

CALDARELLI HEJMANOWSKI & PAGE LLP

William J. Caldarelli (SBN #149573)
12340 El Camino Real, Suite 430
San Diego, CA 92130
Tel: (858) 720-8080
Fax: (858) 720-6680
wjc@chplawfirm.com

FABIANO LAW FIRM, P.C.

Michael D. Fabiano (SBN #167058)
12526 High Bluff Drive, Suite 300
San Diego, CA 92130
Telephone: (619) 742-9631
mdfabiano@fabianolawfirm.com

OSBORNE LAW LLC

John W. Osborne (*Pro Hac Vice* App. Pending)
33 Habitat Lane
Cortlandt Manor, NY 10567
Telephone: (914) 714-5936
josborne@osborneipl.com

WATTS LAW OFFICES

Ethan M. Watts (SBN #234441)
12340 El Camino Real, Suite 430
San Diego, CA 92130
Telephone: (858) 509-0808
Facsimile: (619) 878-5784
emw@ewattslaw.com

Attorneys for Plaintiff Ameranth, Inc.

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

AMERANTH, INC.

Plaintiff,

v.

MOBO SYSTEMS, INC.,

Defendant.

Case No. **'12CV1642 BEN BLM**

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

FANDANGO EXHIBIT 1055

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendant Mobo Systems, Inc., a/k/a
3 OLO, a/k/a OLO Online Ordering (herein “OLO”), avers as follows:

4 **PARTIES**

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

14 2. Defendant Mobo Systems, Inc., a/k/a OLO, a/k/a OLO Online Ordering (herein
15 “OLO”) is, on information and belief, a Delaware corporation having a principal place of
16 business and headquarters in New York, New York. On information and belief, OLO makes,
17 uses, sells and/or offers for sale, restaurant, foodservice, point-of-sale and property
18 management and other hospitality information technology products, software, components
19 and/or systems within this Judicial District, including the OLO Ordering System as defined
20 herein.

21 **JURISDICTION AND VENUE**

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

24 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
25 1338(a).

26 5. On information and belief, Defendant engages in (a) the offer for sale or license and
27 sale or license of hospitality, restaurant, food service, ordering, products and/or components in
28 the United States, including this Judicial District, including services, products, software, and

1 components, comprising wireless and internet POS and/or hospitality aspects; (b) the
2 installation and maintenance of said services, products, software, components and/or systems
3 in hospitality industry, restaurant, food service, and/or entertainment information technology
4 systems in the United States, including this Judicial District; and/or (c) the use of hospitality
5 industry, restaurant, food service, and/or entertainment information technology systems
6 comprising said services, products, software, components and/or systems in the United States,
7 including this Judicial District.

8 6. This Court has personal jurisdiction over Defendant because Defendant commits acts
9 of patent infringement in this Judicial District including, *inter alia*, making, using, offering for
10 sale or license, and/or selling or licensing infringing services, products, software, components
11 and/or systems in this Judicial District.

12 7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c) and
13 1400(b).

14 **BACKGROUND**

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

27 9. Ameranth began development of the inventions leading to the patent-in-suit and the
28 other patents in this patent family in the late Summer of 1998, at a time when the then-

1 available wireless and internet hospitality offerings were extremely limited in functionality,
2 were not synchronized and did not provide an integrated system-wide solution to the pervasive
3 ordering, reservations, affinity program and information management needs of the hospitality
4 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
5 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
6 and products to provide systemic and comprehensive solutions directed to optimally meeting
7 these industry needs. Ameranth has expended considerable effort and resources in inventing,
8 developing and marketing its inventions and protecting its rights therein.

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

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

1 companies have licensed patents and technology from Ameranth, recognizing and confirming
2 the value of Ameranth's innovations.

3 **RELATED CASES PREVIOUSLY FILED**

4 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "850 patent"),
5 U.S. Patent No. 6,871,325 (the "325 patent"), and U.S. Patent No. 8,146,077 (the "077
6 patent"), are all patents in Ameranth's "Information Management and Synchronous
7 Communications" patent family.

8 13. Ameranth is also currently asserting claims of these same patents in separate
9 lawsuits, against other defendants, that are already pending in this Court. The first-filed
10 lawsuit asserts claims of the '850 and '325 patents and is entitled *Ameranth v. Pizza Hut, Inc.*
11 *et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in this
12 Court, asserting claims of the '077 patent, include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-
13 cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-
14 NLS; 3:12-cv-00738-JLS-NLS; 3:12-cv-00739-JLS-NLS; and 3:12-cv-00742-JLS-NLS.
15 Another lawsuit subsequently filed by Ameranth in this Court, asserting claims of the '850,
16 '325, and '077 patents, is Case No. 3:12-cv-00858-JLS-NLS.

17 **COUNT I**

18 **Patent Infringement (U.S. Pat. No. 6,384,850)**

19 **(35 U.S.C. § 271)**

20 14. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-13 above
21 as if fully set forth herein.

22 15. On May 7, 2002, United States Patent No. 6,384,850 entitled "Information
23 Management and Synchronous Communications System with Menu Generation" ("the '850
24 patent") (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued
25 by the United States Patent & Trademark Office.

26 16. Plaintiff Ameranth is the lawful owner by assignment of all right, title and interest in
27 and to the '850 patent.

28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.