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

AMERANTH, INC.

Plaintiff,

v.

MONKEYMEDIA SOFTWARE INC.,

Defendant.

Case No. '13CV0836 MMABLM

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

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
7 sale or license and sale or license of hospitality, restaurant, food service, catering,
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, catering and/or entertainment
13 information technology systems in the United States, including this Judicial
14 District; and/or (c) the use of hospitality industry, restaurant, food service,
15 catering and/or entertainment information technology systems comprising said
16 services, products, software, components and/or systems in the United States,
17 including this Judicial District.

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

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

25 **BACKGROUND**

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

14 9. Ameranth began development of the inventions leading to the
15 patent-in-suit and the other patents in this patent family in the late Summer of
16 1998, at a time when the then-available wireless and internet hospitality offerings
17 were extremely limited in functionality, were not synchronized and did not
18 provide an integrated system-wide solution to the pervasive ordering,
19 reservations, affinity program and information management needs of the
20 hospitality industry. Ameranth uniquely recognized the actual problems that
21 needed to be resolved in order to meet those needs, and thereafter conceived and
22 developed its breakthrough inventions and products to provide systemic and
23 comprehensive solutions directed to optimally meeting these industry needs.
24 Ameranth has expended considerable effort and resources in inventing,
25 developing and marketing its inventions and protecting its rights therein.

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

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

24 **RELATED CASES PREVIOUSLY FILED**

25 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850
26 (the "850 patent"), U.S. Patent No. 6,871,325 (the "325 patent"), and U.S.

1 Patent No. 8,146,077 (the “’077 patent”), are all patents in Ameranth’s
2 “Information Management and Synchronous Communications” patent family.

3 13. Ameranth is also currently asserting claims of these same patents in
4 separate lawsuits, against other defendants, that are already pending in this Court.
5 The first-filed lawsuit asserts claims of the ‘850 and ‘325 patents and is entitled
6 *Ameranth v. Pizza Hut, Inc. et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits
7 subsequently filed by Ameranth in this Court, asserting claims of the ‘077 patent,
8 include Case Nos. 3:12-cv-00729-JLS-NLS; 3:12-cv-00731-JLS-NLS; 3:12-cv-
9 00732-JLS-NLS; 3:12-cv-00733-JLS-NLS; 3:12-cv-00737-JLS-NLS; 3:12-cv-
10 00738-JLS-NLS (settled); 3:12-cv-00739-JLS-NLS and 3:12-cv-00742-JLS-
11 NLS. Other lawsuits filed by Ameranth in this Court asserting claims of the
12 ‘850, ‘325, and ‘077 patents are Case No. 3:12-cv-00858-JLS-NLS; 3:12-cv-
13 1201-JLS-NLS (settled); 3:12-cv-01627-JLS-NLS; 3:12-cv-01629-JLS-NLS;
14 3:12-cv-01630-JLS-NLS; 3:12-cv-01631-JLS-NLS; 3:12-cv-01633-JLS-NLS;
15 3:12-cv-01634-JLS-NLS; 3:12-cv-01636-JLS-NLS; 3:12-cv-01640-JLS-NLS;
16 3:12-cv-01642-JLS-NLS; 3:12-cv-01643-JLS-NLS; 3:12-cv-01644-JLS-NLS;
17 3:12-cv-01646-JLS-NLS 3:12-cv-01647-JLS-NLS (settled); 3:12-cv-01648-JLS-
18 NLS; 3:12-cv-01649-JLS-NLS; 3:12-cv-01650-JLS-NLS; 3:12-cv-01651-JLS-
19 NLS; 3:12-cv-01652-JLS-NLS; 3:12-cv-01653-JLS-NLS; 3:12-cv-01654-JLS-
20 NLS; 3:12-cv-01655-JLS-NLS; 3:12-cv-01656-JLS-NLS; 3:12-cv-01659-JLS-
21 NLS; 3:12-cv-2350-IEG–BGS; 3:13-cv-00350-JLS-NLS; 3:13-cv-00352-JLS-
22 NLS and 3:13-cv-00353-JLS-NLS. All of the above still-pending cases have
23 been consolidated for pre-trial through claim construction except for 3:12-cv-
24 2350-IEG–BGS; 3:13-cv-00350-JLS-NLS; 3:13-cv-00352-JLS-NLS and 3:13-
25 cv-00353-JLS-NLS.

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COUNT I

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

(35 U.S.C. § 271)

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4 14. Plaintiff reiterates and incorporates the allegations set forth in
5 paragraphs 1-13 above as if fully set forth herein.

6 15. On May 7, 2002, United States Patent No. 6,384,850 entitled
7 “Information Management and Synchronous Communications System with Menu
8 Generation” (“the ‘850 patent”) (a true and copy of which is attached hereto as
9 **Exhibit A**) was duly and legally issued by the United States Patent & Trademark
10 Office.

11 16. Plaintiff Ameranth is the lawful owner by assignment of all right,
12 title and interest in and to the ‘850 patent.

13 17. On information and belief, Defendant directly infringes and
14 continues to directly infringe one or more valid and enforceable claims of the
15 ‘850 patent, in violation of 35 U.S.C. § 271(a) by making, using, offering for sale
16 or license and/or selling or licensing infringing software, systems, products,
17 and/or services in the United States without authority or license from Ameranth,
18 including but not limited to the MonkeyMedia Software, Software Platform
19 and/or system/product/service, which includes, *inter alia*, catering management,
20 wireless and internet point-of-sale (“POS”) integration, online and mobile
21 ordering, integration with payment processors, integration with third party
22 gift/loyalty programs/providers, integration with e-mail and affinity program and
23 social media applications such as Yelp, Facebook, Twitter, Instagram, Groupon,
24 and/or YouTube, and/or other third-party web-based applications, and other
25 hospitality aspects (all of which are referred to individually and collectively
26 herein as “MonkeyMedia Software Platform/System/Product/Service” and
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1 include, *inter alia*, MonkeyCatering, MonkeyOnlineOrdering and MonkeyMobile
2 and all modules available for integration therewith).

3 18. On information and belief, the MonkeyMedia
4 Software/Platform/System/Product/Service, as deployed and/or used at or from
5 one or more locations by MonkeyMedia, its agents, distributors, partners,
6 affiliates, licensees, and/or their customers, infringes one or more valid and
7 enforceable claims of the '850 patent, by, *inter alia*, doing at least one of the
8 following: (a) Generating and transmitting menus in a system including a central
9 processing unit, a data storage device, a computer operating system containing a
10 graphical user interface, one or more displayable main menus, modifier menus,
11 and sub-modifier menus, and application software for generating a second menu
12 and transmitting it to a wireless handheld computing device or a Web page;
13 and/or (b) Enabling ordering and other hospitality functions via iPhone, iPod and
14 other internet-enabled wireless handheld computing devices as well as via Web
15 pages, storing hospitality information and data on at least one central database, on
16 at 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 ordering, between at least one central
19 database, wireless handheld computing devices, and at least one Web server and
20 Web page; utilizing an interface that provides a single point of entry that allows
21 the synchronization of at least one wireless handheld computing device and at
22 least one Web page with at least one central database; allowing information to be
23 entered via Web pages, transmitted over the internet, and automatically
24 communicated to at least one central database and to wireless handheld
25 computing devices; allowing information to be entered via wireless handheld
26 computing devices, transmitted over the internet, and automatically
27 communicated to at least one central database and to Web pages.

1 19. On information and belief, defendant MonkeyMedia 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 20. On information and belief, customers of MonkeyMedia, including
6 consumers, caterers and restaurant operators, use the MonkeyMedia Software
7 Platform/System/Product/Service. MonkeyMedia provides instruction and
8 direction regarding the use of the MonkeyMedia Software
9 Platform/System/Product/Service, and advertises, promotes, and encourages the
10 use of the MonkeyMedia Software Platform/System/Product/Service.

11 21. On information and belief, the MonkeyMedia Software
12 Platform/System/Product/Service infringes one or more valid and enforceable
13 claims of the ‘850 patent for the reasons set forth hereinabove.

14 22. On information and belief, MonkeyMedia has had knowledge of
15 Ameranth’s patents asserted herein, , and knew or should have known that its
16 continued offering and deployment of the MonkeyMedia Software
17 Platform/System/Product/Service, and its continued support of consumers,
18 caterers, restaurant operators, and other users of this
19 software/system/product/service, would induce direct infringement by those
20 users. On information and belief, MonkeyMedia’s knowledge of the Ameranth
21 patents arises from the widespread industry recognition and acclaim received by
22 Ameranth’s invention, the publicity given to Ameranth’s patent enforcement
23 activity, and the fact that MonkeyMedia competes for business against one or
24 more entities that are licensed by Ameranth to practice Ameranth’s patented
25 technology. Additionally, on information and belief, MonkeyMedia intended that
26 its actions would induce direct infringement by those users.

1 23. On information and belief, Defendant 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(c).

4 24. By distributing, selling, offering, offering to sell or license and/or
5 selling or licensing the MonkeyMedia Software
6 Platform/System/Product/Service, MonkeyMedia provides non-staple articles of
7 commerce to others for use in infringing systems, products, and/or services.
8 Because of the specialized nature of the MonkeyMedia Software
9 Platform/System/Product/Service, it has no substantial non-infringing use.
10 Additionally, MonkeyMedia provides instruction and direction regarding the use
11 of the MonkeyMedia Software Platform/System/Product/Service, and advertises,
12 promotes, and encourages the use of the MonkeyMedia Software
13 Platform/System/Product/Service in a manner that practices Ameranth’s patented
14 invention. Users of one or more of the MonkeyMedia Software
15 Platform/System/Product/Service, including MonkeyMedia’s customers and
16 consumers who utilize such customers’ services, directly infringe one or more
17 valid and enforceable claims of the ‘850 patent for the reasons set forth
18 hereinabove.

19 25. On information and belief, the MonkeyMedia Software
20 Platform/System/Product/Service infringes one or more valid and enforceable
21 claims of the ‘850 patent, for the reasons set forth hereinabove.

22 26. On information and belief, MonkeyMedia has had knowledge of the
23 ‘850 patent, including knowledge that the MonkeyMedia Software
24 Platform/System/Product/Service, which is a non-staple article of commerce, has
25 been used as a material part of the claimed invention of the ‘850 patent, and that
26 there are no substantial non-infringing uses for the MonkeyMedia Software
27 Platform/System/Product/Service.

1 32. On information and belief, Defendant directly infringes and
2 continues to directly infringe one or more valid and enforceable claims of the
3 ‘325 patent, in violation of 35 U.S.C. § 271(a) by making, using, offering for sale
4 or license and/or selling or licensing infringing software, systems, products,
5 and/or services in the United States without authority or license from Ameranth,
6 including but not limited to the MonkeyMedia Software
7 Platform/System/Product/Service.

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

1 34. On information and belief, Defendant has indirectly infringed and
2 continues to indirectly infringe one or more valid and enforceable claims of the
3 ‘325 patent, in violation of 35 U.S.C. § 271(b), by actively, knowingly, and
4 intentionally inducing direct infringement by other persons.

5 35. On information and belief, customers of MonkeyMedia, including
6 consumers, caterers and restaurant operators, use the MonkeyMedia Software
7 Platform/System/Product/Service in a manner that infringes upon one or more
8 valid and enforceable claims of the ‘325 patent. MonkeyMedia provides
9 instruction and direction regarding the use of the MonkeyMedia Software
10 Platform/System/Product/Service and advertises, promotes, and encourages the
11 use of the MonkeyMedia Software Platform/System/Product/Service in a manner
12 that infringes Ameranth’s patents.

13 36. On information and belief, Defendant actively induces others to
14 infringe the ‘325 patent in violation of 35 U.S.C. §271(b) by knowingly
15 encouraging, aiding and abetting customers of MonkeyMedia, including
16 consumers, caterers and restaurant operators, to use the infringing MonkeyMedia
17 Software Platform/System/Product/Service in the United States without authority
18 or license from Ameranth.

19 37. On information and belief, Defendant contributorily infringes and
20 continues to contributorily infringe one or more valid and enforceable claims of
21 the ‘325 patent, in violation of 35 U.S.C. § 271(c) by offering to sell and/or
22 selling components of systems on which claims of the ‘325 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 ‘325 patent and
25 have no substantial non-infringing use.

26 38. By distributing, selling, offering, offering to sell or license and/or
27 selling or licensing the MonkeyMedia Software
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1 Platform/System/Product/Service, Defendant provides non-staple articles of
2 commerce to others for use in infringing systems, products, and/or services.
3 Additionally, MonkeyMedia provides instruction and direction regarding the use
4 of the MonkeyMedia Software Platform/System/Product/Service and advertises,
5 promotes, and encourages the use of the MonkeyMedia Software
6 Platform/System/Product/Service in a manner that practices Ameranth's patented
7 invention. Users of the MonkeyMedia Software
8 Platform/System/Product/Service, including MonkeyMedia's customers and
9 consumers who utilize such customers' services, directly infringe one or more
10 valid and enforceable claims of the '325 patent, for the reasons set forth
11 hereinabove.

12 39. On information and belief, the MonkeyMedia Software
13 Platform/System/Product/Service infringes one or more valid and enforceable
14 claims of the '325 patent, for the reasons set forth hereinabove.

15 40. On information and belief, MonkeyMedia has had knowledge of the
16 '325 patent, including knowledge that the MonkeyMedia Software
17 Platform/System/Product/Service, which is a non-staple articles of commerce,
18 has been used as a material part of the claimed invention of the '325 patent, and
19 that there are no substantial non-infringing uses for the MonkeyMedia Software
20 Platform/System/Product/Service.

21 41. On information and belief, the aforesaid infringing activities of
22 Defendant MonkeyMedia have been done with knowledge and willful disregard
23 of Ameranth's patent rights, making this an exceptional case within the meaning
24 of 35 U.S.C. § 285. On information and belief, MonkeyMedia is aware of
25 Ameranth's patents and that other companies against which MonkeyMedia
26 competes for business are licensed to practice Ameranth's patents, but
27 knowingly, intentionally and willfully continues to sell, offer to sell, license,
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1 provide and manufacture its infringing product/service without license from
2 Ameranth.

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

9 **COUNT III**

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

11 **(35 U.S.C. § 271)**

12 43. Plaintiff reiterates and incorporates the allegations set forth in
13 paragraphs 1-42 above as if fully set forth herein.

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

19 45. Plaintiff Ameranth is the lawful owner by assignment of all right,
20 title and interest in and to the ‘077 patent.

21 46. On information and belief, Defendant directly infringes and
22 continues to directly infringe one or more valid and enforceable claims of the
23 ‘077 patent, in violation of 35 U.S.C. § 271(a) by making, using, offering for sale
24 or license and/or selling or licensing infringing systems, products, and/or services
25 in the United States without authority or license from Ameranth, including but
26 not limited to the MonkeyMedia Software Platform/System/Product/Service.
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1 47. On information and belief, the MonkeyMedia Software
2 Platform/System/Product/Service, as deployed and/or used at or from one or
3 more locations by MonkeyMedia, its agents, distributors, partners, affiliates,
4 licensees, and/or their customers, infringes one or more valid and enforceable
5 claims of the '077 patent, by, *inter alia*, doing at least one of the following: (a)
6 Configuring and transmitting menus in a system including a central processing
7 unit, a data storage device, a computer operating system containing a graphical
8 user interface, one or more displayable master menus, menu configuration
9 software enabled to generate a menu configuration for a wireless handheld
10 computing device in conformity with a customized display layout, and enabled
11 for synchronous communications and to format the menu configuration for a
12 customized display layout of at least two different wireless handheld computing
13 device display sizes, and/or (b) Enabling ordering and other hospitality functions
14 via iPhone, iPod and other internet-enabled wireless handheld computing devices
15 as well as via Web pages, storing hospitality information and data on at least one
16 database, on at least one wireless handheld computing device, and on at least one
17 Web server and Web page, and synchronizing applications and data, including
18 but not limited to applications and data relating to orders, between at least one
19 database, wireless handheld computing devices, and at least one Web server and
20 Web page; utilizing communications control software enabled to link and
21 synchronize hospitality information between at least one database, wireless
22 handheld computing device, and web page, to display information on web pages
23 and on different wireless handheld computing device display sizes, and to allow
24 information to be entered via Web pages, transmitted over the internet, and
25 automatically communicated to at least one database and to wireless handheld
26 computing devices; allowing information to be entered via wireless handheld
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1 computing devices, transmitted over the internet, and automatically
2 communicated to at least one database and to Web pages.

3 48. On information and belief, Defendant has indirectly infringed and
4 continues to indirectly infringe one or more valid and enforceable claims of the
5 ‘077 patent, in violation of 35 U.S.C. § 271(b), by actively, knowingly, and
6 intentionally inducing direct infringement by other persons, including
7 MonkeyMedia’s customers and the consumers who utilize such customers’
8 services.

9 49. On information and belief, customers of MonkeyMedia, including
10 consumers caterers and restaurant operators, use the MonkeyMedia Software
11 Platform/System/Product/Service in a manner that infringes upon one or more
12 valid and enforceable claims of the ‘077 patent. MonkeyMedia provides
13 instruction and direction regarding the use of the MonkeyMedia Software
14 Platform/System/Product/Service and advertises, promotes, and encourages the
15 use of the MonkeyMedia Software Platform/System/Product/Service in a manner
16 that practices Ameranth’s patented invention.

17 50. On information and belief, Defendant actively induces others to
18 infringe the ‘077 patent in violation of 35 U.S.C. §271(b) by knowingly
19 encouraging, aiding and abetting customers of MonkeyMedia, including
20 consumers, caterers and restaurant operators, to use the infringing MonkeyMedia
21 Software Platform/System/Product/Service in the United States without authority
22 or license from Ameranth.

23 51. On information and belief, Defendant contributorily infringes and
24 continues to contributorily infringe one or more valid and enforceable claims of
25 the ‘077 patent, in violation of 35 U.S.C. § 271(c) by offering to sell and/or
26 selling components of systems on which claims of the ‘077 patent read,
27 constituting a material part of the invention, knowing that the components were
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1 especially adapted for use in systems which infringe claims of the '077 patent and
2 have no substantial non-infringing use.

3 52. By distributing, selling, offering, offering to sell or license and/or
4 selling or licensing the MonkeyMedia Software
5 Platform/System/Product/Service, Defendant provides non-staple articles of
6 commerce to others for use in infringing systems, products, and/or services.
7 Additionally, MonkeyMedia provides instruction and direction regarding the use
8 of the MonkeyMedia Software Platform/System/Product/Service and advertises,
9 promotes, and encourages the use of the MonkeyMedia Software
10 Platform/System/Product/Service in a manner that practices Ameranth's patented
11 invention. Users of the MonkeyMedia Software
12 Platform/System/Product/Service, including MonkeyMedia's customers and the
13 consumers who utilize such customers' services, directly infringe one or more
14 valid and enforceable claims of the '077 patent, for the reasons set forth
15 hereinabove.

16 53. On information and belief, each of the MonkeyMedia Software
17 Platform/System/Product/Service infringes one or more valid and enforceable
18 claims of the '077 patent, for the reasons set forth hereinabove.

19 54. On information and belief, MonkeyMedia has had knowledge of the
20 '077 patent, including knowledge that the MonkeyMedia Software
21 Platform/System/Product/Service, which is a non-staple article of commerce, has
22 been used as a material part of the claimed invention of the '077 patent, and that
23 there are no substantial non-infringing uses for the MonkeyMedia Software
24 Platform/System/Product/Service.

25 55. On information and belief, the aforesaid infringing activities of
26 Defendant MonkeyMedia have been done with knowledge and willful disregard
27 of Ameranth's patent rights, making this an exceptional case within the meaning
28

1 of 35 U.S.C. § 285. On information and belief, MonkeyMedia is aware of
2 Ameranth's patents and that other companies against which MonkeyMedia
3 competes for business are licensed to practice Ameranth's patents, but
4 knowingly, intentionally and willfully continues to sell, offer to sell, license,
5 provide and manufacture its infringing product/service without license from
6 Ameranth.

7 56. The aforesaid infringing activity of Defendant MonkeyMedia has
8 directly and proximately caused damage to plaintiff Ameranth, including loss of
9 profits from sales and/or licensing revenues it would have made but for the
10 infringements. Unless enjoined, the aforesaid infringing activity will continue
11 and cause irreparable injury to Ameranth for which there is no adequate remedy
12 at law.

13 **PRAYER FOR RELIEF**

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

16 1. Adjudging that the manufacture, use, offer for sale or license and /or
17 sale or license of the MonkeyMedia Software Platform/System/Product/Service
18 infringes valid and enforceable claims of the '850 patent, and the '325 patent, and
19 the '077 patent, as set forth hereinabove;

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

23 3. Adjudging that Defendant's infringement of the valid and
24 enforceable claims of the '850 patent, and the '325 patent, and the '077 patent,
25 has been knowing and willful;

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

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

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

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

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

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

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DEMAND FOR JURY TRIAL

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

Respectfully submitted,

Dated: April 5, 2013

CALDARELLI HEJMANOWSKI & PAGE LLP

By: /s/ William J. Caldarelli
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