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

AMERANTH, INC.,

Plaintiff,

v.

HOTELS.COM, LP,

Defendant.

Case No. 12-CV-1634 JLS (NLS)

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

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

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

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

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

1 **BACKGROUND**

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

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

1 in inventing, developing and marketing its inventions and protecting its rights
2 therein.

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

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

1 all relevant times, Ameranth marked its own products with the numbers of the
2 Ameranth patents then issued, thereby providing companies, competitors and
3 participants in the hospitality industry with notice of Ameranth's patents.
4 Furthermore, companies that license Ameranth's products have marked their
5 products with Ameranth's patent numbers, thereby also providing notice of
6 Ameranth's patents.

7 **RELATED CASES PREVIOUSLY FILED**

8 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the
9 "'850 patent"), U.S. Patent No. 6,871,325 (the "'325 patent"), and U.S. Patent
10 No. 8,146,077 (the "'077 patent"), are all patents in Ameranth's "Information
11 Management and Synchronous Communications" patent family.

12 13. Ameranth is also currently asserting claims of these same patents in
13 separate lawsuits, against other defendants, that are already pending in this Court.
14 The first-filed lawsuit asserts claims of the '850 and '325 patents and is entitled
15 *Ameranth v. Pizza Hut, Inc. et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits
16 subsequently filed by Ameranth in this Court, asserting claims of the '077 patent,
17 include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-cv-00731-JLS-NLS; 3:12-cv-
18 00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-NLS; 3:12-cv-
19 00738-JLS-NLS (settled); 3:12-cv-00739-JLS-NLS and 3:12-cv-00742-JLS-
20 NLS. Other lawsuits filed by Ameranth in this Court asserting claims of the
21 '850, '325, and '077 patents are Case No. 3:12-cv-00858-JLS-NLS; 3:12-cv-
22 1201-JLS-NLS (settled): 3:12-cv-01651-JLS-NLS; 3:12-cv-01629-JLS-NLS;
23 3:12-cv-01630-JLS-NLS; 3:12-cv-01631-JLS-NLS; 3:12-cv-01633-JLS-NLS;
24 3:12-cv-01654-JLS-NLS; 3:12-cv-01636-JLS-NLS; 3:12-cv-01640-JLS-NLS;
25 3:12-cv-01642-JLS-NLS; 3:12-cv-01643-JLS-NLS; 3:12-cv-01644-JLS-NLS;
26 3:12-cv-01646-JLS-NLS 3:12-cv-01647-JLS-NLS (settled); 3:12-cv-01648-JLS-
27 NLS; 3:12-cv-01649-JLS-NLS; 3:12-cv-01650-JLS-NLS; 3:12-cv-01652-JLS-

1 NLS; 3:12-cv-01653-JLS-NLS; 3:12-cv-01627-JLS-NLS; 3:12-cv-01655-JLS-
2 NLS; 3:12-cv-01656-JLS-NLS; 3:12-cv-01659-JLS-NLS; 3:13-cv-00350-JLS-
3 NLS; 3:13-cv-00352-JLS-NLS; 3:13-cv-00353-JLS-NLS; 3:13-cv-0836-JLS-
4 NLS and 3:13-cv-01072-MMA-BGS. All of the above still-pending cases have
5 been consolidated for pre-trial through claim construction except for 3:13-cv-
6 00350-JLS-NLS; 3:13-cv-00352-JLS-NLS; 3:13-cv-00353-JLS-NLS; 3:13-cv-
7 0836-JLS-NLS and 3:13-cv-01072-MMA-BGS. These include lawsuits against
8 business partners of Defendant, such as hotel companies with whom Defendant
9 does business, and against Expedia, which, on information and belief, owns
10 and/or is the parent company of Hotels.com.

11 14. The original complaint in this matter was filed in this Court on June 29,
12 2012, and subsequently served upon Hotels.com. At least since that time,
13 Hotels.com has had direct and knowledge of Ameranth's patents and that
14 Hotels.com's online and mobile reservations system infringes those patents as
15 alleged therein. Nonetheless, Hotels.com has continued, and is continuing, to
16 make, use, offer for sale or license and/or sell or license infringing systems,
17 products, and/or services in the United States without authority or license from
18 Ameranth and to engage in acts of infringement as set forth herein.

19 **COUNT I**

20 **Patent Infringement (U.S. Pat. No. 6,384,850)**

21 **(35 U.S.C. § 271)**

22 15. Plaintiff reiterates and incorporates the allegations set forth in paragraphs
23 1-14 above as if fully set forth herein.

24 16. On May 7, 2002, United States Patent No. 6,384,850 entitled
25 "Information Management and Synchronous Communications System with Menu
26 Generation" ("the '850 patent") (a true and copy of which is attached hereto as
27

1 **Exhibit A)** was duly and legally issued by the United States Patent & Trademark
2 Office.

3 17. Plaintiff Ameranth is the lawful owner by assignment of all right, title
4 and interest in and to the ‘850 patent.

5 18. On information and belief, Defendant directly infringes and continues to
6 directly infringe one or more valid and enforceable claims of the ‘850 patent, in
7 violation of 35 U.S.C. § 271(a), by making, using, offering for sale or license
8 and/or selling or licensing infringing systems, products, and/or services in the
9 United States without authority or license from Ameranth, including but not
10 limited to the Hotels.com Reservation system/product/service, which includes,
11 *inter alia*, hotel/lodging-reservation and property management system (PMS)
12 integration, online and mobile hotel/lodging reservations, integration with e-mail
13 and affinity program and social media applications such as Facebook, Twitter,
14 Groupon, and YouTube, and/or other third-party web-based applications, and
15 other hospitality aspects (the “Hotels.com Reservation System”). Ameranth has
16 previously served Hotels.com with infringement contentions in this action further
17 describing the details of Hotels.com’s infringement of Ameranth’s patents.
18 Those infringement contentions are attached hereto as **Exhibit D** and
19 incorporated herein by reference.

20 19. On information and belief, the Hotels.com Reservation System, as
21 deployed and/or used at or from one or more locations by Hotels.com, its
22 agents, distributors, partners, affiliates, licensees, and/or their customers,
23 infringes one or more valid and enforceable claims of the ‘850 patent, by, *inter*
24 *alia*, doing at least one of the following: (a) Generating and transmitting menus in
25 a system including a central processing unit, a data storage device, a computer
26 operating system containing a graphical user interface, one or more displayable
27 main menus, modifier menus, and sub-modifier menus, and application software

1 for generating a second menu and transmitting it to a wireless handheld
2 computing device or a Web page; and/or (b) Enabling reservations and other
3 hospitality functions via iPhone, Android, and other internet-enabled wireless
4 handheld computing devices as well as via Web pages, storing hospitality
5 information and data on at least one central database, on at least one wireless
6 handheld computing device, and on at least one Web server and Web page, and
7 synchronizing applications and data, including but not limited to applications and
8 data relating to ordering, between at least one central database, wireless handheld
9 computing devices, and at least one Web server and Web page; utilizing an
10 interface that provides a single point of entry that allows the synchronization of at
11 least one wireless handheld computing device and at least one Web page with at
12 least one central database; allowing information to be entered via Web pages,
13 transmitted over the internet, and automatically communicated to at least one
14 central database and to wireless handheld computing devices; allowing
15 information to be entered via wireless handheld computing devices, transmitted
16 over the internet, and automatically communicated to at least one central database
17 and to Web pages.

18 20. On information and belief, defendant Hotels.com has indirectly infringed
19 and continues to indirectly infringe one or more valid and enforceable claims of
20 the '850 patent, in violation of 35 U.S.C. § 271(b), by actively, knowingly, and
21 intentionally inducing direct infringement by other persons.

22 21. On information and belief, customers of Hotels.com, including
23 consumers and hotel/restaurant operators, use the Hotels.com Reservation System
24 in a manner that infringes the Ameranth patents. Hotels.com provides instruction
25 and direction regarding the use of the Hotels.com Reservation System, and
26 advertises, promotes, and encourages the use of the Hotels.com Reservation
27 System in a manner understood and intended by Hotels.com to infringe

1 Ameranth's patents. Hotels.com provides such instruction, direction and
2 encouragement regarding infringing use of the Hotels.com Reservations System
3 on its webpages, in advertising, in user videos, in offerings on mobile "app
4 stores," in press releases and in statements in industry news articles, as
5 demonstrated in the infringement contentions attached hereto as **Exhibit D** and in
6 the references cited in the appendix thereto.

7 22. On information and belief, the Hotels.com Reservation System infringes
8 one or more valid and enforceable claims of the '850 patent for the reasons set
9 forth hereinabove.

10 23. At least since the filing and service of the original complaint against
11 Hotels.com in this matter, Hotels.com has had knowledge of the '850 patent, and
12 knew or should have known that its continued offering and deployment of the
13 Hotels.com Reservation System, and its continued support of consumers,
14 hotel/restaurant operators, and other users of this system/product/service, would
15 induce direct infringement by those users. Additionally, Hotels.com intended
16 that its actions would induce direct infringement of Ameranth's patents by those
17 users.

18 24. On information and belief, Defendant has indirectly infringed and
19 continues to indirectly infringe one or more valid and enforceable claims of the
20 '850 patent, in violation of 35 U.S.C. § 271(c).

21 25. By distributing, selling, offering, offering to sell or license and/or selling
22 or licensing the Hotels.com Reservation System, Hotels.com provides non-staple
23 articles of commerce to others, including consumers and hotel/restaurant
24 operators, for use in infringing systems, products, and/or services. Additionally,
25 Hotels.com provides instruction and direction regarding the use of the
26 Hotels.com Reservation System, and advertises, promotes, and encourages the
27 use of the Hotels.com Reservation System in a manner understood and intended

1 by Hotels.com to infringe Ameranth's patents, as described above. Users of one
2 or more of the Hotels.com Reservation System, including consumers and
3 hotel/restaurant operators, directly infringe one or more valid and enforceable
4 claims of the '850 patent for the reasons set forth hereinabove.

5 26. On information and belief, the Hotels.com Reservation System infringes
6 one or more valid and enforceable claims of the '850 patent, for the reasons set
7 forth hereinabove.

8 27. On information and belief, Hotels.com has had knowledge of the '850
9 patent at least since the filing and service of the original complaint in this action
10 against Hotels.com, including knowledge that the Hotels.com Reservation
11 System, which is a non-staple article of commerce, has been used as a material
12 part of the claimed invention of the '850 patent, and that there are no substantial
13 non-infringing uses for the Hotels.com Reservation System.

14 28. The aforesaid infringing activity of defendant Hotels.com has directly
15 and proximately caused damage to plaintiff Ameranth, including loss of profits
16 from sales or licensing it would have made but for the infringements. Unless
17 enjoined, the aforesaid infringing activity will continue and cause irreparable
18 injury to Ameranth for which there is no adequate remedy at law.

19 **COUNT II**

20 **Patent Infringement (U.S. Pat. No. 6,871,325)**

21 **(35 U.S.C. § 271)**

22 29. Plaintiff reiterates and reincorporates the allegations set forth in
23 paragraphs 1-28 above as if fully set forth herein.

24 30. On March 22, 2005, United States Patent No. 6,871,325 entitled
25 "Information Management and Synchronous Communications System with Menu
26 Generation" ("the '325 patent") (a true and correct copy of which is attached
27

1 hereto as **Exhibit B**) was duly and legally issued by the United States Patent &
2 Trademark Office.

3 31. Plaintiff Ameranth is the lawful owner by assignment of all right, title
4 and interest in and to the '325 patent.

5 32. On information and belief, Defendant directly infringes and continues to
6 directly infringe one or more valid and enforceable claims of the '325 patent, in
7 violation of 35 U.S.C. § 271(a), by making, using, offering for sale or license
8 and/or selling or licensing infringing systems, products, and/or services in the
9 United States without authority or license from Ameranth, including but not
10 limited to the Hotels.com Reservation System. Ameranth has previously served
11 Hotels.com with infringement contentions in this action further describing the
12 details of Hotels.com's infringement of Ameranth's patents. Those infringement
13 contentions are attached hereto as **Exhibit D** and incorporated herein by
14 reference.

15 33. On information and belief, the Hotels.com Reservation System, as
16 deployed and/or used at or from one or more locations by Hotels.com, its
17 agents, distributors, partners, affiliates, licensees, and/or their customers,
18 infringes one or more valid and enforceable claims of the '325 patent, by, *inter*
19 *alia*, doing at least one of the following: (a) Generating and transmitting menus in
20 a system including a central processing unit, a data storage device, a computer
21 operating system containing a graphical user interface, one or more displayable
22 main menus, modifier menus, and sub-modifier menus, and application software
23 for generating a second menu and transmitting it to a wireless handheld
24 computing device or a Web page; and/or (b) Enabling reservations and other
25 hospitality functions via iPhone, Android, and other internet-enabled wireless
26 handheld computing devices as well as via Web pages, storing hospitality
27 information and data on at least one central database, on at least one wireless

1 handheld computing device, and on at least one Web server and Web page, and
2 synchronizing applications and data, including but not limited to applications and
3 data relating to orders, between at least one central database, wireless handheld
4 computing devices, and at least one Web server and Web page; and sending
5 alerts, confirmations, and other information regarding orders to various wireless
6 mobile devices.

7 34. On information and belief, Defendant has indirectly infringed and
8 continues to indirectly infringe one or more valid and enforceable claims of the
9 ‘325 patent, in violation of 35 U.S.C. § 271(b), by actively, knowingly, and
10 intentionally inducing direct infringement by other persons.

11 35. On information and belief, customers of Hotels.com, including
12 consumers and hotel/restaurant operators, use the Hotels.com Reservation System
13 in a manner that infringes upon one or more valid and enforceable claims of the
14 ‘325 patent. Hotels.com provides instruction and direction regarding the use of
15 the Hotels.com Reservation System and advertises, promotes, and encourages the
16 use of the Hotels.com Reservation System in a manner understood and intended
17 by Hotels.com to infringe Ameranth’s patents. Hotels.com provides such
18 instruction, direction and encouragement regarding infringing use of the
19 Hotels.com Reservations System on its webpages, in advertising, in user videos,
20 in offerings on mobile “app stores,” in press releases and in statements in
21 industry news articles, as demonstrated in the infringement contentions attached
22 hereto as **Exhibit D** and in the references cited in the appendix thereto.

23 36. On information and belief, Defendant actively induces others to infringe
24 the ‘325 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging,
25 aiding and abetting customers of Hotels.com, including consumers and
26 hotel/restaurant operators, to use the infringing Hotels.com Reservation System
27

1 in the United States without authority or license from Ameranth in a manner
2 understood and intended by Hotels.com to infringe Ameranth's patents.

3 37. On information and belief, Defendant contributorily infringes and
4 continues to contributorily infringe one or more valid and enforceable claims of
5 the '325 patent, in violation of 35 U.S.C. § 271(c), by offering to sell and/or
6 selling components of systems on which claims of the '325 patent read,
7 constituting a material part of the invention, knowing that the components were
8 especially adapted for use in systems which infringe claims of the '325 patent.

9 38. By distributing, selling, offering, offering to sell or license and/or selling
10 or licensing the Hotels.com Reservation System, Defendant provides non-staple
11 articles of commerce to others for use in infringing systems, products, and/or
12 services. Additionally, Hotels.com provides instruction and direction regarding
13 the use of the Hotels.com Reservation System and advertises, promotes, and
14 encourages the use of the Hotels.com Reservation System in manner understood
15 and intended by Hotels.com to infringe Ameranth's patents, as described above.
16 Users of the Hotels.com Reservation System directly infringe one or more valid
17 and enforceable claims of the '325 patent, for the reasons set forth hereinabove.

18 39. On information and belief, the Hotels.com Reservation System infringes
19 one or more valid and enforceable claims of the '325 patent, for the reasons set
20 forth hereinabove.

21 40. On information and belief, Hotels.com has had knowledge of the '325
22 patent at least since the filing and service of the original complaint in this matter
23 upon Hotels.com, including knowledge that the Hotels.com Reservation System,
24 which is a non-staple articles of commerce, has been used as a material part of
25 the claimed invention of the '325 patent, and that there are no substantial non-
26 infringing uses for the Hotels.com Reservation System.

1 41. The aforesaid infringing activity of defendant Hotels.com has directly
2 and proximately caused damage to plaintiff Ameranth, including loss of profits
3 from sales or licensing it would have made but for the infringements. Unless
4 enjoined, the aforesaid infringing activity will continue and cause irreparable
5 injury to Ameranth for which there is no adequate remedy at law.

6 **COUNT III**

7 **Patent Infringement (U.S. Pat. No. 8,146,077)**

8 **(35 U.S.C. § 271)**

9 42. Plaintiff reiterates and incorporates the allegations set forth in paragraphs
10 1-41 above as if fully set forth herein.

11 43. On March 27, 2012, United States Patent No. 8,146,077 entitled
12 “Information Management and Synchronous Communications System with Menu
13 Generation, and Handwriting and Voice Modification of Orders” (a true copy of
14 which is attached hereto as **Exhibit C** and incorporated herein by reference) was
15 duly and legally issued by the United States Patent & Trademark Office.

16 44. Plaintiff Ameranth is the lawful owner by assignment of all right, title
17 and interest in and to the ‘077 patent.

18 45. On information and belief, Defendant directly infringes and continues to
19 directly infringe one or more valid and enforceable claims of the ‘077 patent, in
20 violation of 35 U.S.C. § 271(a), by making, using, offering for sale or license
21 and/or selling or licensing infringing systems, products, and/or services in the
22 United States without authority or license from Ameranth, including but not
23 limited to the Hotels.com Reservation System.

24 46. On information and belief, the Hotels.com Reservation System, as
25 deployed and/or used at or from one or more locations by Hotels.com, its
26 agents, distributors, partners, affiliates, licensees, and/or their customers,
27 infringes one or more valid and enforceable claims of the ‘077 patent, by, *inter*

1 *alia*, doing at least one of the following: (a) Configuring and transmitting menus
2 in a system including a central processing unit, a data storage device, a computer
3 operating system containing a graphical user interface, one or more displayable
4 master menus, menu configuration software enabled to generate a menu
5 configuration for a wireless handheld computing device in conformity with a
6 customized display layout, and enabled for synchronous communications and to
7 format the menu configuration for a customized display layout of at least two
8 different wireless handheld computing device display sizes, and/or (b) Enabling
9 reservations and other hospitality functions via iPhone, Android, and other
10 internet-enabled wireless handheld computing devices as well as via Web pages,
11 storing hospitality information and data on at least one database, on at least one
12 wireless handheld computing device, and on at least one Web server and Web
13 page, and synchronizing applications and data, including but not limited to
14 applications and data relating to orders, between at least one database, wireless
15 handheld computing devices, and at least one Web server and Web page; utilizing
16 communications control software enabled to link and synchronize hospitality
17 information between at least one database, wireless handheld computing device,
18 and web page, to display information on web pages and on different wireless
19 handheld computing device display sizes, and to allow information to be entered
20 via Web pages, transmitted over the internet, and automatically communicated to
21 at least one database and to wireless handheld computing devices; allowing
22 information to be entered via wireless handheld computing devices, transmitted
23 over the internet, and automatically communicated to at least one database and to
24 Web pages.

25 47. On information and belief, Defendant has indirectly infringed and
26 continues to indirectly infringe one or more valid and enforceable claims of the
27

1 ‘077 patent, in violation of 35 U.S.C. § 271(b), by actively, knowingly, and
2 intentionally inducing direct infringement by other persons.

3 48. On information and belief, customers of Hotels.com, including
4 consumers and hotel/restaurant operators, use the Hotels.com Reservation System
5 in a manner that infringes upon one or more valid and enforceable claims of the
6 ‘077 patent. Hotels.com provides instruction and direction regarding the use of
7 the Hotels.com Reservation System and advertises, promotes, and encourages the
8 use of the Hotels.com Reservation System in manner understood and intended by
9 Hotels.com to infringe Ameranth’s patents. Hotels.com provides such
10 instruction, direction and encouragement regarding infringing use of the
11 Hotels.com Reservations System on its webpages, in advertising, in user videos,
12 in offerings on mobile “app stores,” in press releases and in statements in
13 industry news articles, as demonstrated in the infringement contentions attached
14 hereto as **Exhibit D** and in the references cited in the appendix thereto.

15 49. On information and belief, Defendant actively induces others to infringe
16 the ‘077 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging,
17 aiding and abetting customers of Hotels.com, including consumers and
18 hotel/restaurant operators, to use the infringing Hotels.com Reservation System
19 in the United States without authority or license from Ameranth in a manner
20 understood and intended by Hotels.com to infringe Ameranth’s patents.

21 50. On information and belief, Defendant contributorily infringes and
22 continues to contributorily infringe one or more valid and enforceable claims of
23 the ‘077 patent, in violation of 35 U.S.C. § 271(c), by offering to sell and/or
24 selling components of systems on which claims of the ‘077 patent read,
25 constituting a material part of the invention, knowing that the components were
26 especially adapted for use in systems which infringe claims of the ‘077 patent.

1 51. By distributing, selling, offering, offering to sell or license and/or selling
2 or licensing the Hotels.com Reservation System, Defendant provides non-staple
3 articles of commerce to others for use in infringing systems, products, and/or
4 services. Additionally, Hotels.com provides instruction and direction regarding
5 the use of the Hotels.com Reservation System and advertises, promotes, and
6 encourages the use of the Hotels.com Reservation System in manner understood
7 and intended by Hotels.com to infringe Ameranth's patents, as described above.
8 Users of the Hotels.com Reservation System, including but not limited to
9 consumers and hotel/restaurant operators, directly infringe one or more valid and
10 enforceable claims of the '077 patent, for the reasons set forth hereinabove.

11 52. On information and belief, the Hotels.com Reservation System infringes
12 one or more valid and enforceable claims of the '077 patent, for the reasons set
13 forth hereinabove.

14 53. On information and belief, Hotels.com has had knowledge of the '077
15 patent at least since the filing and service of the original complaint in this matter
16 upon Hotels.com, including knowledge that the Hotels.com Reservation System,
17 which is a non-staple article of commerce, has been used as a material part of the
18 claimed invention of the '077 patent, and that there are no substantial non-
19 infringing uses for the Hotels.com Reservation System.

20 54. The aforesaid infringing activity of defendant Hotels.com has directly
21 and proximately caused damage to plaintiff Ameranth, including loss of profits
22 from sales or licensing it would have made but for the infringements. Unless
23 enjoined, the aforesaid infringing activity will continue and cause irreparable
24 injury to Ameranth for which there is no adequate remedy at law.

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PRAYER FOR RELIEF

WHEREFORE, plaintiff Ameranth respectfully prays for judgment against Defendant, as follows:

1. Adjudging that the manufacture, use, offer for sale or license and /or sale or license of the Hotels.com Reservation System infringes valid and enforceable claims of the ‘850 patent, and the ‘325 patent, and the ‘077 patent, as set forth hereinabove;

2. Adjudging that Defendant has infringed, actively induced others to infringe and/or contributorily infringed valid and enforceable claims of the ‘850 patent, and the ‘325 patent, and the ‘077 patent, as set forth hereinabove;

3. Enjoining Defendant, and its officers, directors, employees, attorneys, agents, representatives, parents, subsidiaries, affiliates and all other persons acting in concert, participation or privity with Defendant, and their successors and assigns, from infringing, contributorily infringing and/or inducing others to infringe the valid and enforceable claims of the ‘850 patent, and the ‘325 patent, and the ‘077 patent;

4. Awarding Ameranth the damages it has sustained by reason of Defendant’s infringement, together with interest and costs pursuant to 35 U.S.C. § 284;

5. Awarding to Ameranth its costs of suit, and interest as provided by law; and

6. Awarding to Ameranth such other and further relief that this Court may deem just and proper.

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DEMAND FOR JURY TRIAL

Ameranth demands trial by jury of its claims set forth herein to the maximum extent permitted by law.

Respectfully submitted,

Dated: July 25, 2013

CALDARELLI HEJMANOWSKI & PAGE LLP

By: */s/ William J. Caldarelli*
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