

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*)
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.

EXPEDIA, INC.,

Defendant.

Case No. 12-cv-1654 JLS (NLS)

**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 Expedia, Inc. (“Expedia”), avers as follows:

4 **PARTIES**

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

15 2. Defendant Expedia is, on information and belief, a Washington
16 corporation having a principal place of business and headquarters in Bellevue,
17 Washington. On information and belief, Expedia makes, uses, offers for sale or
18 license and/or sells or licenses hotel and lodging, property management system
19 (PMS) and other hospitality information-technology products, software,
20 components and/or systems within this Judicial District, including the Expedia
21 Reservation System as defined herein.

22 **JURISDICTION AND VENUE**

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

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

1 5. On information and belief, Defendant engages in (a) the offer for sale or
2 license and sale or license of hospitality, reservations, restaurant, food service,
3 ordering, products and/or components in the United States, including this Judicial
4 District, including services, products, software, and components, comprising
5 wireless and internet POS and/or hospitality aspects; (b) the installation and
6 maintenance of said services, products, software, components and/or systems in
7 hospitality industry, hotel and lodging, restaurant, food service, and/or
8 entertainment information technology systems in the United States, including this
9 Judicial District; and/or (c) the use of hospitality industry, hotel and lodging,
10 restaurant, food service, and/or entertainment information technology systems
11 comprising said services, products, software, components and/or systems in the
12 United States, including this Judicial District.

13 6. This Court has personal jurisdiction over Defendant because Defendant
14 commits acts of patent infringement in this Judicial District including, *inter alia*,
15 making, using, offering for sale or license, and/or selling or licensing infringing
16 services, products, software, components and/or systems in this Judicial District.
17 Additionally, Defendant has already appeared in this action and submitted to the
18 jurisdiction of the Court. Expedia has continued to engage in and perform such
19 acts of infringement since the filing and service of the original complaint in this
20 matter accusing Expedia of infringement of the Ameranth patents at issue herein.

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

23 **BACKGROUND**

24 8. Ameranth was established in 1996 to develop and provide its 21st
25 Century Communications™ innovative information technology solutions for the
26 hospitality industry (inclusive of, e.g., restaurants, hotels, casinos, nightclubs,
27 cruise ships and other entertainment and sports venues). Ameranth has been
28

1 widely recognized as a technology leader in the provision of wireless and
2 internet-based systems and services to, *inter alia*, restaurants, hotels, casinos,
3 cruise ships and entertainment and sports venues. Ameranth's award winning
4 inventions enable, in relevant part, generation and synchronization of menus,
5 including but not limited to restaurant menus, event tickets, reservations and
6 other products across fixed, wireless and/or internet platforms as well as
7 synchronization of hospitality information and hospitality software applications
8 across fixed, wireless and internet platforms, including but not limited to,
9 computer servers, web servers, databases, affinity/social networking systems,
10 desktop computers, laptops, "smart" phones and other wireless handheld
11 computing devices.

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

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

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

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.