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Attorneys for Plaintiff Ameranth, Inc.

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

AMERANTH, INC.,

Plaintiff,

v.

FANDANGO, INC.,

Defendant.

Case No. 3:12-cv-1651-DMS-WVG

**SECOND AMENDED
COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Second Amended Complaint against
3 Defendant Fandango, Inc., avers as follows:

4 **PARTIES**

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

16 2. Defendant Fandango, Inc. (“Fandango” or “Defendant”) is, on
17 information and belief, a Delaware corporation having a principal place of
18 business and headquarters in Los Angeles, California. On information and belief,
19 Fandango makes, uses, offers for sale or license and/or sells or licenses
20 entertainment box office management and ticketing/ticket sales/ticket purchases
21 information-technology products, software, components and/or systems within
22 this Judicial District, including the Fandango System as defined herein.

23 **JURISDICTION AND VENUE**

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

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

1 5. On information and belief, Fandango engages in (a) the offer for sale or
2 license and sale or license of hospitality industry, ticketing, reservations, and/or
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, ticketing, reservations, ordering, and/or entertainment
8 information technology systems in the United States, including this Judicial
9 District; and/or (c) the use of hospitality industry, ticketing, reservations, ordering,
10 and/or entertainment information technology systems comprising said services,
11 products, software, components and/or systems in the United States, including this
12 Judicial District.

13 6. This Court has personal jurisdiction over Fandango because Fandango
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, Fandango has already appeared in this action and submitted to the
18 jurisdiction of the Court. Fandango 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 Fandango 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 Century
25 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 internet-
2 based systems and services to, *inter alia*, restaurants, hotels, casinos, cruise ships
3 and entertainment and sports venues. Ameranth's award winning inventions
4 enable, in relevant part, generation and synchronization of menus, including but
5 not limited to restaurant menus, event tickets, and other products across fixed,
6 wireless and/or internet platforms as well as synchronization of hospitality
7 information and hospitality software applications across fixed, wireless and
8 internet platforms, including but not limited to, computer servers, web servers,
9 databases, affinity/social networking systems, desktop computers, laptops,
10 "smart" phones and other wireless handheld computing devices.

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

23 10. Ameranth's pioneering inventions have been widely adopted and are thus
24 now essential to the modern wireless hospitality enterprise of the 21st Century.
25 Ameranth's solutions have been adopted, licensed and/or deployed by numerous
26 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 Founder
9 of Microsoft, for the prestigious Computerworld Honors Award that Ameranth
10 received in 2001 for its breakthrough synchronized reservations/ticketing system
11 with the Improv Comedy Theatres. In his nomination, Mr. Gates described
12 Ameranth as "one of the leading pioneers of information technology for the
13 betterment of mankind." This prestigious award was based on Ameranth's
14 innovative synchronization of wireless/web/fixed hospitality software technology.
15 Subsequently, the United States Patent and Trademark Office granted Ameranth a
16 number of currently-issued patents, two of which are the basis for this lawsuit.
17 Ameranth has issued press releases announcing these patent grants on business
18 wires, on its web sites and at numerous trade shows since the first of the presently-
19 asserted patents issued in 2002. A number of companies have licensed patents
20 and technology from Ameranth, recognizing and confirming the value of
21 Ameranth's innovations. At all relevant times, Ameranth marked its own
22 products with the numbers of the Ameranth patents then issued, thereby providing
23 companies, competitors and participants in the hospitality industry with notice of
24 Ameranth's patents. Furthermore, companies that license Ameranth's products
25 have marked their products with Ameranth's patent numbers, thereby also
26 providing notice of Ameranth's patents. As a result of Ameranth's technological
27 breakthroughs and successes, business activities, awards, press releases and
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