Passbook is the simplest way to get all your passes in one
20 place. Passbook puts your boarding passes, movie tickets, retail coupons, loyalty
21 cards, and more all in one place. They’ll also be ready on your lock screen at just
22 the right time and place. You can add passes to Passbook through apps, emails,
23 and websites from participating airlines, theatres, stores and more.”

24 3. On information and belief, among the other computer technology
25 products that Apple makes, uses, sells and/or offers for sale include all models of
26 the iPhone and iPod Touch, and all versions of Apple’s iOS mobile operating
27 system, and tools for developing apps for iOS devices including the iOS
28 Simulator, which, according to Apple, “allows you to rapidly prototype and test

1 builds of your app during the development process. Installed as part of the Xcode
2 tools along with the iOS SDK, iOS Simulator runs on your Mac and behaves like
3 a standard Mac app while simulating an iPhone or iPad environment. Think of
4 the simulator as a preliminary testing tool to use before testing your app on an
5 actual device. iOS Simulator enables you to simulate several iOS devices and
6 several versions of the iOS operating system. Each simulated software version is
7 considered its own simulation environment, independent of the others, with its
8 own settings and files. These settings and files exist on every device you test
9 within a simulation environment. ... By simulating the operation of your app in
10 iOS Simulator, you can ... Find major problems in your app during design and
11 early testing ... [and] Test your app using developer tools that are available only
12 for iOS Simulator ... iOS Simulator is a great tool for rapid prototyping and
13 development before testing your app on a device. iOS Simulator also has features
14 that can assist you in testing and debugging both iOS apps and web apps.”

15 **JURISDICTION AND VENUE**

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

18 5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and
19 1338(a).

20 6. On information and belief, Apple engages in the offer for sale or license
21 and sale or license of computer technology products, including personal
22 computers, mobile communications devices, portable digital music and video
23 players and related hardware, software, components and/or systems, including
24 this Judicial District, including the PBS and Siri as defined herein.

25 7. This Court has personal jurisdiction over Apple because Apple commits
26 acts of patent infringement in this Judicial District including, *inter alia*, making,
27 using, offering for sale or license, and/or selling or licensing infringing services,
28 products, software, components, and/or systems, in this Judicial District

1 Additionally, Apple has already appeared in this action and submitted to the
2 jurisdiction of the Court. Apple has continued to engage in and perform such acts
3 of infringement since the filing of the original complaint in this matter accusing
4 Apple of infringement of the Ameranth patents at issue herein.

5 8. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b) and
6 (c) and 1400(b).

7 **BACKGROUND**

8 9. Ameranth was established in 1996 to develop and provide its 21st
9 Century Communications™ innovative information technology solutions for the
10 hospitality industry (inclusive of, *e.g.*, restaurants, hotels, casinos, nightclubs,
11 cruise ships, and other entertainment and sports venues). Ameranth has been
12 widely recognized as a technology leader in the provision of wireless and
13 internet-based systems and services to, *inter alia*, restaurants, hotels, casinos,
14 cruise ships and entertainment and sports venues. Ameranth's award winning
15 inventions enable, in relevant part, generation and synchronization of menus,
16 including but not limited to restaurant menus, event tickets, reservations, and
17 other products across fixed, wireless and/or internet platforms as well as
18 synchronization of hospitality information and hospitality software applications
19 across fixed, wireless and internet platforms, including but not limited to,
20 computer servers, web servers, databases, affinity/social networking systems,
21 desktop computers, laptops, "smart" phones and other wireless handheld
22 computing devices.

23 10. Ameranth began development of the inventions leading to the patents in
24 this patent family, including the patents-in-suit, in the late Summer of 1998, at a
25 time when the then-available wireless and internet hospitality offerings were
26 extremely limited in functionality, were not synchronized and did not provide an
27 integrated system-wide solution to the pervasive ordering, reservations, affinity
28 program and information management needs of the hospitality industry.

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