

1 **CALDARELLI HEJMANOWSKI & PAGE LLP**

2 William J. Caldarelli (SBN #149573)
3 Ben West (SBN #251018)
4 12340 El Camino Real, Suite 430
5 San Diego, CA 92130
6 Tel: (858) 720-8080
7 Fax: (858) 720-6680
8 wjc@chplawfirm.com
9 dbw@chplawfirm.com

10 **FABIANO LAW FIRM, P.C.**

11 Michael D. Fabiano (SBN #167058)
12 12526 High Bluff Drive, Suite 300
13 San Diego, CA 92130
14 Telephone: (619) 742-9631
15 mdfabiano@fabianolawfirm.com

16 **OSBORNE LAW LLC**

17 John W. Osborne (*Pro Hac Vice* App. Pending)
18 33 Habitat Lane
19 Cortlandt Manor, NY 10567
20 Telephone: (914) 714-5936
21 josborne@osborneipl.com

22 **WATTS LAW OFFICES**

23 Ethan M. Watts (SBN #234441)
24 12340 El Camino Real, Suite 430
25 San Diego, CA 92130
26 Telephone: (858) 509-0808
27 emw@ewattslaw.com

28 Attorneys for Plaintiff Ameranth, Inc.

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

AMERANTH, INC.,

Plaintiff,

v.

OPENTABLE, INC.,

Defendant.

Case No. '13CV1840 GPC BLM

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

1 **JURISDICTION AND VENUE**

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

4 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§
5 1331 and 1338(a).

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

17 6. This Court has personal jurisdiction over Defendant because
18 Defendant commits acts of patent infringement in this Judicial District including,
19 *inter alia*, making, using, offering for sale or license, and/or selling or licensing
20 infringing services, products, software, components and/or systems in this
21 Judicial District.

22 7. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§
23 1391(b) and (c) and 1400(b).

24 **BACKGROUND**

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

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
13 in this patent family in the late Summer of 1998, at a time when the then-
14 available wireless and internet hospitality offerings were extremely limited in
15 functionality, were not synchronized and did not provide an integrated system-
16 wide solution to the pervasive ordering, reservations, affinity program and
17 information management needs of the hospitality industry. Ameranth uniquely
18 recognized the actual problems that needed to be resolved in order to meet those
19 needs, and thereafter conceived and developed its breakthrough inventions and
20 products to provide systemic and comprehensive solutions directed to optimally
21 meeting these industry needs. Ameranth has expended considerable effort and
22 resources in inventing, developing and marketing its inventions and protecting its
23 rights 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
2 wide acclaim received by Ameranth for its technological innovations are just
3 some of the many confirmations of the breakthrough aspects of Ameranth’s
4 inventions. Ameranth has received twelve different technology awards (three
5 with “end 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 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 the value of Ameranth’s innovations. At all relevant
22 times, Ameranth marked its own products with the numbers of the Ameranth
23 patents then issued, thereby providing companies, competitors and participants in
24 the hospitality industry with notice of Ameranth’s patents. Furthermore,
25 companies that license Ameranth’s products have marked their products with
26 Ameranth’s patent numbers, thereby also providing notice of Ameranth’s patents.

RELATED CASES PREVIOUSLY FILED

12. The Ameranth patents asserted herein are all in Ameranth’s “Information Management and Synchronous Communications” patent family. The first patent in this family is U.S. Patent No. 6,384,850 (the “850 patent”); the subsequent issued patents in this family are U.S. Patent No. 6,871,325 (the “325 patent”); U.S. Patent No. 6,982,733 (the “733 patent”), and U.S. Patent No. 8,146,077 (the “077 patent”).

13. Ameranth is also currently asserting three of these four patents against OpenTable and some or all of them against other defendants in actions that are already pending in this Court. The first-filed lawsuit asserts claims of the ‘850 and ‘325 patents against several defendants, including OpenTable, 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-01627-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; 3:13-cv-01072-MMA-BGS; and 3:13-cv-1525 MMA (WMc). All of the

1 above still-pending cases have been consolidated for pre-trial through claim
2 construction except for 3:13-cv-00350-JLS-NLS; 3:13-cv-00352-JLS-NLS; 3:13-
3 cv-00353-JLS-NLS; 3:13-cv-0836-JLS-NLS; 3:13-cv-01072-MMA-BGS; and
4 3:13-cv-1525 MMA (WMc).

5 14. The original complaint asserting patents in this Ameranth patent
6 family against OpenTable was filed in this Court on August 15, 2011, and was
7 served on OpenTable shortly thereafter. At least since that time, OpenTable has
8 had direct knowledge of Ameranth's patents and that OpenTable's reservations
9 system infringes those patents as alleged therein. Nonetheless, OpenTable has
10 continued, and is continuing, to make, use, offer for sale or license and/or sell or
11 license infringing systems, products, and/or services in the United States without
12 authority or license from Ameranth and to engage in acts of infringement as set
13 forth herein. As is explained herein, OpenTable's already widespread
14 infringement of Ameranth's patents has significantly expanded recently - with
15 new product introductions including OpenTable's entirely new "Next
16 Generation" system, new mobile payment processing functionality, and
17 integration with Apple's Siri voice recognition features on iPhone, iPod Touch
18 and iPad devices (thus including infringement of Ameranth's '733 patent.)

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
23 paragraphs 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 **Exhibit A**) was duly and legally issued by the United States Patent & Trademark
28 Office ("USPTO"). The '850 patent meets all patentability requirements of 35

1 U.S.C. §§101, 102, 103 and 112, including patent eligible subject matter,
2 enablement, definiteness, novelty and non-obviousness, as evidenced by the
3 USPTO's thorough review of the disclosure and claims of the '850 patent and
4 allowance of the claims based on said review in light of all applicable law and
5 USPTO rules and guidelines respecting patentability under Title 35.

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

8 18. On information and belief, Defendant directly infringes and continues
9 to directly infringe one or more valid and enforceable claims of the '850 patent,
10 in violation of 35 U.S.C. § 271(a), by making, using, offering for sale or license
11 and/or selling or licensing infringing systems, products, and/or services in the
12 United States without authority or license from Ameranth, including but not
13 limited to the "OpenTable System", which, as used herein, means and includes
14 the current and all previous "versions" (from June. 1, 2012 to present, and
15 regardless of whether alleged by OpenTable to be revisions, different versions, or
16 different systems) of the OpenTable system/products/services, including, *inter*
17 *alia*, OpenTable's new "Next Generation" system, (which is both deployed "live"
18 by numerous customers and also offered for sale (see references in paragraph
19 20)), its website, mobile website, iPhone, Android, Windows Phone, BlackBerry
20 and other mobile apps, mobile payments through OpenTable's mobile apps
21 (which is both deployed "live" and also offered for sale (see references in
22 paragraph 20)), integration with point-of sale systems including MICROS and
23 others, wireless and internet restaurant-reservation, table-management, and guest-
24 management integration, online and mobile restaurant reservations via, for
25 example, OpenTable's website and mobile website and mobile apps, integration
26 with e-mail and affinity programs and social media applications such as
27 Facebook, Twitter, Groupon, and YouTube, and/or other third-party web-based
28 and/or mobile-device based applications and other hospitality aspects including

1 integration with, *inter alia*, Locu, Yelp, Siri, Zagat, Venga, Evernote Food,
2 Foursquare, Google Maps, and mobile-phone calendar functions.

3 19. On information and belief, the OpenTable System, as
4 deployed and/or used at or from one or more locations by OpenTable, its
5 agents, distributors, partners, affiliates, licensees, restaurant owners/operators,
6 and/or their customers, infringes one or more valid and enforceable claims of the
7 '850 patent, by, *inter alia*, doing or providing the capability for doing at least one
8 of the following: (a) Generating and transmitting menus in a system including a
9 central processing unit, a data storage device, a computer operating system
10 containing a graphical user interface, one or more displayable main menus,
11 modifier menus, and sub-modifier menus, and application software for generating
12 a second menu and transmitting it to a wireless handheld computing device or a
13 Web page; and/or (b) Enabling ticketing/ticket sales/ticket purchases,
14 reservations and other hospitality functions via iPhone, Android, and other
15 internet-enabled wireless handheld computing devices as well as via Web pages,
16 storing hospitality information and data on at least one central database, on at
17 least one wireless handheld computing device, and on at least one Web server
18 and Web page, and synchronizing applications and data, including but not limited
19 to applications and data relating to reservations, between at least one central
20 database, wireless handheld computing devices, and at least one Web server and
21 Web page; utilizing an interface that provides a single point of entry that allows
22 the synchronization of at least one wireless handheld computing device and at
23 least one Web page with at least one central database; allowing information to be
24 entered via Web pages, transmitted over the internet, and automatically
25 communicated to at least one central database and to wireless handheld
26 computing devices; allowing information to be entered via wireless handheld
27 computing devices, transmitted over the internet, and automatically
28 communicated to at least one central database and to Web pages.

1 20. On information and belief, OpenTable has indirectly infringed and
2 continues to indirectly infringe one or more valid and enforceable claims of the
3 ‘850 patent, in violation of 35 U.S.C. § 271(b), by actively, knowingly, and
4 intentionally inducing direct infringement by other persons, including restaurant
5 owners and operators and customers of such restaurants, by making, using,
6 offering for sale or license and/or selling or licensing infringing systems,
7 products, and/or services in the United States without authority or license from
8 Ameranth, including but not limited to the OpenTable System as defined herein,
9 in a manner understood and intended to infringe Ameranth’s patents. For
10 example, OpenTable regularly advertises, promotes, and encourages the use of
11 OpenTable’s integrated system to restaurant owners/operators, and OpenTable’s
12 website, mobile website, and mobile apps to restaurant owners/operators and
13 consumers in a manner understood and intended to infringe Ameranth’s patents.
14 *See, e.g.,* [http://www.opentable.com/opentable-restaurant-management-](http://www.opentable.com/opentable-restaurant-management-system#/increase_bookings)
15 [system#/increase_bookings](http://www.opentable.com/info/diningrewards.aspx) ; <http://www.opentable.com/info/diningrewards.aspx>;
16 <http://www.opentable.com/mobile/>; [http://seekingalpha.com/article/1597462-](http://seekingalpha.com/article/1597462-opentable-management-discusses-q2-2013-results-earnings-call-transcript?source=email_rt_article_title)
17 [opentable-management-discusses-q2-2013-results-earnings-call-](http://seekingalpha.com/article/1597462-opentable-management-discusses-q2-2013-results-earnings-call-transcript?source=email_rt_article_title)
18 [transcript?source=email_rt_article_title](http://seekingalpha.com/article/1597462-opentable-management-discusses-q2-2013-results-earnings-call-transcript?source=email_rt_article_title) ;
19 [http://bits.blogs.nytimes.com/2013/07/30/opentable-begins-testing-mobile-](http://bits.blogs.nytimes.com/2013/07/30/opentable-begins-testing-mobile-payments/)
20 [payments/?](http://bits.blogs.nytimes.com/2013/07/30/opentable-begins-testing-mobile-payments/) Such statements of inducement appear on OpenTable’s website, its
21 advertising, user videos, industry articles, mobile “app stores,” *etc.*

22 21. On information and belief, OpenTable infringes by its own actions
23 and through, or in concert with, agents of OpenTable who are under the direction
24 and control of OpenTable by virtue of contractual agreements between
25 OpenTable and such parties including, for example, restaurant owners/operators
26 who benefit from reservations, mobile payments, and other uses of the
27 OpenTable System.

1 22. On information and belief, defendant OpenTable has indirectly
2 infringed and continues to indirectly infringe one or more valid and enforceable
3 claims of the ‘850 patent, in violation of 35 U.S.C. § 271(b), by actively,
4 knowingly, and intentionally inducing direct infringement by other persons.

5 23. On information and belief, customers of OpenTable, including
6 consumers, restaurant owners/operators, and others, use the OpenTable System in
7 a manner that infringes upon one or more valid and enforceable claims of the ‘850
8 patent. For example, the OpenTable System provides generated menus for
9 selection of locations, restaurants, reservation times, and making restaurant
10 reservations as encompassed by claims of the ‘850 patent, and synchronizes
11 restaurant-reservation information between wireless handheld mobile devices
12 including smartphones using OpenTable mobile apps and/or accessing
13 OpenTable’s website, desktop and laptop computers accessing OpenTable’s
14 website, and “back-office” databases and associated servers. OpenTable provides
15 instruction and direction regarding the use of the OpenTable System and
16 advertises, promotes, and encourages the use of same to restaurant
17 owners/operators and consumers in a manner understood and intended to infringe
18 Ameranth’s patents. See, e.g., the references set forth in paragraph 20 herein.

19 24. On information and belief, OpenTable actively induces others to
20 infringe the ‘850 patent in violation of 35 U.S.C. §271(b) by actively, knowingly
21 and intentionally encouraging, aiding and abetting restaurant owners/operators,
22 customers of OpenTable, and others, including consumers and those businesses
23 and persons identified elsewhere in this complaint, to use the infringing
24 OpenTable System in the United States without authority or license from
25 Ameranth in an infringing manner. For example, OpenTable regularly advertises,
26 promotes, and encourages the use of OpenTable’s integrated system to restaurant
27 owners/operators, and OpenTable’s website, mobile website, and mobile apps to
28

1 restaurant owners/operators and consumers. See, e.g., the references set forth in
2 paragraph 20 herein.

3 25. OpenTable has been aware of Ameranth's patent family which
4 includes this patent well before the complaint in this action was filed. Two of the
5 patents in this Ameranth patent family have been asserted in a prior action against
6 OpenTable and other defendants filed on August 15, 2011, as noted above, and a
7 subsequent action against OpenTable (on the '077 patent) was filed on March 27,
8 2012. Ameranth has served OpenTable with infringement contentions in those
9 previously filed further detailing OpenTable's infringement of Ameranth's
10 patents. Further, on information and belief, OpenTable had knowledge of
11 Ameranth's patent family, including this patent, due to the widespread recognition
12 Ameranth has received for its pioneering inventions as evidenced by the twelve
13 different technology awards Ameranth has received, media recognition in The
14 Wall Street Journal, New York Times, and USA Today, Bill Gates' nomination of
15 Ameranth for the Computerworld Honors Award, and the numerous press releases
16 Ameranth has issued over the years. OpenTable has thus obtained the level of
17 knowledge required to support a claim for inducement of infringement regarding
18 OpenTable's actions involving the OpenTable System, as detailed herein.

19 26. On information and belief, OpenTable contributorily infringes and
20 continues to contributorily infringe one or more valid and enforceable claims of
21 the '850 patent, in violation of 35 U.S.C. § 271(c), by making, using, offering to
22 sell and/or selling components of systems on which claims of the '850 patent read,
23 constituting a material part of the invention, knowing that the components were
24 especially adapted for use in systems which infringe claims of the '733 patent and
25 therefore have no substantial non-infringing use.

26 27. By making, distributing, selling, offering, offering to sell or license
27 and/or selling or licensing the OpenTable System, OpenTable provides non-staple
28 articles of commerce to others, including those businesses and persons identified

1 elsewhere in this complaint, for use in infringing systems, products, and/or
2 services. Additionally, OpenTable provides instruction and direction regarding
3 the use of the OpenTable System and advertises, promotes, and encourages the
4 use of same in a manner understood and intended to infringe Ameranth's patents.
5 For example, OpenTable regularly advertises, promotes, and encourages the use
6 of OpenTable's integrated system to restaurant owners/operators, and
7 OpenTable's website, mobile website, and mobile apps to restaurant
8 owners/operators and consumers. See, e.g., the references set forth in paragraph
9 20 herein. Users of the OpenTable System directly infringe one or more valid and
10 enforceable claims of the '850 patent, for the reasons set forth hereinabove.

11 28. OpenTable has been aware of Ameranth's patent family which
12 includes this patent well before this complaint was filed. Two of the patents in
13 this Ameranth patent family have been asserted in a prior action against
14 OpenTable and other defendants filed on August 15, 2011, as noted above, and a
15 subsequent action against OpenTable (on the '077 patent) was filed on March 27,
16 2012. Ameranth has served OpenTable with infringement contentions in those
17 previously filed actions further detailing OpenTable's infringement. Further, on
18 information and belief, OpenTable had knowledge of Ameranth's patent family,
19 including this patent, due to the widespread recognition Ameranth has received for
20 its pioneering inventions as evidenced by the twelve different technology awards
21 Ameranth has received, media recognition in The Wall Street Journal, New York
22 Times, and USA Today, Bill Gates' nomination of Ameranth for the
23 Computerworld Honors Award, and the numerous press releases Ameranth has
24 issued over the years. OpenTable has thus obtained the level of knowledge
25 required to support a claim for contributory infringement regarding OpenTable's
26 actions involving the OpenTable System as detailed herein.

27 29. On information and belief, the aforesaid infringing activities of
28 OpenTable have been done with knowledge and willful disregard of Ameranth's

1 patent rights, making this an exceptional case within the meaning of 35 U.S.C. §
2 285. As detailed above, OpenTable has had knowledge of the patent family which
3 includes this patent since at least August 2011, well before the filing of the
4 complaint in this action. Further, on information and belief, OpenTable was also
5 aware of the Ameranth patents due to the widespread recognition Ameranth has
6 received for its pioneering inventions as detailed above. OpenTable has thus
7 obtained the level of knowledge required to support a claim for willful
8 infringement. OpenTable's deliberate decision to continue its infringing activities
9 after obtaining said knowledge constitutes objectively reckless behavior justifying
10 a finding of willfulness.

11 30. If OpenTable does not cease and desist the aforesaid infringing
12 activities, and instead continues to infringe valid and enforceable claims of the
13 '850 patent after the date of filing and/or service of this complaint, then such
14 infringing actions will have been done with knowledge and willful disregard of
15 Ameranth's patent rights, making this an exceptional case within the meaning of
16 35 U.S.C. § 285.

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

22 **COUNT II**

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

24 **(35 U.S.C. § 271)**

25 32. Plaintiff reiterates and reincorporates the allegations set forth in
26 paragraphs 1-31 above as if fully set forth herein.

27 33. On March 22, 2005, United States Patent No. 6,871,325 entitled
28 "Information Management and Synchronous Communications System with Menu

1 Generation” (“the ‘325 patent”) (a true and correct copy of which is attached
2 hereto as **Exhibit B**) was duly and legally issued by the USPTO. The ‘325 patent
3 meets all patentability requirements of 35 U.S.C. §§101, 102, 103 and 112,
4 including patent eligible subject matter, enablement, definiteness, novelty and
5 non-obviousness, as evidenced by the USPTO’s thorough review of the
6 disclosure and claims of the ‘325 patent and allowance of the claims based on
7 said review in light of all applicable law and USPTO rules and guidelines
8 respecting patentability under Title 35.

9 34. Plaintiff Ameranth is the lawful owner by assignment of all right,
10 title and interest in and to the ‘325 patent.

11 35. On information and belief, Defendant directly infringes and continues
12 to directly infringe one or more valid and enforceable claims of the ‘325 patent,
13 in violation of 35 U.S.C. § 271(a), by making, using, offering for sale or license
14 and/or selling or licensing infringing systems, products, and/or services in the
15 United States without authority or license from Ameranth, including but not
16 limited to the OpenTable System.

17 36. On information and belief, the OpenTable System, as
18 deployed and/or used at or from one or more locations by OpenTable, its
19 agents, distributors, partners, affiliates, licensees, restaurant owners/operators,
20 and/or their customers, infringes one or more valid and enforceable claims of the
21 ‘325 patent, by, *inter alia*, doing or providing the capability for doing at least one
22 of the following: (a) Generating and transmitting menus in a system including a
23 central processing unit, a data storage device, a computer operating system
24 containing a graphical user interface, one or more displayable main menus,
25 modifier menus, and sub-modifier menus, and application software for generating
26 a second menu and transmitting it to a wireless handheld computing device or a
27 Web page; and/or (b) Enabling ticketing/ticket sales/ticket purchases,
28 reservations and other hospitality functions via iPhone, Android, and other

1 internet-enabled wireless handheld computing devices as well as via Web pages,
2 storing hospitality information and data on at least one central database, on at
3 least one wireless handheld computing device, and on at least one Web server
4 and Web page, and synchronizing applications and data, including but not limited
5 to applications and data relating to reservations, between at least one central
6 database, wireless handheld computing devices, and at least one Web server and
7 Web page; utilizing an interface that provides a single point of entry that allows
8 the synchronization of at least one wireless handheld computing device and at
9 least one Web page with at least one central database; allowing information to be
10 entered via Web pages, transmitted over the internet, and automatically
11 communicated to at least one central database and to wireless handheld
12 computing devices; allowing information to be entered via wireless handheld
13 computing devices, transmitted over the internet, and automatically
14 communicated to at least one central database and to Web pages.

15 37. On information and belief, OpenTable has indirectly infringed and
16 continues to indirectly infringe one or more valid and enforceable claims of the
17 '325 patent, in violation of 35 U.S.C. § 271(b), by actively, knowingly, and
18 intentionally inducing direct infringement by other persons, by making, using,
19 offering for sale or license and/or selling or licensing infringing systems, products,
20 and/or services in the United States without authority or license from Ameranth,
21 including but not limited to the OpenTable System as defined herein. For
22 example, OpenTable regularly advertises, promotes, and encourages the use of
23 OpenTable's integrated system to restaurant owners/operators, and OpenTable's
24 website, mobile website, and mobile apps to restaurant owners/operators and
25 consumers. See, e.g., the references set forth in paragraph 20 herein.

26 38. On information and belief, OpenTable infringes by its own actions
27 and through, or in concert with, agents of OpenTable who are under the direction
28 and control of OpenTable by virtue of contractual agreements between

1 OpenTable and such parties including, for example, restaurant owners/operators
2 who benefit from reservations, mobile payments, and other uses of the
3 OpenTable System.

4 39. On information and belief, defendant OpenTable has indirectly
5 infringed and continues to indirectly infringe one or more valid and enforceable
6 claims of the '325 patent, in violation of 35 U.S.C. § 271(b), by actively,
7 knowingly, and intentionally inducing direct infringement by other persons,
8 including restaurant owners/operators and their customers.

9 40. On information and belief, customers of OpenTable, including
10 consumers, restaurant owners/operators, and others, use the OpenTable System in
11 a manner that infringes upon one or more valid and enforceable claims of the '325
12 patent. For example, the OpenTable System provides generated menus for
13 selection of locations, restaurants, reservation times, and making restaurant
14 reservations as encompassed by claims of the '325 patent, and synchronizes
15 restaurant-reservation information between wireless handheld mobile devices
16 including smartphones using OpenTable mobile apps and/or accessing
17 OpenTable's website, desktop and laptop computers accessing OpenTable's
18 website, and "back-office" databases and associated servers. OpenTable provides
19 instruction and direction regarding the use of the OpenTable System and
20 advertises, promotes, and encourages the use of same to restaurant owners/
21 operators and consumers in a manner understood and intended to infringe
22 Ameranth's patents. See, e.g., the references set forth in paragraph 20 herein.

23 41. On information and belief, OpenTable actively induces others to
24 infringe the '325 patent in violation of 35 U.S.C. §271(b) by actively, knowingly
25 and intentionally encouraging, aiding and abetting restaurant owners/operators,
26 customers of OpenTable, and others, including consumers and those businesses
27 and persons identified elsewhere in this complaint, to use the infringing
28 OpenTable System in the United States without authority or license from

1 Ameranth in an manner that infringes Ameranth's patents. For example,
2 OpenTable regularly advertises, promotes, and encourages the use of OpenTable's
3 integrated system to restaurant owners/operators, and OpenTable's website,
4 mobile website, and mobile apps to restaurant owners/operators and consumers.
5 See, e.g., the references set forth in paragraph 20 herein.

6 42. OpenTable has been aware of Ameranth's patent family which
7 includes this patent well before the complaint in this action was filed. Two of the
8 patents in this Ameranth patent family have been asserted in a prior action against
9 OpenTable and other defendants filed on August 15, 2011, as noted above, and a
10 subsequent action against OpenTable (on the '077 patent) was filed on March 27,
11 2012. Further, on information and belief, OpenTable had knowledge of
12 Ameranth's patent family, including this patent, due to the widespread recognition
13 Ameranth has received for its pioneering inventions as evidenced by the twelve
14 different technology awards Ameranth has received, media recognition in The
15 Wall Street Journal, New York Times, and USA Today, Bill Gates' nomination of
16 Ameranth for the Computerworld Honors Award, and the numerous press releases
17 Ameranth has issued over the years. OpenTable has thus obtained the level of
18 knowledge required to support a claim for inducement of infringement regarding
19 OpenTable's actions involving the OpenTable System as detailed herein.

20 43. On information and belief, OpenTable contributorily infringes and
21 continues to contributorily infringe one or more valid and enforceable claims of
22 the '325 patent, in violation of 35 U.S.C. § 271(c), by making, using, offering to
23 sell and/or selling components of systems on which claims of the '325 patent read,
24 constituting a material part of the invention, knowing that the components were
25 especially adapted for use in systems which infringe claims of the '325 patent and
26 therefore have no substantial non-infringing use.

27 44. By making, distributing, selling, offering, offering to sell or license
28 and/or selling or licensing the OpenTable System, OpenTable provides non-staple

1 articles of commerce to others, including those businesses and persons identified
2 elsewhere in this complaint, for use in infringing systems, products, and/or
3 services. Additionally, OpenTable provides instruction and direction regarding
4 the use of the OpenTable System and advertises, promotes, and encourages the
5 use of same in a manner understood and intended to infringe Ameranth's patents.
6 For example, OpenTable regularly advertises, promotes, and encourages the use
7 of OpenTable's integrated system to restaurant owners/operators, and
8 OpenTable's website, mobile website, and mobile apps to restaurant
9 owners/operators and consumers. See, e.g., the references set forth in paragraph
10 20 herein. Users of the OpenTable System directly infringe one or more valid and
11 enforceable claims of the '325 patent, for the reasons set forth hereinabove.

12 45. OpenTable has been aware of Ameranth's patent family which
13 includes this patent well before this complaint was filed. Two of the patents in
14 this Ameranth patent family have been asserted in a prior action against
15 OpenTable and other defendants filed on August 15, 2011, as noted above, and a
16 subsequent action against OpenTable (on the '077 patent) was filed on March 27,
17 2012. Further, on information and belief, OpenTable had knowledge of
18 Ameranth's patent family, including this patent, due to the widespread recognition
19 Ameranth has received for its pioneering inventions as evidenced by the twelve
20 different technology awards Ameranth has received, media recognition in The
21 Wall Street Journal, New York Times, and USA Today, Bill Gates' nomination of
22 Ameranth for the Computerworld Honors Award, and the numerous press releases
23 Ameranth has issued over the years. OpenTable has thus obtained the level of
24 knowledge required to support a claim for contributory infringement regarding
25 OpenTable's actions involving the OpenTable System as detailed herein.

26 46. On information and belief, the aforesaid infringing activities of
27 OpenTable have been done with knowledge and willful disregard of Ameranth's
28 patent rights, making this an exceptional case within the meaning of 35 U.S.C. §

1 285. As detailed above, OpenTable has had knowledge of the patent family which
2 includes this patent since at least August 2011, well before the filing of the
3 complaint in this action. Further, on information and belief, OpenTable was also
4 aware of the Ameranth patents due to the widespread recognition Ameranth has
5 received for its pioneering inventions as detailed above. OpenTable has thus
6 obtained the level of knowledge required to support a claim for willful
7 infringement. OpenTable's deliberate decision to continue its infringing activities
8 after obtaining said knowledge constitutes objectively reckless behavior justifying
9 a finding of willfulness.

10 47. If OpenTable does not cease and desist the aforesaid infringing
11 activities, and instead continues to infringe valid and enforceable claims of the
12 '325 patent after the date of filing and/or service of this complaint, then such
13 infringing actions will have been done with knowledge and willful disregard of
14 Ameranth's patent rights, making this an exceptional case within the meaning of
15 35 U.S.C. § 285.

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

21 **COUNT III**

22 **Patent Infringement (U.S. Pat. No. 6,982,733)**

23 **(35 U.S.C. § 271)**

24 49. Plaintiff reiterates and reincorporates the allegations set forth in
25 paragraphs 1-48 above as if fully set forth herein.

26 50. On January 3, 2006, United States Patent No. 6,982,733 entitled
27 "Information Management and Synchronous Communications System with Menu
28 Generation, and Handwriting and Voice Modification of Orders" ("the '733

1 patent”) (a true and correct copy of which is attached hereto as **Exhibit C**) was
2 duly and legally issued by the USPTO. The ‘733 patent meets all patentability
3 requirements of 35 U.S.C. §§101, 102, 103 and 112, including patent eligible
4 subject matter, enablement, definiteness, novelty and non-obviousness, as
5 evidenced by the USPTO’s thorough review of the disclosure and claims of the
6 ‘733 patent and allowance of the claims based on said review in light of all
7 applicable law and USPTO rules and guidelines respecting patentability under
8 Title 35.

9 51. Plaintiff Ameranth is the lawful owner by assignment of all right, title
10 and interest in and to the ‘733 patent.

11 52. Siri is a speech-recognition and voice control/command application
12 available on certain models of the Apple iPhone, iPod Touch and iPad. With iOS
13 version 6.1, as of 2012, Siri is integrated with third-party systems/products/
14 services including, *inter alia*, the OpenTable System. Siri sends commands
15 through a remote server using a wireless data connection.

16 53. On information and belief, OpenTable directly infringes and continues
17 to directly infringe one or more valid and enforceable claims of the ‘733 patent, in
18 violation of 35 U.S.C. § 271(a), by making, using, offering for sale or license
19 and/or selling or licensing infringing systems, products, and/or services in the
20 United States without authority or license from Ameranth, including but not
21 limited to the OpenTable System as defined herein.

22 54. On information and belief, OpenTable has indirectly infringed and
23 continues to indirectly infringe one or more valid and enforceable claims of the
24 ‘733 patent, in violation of 35 U.S.C. § 271(b), by actively, knowingly, and
25 intentionally inducing direct infringement by other persons, including restaurant
26 owners/operators and their customers, by making, using, offering for sale or
27 license and/or selling or licensing infringing systems, products, and/or services in
28 the United States without authority or license from Ameranth, including but not

1 limited to the OpenTable System as configured for use with wireless mobile
2 handheld computing devices/smartphones/tablets and other devices running iOS
3 with Siri voice recognition capability. For example, OpenTable touted and
4 promoted the Siri/OpenTable integration after Apple announced the launch of iOS
5 6.1.

6 55. On information and belief, OpenTable infringes by its own actions
7 and through, or in concert with, agents of OpenTable who are under the direction
8 and control of OpenTable by virtue of contractual agreements between OpenTable
9 and such parties including, for example, restaurant owners/operators who benefit
10 from reservations and other uses of the OpenTable System.

11 56. On information and belief, the OpenTable System as configured for
12 use with wireless mobile handheld computing devices/smartphones running iOS
13 with Siri voice recognition capability, as deployed and/or used at or from one or
14 more locations by OpenTable, its agents, distributors, partners, affiliates,
15 licensees, restaurant owners/operators, third-party businesses, and/or their
16 customers, infringes one or more valid and enforceable claims of the '733 patent,
17 by doing, or providing the capability for doing, at least one of the following: (a)
18 Generating and transmitting menus in a system including a central processing unit,
19 a data storage device connected to said central processing unit, an operating
20 system including a graphical user interface, a first menu stored on said data
21 storage device, application software for generating a second menu from said first
22 menu and transmitting said second menu to a wireless handheld computing device
23 or Web page, wherein the application software facilitates the generation of the
24 second menu by allowing selection of items from the first menu, addition of items
25 to the second menu and assignment of parameters to items in the second menu
26 using the graphical user interface of said operating system, and said second menu
27 is manually modified by voice recording or capture or recognition after
28 generation; (b) Generating menus in a system including a central processing unit,

1 a data storage device connected to said central processing unit, an operating
2 system including a graphical user interface, a first menu stored on said data
3 storage device, application software for generating a second menu from said first
4 menu wherein the application software facilitates the generation of the second
5 menu by allowing selection of items from the first menu, addition of items to the
6 second menu and assignment of parameters to items in the second menu using the
7 graphical user interface of said operating system and wherein data comprising the
8 second menu is synchronized between the data storage device connected to the
9 central processing unit and at least one other computing device, and said second
10 menu is manually modified by voice recording or capture or recognition after
11 generation and/or (c) Generating menus in a system including a microprocessor, a
12 display device, a data and instruction input device, a data storage device for
13 storing information and instructions entered through said data and instruction
14 input means or information generated by said microprocessor, an operating
15 system, a master menu stored on said data storage device for generating a
16 modified menu, and application software, wherein said microprocessor, operating
17 system and application software are operative to display the master menu on the
18 display device in response to instructions programmed into said microprocessor,
19 operating system, application software and information and instructions entered
20 through said data input device, and said microprocessor, operating system and
21 application software are operative to create the modified menu from said master
22 menu in response to information and instructions entered through said data and
23 instruction input device and data comprising the modified menu is synchronized
24 between the data storage device and at least one other computing device, wherein
25 said modified menu is manually modified after generation.

26 57. On information and belief, customers of OpenTable, including
27 consumers, restaurant owners/operators, and others, use the OpenTable System as
28 configured for use with wireless mobile handheld computing

1 devices/smartphones/tablets and other devices running iOS with Siri voice
2 recognition capability in a manner that infringes upon one or more valid and
3 enforceable claims of the '733 patent. For example, the OpenTable System
4 provides generated menus for selection of locations, restaurants, reservation times,
5 and making restaurant reservations as encompassed by claims of the '733 patent.
6 OpenTable provides instruction and direction regarding the use of the OpenTable
7 System as configured for use with wireless mobile handheld computing
8 devices/smartphones/tablets and other devices running iOS with Siri voice
9 recognition capability and advertises, promotes, and encourages the use of same.
10 For example, OpenTable touted and promoted the Siri/OpenTable integration after
11 Apple announced the launch of iOS 6.1.

12 58. On information and belief, OpenTable actively induces others to
13 infringe the '733 patent in violation of 35 U.S.C. §271(b) by actively, knowingly
14 and intentionally encouraging, aiding and abetting restaurant owners/operators,
15 customers of OpenTable, and others, including consumers and those businesses
16 and persons identified elsewhere in this complaint, to use the infringing
17 OpenTable System as configured for use with wireless mobile handheld
18 computing devices/smartphones/tablets and other devices running iOS with Siri
19 voice recognition capability in the United States without authority or license from
20 Ameranth in a manner understood and intended to infringe Ameranth's patents.
21 For example, OpenTable is integrated with Apple/Siri for restaurant reservations.

22 *See, e.g:*

23 http://www.pcmag.com/slideshow_viewer/0,3253,1=248141&a=248134&po=8,00
24 [.asp](#). Further, OpenTable touted and promoted the Siri/OpenTable integration
25 after Apple announced the launch of iOS 6.1.

26 59. OpenTable has been aware of Ameranth's patent family which
27 includes this patent well before the complaint in this action was filed. Two of the
28 patents in this Ameranth patent family have been asserted in a prior action against

1 OpenTable and other defendants filed on August 15, 2011, as noted above, and a
2 subsequent action against OpenTable (on the '077 patent) was filed on March 27,
3 2012. Further, on information and belief, OpenTable had knowledge of
4 Ameranth's patent family, including the '733 patent, due to the widespread
5 recognition Ameranth has received for its pioneering inventions as evidenced by
6 the twelve different technology awards Ameranth has received, media recognition
7 in The Wall Street Journal, New York Times, and USA Today, Bill Gates'
8 nomination of Ameranth for the Computerworld Honors Award, and the
9 numerous press releases Ameranth has issued over the years. OpenTable has thus
10 obtained the level of knowledge required to support a claim for inducement of
11 infringement regarding OpenTable's actions involving the OpenTable System as
12 detailed herein.

13 60. On information and belief, OpenTable contributorily infringes and
14 continues to contributorily infringe one or more valid and enforceable claims of
15 the '733 patent, in violation of 35 U.S.C. § 271(c), by making, using, offering to
16 sell and/or selling components of systems on which claims of the '733 patent read,
17 constituting a material part of the invention, knowing that the components were
18 especially adapted for use in systems which infringe claims of the '733 patent and
19 therefore have no substantial non-infringing use.

20 61. By making, distributing, selling, offering, offering to sell or license
21 and/or selling or licensing the OpenTable System as configured for use with
22 wireless mobile handheld computing devices/smartphones/tablets and other
23 devices running iOS with Siri voice recognition capability, OpenTable provides
24 non-staple articles of commerce to others, including those businesses and persons
25 identified elsewhere in this complaint, for use in infringing systems, products,
26 and/or services. Additionally, OpenTable provides instruction and direction
27 regarding the use of the OpenTable System as configured for use with wireless
28 mobile handheld computing devices/smartphones running iOS with Siri voice

1 recognition capability and advertises, promotes, and encourages the use of same in
2 a manner understood and intended to infringe Ameranth's patents. For example,
3 OpenTable touted and promoted the Siri/OpenTable integration after Apple
4 announced the launch of iOS 6.1. Users of the OpenTable System directly
5 infringe one or more valid and enforceable claims of the '733 patent, for the
6 reasons set forth hereinabove.

7 62. OpenTable has been aware of Ameranth's patent family which
8 includes this patent well before the complaint in this action was filed. Two of the
9 patents in this Ameranth patent family have been asserted in a prior action against
10 OpenTable and other defendants filed on August 15, 2011, as noted above, and a
11 subsequent action against OpenTable (on the '077 patent) was filed on March 27,
12 2012. Further, on information and belief, OpenTable had knowledge of
13 Ameranth's patent family, including the '733 patent, due to the widespread
14 recognition Ameranth has received for its pioneering inventions as evidenced by
15 the twelve different technology awards Ameranth has received, media recognition
16 in The Wall Street Journal, New York Times, and USA Today, Bill Gates'
17 nomination of Ameranth for the Computerworld Honors Award, and the
18 numerous press releases Ameranth has issued over the years. OpenTable has thus
19 obtained the level of knowledge required to support a claim for contributory
20 infringement regarding OpenTable's actions involving the OpenTable System as
21 configured for use with wireless mobile handheld computing
22 devices/smartphones/tablets and other devices running iOS with Siri voice
23 recognition capability as detailed herein.

24 63. On information and belief, the aforesaid infringing activities of
25 OpenTable have been done with knowledge and willful disregard of Ameranth's
26 patent rights, making this an exceptional case within the meaning of 35 U.S.C. §
27 285. As detailed above, OpenTable has had knowledge of the patent family which
28 includes the '733 patent since at least August 2011, well before the filing of the

1 complaint in this action. Further, on information and belief, OpenTable was also
2 aware of the Ameranth patents due to the widespread recognition Ameranth has
3 received for its pioneering inventions as detailed above. OpenTable has thus
4 obtained the level of knowledge required to support a claim for willful
5 infringement. OpenTable's deliberate decision to continue its infringing activities
6 after obtaining said knowledge constitutes objectively reckless behavior justifying
7 a finding of willfulness.

8 64. If OpenTable does not cease and desist the aforesaid infringing
9 activities, and instead continues to infringe valid and enforceable claims of the
10 '733 patent after the date of filing and/or service of this complaint, then such
11 infringing actions will have been done with knowledge and willful disregard of
12 Ameranth's patent rights, making this an exceptional case within the meaning of
13 35 U.S.C. § 285.

14 65. The aforesaid infringing activity of OpenTable has directly and
15 proximately caused damage to plaintiff Ameranth, including loss of profits from
16 sales or licensing revenues 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 IV**

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

21 **(35 U.S.C. § 271)**

22 66. Plaintiff reiterates and incorporates the allegations set forth in
23 paragraphs 1-65 above as if fully set forth herein.

24 67. On March 27, 2012, United States Patent No. 8,146,077 entitled
25 "Information Management and Synchronous Communications System with Menu
26 Generation, and Handwriting and Voice Modification of Orders" (a true copy of
27 which is attached hereto as **Exhibit D** and incorporated herein by reference) was
28 duly and legally issued by the USPTO. The '077 patent meets all patentability

1 requirements of 35 U.S.C. §§101, 102, 103 and 112, including patent eligible
2 subject matter, enablement, definiteness, novelty and non-obviousness, as
3 evidenced by the USPTO's thorough review of the disclosure and claims of the
4 '077 patent and allowance of the claims based on said review in light of all
5 applicable law and USPTO rules and guidelines respecting patentability under
6 Title 35.

7 68. Plaintiff Ameranth is the lawful owner by assignment of all right,
8 title and interest in and to the '077 patent.

9 69. On information and belief, Defendant directly infringes and continues
10 to directly infringe one or more valid and enforceable claims of the '077 patent,
11 in violation of 35 U.S.C. § 271(a), by making, using, offering for sale or license
12 and/or selling or licensing infringing systems, products, and/or services in the
13 United States without authority or license from Ameranth, including but not
14 limited to the OpenTable System.

15 70. On information and belief, the OpenTable System, as
16 deployed and/or used at or from one or more locations by OpenTable, its
17 agents, distributors, partners, affiliates, licensees, and/or their customers,
18 infringes one or more valid and enforceable claims of the '077 patent, by, *inter*
19 *alia*, enabling reservations and other hospitality functions via iPhone, Android,
20 and other internet-enabled wireless handheld computing devices as well as via
21 Web pages, storing hospitality information and data on at least one database, on
22 at least one wireless handheld computing device, and on at least one Web server
23 and Web page, and synchronizing applications and data, including but not limited
24 to applications and data relating to orders, between at least one database, wireless
25 handheld computing devices, and at least one Web server and Web page; utilizing
26 communications control software enabled to link and synchronize hospitality
27 information between at least one database, wireless handheld computing device,
28 and web page, to display information on web pages and on different wireless

1 handheld computing device display sizes, and to allow information to be entered
2 via Web pages, transmitted over the internet, and automatically communicated to
3 at least one database and to wireless handheld computing devices; allowing
4 information to be entered via wireless handheld computing devices, transmitted
5 over the internet, and automatically communicated to at least one database and to
6 Web pages.

7 71. On information and belief, OpenTable has indirectly infringed and
8 continues to indirectly infringe one or more valid and enforceable claims of the
9 '077 patent, in violation of 35 U.S.C. § 271(b), by actively, knowingly, and
10 intentionally inducing direct infringement by other persons, including restaurant
11 owners/operators and their customers, by making, using, offering for sale or
12 license and/or selling or licensing infringing systems, products, and/or services in
13 the United States without authority or license from Ameranth, including but not
14 limited to the OpenTable System as defined herein. For example, OpenTable
15 regularly advertises, promotes, and encourages the use of OpenTable's integrated
16 system to restaurant owners/operators, and OpenTable's website, mobile website,
17 and mobile apps to restaurant owners/operators and consumers in a manner
18 understood and intended to infringe Ameranth's patents. See, e.g., the references
19 set forth in paragraph 20 herein.

20 72. On information and belief, OpenTable infringes by its own actions
21 and through, or in concert with, agents of OpenTable who are under the direction
22 and control of OpenTable by virtue of contractual agreements between
23 OpenTable and such parties including, for example, restaurant owners/operators
24 who benefit from reservations, mobile payments, and other uses of the
25 OpenTable System.

26 73. On information and belief, defendant OpenTable has indirectly
27 infringed and continues to indirectly infringe one or more valid and enforceable
28

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

3 74. On information and belief, customers of OpenTable, including
4 consumers, restaurant owners/operators, and others, use the OpenTable System in
5 a manner that infringes upon one or more valid and enforceable claims of the '077
6 patent. For example, the OpenTable System provides generated menus for
7 selection of locations, restaurants, reservation times, and making restaurant
8 reservations as encompassed by claims of the '077 patent, and synchronizes
9 restaurant-reservation information between wireless handheld mobile devices
10 including smartphones using OpenTable mobile apps and/or accessing
11 OpenTable's website, desktop and laptop computers accessing OpenTable's
12 website, and "back-office" databases and associated servers. OpenTable provides
13 instruction and direction regarding the use of the OpenTable System and
14 advertises, promotes, and encourages the use of same to restaurant
15 owners/operators and consumers in a manner understood and intended to infringe
16 Ameranth's patents.

17 75. On information and belief, OpenTable actively induces others to
18 infringe the '077 patent in violation of 35 U.S.C. §271(b) by actively, knowingly
19 and intentionally encouraging, aiding and abetting restaurant owners/operators,
20 customers of OpenTable, and others, including consumers and those businesses
21 and persons identified elsewhere in this complaint, to use the infringing
22 OpenTable System in the United States without authority or license from
23 Ameranth in a manner understood and intended to infringe Ameranth's patents.
24 For example, OpenTable regularly advertises, promotes, and encourages the use
25 of OpenTable's integrated system to restaurant owners/operators, and
26 OpenTable's website, mobile website, and mobile apps to restaurant
27 owners/operators and consumers. See, e.g., the references set forth in paragraph
28 20 herein.

1 76. OpenTable has been aware of Ameranth's patent family which
2 includes this patent well before the complaint in this action was filed. Two of the
3 patents in this Ameranth patent family have been asserted in a prior action against
4 OpenTable and other defendants filed on August 15, 2011, as noted above, and a
5 subsequent action against OpenTable (on the '077 patent) was filed on March 27,
6 2012. Further, on information and belief, OpenTable had knowledge of
7 Ameranth's patent family, including this patent, due to the widespread recognition
8 Ameranth has received for its pioneering inventions as evidenced by the twelve
9 different technology awards Ameranth has received, media recognition in The
10 Wall Street Journal, New York Times, and USA Today, Bill Gates' nomination of
11 Ameranth for the Computerworld Honors Award, and the numerous press releases
12 Ameranth has issued over the years. OpenTable has thus obtained the level of
13 knowledge required to support a claim for inducement of infringement regarding
14 OpenTable's actions involving the OpenTable System as detailed herein.

15 77. On information and belief, OpenTable contributorily infringes and
16 continues to contributorily infringe one or more valid and enforceable claims of
17 the '077 patent, in violation of 35 U.S.C. § 271(c), by making, using, offering to
18 sell and/or selling components of systems on which claims of the '077 patent read,
19 constituting a material part of the invention, knowing that the components were
20 especially adapted for use in systems which infringe claims of the '077 patent and
21 therefore have no substantial non-infringing use.

22 78. By making, distributing, selling, offering, offering to sell or license
23 and/or selling or licensing the OpenTable System, OpenTable provides non-staple
24 articles of commerce to others, including those businesses and persons identified
25 elsewhere in this complaint, for use in infringing systems, products, and/or
26 services. Additionally, OpenTable provides instruction and direction regarding
27 the use of the OpenTable System and advertises, promotes, and encourages the
28 use of same in a manner understood and intended to infringe Ameranth's patents.

1 For example, OpenTable regularly advertises, promotes, and encourages the use
2 of OpenTable's integrated system to restaurant owners/operators, and
3 OpenTable's website, mobile website, and mobile apps to restaurant
4 owners/operators and consumers. See, e.g., the references set forth in paragraph
5 20 herein. Users of the OpenTable System directly infringe one or more valid and
6 enforceable claims of the '077 patent, for the reasons set forth hereinabove.

7 79. OpenTable has been aware of Ameranth's patent family which
8 includes this patent well before this complaint was filed. Two of the patents in
9 this Ameranth patent family have been asserted in a prior action against
10 OpenTable and other defendants filed on August 15, 2011, as noted above, and a
11 subsequent action against OpenTable (on the '077 patent) was filed on March 27,
12 2012. Further, on information and belief, OpenTable had knowledge of
13 Ameranth's patent family, including this patent, due to the widespread recognition
14 Ameranth has received for its pioneering inventions as evidenced by the twelve
15 different technology awards Ameranth has received, media recognition in The
16 Wall Street Journal, New York Times, and USA Today, Bill Gates' nomination of
17 Ameranth for the Computerworld Honors Award, and the numerous press releases
18 Ameranth has issued over the years. OpenTable has thus obtained the level of
19 knowledge required to support a claim for contributory infringement regarding
20 OpenTable's actions involving the OpenTable System as detailed herein.

21 80. On information and belief, the aforesaid infringing activities of
22 OpenTable have been done with knowledge and willful disregard of Ameranth's
23 patent rights, making this an exceptional case within the meaning of 35 U.S.C. §
24 285. As detailed above, OpenTable has had knowledge of the patent family which
25 includes this patent since at least August 2011, well before the filing of the
26 complaint in this action. Further, on information and belief, OpenTable was also
27 aware of the Ameranth patents due to the widespread recognition Ameranth has
28 received for its pioneering inventions as detailed above. OpenTable has thus

1 obtained the level of knowledge required to support a claim for willful
2 infringement. OpenTable's deliberate decision to continue its infringing activities
3 after obtaining said knowledge constitutes objectively reckless behavior justifying
4 a finding of willfulness.

5 81. If OpenTable does not cease and desist the aforesaid infringing
6 activities, and instead continues to infringe valid and enforceable claims of the
7 '077 patent after the date of filing and/or service of this complaint, then such
8 infringing actions will have been done with knowledge and willful disregard of
9 Ameranth's patent rights, making this an exceptional case within the meaning of
10 35 U.S.C. § 285.

11 82. The aforesaid infringing activity of OpenTable has directly and
12 proximately caused damage to plaintiff Ameranth, including loss of profits from
13 sales or licensing revenues it would have made but for the infringements. Unless
14 enjoined, the aforesaid infringing activity will continue and cause irreparable
15 injury to Ameranth for which there is no adequate remedy at law.

16 **PRAYER FOR RELIEF**

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

19 1. Adjudging that the manufacture, use, offer for sale or license and /or
20 sale or license of the OpenTable System infringes valid and enforceable claims of
21 the '850, '325, '733, and '077 patents, as set forth hereinabove;

22 2. Adjudging that Defendant has infringed, actively induced others to
23 infringe and/or contributorily infringed valid and enforceable claims of the '850,
24 '325, '733, and '077 patents, as set forth hereinabove;

25 3. Adjudging that Defendant's infringement of the valid and
26 enforceable claims of the '850, '325, '733, and '077 patents has been knowing
27 and willful;

1 4. Enjoining Defendant, and its officers, directors, employees,
2 attorneys, agents, representatives, parents, subsidiaries, affiliates and all other
3 persons acting in concert, participation or privity with Defendant, and their
4 successors and assigns, from infringing, contributorily infringing and/or inducing
5 others to infringe the valid and enforceable claims of the '850, '325, '733, and
6 '077 patents;

7 5. Awarding Ameranth the damages it has sustained by reason of
8 Defendant's infringement, together with interest and costs pursuant to 35 U.S.C.
9 § 284;

10 6. Awarding Ameranth increased damages of three times the amount
11 found or assessed against Defendant by reason of the knowing, willful and
12 deliberate nature of Defendant's acts of infringement pursuant to 35 U.S.C. §
13 284;

14 7. Adjudging this to be an exceptional case and awarding Ameranth its
15 attorney's fees pursuant to 35 U.S.C. §285;

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

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

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