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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

RADIANT SYSTEMS, INC.

*Plaintiff,*

v.

AMERANTH, INC.

*Defendant.*

CIVIL ACTION FILE

NO. ~~1:07-CV-1641~~

TCB

**COMPLAINT FOR DECLATORY JUDGMENT OF  
PATENT NON-INFRINGEMENT AND INVALIDITY**

Plaintiff RADIANT SYSTEMS, INC. ("Radiant Systems") files this  
Complaint for Declatory Judgment of Patent Non-Infringement and Invalidity  
against Defendant AMERANTH, INC. ("Ameranth"), and in support of its  
Complaint alleges as follows:

**Nature and Basis of Action**

1. This is an action arising under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202 and the United States Patent Law, 35 U.S.C. § 1, *et seq.*

2. Plaintiff Radiant Systems requests declarations that: (i) each of the claims of U.S. Patent Nos. 6,384,850 (“the 850 patent”), 6,871,325 (“the ‘325 patent”) and 6,982,733 (“the ‘733 patent”) (collectively, the “Ameranth Patents”) owned by Defendant Ameranth is invalid; and (ii) Plaintiff Radiant Systems does not infringe any valid claim of the Ameranth Patents.

**The Parties**

3. Plaintiff Radiant Systems is incorporated under the laws of the State of Georgia and has its principal place of business at 3925 Brookside Parkway, Alpharetta, Georgia 30022 (Fulton County).

4. Upon information and belief, Defendant Ameranth is incorporated under the laws of the State of Delaware and has its principal place of business at 5375 Mira Sorrento Place, Suite 150, San Diego, California 92121

**Jurisdiction and Venue**

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1338, 2201 and 2202 on the grounds that Plaintiff

Radiant Systems seeks a declaration of its rights against threats of patent infringement made by Defendant Ameranth.

6. Plaintiff Radiant Systems has a reasonable apprehension of being sued for alleged infringement of the Ameranth Patents. Ameranth's litigation counsel wrote to Plaintiff Radiant Systems in March 2007 proposing a patent license while explaining that it would "forgive any past royalties...for any past practice of Ameranth's patents...since May 7, 2002."

7. Ameranth recently sued Menusoft Systems Corporation ("Menusoft") in the United States District Court for the Eastern District of Texas, alleging what Ameranth termed as Menusoft's "flagrant violation of Ameranth's patent rights and refusal to enter into a commercially reasonable licensing arrangement."

8. In the same action, Ameranth also sued Cash Register Sales & Service of Houston, Inc. (dba CRS Texas) ("CRS") for alleged infringement of the Ameranth Patents.

9. Meanwhile, there has been little, if any, progress with respect to Ameranth's licensing demands to Plaintiff Radiant Systems. In June 2007 telephone communications with Ameranth's CEO, Keith McNally, Mr. McNally told Radiant Systems employee Brett Meager that if Radiant Systems did not agree

to work together with respect to Ameranth's licensing proposal, Ameranth would pursue its intellectual property rights against it.

10. In view of at least the foregoing, Plaintiff Radiant Systems reasonably expects that Ameranth will take legal action against it as it has against Menusoft and CRS. Thus, this case presents an actual controversy under 28 U.S.C. § 2201.

11. The Court has personal jurisdiction over Defendant Ameranth in this action because it has purposefully availed itself of the privilege of doing business in this judicial district, including targeting of sales and marketing efforts for its products into this judicial district and offering and negotiating licenses in this district.

12. Venue is proper in this Court pursuant to 28 U.S.C § 1391.

### **Facts**

13. Defendant Ameranth purports to own all right, title and interest in the Ameranth Patents.

14. Plaintiff Radiant Systems has a reasonable apprehension of being sued for infringement of the Ameranth Patents.

15. Plaintiff Radiant Systems makes, uses, sells and/or offers for sale products and systems for information management, including products and systems for restaurant menu generation.

16. Plaintiff Radiant Systems does not infringe any valid claim of the Ameranth Patents.

### **COUNT I**

#### **Declaration of Non-Infringement of U.S. Patent No. 6,384,850**

17. Plaintiff Radiant Systems incorporates and re-alleges the averments contained in paragraphs 1-16, above, as if set forth in full herein

18. Plaintiff Radiant Systems does not infringe any valid claim of the '850 patent.

19. Defendant Ameranth's conduct has created a reasonable apprehension of suit on the part of Plaintiff Radiant Systems, and has created an actual controversy between Radiant Systems and Ameranth with respect to the alleged infringement of the '850 patent.

20. Pursuant to 28 U.S.C. § 2201, *et seq.*, the Court should enter an order declaring that Plaintiff Radiant Systems does not infringe any valid claim of the '850 patent. Such a judicial declaration is both appropriate and necessary.

21. The existence of this dispute creates a justiciable controversy between the parties, which this Court may hear pursuant to 28 U.S.C. § 2201(a). The Court can further grant additional relief, including injunctive relief and damages, pursuant to 28 U.S.C. § 2202.

**COUNT II**

**Declaration of Invalidity of U.S. Patent No. 6,384,850**

22. Plaintiff Radiant Systems incorporates and re-alleges the averments contained in paragraphs 1-21, above, as if set forth in full herein.

23. Upon information and belief, each claim of the '850 patent is invalid for failure to satisfy the requirements of the Patent Laws of the United States, including the requirements of one or more of 35 U.S.C. §§ 101, 102, 103 and/or 112.

24. A judicial declaration of the invalidity of the claims of the '850 patent is appropriate and necessary.

**COUNT III**

**Declaration of Non-Infringement of U.S. Patent No 6,871,325**

25. Plaintiff Radiant Systems incorporates and re-alleges the averments contained in paragraphs 1-24, above, as if set forth in full herein.

26. Plaintiff Radiant Systems does not infringe any valid claim of the '325 patent.

27. Defendant Ameranth's conduct has created a reasonable apprehension of suit on the part of Plaintiff Radiant Systems, and has created an actual

controversy between Radiant Systems and Ameranth with respect to the alleged infringement of the '325 patent.

28. Pursuant to 28 U.S.C. § 2201, *et seq.*, the Court should enter an order declaring that Plaintiff Radiant Systems does not infringe any valid claim of the '325 patent. Such a judicial declaration is both appropriate and necessary.

29. The existence of this dispute creates a justiciable controversy between the parties, which this Court may hear pursuant to 28 U.S.C. § 2201(a). The Court can further grant additional relief, including injunctive relief and damages, pursuant to 28 U.S.C. § 2202.

#### **COUNT IV**

##### **Declaration of Invalidity of U.S. Patent No. 6,871,325**

30. Plaintiff Radiant Systems incorporates and re-alleges the averments contained in paragraphs 1-29, above, as if set forth in full herein.

31. Upon information and belief, each claim of the '325 patent is invalid for failure to satisfy the requirements of the Patent Laws of the United States, including the requirements of one or more of 35 U.S.C. §§ 101, 102, 103 and/or 112.

32. A judicial declaration of the invalidity of the claims of the '325 patent is appropriate and necessary.

**COUNT V**

**Declaration of Non-Infringement of U.S. Patent No 6,982,733**

33. Plaintiff Radiant Systems incorporates and re-alleges the averments contained in paragraphs 1-32, above, as if set forth in full herein.

34. Plaintiff Radiant Systems does not infringe any valid claim of the '733 patent.

35. Defendant Ameranth's conduct has created a reasonable apprehension of suit on the part of Plaintiff Radiant Systems, and has created an actual controversy between Radiant Systems and Ameranth with respect to the alleged infringement of the '733 patent.

36. Pursuant to 28 U.S.C. § 2201, *et seq.*, the Court should enter an order declaring that Plaintiff Radiant Systems does not infringe any valid claim of the '733 patent. Such a judicial declaration is both appropriate and necessary.

37. The existence of this dispute creates a justiciable controversy between the parties, which this Court may hear pursuant to 28 U.S.C. § 2201(a). The Court can further grant additional relief, including injunctive relief and damages, pursuant to 28 U.S.C. § 2202.



**COUNT VI**

**Declaration of Invalidity of U.S. Patent No. 6,982,733**

38. Plaintiff Radiant Systems incorporates and re-alleges the averments contained in paragraphs 1-37, above, as if set forth in full herein.

39. Upon information and belief, each claim of the '733 patent is invalid for failure to satisfy the requirements of the Patent Laws of the United States, including the requirements of one or more of 35 U.S.C. §§ 101, 102, 103 and/or 112.

40. A judicial declaration of the invalidity of the claims of the '733 patent is appropriate and necessary.

**Request for Relief**

WHEREFORE, Plaintiff Radiant Systems respectfully requests that the Court enter judgment:

A. That Plaintiff Radiant Systems does not infringe any valid claim of the '850 patent;

B. That each of the claims of the '850 patent is invalid;

C. That Plaintiff Radiant Systems does not infringe any valid claim of the '325 patent;

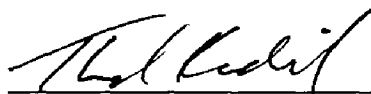
D. That each of the claims of the '325 patent is invalid;

- E. That Plaintiff Radiant Systems does not infringe any valid claim of the '733 patent;
- F. That each of the claims of the '733 patent is invalid;
- G. That this case is exceptional and awarding Plaintiff Radiant Systems its attorneys' fees and costs incurred in this action, pursuant to 35 U.S.C. § 285; and
- H. Granting Plaintiff Radiant Systems such other and further relief as the Court may deem just and proper.

**Jury Demand**

Plaintiff Radiant Systems demands trial by jury on all issues triable by a jury in this case.

Respectfully submitted this 17<sup>th</sup> day of July, 2007.



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Nagendra Setty

Georgia Bar No. 636205

Thad C. Kodish

Georgia Bar No. 427603

Christopher O. Green

Georgia Bar No. 037617

George Kanabe

Georgia Bar No. 103906

Counsel For Plaintiff  
RADIANT SYSTEMS, INC.

FISH & RICHARDSON P.C.  
1180 Peachtree Street, N.E.  
21st Floor  
Atlanta, Georgia 30309  
Telephone: (404) 892-5005  
Facsimile: (404) 892-5002  
E-mail: nsetty@fr.com  
E-mail: tkodish@fr.com  
E-mail: cgreen@fr.com  
E-mail: gkanabe@fr.com