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

AMERANTH, INC.,

Plaintiff,

v.

HYATT CORPORATION,

Defendant.

Case No. 12-cv-1627 JLS (NLS)

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendant Hyatt
3 Corporation (referred to herein as “Hyatt” or “Defendant”), avers as follows:

4 **PARTIES**

5 1. Plaintiff Ameranth, Inc. (“Ameranth”) is a Delaware corporation having
6 a 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 Hyatt is, on information and belief, a Delaware corporation
17 having a principal place of business and headquarters in Chicago, Illinois. On
18 information and belief, Hyatt makes, uses, offers for sale or license and/or sells or
19 licenses hotel and lodging, restaurant, foodservice, point-of-sale and/or property
20 management and other hospitality information-technology products, software,
21 components and/or systems within this Judicial District, including the Hyatt
22 Reservation 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 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
18 the 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,
17 including those that are the basis for this lawsuit. Ameranth has issued press
18 releases 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.

RELATED CASES PREVIOUSLY FILED

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

13. Ameranth is also currently asserting claims of these same patents in separate lawsuits, against other defendants, that are already pending in this Court. The first-filed lawsuit asserts claims of the ‘850 and ‘325 patents and is entitled *Ameranth v. Pizza Hut, Inc. et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in this Court, asserting claims of the ‘077 patent, include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-NLS; 3:12-cv-00738-JLS-NLS (settled); 3:12-cv-00739-JLS-NLS and 3:12-cv-00742-JLS-NLS. Other lawsuits filed by Ameranth in this Court asserting claims of the ‘850, ‘325, and ‘077 patents are Case No. 3:12-cv-00858-JLS-NLS; 3:12-cv-1201-JLS-NLS (settled): 3:12-cv-01651-JLS-NLS; 3:12-cv-01629-JLS-NLS; 3:12-cv-01630-JLS-NLS; 3:12-cv-01631-JLS-NLS; 3:12-cv-01633-JLS-NLS; 3:12-cv-01634-JLS-NLS; 3:12-cv-01636-JLS-NLS; 3:12-cv-01640-JLS-NLS; 3:12-cv-01642-JLS-NLS; 3:12-cv-01643-JLS-NLS; 3:12-cv-01644-JLS-NLS; 3:12-cv-01646-JLS-NLS 3:12-cv-01647-JLS-NLS (settled); 3:12-cv-01648-JLS-NLS; 3:12-cv-01649-JLS-NLS; 3:12-cv-01650-JLS-NLS; 3:12-cv-01652-JLS-NLS; 3:12-cv-01653-JLS-NLS; 3:12-cv-01654-JLS-NLS; 3:12-cv-01655-JLS-NLS; 3:12-cv-01656-JLS-NLS; 3:12-cv-01659-JLS-NLS; 3:13-cv-00350-JLS-NLS; 3:13-cv-00352-JLS-NLS; 3:13-cv-00353-JLS-NLS; 3:13-cv-0836-JLS-NLS and 3:13-cv-01072-MMA-BGS. All of the above still-pending cases have been consolidated for pre-trial through claim construction except for 3:13-cv-00350-JLS-NLS; 3:13-cv-00352-JLS-NLS; 3:13-cv-00353-JLS-NLS; 3:13-cv-

1 0836-JLS-NLS and 3:13-cv-01072-MMA-BGS. These include lawsuits against
2 business partners of Defendant, such as point of sale system companies and travel
3 aggregators with whom Defendant does business.

4 14. The original complaint in this matter was filed in this Court on June 29,
5 2012, and subsequently served upon Hyatt. At least since that time, Hyatt has
6 had direct and knowledge of Ameranth's patents and that Hyatt's online and
7 mobile reservations system infringes those patents as alleged therein.
8 Nonetheless, Hyatt has continued, and is continuing, to make, use, offer for sale
9 or license and/or sell or license infringing systems, products, and/or services in
10 the United States without authority or license from Ameranth and to engage in
11 acts of infringement as set forth herein.

12 **COUNT I**

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

14 **(35 U.S.C. § 271)**

15 15. Plaintiff reiterates and incorporates the allegations set forth in paragraphs
16 1-14 above as if fully set forth herein.

17 16. On May 7, 2002, United States Patent No. 6,384,850 entitled
18 "Information Management and Synchronous Communications System with Menu
19 Generation" ("the '850 patent") (a true and copy of which is attached hereto as
20 **Exhibit A**) was duly and legally issued by the United States Patent & Trademark
21 Office.

22 17. Plaintiff Ameranth is the lawful owner by assignment of all right, title
23 and interest in and to the '850 patent.

24 18. On information and belief, Defendant directly infringes and continues to
25 directly infringe one or more valid and enforceable claims of the '850 patent, in
26 violation of 35 U.S.C. § 271(a), by making, using, offering for sale or license
27 and/or selling or licensing infringing systems, products, and/or services in the
28

1 United States without authority or license from Ameranth, including but not
2 limited to the Hyatt Reservation system/product/service, which includes, *inter*
3 *alia*, wireless and internet POS and hotel/lodging-reservation and property
4 management integration, online and mobile reservations, integration with e-mail
5 and affinity program and social media applications such as Facebook, Twitter,
6 Groupon, and YouTube, and/or other third-party web-based applications, and
7 other hospitality aspects (the “Hyatt Reservation System”). Ameranth has
8 previously served Hyatt with infringement contentions in this action further
9 describing the details of Hyatt’s infringement of Ameranth’s patents. Those
10 infringement contentions are attached hereto as **Exhibit D** and incorporated
11 herein by reference.

12 19. On information and belief, the Hyatt Reservation System, as
13 deployed and/or used at or from one or more locations by Hyatt, its
14 agents, distributors, partners, affiliates, licensees, franchisees , operators and/or
15 their customers, infringes one or more valid and enforceable claims of the ‘850
16 patent, by, *inter alia*, doing at least one of the following: (a) Generating and
17 transmitting menus in a system including a central processing unit, a data storage
18 device, a computer operating system containing a graphical user interface, one or
19 more displayable main menus, modifier menus, and sub-modifier menus, and
20 application software for generating a second menu and transmitting it to a
21 wireless handheld computing device or a Web page; and/or (b) Enabling
22 reservations and other hospitality functions via iPhone, Android, and other
23 internet-enabled wireless handheld computing devices as well as via Web pages,
24 storing hospitality information and data on at least one central database, on at
25 least one wireless handheld computing device, and on at least one Web server
26 and Web page, and synchronizing applications and data, including but not limited
27 to applications and data relating to ordering, between at least one central

1 database, wireless handheld computing devices, and at least one Web server and
2 Web page; utilizing an interface that provides a single point of entry that allows
3 the synchronization of at least one wireless handheld computing device and at
4 least one Web page with at least one central database; allowing information to be
5 entered via Web pages, transmitted over the internet, and automatically
6 communicated to at least one central database and to wireless handheld
7 computing devices; allowing information to be entered via wireless handheld
8 computing devices, transmitted over the internet, and automatically
9 communicated to at least one central database and to Web pages.

10 20. On information and belief, defendant Hyatt has indirectly infringed and
11 continues to indirectly infringe one or more valid and enforceable claims of the
12 ‘850 patent, in violation of 35 U.S.C. § 271(b), by actively, knowingly, and
13 intentionally inducing direct infringement by other persons.

14 21. On information and belief, customers of Hyatt, including consumers,
15 hotel/restaurant operators, and others, use the Hyatt Reservation System in a
16 manner that infringes the Ameranth patents. Hyatt provides instruction and
17 direction regarding the use of the Hyatt Reservation System, and advertises,
18 promotes, and encourages the use of the Hyatt Reservation System in a manner
19 understood and intended by Hyatt to infringe Ameranth’s patents. Hyatt provides
20 such instruction, direction and encouragement regarding infringing use of the
21 Hyatt Reservations System on its webpages, in advertising, in user videos, in
22 offerings on “app stores,” in press releases and in statements in industry news
23 articles, as demonstrated in the infringement contentions attached hereto as
24 **Exhibit D** and in the references cited in the appendix thereto.

25 22. On information and belief, the Hyatt Reservation System infringes one
26 or more valid and enforceable claims of the ‘850 patent for the reasons set forth
27 hereinabove.

1 23. At least since the filing and service of the original complaint against
2 Hyatt in this matter, Hyatt has had knowledge of the ‘850 patent, and knew or
3 should have known that its continued offering and deployment of the Hyatt
4 Reservation System, and its continued support of consumers, hotel/restaurant
5 operators, and other users of this system/product/service, would induce direct
6 infringement by those users. Additionally, Hyatt intended that its actions would
7 induce direct infringement of Ameranth’s patents by those users.

8 24. On information and belief, Defendant has indirectly infringed and
9 continues to indirectly infringe one or more valid and enforceable claims of the
10 ‘850 patent, in violation of 35 U.S.C. § 271(c).

11 25. By distributing, selling, offering, offering to sell or license and/or selling
12 or licensing the Hyatt Reservation System, Hyatt provides non-staple articles of
13 commerce to others, including consumers and hotel/restaurant operators, for use
14 in infringing systems, products, and/or services. Additionally, Hyatt provides
15 instruction and direction regarding the use of the Hyatt Reservation System, and
16 advertises, promotes, and encourages the use of the Hyatt Reservation System in
17 a manner understood and intended by Hyatt to infringe Ameranth’s patents, as
18 described above. Users of the Hyatt Reservation System, including consumers
19 and hotel/restaurant operators, directly infringe one or more valid and enforceable
20 claims of the ‘850 patent for the reasons set forth hereinabove.

21 26. On information and belief, the Hyatt Reservation System infringes one
22 or more valid and enforceable claims of the ‘850 patent, for the reasons set forth
23 hereinabove.

24 27. On information and belief, Hyatt has had knowledge of the ‘850 patent at
25 least since the filing and service of the original complaint in this action against
26 Hyatt, including knowledge that the Hyatt Reservation System, which is a non-
27 staple article of commerce, has been used as a material part of the claimed

1 invention of the '850 patent, and that there are no substantial non-infringing uses
2 for the Hyatt Reservation System.

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

8 **COUNT II**

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

10 **(35 U.S.C. § 271)**

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

13 30. On March 22, 2005, United States Patent No. 6,871,325 entitled
14 "Information Management and Synchronous Communications System with Menu
15 Generation" ("the '325 patent") (a true and correct copy of which is attached
16 hereto as **Exhibit B**) was duly and legally issued by the United States Patent &
17 Trademark Office.

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

20 32. On information and belief, Defendant directly infringes and continues to
21 directly infringe one or more valid and enforceable claims of the '325 patent, in
22 violation of 35 U.S.C. § 271(a), by making, using, offering for sale or license
23 and/or selling or licensing infringing systems, products, and/or services in the
24 United States without authority or license from Ameranth, including but not
25 limited to the Hyatt Reservation System. Ameranth has previously served Hyatt
26 with infringement contentions in this action further describing the details of
27

1 Hyatt's infringement of Ameranth's patents. Those infringement contentions are
2 attached hereto as **Exhibit D** and incorporated herein by reference.

3 33. On information and belief, the Hyatt Reservation System, as
4 deployed and/or used at or from one or more locations by Hyatt, its
5 agents, distributors, partners, affiliates, licensees, franchisees, operators and/or
6 their customers, infringes one or more valid and enforceable claims of the '325
7 patent, by, *inter alia*, doing at least one of the following: (a) Generating and
8 transmitting menus in a system including a central processing unit, a data storage
9 device, a computer operating system containing a graphical user interface, one or
10 more displayable main menus, modifier menus, and sub-modifier menus, and
11 application software for generating a second menu and transmitting it to a
12 wireless handheld computing device or a Web page; and/or (b) Enabling
13 reservations and other hospitality functions via iPhone, Android, and other
14 internet-enabled wireless handheld computing devices as well as via Web pages,
15 storing hospitality information and data on at least one central database, on at
16 least one wireless handheld computing device, and on at least one Web server
17 and Web page, and synchronizing applications and data, including but not limited
18 to applications and data relating to orders, between at least one central database,
19 wireless handheld computing devices, and at least one Web server and Web page;
20 and sending alerts, confirmations, and other information regarding orders to
21 various wireless mobile devices.

22 34. On information and belief, Defendant has indirectly infringed and
23 continues to indirectly infringe one or more valid and enforceable claims of the
24 '325 patent, in violation of 35 U.S.C. § 271(b), by actively, knowingly, and
25 intentionally inducing direct infringement by other persons.

26 35. On information and belief, customers of Hyatt, including consumers and
27 hotel/restaurant operators, use the Hyatt Reservation System in a manner that
28

1 infringes upon one or more valid and enforceable claims of the ‘325 patent.
2 Hyatt provides instruction, encouragement and direction regarding the use of the
3 Hyatt Reservation System and advertises, promotes, and encourages the use of
4 the Hyatt Reservation System in a manner understood and intended by Hyatt to
5 infringe Ameranth’s patents. Hyatt provides such instruction, direction and
6 encouragement regarding infringing use of the Hyatt Reservations System on its
7 webpages, in advertising, in user videos, in offerings on “app stores,” in press
8 releases and in statements in industry news articles, as demonstrated in the
9 infringement contentions attached hereto as **Exhibit D** and in the references cited
10 in the appendix thereto.

11 36. On information and belief, Defendant actively induces others to infringe
12 the ‘325 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging,
13 aiding and abetting customers of Hyatt, including consumers and hotel/restaurant
14 operators, to use the infringing Hyatt Reservation System in the United States
15 without authority or license from Ameranth in a manner understood and intended
16 by Hyatt to infringe Ameranth’s patents.

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

23 38. By distributing, selling, offering, offering to sell or license and/or selling
24 or licensing the Hyatt Reservation System, Defendant provides non-staple articles
25 of commerce to others for use in infringing systems, products, and/or services.
26 Additionally, Hyatt provides instruction and direction regarding the use of the
27 Hyatt Reservation System and advertises, promotes, and encourages the use of
28

1 the Hyatt Reservation System in manner understood and intended by Hyatt to
2 infringe Ameranth's patents, as described above. Users of the Hyatt Reservation
3 System, including consumers and hotel/restaurant operators, directly infringe one
4 or more valid and enforceable claims of the '325 patent, for the reasons set forth
5 hereinabove.

6 39. On information and belief, the Hyatt Reservation System infringes one
7 or more valid and enforceable claims of the '325 patent, for the reasons set forth
8 hereinabove.

9 40. On information and belief, Hyatt has had knowledge of the '325 patent at
10 least since the filing and service of the original complaint in this matter upon
11 Hyatt, including knowledge that the Hyatt Reservation System, which is a non-
12 staple articles of commerce, has been used as a material part of the claimed
13 invention of the '325 patent, and that there are no substantial non-infringing uses
14 for the Hyatt Reservation System.

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

20 **COUNT III**

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

22 **(35 U.S.C. § 271)**

23 42. Plaintiff reiterates and incorporates the allegations set forth in paragraphs
24 1-41 above as if fully set forth herein.

25 43. On March 27, 2012, United States Patent No. 8,146,077 entitled
26 "Information Management and Synchronous Communications System with Menu
27 Generation, and Handwriting and Voice Modification of Orders" (a true copy of
28

1 which is attached hereto as **Exhibit C** and incorporated herein by reference) was
2 duly and legally issued by the United States Patent & Trademark Office.

3 44. Plaintiff Ameranth is the lawful owner by assignment of all right, title
4 and interest in and to the '077 patent.

5 45. On information and belief, Defendant directly infringes and continues to
6 directly infringe one or more valid and enforceable claims of the '077 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 Hyatt Reservation System.

11 46. On information and belief, the Hyatt Reservation System, as
12 deployed and/or used at or from one or more locations by Hyatt, its
13 agents, distributors, partners, affiliates, licensees, franchisees, operators and/or
14 their customers, infringes one or more valid and enforceable claims of the '077
15 patent, by, *inter alia*, doing at least one of the following: (a) Configuring and
16 transmitting menus in a system including a central processing unit, a data storage
17 device, a computer operating system containing a graphical user interface, one or
18 more displayable master menus, menu configuration software enabled to generate
19 a menu configuration for a wireless handheld computing device in conformity
20 with a customized display layout, and enabled for synchronous communications
21 and to format the menu configuration for a customized display layout of at least
22 two different wireless handheld computing device display sizes, and/or (b)
23 Enabling reservations and other hospitality functions via iPhone, Android, and
24 other internet-enabled wireless handheld computing devices as well as via Web
25 pages, storing hospitality information and data on at least one database, on at
26 least one wireless handheld computing device, and on at least one Web server
27 and Web page, and synchronizing applications and data, including but not limited

1 to applications and data relating to orders, between at least one database, wireless
2 handheld computing devices, and at least one Web server and Web page; utilizing
3 communications control software enabled to link and synchronize hospitality
4 information between at least one database, wireless handheld computing device,
5 and web page, to display information on web pages and on different wireless
6 handheld computing device display sizes, and to allow information to be entered
7 via Web pages, transmitted over the internet, and automatically communicated to
8 at least one database and to wireless handheld computing devices; allowing
9 information to be entered via wireless handheld computing devices, transmitted
10 over the internet, and automatically communicated to at least one database and to
11 Web pages.

12 47. On information and belief, Defendant has indirectly infringed and
13 continues to indirectly infringe one or more valid and enforceable claims of the
14 ‘077 patent, in violation of 35 U.S.C. § 271(b), by actively, knowingly, and
15 intentionally inducing direct infringement by other persons.

16 48. On information and belief, customers of Hyatt, including consumers and
17 hotel/restaurant operators, use the Hyatt Reservation System in a manner that
18 infringes upon one or more valid and enforceable claims of the ‘077 patent.
19 Hyatt provides instruction and direction regarding the use of the Hyatt
20 Reservation System and advertises, promotes, and encourages the use of the
21 Hyatt Reservation System in manner understood and intended by Hyatt to
22 infringe Ameranth’s patents. Hyatt provides such instruction, direction and
23 encouragement regarding infringing use of the Hyatt Reservations System on its
24 webpages, in advertising, in user videos, in offerings on “app stores,” in press
25 releases and in statements in industry news articles, as demonstrated in the
26 infringement contentions attached hereto as **Exhibit D** and in the references cited
27 in the appendix thereto.

1 49. On information and belief, Defendant actively induces others to infringe
2 the '077 patent in violation of 35 U.S.C. §271(b) by knowingly encouraging,
3 aiding and abetting customers of Hyatt, including consumers and hotel/restaurant
4 operators, to use the infringing Hyatt Reservation System in the United States
5 without authority or license from Ameranth in a manner understood and intended
6 by Hyatt to infringe Ameranth's patents.

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

13 51. By distributing, selling, offering, offering to sell or license and/or selling
14 or licensing the Hyatt Reservation System, Defendant provides non-staple articles
15 of commerce to others for use in infringing systems, products, and/or services.
16 Additionally, Hyatt provides instruction and direction regarding the use of the
17 Hyatt Reservation System and advertises, promotes, and encourages the use of
18 the Hyatt Reservation System in manner understood and intended by Hyatt to
19 infringe Ameranth's patents, as described above. Users of the Hyatt Reservation
20 System, including but not limited to consumers and hotel/restaurant operators,
21 directly infringe one or more valid and enforceable claims of the '077 patent, for
22 the reasons set forth hereinabove.

23 52. On information and belief, the Hyatt Reservation System infringes one
24 or more valid and enforceable claims of the '077 patent, for the reasons set forth
25 hereinabove.

26 53. On information and belief, Hyatt has had knowledge of the '077 patent at
27 least since the filing and service of the original complaint in this matter upon
28

1 Hyatt, including knowledge that the Hyatt Reservation System, which is a non-
2 staple article of commerce, has been used as a material part of the claimed
3 invention of the '077 patent, and that there are no substantial non-infringing uses
4 for the Hyatt Reservation System.

5 54. The aforesaid infringing activity of defendant Hyatt has directly and
6 proximately caused damage to plaintiff Ameranth, including loss of profits from
7 sales or licensing it would have made but for the infringements. Unless enjoined,
8 the aforesaid infringing activity will continue and cause irreparable injury to
9 Ameranth for which there is no adequate remedy at law.

10 **PRAYER FOR RELIEF**

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

13 1. Adjudging that the manufacture, use, offer for sale or license and /or
14 sale or license of the Hyatt Reservation System infringes valid and enforceable
15 claims of the '850 patent, and the '325 patent, and the '077 patent, as set forth
16 hereinabove;

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

20 3. Enjoining Defendant, and its officers, directors, employees,
21 attorneys, agents, representatives, parents, subsidiaries, affiliates and all other
22 persons acting in concert, participation or privity with Defendant, and their
23 successors and assigns, from infringing, contributorily infringing and/or inducing
24 others to infringe the valid and enforceable claims of the '850 patent, and the
25 '325 patent, and the '077 patent;

