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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. 12-CV-2350-H -BGS

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

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

4 **PARTIES**

5 1. Plaintiff Ameranth is a Delaware corporation having a principal place of business at
6 5820 Oberlin Drive, Suite 202, San Diego, California 92121. Ameranth develops,
7 manufactures and sells, *inter alia*, hospitality industry, entertainment, restaurant and food
8 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. Ameranth’s
14 “Information Management and Synchronous Communications” patent family has been widely
15 recognized as visionary, and the original patent in this family, U.S. Patent No. 6,384,850, was
16 cited as a prior art reference by the USPTO in two Apple iPhone patents issued to named
17 inventors Bas Ording and Steven P. Jobs (thus having put Apple on notice as to this Ameranth
18 patent at least as early as March 31, 2010). Fourteen companies have licensed patents in this
19 Ameranth patent family.

20 2. Defendant Apple is, on information and belief, a California corporation having a
21 principal place of business and headquarters in Cupertino, California. On information and
22 belief, Apple makes, uses, sells and/or offers for sale, computer technology products, including
23 personal computers, mobile communications devices, portable digital music and video players
24 and related hardware, software, components and/or systems within this Judicial District,
25 including Apple’s integrated Passbook System (“PBS”), which includes the “pass styles” that
26 Apple has defined as “boarding pass” and “event ticketing” applications within Passbook, and
27 which permits the management, maintenance, downloading, and/or storage of, *inter alia*,

1 with iPhone 5 and other iPhone and iPod Touch devices that are running Apple's iOS 6
2 software, and linked to/with Apple's iCloud, the "Apple Notification Service", and Apple's
3 Safari browser. Apple has already announced and/or implemented Passbook partnerships
4 integrating Passbook-enabled systems with entities that are defendants in other Ameranth
5 patent enforcement actions, including Ticketmaster, StubHub, Starwood Hotels, Fandango, and
6 others, as well as integrating Apple's Siri speech-recognition and voice control/command
7 application ("Siri") with the system of yet another defendant in an Ameranth patent
8 enforcement action, OpenTable. Industry analysts have called Passbook a "game changer."
9 Apple senior vice president Scott Forstall, in demonstrating Passbook with stored tickets and
10 passes including movie tickets, airline boarding passes, and concert tickets, asserted that
11 "Passbook is the best way to collect all of your passes in one place." As Apple describes it,
12 within the Passbook application itself, "Passbook is the simplest way to get all your passes in
13 one place. Passbook puts your boarding passes, movie tickets, retail coupons, loyalty cards,
14 and more all in one place. They'll also be ready on your lock screen at just the right time and
15 place. You can add passes to Passbook through apps, emails, and websites from participating
16 airlines, theatres, stores and more."

17 JURISDICTION AND VENUE

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

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

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

26 6. This Court has personal jurisdiction over Apple because Apple commits acts of
27 patent infringement in this Judicial District including, *inter alia*, making, using, offering for
28

1 sale or license, and/or selling or licensing infringing services, products, software, components
2 and/or systems in this Judicial District.

3 7. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b) and (c) and
4 1400(b).

5 **BACKGROUND**

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

18 9. Ameranth began development of the inventions leading to the patents-in-suit and the
19 other patents in this patent family in the late Summer of 1998, at a time when the then-
20 available wireless and internet hospitality offerings were extremely limited in functionality,
21 were not synchronized, and did not provide an integrated system-wide solution to the pervasive
22 ordering, reservations, affinity program and information management needs of the hospitality
23 industry. Ameranth uniquely recognized the actual problems that needed to be resolved in
24 order to meet those needs, and thereafter conceived and developed its breakthrough inventions
25 and products to provide systemic and comprehensive solutions directed to optimally meeting
26 these industry needs. Ameranth has expended considerable effort and resources in inventing,
27 developing and marketing its inventions and protecting its rights therein.

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

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

23 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "850 patent"),
24 U.S. Patent No. 6,871,325 (the "325 patent"), U.S. Patent No. 6,982,733 (the "733 patent"),
25 and U.S. Patent No. 8,146,077 (the "077 patent"), are all patents in Ameranth's "Information
26 Management and Synchronous Communications" patent family.

27 13. Apple is well aware of this Ameranth patent family. One of the Ameranth patents-

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