

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

AMERANTH, INC.,	§	
	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 2:07-cv-271-RSP
	§	
MENUSOFT SYSTEMS CORPORATION	§	
and CASH REGISTER SALES & SERVICE	§	
OF HOUSTON, INC. (dba CRS TEXAS)	§	
	§	
Defendants.	§	

**JOINT STIPULATED MOTION FOR VACATUR
OF INVALIDITY VERDICTS AND JUDGMENT**

Plaintiff Ameranth, Inc. (“Ameranth”) and Defendants Menusoft Systems Corp. (“Menusoft”) and Cash Register Sales & Service of Houston, Inc. (“CRS”), pursuant to Fed. R. Civ. P. 60(b), jointly submit this Stipulated Motion for Vacatur of Invalidity Verdicts and Judgment.

Plaintiff Ameranth and Defendant Menusoft reached an agreement of settlement on October 13, 2011 (“Settlement Agreement”) during a mandatory mediation session before Chief Federal Circuit Mediator James Amend. Under the terms of the Settlement Agreement, the parties agreed to move this Court for an Order granting relief under Rule 60(b), and thereby vacating the verdicts and judgment of invalidity entered by this Court on September 21, 2010 (Dkt. Nos. 263, 265) and which were included within the scope of the appeal to the Federal Circuit of this case. To accomplish this objective of the parties’ settlement, on October 28, 2011, Ameranth, joined by Defendants Menusoft and CRS, moved this Court for an indicative ruling pursuant to Federal Rule of Civil Procedure 62.1 and Fed. R. App. P. 12.1.

On October 31, 2011, Chief District Court Judge David Folsom, upon consideration of the parties’ motion for indicative ruling, indicated that if the Federal Circuit remanded the case on appeal to the district court to consider the parties’ joint motion for vacatur of the invalidity verdicts and judgment as a condition of their settlement, the Court would grant the motion for vacatur. (*See* Dkt. No. 332 (Judge Folsom’s Order on Motion for Indicative Ruling)).

The Federal Circuit has now remanded the case to this Court for entry of vacatur. (Dkt. No. 347). Thus, the parties jointly request that an order of vacatur of the invalidity verdicts and judgment be entered by this Court. No reason exists for the Court to deviate from its expressed intent to enter an order of vacatur as stated in its indicative ruling.¹ A proposed Order consistent with the parties’ joint

¹ Two non-parties to this case have filed motions requesting entry of amicus briefs opposing vacatur. (Dkt. Nos. 333, 334). However, as detailed in Ameranth’s oppositions to those motions (Dkt. Nos. 335, 336, 342, 343), neither party has provided a substantive basis for entry of their briefs or why this Court should deviate from its expressed intent to vacate the invalidity verdicts and judgment. The attempts by these non-parties to interfere in the present case should be rejected by the Court for a number of reasons

request is submitted herewith. When an Order of Vacatur has been entered, the parties will file appropriate papers dismissing the case against all Defendants as settled pursuant to the terms of the Settlement Agreement.

Respectfully submitted,

This 20th day of January, 2012.

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sought are not being asserted against these non-parties. The non-party motions are overt red herrings

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) this 20th day of January, 2012. Any other counsel of record will be served by facsimile transmission and/or first class mail.

/s/ Michael C. Smith

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