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15 Attorneys for Plaintiff Ameranth, Inc.

16
17 **UNITED STATES DISTRICT COURT**
18 **SOUTHERN DISTRICT OF CALIFORNIA**

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

20 AMERANTH, INC.,

21 Plaintiff,

22 v.

23 APPLE, INC.,

24 Defendant.

25 **DISCLOSURE OF ASSERTED**
26 **CLAIMS AND INFRINGEMENT**
27 **CONTENTIONS**

1 Plaintiff Ameranth, Inc. hereby serves its Disclosure of Asserted Claims
2 and Infringement Contentions under Patent Local Rule 3.1, as to Defendant
3 Apple, Inc. (“Apple”).

4 Discovery in this case is ongoing and the Court has not yet construed the
5 asserted claims of the Patents-in-Suit. Further, Apple has not fully produced
6 documents requested by Ameranth and has not provided sufficient responses to
7 Ameranth’s other written discovery requests.

8 Accordingly, Ameranth reserves the right to serve Amended Infringement
9 Contentions under Patent Local Rule 3.6(a), by Court order, or as otherwise
10 permitted. Under Patent Local Rule 3.2, Ameranth is making a document
11 production and hereby separately identifies by bates numbers which documents
12 correspond to categories (a) – (e) of Patent Local Rule 3.2 in Exhibit B attached
13 hereto.

14 **A. Claims Infringed.**

15 Apple infringes, directly and/or indirectly, at least claims 10, 12, 13, 14,
16 15 and 16 of U.S. Patent No. 6,384,850 (the “ ‘850 patent”); claim 13 of U.S.
17 Patent No. 6,871,325 (the “ ‘325 patent”); claims 1, 2, 4, 5, 8, 9, and 10 of U.S.
18 Patent No. 6,984,733 (the “ ‘733 patent”), and claims 8, 13, 15, 16, 17, and 18 of
19 U.S. Patent No. 8,146,077 (the “ ‘077 patent”).

20 **B. Accused Instrumentality.**

21 With respect to Passbook and related software and aspects of the Apple
22 ecosystem, the “Apple iOS System” or “Accused System” means and includes
23 the current and all previous “versions” (from at least iOS 6 through iOS 7, and
24 regardless of whether alleged by defendant to be revisions, different versions, or
25 different systems) of the Apple iOS that are Passbook-compatible, including all
26 versions of the iOS that include Passbook capability, which involves wireless
27 and internet integration into a Point-of-Sale (“POS”) system, ordering system,
28

1 reservations system, ticketing system, customer loyalty system or other
2 application or system. Apple handheld computing devices included within the
3 definition of the Accused System for purposes of infringement of this claim
4 include all versions of iPhone and iPod Touch (operating with iOS) having the
5 aforementioned functionality, as well as any other Apple handheld computing
6 device having the aforementioned functionality.

7 With respect to infringement of the '733 claims by Siri and related
8 software and other aspects of the Apple ecosystem, the "Apple System" or
9 "Accused System," as used herein, means and includes the current and all
10 previous "versions" (from at least iOS 4 through iOS 7, and regardless of
11 whether alleged by defendant to be revisions, different versions, or different
12 systems) of the Apple iOS, including but not limited to versions of the iOS
13 which include Siri voice recognition capability, which involves wireless and
14 internet integration into a Point-of-Sale ("POS") system, reservations system,
15 ticketing system, customer loyalty system or other application or system. Apple
16 devices included within the definition of the Accused System for purposes of
17 infringement of this claim include all versions of iPhone and iPod Touch (operating
18 with iOS) having the aforementioned functionality as well as any other Apple
19 handheld computing device having the aforementioned functionality, and for the
20 claims indicated, all relevant versions of iPad.

21 **C. Claim Charts.**

22 Charts for each of the patents-in-suit that identify specifically where each
23 limitation of each asserted claim is found within the Accused Instrumentality for
24 each assertion of direct infringement are attached hereto as Exhibit A. These
25 identifications are based on Ameranth's present understanding of information
26 currently available to Ameranth, and Ameranth reserves the right to supplement
27 these charts as discovery proceeds.

1 **D. Indirect Infringement.**

2 Ameranth has noted in the claim charts attached as Exhibit A the claims
3 that Ameranth contends Apple has directly and indirectly infringed. As set forth
4 in the claim charts, in addition to direct infringement, Apple is liable for induced
5 infringement and contributory infringement as noted in the charts.

6 **E. Literal Infringement and Doctrine of Equivalents.**

7 Ameranth presently contends that the Apple Ticketing System infringes
8 the asserted claims of the patents-in-suit literally. Ameranth has noted in the
9 claim charts attached as Exhibit A the claim elements that Ameranth contends
10 are literally infringed and/or present under the doctrine of equivalents.

11 **F. Priority.**

12 The '325 patent claims priority to an earlier application, U.S. Serial No.
13 09/400,413, which was filed on September 21, 1999 and from which the '850
14 patent issued. The '733 patent is a continuation-in-part (filed on November 1,
15 2001) of the U.S. Serial No. 09/400,413 application, and claims a priority date
16 of November 1, 2001 for the material added via the CIP application which is
17 recited in the '733 patent claims asserted herein, and September 21, 1999 for all
18 claimed elements which were disclosed in the September 21, 1999 priority
19 application. The '077 patent also claims priority to U.S. Serial No. 09/400,413
20 filed on September 21, 1999. Ameranth asserts a conception date for the
21 asserted claims of the '850, '325 and '077 patents of September 1998 and
22 reduction to practice prior to the priority application filing date. Ameranth
23 asserts a conception date for the asserted claims of the '733 patent for the
24 material added via the CIP application which is recited in the '733 patent claims
25 asserted herein of at least as early as January 2000 and reduction to practice
26 prior to the November 1, 2001 priority application filing date for such
27 elements. For elements of the asserted claims of the '733 patent which were
28

1 disclosed in the September 1998 priority application, Ameranth asserts a
2 conception date of September 1998 and reduction to practice prior to September
3 21, 1999.

4 **G. Products Practicing Invention.**

5 Versions of the following Ameranth products have incorporated or
6 reflected the inventions claimed in the Patents-in-Suit in one or more of the
7 asserted claims as shown below:

8 21st Century Restaurant	'850 Claims 12-15
9 (Nov. 1998 and later)	'325 Claim 13
	'733 Claims 1, 2, 4, 5, 8, 9, and 10
	'077 Claims 13, 15, 16, 17, and 18
12 Improv Comedy Club Ticketing	'850 Claims 12-15
13 System	'325 Claim 13
14 (Nov. 1999-Nov. 2000)	'077 Claims 13, 15, 16, 17, and 18
15 Hostalert	'850 Claims 12-15
	'325 Claim 13
	'077 Claims 13, 15, 16, 17, and 18
18 eHost	'850 Claims 12-15
	'325 Claim 13
	'077 Claims 13, 15, 16, 17, and 18
21 Magellan	'850 Claims 12-15
	'325 Claim 13
	'077 Claims 13, 15, 16, 17, and 18

24 **H. Willful Infringement.**

25 Apple has been well aware of this Ameranth patent family for a very long
26 time. One of the Ameranth patents-in-suit, U.S. Patent No. 6,384,850 – the first
27 patent issued in this Ameranth patent family – was cited as a prior art reference
28

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