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

AMERANTH, INC.,

Plaintiff,

v.

APPLE, INC.,

Defendant.

Case No. 12-CV-2350-H -BGS

**FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

1 **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., (herein “Ameranth”) for its First Amended Complaint against  
3 defendant Apple, Inc. (herein “Apple” or “Defendant”), avers as follows:

4 **PARTIES**

5 1. Plaintiff Ameranth is a Delaware corporation having a principal place of business at  
6 5820 Oberlin Drive, Suite 202, San Diego, California 92121. Ameranth develops,  
7 manufactures and sells, *inter alia*, hospitality industry, entertainment, restaurant and food  
8 service information technology solutions under the trademarks 21<sup>st</sup> Century  
9 Communications™, and 21st Century Restaurant™, among others, comprising the  
10 synchronization and integration of hospitality information and hospitality software applications  
11 between fixed, wireless and/or internet applications, including but not limited to computer  
12 servers, web servers, databases, affinity/social networking systems, desktop computers,  
13 laptops, “smart” phones and other wireless handheld computing devices. Ameranth’s  
14 “Information Management and Synchronous Communications” patent family has been widely  
15 recognized as visionary, and the original patent in this family, U.S. Patent No. 6,384,850, was  
16 cited as a prior art reference by the USPTO in two Apple iPhone patents issued to named  
17 inventors Bas Ording and Steven P. Jobs (thus having put Apple on notice as to this Ameranth  
18 patent at least as early as March 31, 2010). Fourteen companies have licensed patents in this  
19 Ameranth patent family.

20 2. Defendant Apple is, on information and belief, a California corporation having a  
21 principal place of business and headquarters in Cupertino, California. On information and  
22 belief, Apple makes, uses, sells and/or offers for sale, computer technology products, including  
23 personal computers, mobile communications devices, portable digital music and video players  
24 and related hardware, software, components and/or systems within this Judicial District,  
25 including Apple’s integrated Passbook System (“PBS”), which includes the “pass styles” that  
26 Apple has defined as “boarding pass” and “event ticketing” applications within Passbook, and  
27 which permits the management, maintenance, downloading, and/or storage of, *inter alia*,  
28 airline boarding passes, hotel reservations, movie tickets, and event tickets, and is integrated

1 with iPhone 5 and other iPhone and iPod Touch devices that are running Apple's iOS 6  
2 software, and linked to/with Apple's iCloud, the "Apple Notification Service", and Apple's  
3 Safari browser. Apple has already announced and/or implemented Passbook partnerships  
4 integrating Passbook-enabled systems with entities that are defendants in other Ameranth  
5 patent enforcement actions, including Ticketmaster, StubHub, Starwood Hotels, Fandango, and  
6 others, as well as integrating Apple's Siri speech-recognition and voice control/command  
7 application ("Siri") with the system of yet another defendant in an Ameranth patent  
8 enforcement action, OpenTable. Industry analysts have called Passbook a "game changer."  
9 Apple senior vice president Scott Forstall, in demonstrating Passbook with stored tickets and  
10 passes including movie tickets, airline boarding passes, and concert tickets, asserted that  
11 "Passbook is the best way to collect all of your passes in one place." As Apple describes it,  
12 within the Passbook application itself, "Passbook is the simplest way to get all your passes in  
13 one place. Passbook puts your boarding passes, movie tickets, retail coupons, loyalty cards,  
14 and more all in one place. They'll also be ready on your lock screen at just the right time and  
15 place. You can add passes to Passbook through apps, emails, and websites from participating  
16 airlines, theatres, stores and more."

### 17 JURISDICTION AND VENUE

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

20 4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

21 5. On information and belief, Apple engages in the offer for sale or license and sale or  
22 license of computer technology products, including personal computers, mobile  
23 communications devices, portable digital music and video players and related hardware,  
24 software, components and/or systems, including within this Judicial District, including the PBS  
25 and Siri as defined herein.

26 6. This Court has personal jurisdiction over Apple because Apple commits acts of  
27 patent infringement in this Judicial District including, *inter alia*, making, using, offering for  
28

1 sale or license, and/or selling or licensing infringing services, products, software, components  
2 and/or systems in this Judicial District.

3 7. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b) and (c) and  
4 1400(b).

5 **BACKGROUND**

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

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

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

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

23 12. The Ameranth patents asserted herein, U.S. Patent No. 6,384,850 (the "850 patent"),  
24 U.S. Patent No. 6,871,325 (the "325 patent"), U.S. Patent No. 6,982,733 (the "733 patent"),  
25 and U.S. Patent No. 8,146,077 (the "077 patent"), are all patents in Ameranth's "Information  
26 Management and Synchronous Communications" patent family.

27 13. Apple is well aware of this Ameranth patent family. One of the Ameranth patents-  
28 in-suit, U.S. Patent No. 6,384,850 – the first patent issued in this Ameranth patent family – was

1 cited as a prior art reference in two Apple iPhone patents issued to named inventors Bas  
2 Ording and Steven P. Jobs. Also, three of the patents in this Ameranth patent family have been  
3 asserted in several patent enforcement actions against Apple business partners, as noted above.  
4 Further, Apple has had knowledge of this lawsuit, and the claims asserted herein, since the  
5 filing of the original complaint in September of 2012, and has continued its infringing activities  
6 nonetheless.

#### 7 **RELATED CASES PREVIOUSLY FILED**

8 14. Ameranth is also currently asserting claims of patents in this patent family in  
9 separate lawsuits, against other defendants, that are already pending in this Court. The first-  
10 filed lawsuit asserts claims of the '850 and '325 patents and is entitled *Ameranth v. Pizza Hut,*  
11 *Inc. et al.*, Case No. 3:11-cv-01810-JLS-NLS. Lawsuits subsequently filed by Ameranth in  
12 this Court, also asserting claims of the '077 patent, include but are not limited to Case Nos.  
13 3:12-cv-00729-JLS-NLS; 3:12-cv-00731-JLS-NLS; 3:12-cv-00732-JLS-NLS; 3:12-cv-00733-  
14 JLS-NLS; 3:12-cv-00737-JLS-NLS; 3:12-cv-00738-JLS-NLS; 3:12-cv-00739-JLS-NLS; 3:12-  
15 cv-00742-JLS-NLS, and 3:12-cv-00858-JLS-NLS.

#### 16 **PASSBOOK**

17 15. In or about September 2012, Apple introduced Passbook, a product/service available  
18 on iPhone and iPod Touch devices that are running Apple's iOS 6 software. (This includes  
19 both the larger-screen iPhone 5 devices and the smaller-screen iPhone 4 and 4S devices; iOS 6  
20 enables software to be written so that the linked user interface screens are presented in the  
21 screen dimensions that correspond to each user's iPhone screen size and characteristics.)

22 16. Adoption of Passbook has been swift. For example, one writer reported a marketing  
23 study that Passbook was responsible for "hundreds of thousands" of transactions just in the  
24 first few months after its introduction. American Airlines reported in fall 2012 that it processes  
25 about 20,000 Passbook passes each day and that it has about 1.5 million active Passbook users.  
26 Apple encourages and supports the adoption, use and spreading of Passbook. Apple has  
27 created, and entered into with developers and companies using Passbook, various agreements  
28 to govern and encourage the use of Passbook, including the "Passbook Marketing Agreement"

1 and the “iOS Developer Program License Agreement”, and Apple has provided detailed  
2 documentation to developers and companies to instruct, promote, and further encourage the  
3 widespread use of Passbook. As one American Airlines official stated regarding American  
4 Airlines’ implementation of Passbook: “Apple did a really good job of defining the spec and  
5 putting out all the required technical documents. It was one of the more straightforward  
6 implementations for our tech team.”

7 17. The Passbook “pass styles” that Apple has defined as “boarding pass” and “event  
8 ticketing” permit the management, maintenance, downloading, and/or storage of, *inter alia*,  
9 airline boarding passes, hotel reservations, movie tickets, restaurant gift cards, and event  
10 tickets to an iPhone or iPod Touch, from which the ticket or boarding pass can be displayed  
11 and scanned at, for example, the appropriate movie theatre, event venue, hotel, or airport.  
12 Passbook now features, for example, AMC and Fandango movie tickets, Major League  
13 Baseball game tickets, Ticketmaster, LiveNation, StubHub, Eventbrite, Ticketfly,  
14 Ticketbiscuit, Interactive Ticketing, and Goldstar event tickets, gift cards for restaurants and  
15 other establishments, Starbucks Coffee prepaid cards and loyalty cards, Starwood hotel  
16 reservations and loyalty cards (including a unique Passbook card for each of Starwood’s more  
17 than 1,000 properties), tours and other hospitality events booked through Checkfront, Discover  
18 e-certificates/loyalty bonuses, and Amtrak, American Airlines, Delta Airlines, Air Canada,  
19 Lufthansa, and United Airlines tickets and boarding passes.

20 18. Passbook may be used by downloading a Passbook-compatible app (*e.g.*, for  
21 Fandango, Ticketmaster, StubHub, Eventbrite, Delta Airlines, or United Airlines) from Apple’s  
22 “App Store” for the merchant corresponding to the “tickets” that are to be stored in Passbook.  
23 On information and belief, Apple reviews and tests each app (including Passbook-compatible  
24 apps), including testing the app on iPhones and/or iPod Touch devices, prior to approving the  
25 app to appear in the Apple App Store for downloading by consumers, and Apple provides  
26 detailed instructions to app developers to test their own apps on iPhones and/or iPod Touch  
27 devices prior to submitting the app to Apple for approval.

1 19. Another way of using Passbook is by receiving a confirmation e-mail, text, or instant  
2 message after a consumer purchase is made (*e.g.*, for event tickets), and then clicking a  
3 “Download to Passbook” link in said message, after which the consumer’s “tickets” are  
4 automatically stored in Passbook. Additionally, web sites and web pages can include Passbook  
5 passes as attachments or links, automatically storing them in Passbook after the link is clicked  
6 or tapped. Boarding passes, event tickets, and other Passbook passes can be added directly to  
7 Passbook via an “Add to Passbook” badge created and distributed by Apple for placement  
8 within iOS apps, emails, and web pages.

9 20. Additional Passbook features include the capability to remind a consumer, for  
10 example (depending on which type of “pass” is stored on the iPhone or iPod Touch), which  
11 airport terminal their plane will depart from, where in an auditorium their concert seats are, or  
12 how much money is remaining on a prepaid Starbucks card, utilizing Passbook’s time-based  
13 and location-based synchronization. (Passbook uses “Data Detectors” to automatically add  
14 links to the text in the menu display fields on the back of a pass. Website URLs, street  
15 addresses and phone numbers are automatically detected by Passbook and turned into tappable  
16 web hyperlinks.) Passbook also uses Apple’s iCloud cloud storage to keep a Passbook user’s  
17 passes and related data synchronized on multiple connected devices. Passbook passes can be  
18 updated and synchronized via Apple Push Notifications utilizing Apple’s servers. Mobile  
19 payment services, including Square, can be integrated with Passbook so that payment cards or  
20 gift cards are automatically imported into Passbook and synchronized across all of a user’s  
21 devices via iCloud, enabling payment/redemption at the point of purchase via Passbook.

## 22 COUNT I

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

#### 24 **(35 U.S.C. § 271)**

25 21. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-20 above  
26 as if fully set forth herein.

27 22. On May 7, 2002, United States Patent No. 6,384,850 entitled “Information  
28 Management and Synchronous Communications System with Menu Generation” (“the ‘850



1 patent”) (a true and copy of which is attached hereto as **Exhibit A**) was duly and legally issued  
2 by the United States Patent & Trademark Office.

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

5 24. On information and belief, Apple directly infringes and continues to directly infringe  
6 one or more valid and enforceable claims of the ‘850 patent, in violation of 35 U.S.C. § 271(a),  
7 by making, using, offering for sale or license and/or selling or licensing infringing systems,  
8 products, and/or services in the United States without authority or license from Ameranth,  
9 including but not limited to the Apple products/services that include, *inter alia*, the Passbook  
10 System (hereinafter “PBS”) which includes the “pass styles” that Apple has defined as  
11 “boarding pass” and “event ticketing” applications within Passbook, which permits the  
12 management, maintenance, downloading, and/or storage of, *inter alia*, airline boarding passes,  
13 hotel reservations, movie tickets, and event tickets, and is integrated with iPhone 5 and other  
14 iPhone and iPod Touch devices that are running Apple’s iOS 6 software, and linked to/with  
15 Apple’s iCloud, the “Apple Notification Service”, and Apple’s Safari web browser.

16 25. On information and belief, defendant Apple has indirectly infringed and continues to  
17 indirectly infringe one or more valid and enforceable claims of the ‘850 patent, in violation of  
18 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by  
19 other persons, by making, using, offering for sale or license and/or selling or licensing  
20 infringing systems, products, and/or services in the United States without authority or license  
21 from Ameranth, including but not limited to PBS.

22 26. Apple infringes by its own actions and through, or in concert with, agents of Apple  
23 who are under the direction and control of Apple by virtue of contractual agreements between  
24 Apple and such parties, including, for example, IOS Developer Program Licensing Agreements  
25 and Passbook Marketing Agreements.

26 27. On information and belief, systems including the PBS, as deployed and/or used by  
27 Apple, its agents, distributors, partners, affiliates, licensees, third-party businesses, and/or their  
28 customers, infringe one or more valid and enforceable claims of the ‘850 patent, by, *inter alia*,

1 doing, or providing the capability for doing, at least one of the following: (a) Generating and  
2 transmitting menus in a system including a central processing unit, a data storage device, a  
3 computer operating system containing a graphical user interface, one or more displayable main  
4 menus, modifier menus, and sub-modifier menus, and application software for generating a  
5 second menu and transmitting it to a wireless handheld computing device or a Web page;  
6 and/or (b) Enabling ticketing, reservations, and other hospitality functions via iPhone and iPod  
7 Touch devices, storing hospitality information and data on at least one central database, on at  
8 least one wireless handheld computing device, and on at least one Web server and Web page,  
9 and synchronizing applications and data, including but not limited to applications and data  
10 relating to ordering, between at least one central database, wireless handheld computing  
11 devices, and at least one Web server and Web page; utilizing an interface that provides a single  
12 point of entry that allows the synchronization of at least one wireless handheld computing  
13 device and at least one Web page with at least one central database; allowing information to be  
14 entered via Web pages, transmitted over the internet, and automatically communicated to at  
15 least one central database and to wireless handheld computing devices; allowing information to  
16 be entered via wireless handheld computing devices, transmitted over the internet, and  
17 automatically communicated to at least one central database and to Web pages.

18 28. On information and belief, customers of Apple use the PBS in a manner that  
19 infringes upon one or more valid and enforceable claims of the '850 patent. Apple provides  
20 instruction and direction regarding the use of the PBS and advertises, promotes, and  
21 encourages the use of the PBS.

22 29. On information and belief, Apple actively induces others to infringe the '850 patent  
23 in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting customers of  
24 Apple, including consumers and those businesses identified elsewhere in this complaint, to use  
25 the infringing PBS in the United States without authority or license from Ameranth. For  
26 example, Apple describes its PBS as an "Ecosystem": "There are three major parts to the  
27 Passbook life cycle; creation, management and redemption. Passbook handles the middle, it  
28

1 lets users view and manage their passes and provides lock screen integration. You are  
2 responsible for the two ends; creating passes and redeeming passes.”

3 30. On information and belief, Apple contributorily infringes and continues to  
4 contributorily infringe one or more valid and enforceable claims of the ‘850 patent, in violation  
5 of 35 U.S.C. § 271(c), by offering to sell and/or selling components of systems on which  
6 claims of the ‘850 patent read, constituting a material part of the invention, knowing that the  
7 components were especially adapted for use in systems which infringe claims of the ‘850  
8 patent.

9 31. By distributing, selling, offering, offering to sell or license and/or selling or licensing  
10 the PBS, Apple provides non-staple articles of commerce to others, including those businesses  
11 identified elsewhere in this complaint, for use in infringing systems, products, and/or services.  
12 Additionally, Apple provides instruction and direction regarding the use of the PBS and  
13 advertises, promotes, and encourages the use of the PBS. Users of the PBS directly infringe  
14 one or more valid and enforceable claims of the ‘850 patent, for the reasons set forth  
15 hereinabove.

16 32. Apple has long had knowledge of the ‘850 patent, as set forth above, at least as early  
17 as March 31, 2010, and has long had knowledge including that the PBS “boarding pass” and  
18 “event ticketing” pass styles, which are non-staple articles of commerce, have been used by  
19 others, including those businesses identified elsewhere in this complaint, as a material part of  
20 the claimed invention of the ‘850 patent, and that there are no substantial non-infringing uses  
21 for the PBS.

22 33. On information and belief, the aforesaid infringing activities of defendant Apple have  
23 been done with knowledge and willful disregard of Ameranth’s patent rights, making this an  
24 exceptional case within the meaning of 35 U.S.C. § 285.

25 34. The aforesaid infringing activity of defendant Apple has directly and proximately  
26 caused damage to plaintiff Ameranth, including loss of profits it would have made but for the  
27 infringements. Unless enjoined, the aforesaid infringing activity will continue and cause  
28 irreparable injury to Ameranth for which there is no adequate remedy at law.

**COUNT II**

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

**(35 U.S.C. § 271)**

1  
2  
3  
4 35. Plaintiff reiterates and reincorporates the allegations set forth in paragraphs 1-34  
5 above as if fully set forth herein.

6 36. On March 22, 2005, United States Patent No. 6,871,325 entitled “Information  
7 Management and Synchronous Communications System with Menu Generation” (“the ‘325  
8 patent”) (a true and correct copy of which is attached hereto as **Exhibit B**) was duly and legally  
9 issued by the United States Patent & Trademark Office.

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

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

17 39. On information and belief, defendant Apple has indirectly infringed and continues to  
18 indirectly infringe one or more valid and enforceable claims of the ‘325 patent, in violation of  
19 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by  
20 other persons, by making, using, offering for sale or license and/or selling or licensing  
21 infringing systems, products, and/or services in the United States without authority or license  
22 from Ameranth, including but not limited to the PBS.

23 40. Apple infringes by its own actions and through, or in concert with, agents of Apple  
24 who are under the direction and control of Apple by virtue of contractual agreements between  
25 Apple and such parties, including, for example, IOS Developer Program Licensing Agreements  
26 and Passbook Marketing Agreements.

27 41. On information and belief, systems including the PBS, as deployed and/or used by  
28 Apple, its agents, distributors, partners, affiliates, licensees, third-party businesses, and/or their

1 customers, infringe one or more valid and enforceable claims of the ‘325 patent, by, *inter alia*,  
2 doing, or providing the capability for doing, at least one of the following: (a) Generating and  
3 transmitting menus in a system including a central processing unit, a data storage device, a  
4 computer operating system containing a graphical user interface, one or more displayable main  
5 menus, modifier menus, and sub-modifier menus, and application software for generating a  
6 second menu and transmitting it to a wireless handheld computing device or a Web page;  
7 and/or (b) Enabling ticketing, reservations, and other hospitality functions via iPhone and iPod  
8 Touch devices as well as via Web pages, storing hospitality information and data on at least  
9 one central database, on at least one wireless handheld computing device, and on at least one  
10 Web server and Web page, and synchronizing applications and data, including but not limited  
11 to applications and data relating to orders, between at least one central database, wireless  
12 handheld computing devices, and at least one Web server and Web page.

13 42. On information and belief, customers of Apple use the PBS in a manner that  
14 infringes upon one or more valid and enforceable claims of the ‘325 patent. Apple provides  
15 instruction and direction regarding the use of the PBS and advertises, promotes, and  
16 encourages the use of the PBS.

17 43. On information and belief, Apple actively induces others to infringe the ‘325 patent  
18 in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting customers of  
19 Apple, including consumers and those businesses identified elsewhere in this complaint, to use  
20 the infringing PBS in the United States without authority or license from Ameranth. For  
21 example, Apple describes its PBS as an “Ecosystem”: “There are three major parts to the  
22 Passbook life cycle; creation, management and redemption. Passbook handles the middle, it  
23 lets users view and manage their passes and provides lock screen integration. You are  
24 responsible for the two ends; creating passes and redeeming passes.”

25 44. On information and belief, Apple contributorily infringes and continues to  
26 contributorily infringe one or more valid and enforceable claims of the ‘325 patent, in violation  
27 of 35 U.S.C. § 271(c), by offering to sell and/or selling components of systems on which  
28 claims of the ‘325 patent read, constituting a material part of the invention, knowing that the

1 components were especially adapted for use in systems which infringe claims of the '325  
2 patent.

3 45. By distributing, selling, offering, offering to sell or license and/or selling or licensing  
4 the PBS, Apple provides non-staple articles of commerce to others, including those businesses  
5 identified elsewhere in this complaint, for use in infringing systems, products, and/or services.  
6 Additionally, Apple provides instruction and direction regarding the use of the PBS and  
7 advertises, promotes, and encourages the use of the PBS. Users of the PBS directly infringe  
8 one or more valid and enforceable claims of the '325 patent, for the reasons set forth  
9 hereinabove.

10 46. Apple has had knowledge of the '325 patent, at least as early as the filing of this  
11 complaint, including knowledge that the PBS "boarding pass" and "event ticketing" pass  
12 styles, which are non-staple articles of commerce, have been used by others, including those  
13 businesses identified elsewhere in this complaint, as a material part of the claimed invention of  
14 the '325 patent, and that there are no substantial non-infringing uses for the PBS.

15 47. On information and belief, the aforesaid infringing activities of defendant Apple have  
16 been done with knowledge and willful disregard of Ameranth's patent rights, making this an  
17 exceptional case within the meaning of 35 U.S.C. § 285.

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

22 **COUNT III**

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

24 **(35 U.S.C. § 271)**

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

27 50. On January 3, 2006, United States Patent No. 6,982,733 entitled "Information  
28 Management and Synchronous Communications System with Menu Generation, and

1 Handwriting and Voice Modification of Orders” (“the ‘733 patent”) (a true and correct copy of  
2 which is attached hereto as **Exhibit C**) was duly and legally issued by the United States Patent  
3 & Trademark Office.

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

6 52. Siri is a speech-recognition and voice control/command application available on  
7 certain models of the iPhone and iPod Touch. With iOS 6, Siri is integrated with third-party  
8 systems/products/services including, *inter alia*, OpenTable. Siri sends commands through a  
9 remote server using a wireless data connection.

10 53. On information and belief, Apple directly infringes and continues to directly infringe  
11 one or more valid and enforceable claims of the ‘733 patent, in violation of 35 U.S.C. § 271(a),  
12 by making, using, offering for sale or license and/or selling or licensing infringing systems,  
13 products, and/or services in the United States without authority or license from Ameranth,  
14 including but not limited to the PBS and Siri.

15 54. On information and belief, defendant Apple has indirectly infringed and continues to  
16 indirectly infringe one or more valid and enforceable claims of the ‘733 patent, in violation of  
17 35 U.S.C. § 271(b), by actively, knowingly, and intentionally inducing direct infringement by  
18 other persons, by making, using, offering for sale or license and/or selling or licensing  
19 infringing systems, products, and/or services in the United States without authority or license  
20 from Ameranth, including but not limited to the PBS and Siri.

21 55. Apple infringes by its own actions and through, or in concert with, agents of Apple  
22 who are under the direction and control of Apple by virtue of contractual agreements between  
23 Apple and such parties, including, for example, IOS Developer Program Licensing Agreements  
24 and Passbook Marketing Agreements.

25 56. On information and belief, systems including one or more of the PBS, and/or Siri, as  
26 deployed and/or used by Apple, its agents, distributors, partners, affiliates, licensees, third-party  
27 businesses, and/or their customers, infringe one or more valid and enforceable claims of the  
28 ‘733 patent, by doing, or providing the capability for doing, at least one of the following: (a)

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

23 57. On information and belief, customers of Apple use the PBS and Siri in a manner that  
24 infringes upon one or more valid and enforceable claims of the '733 patent. Apple provides  
25 instruction and direction regarding the use of the PBS and Siri and advertises, promotes, and  
26 encourages the use of the PBS and Siri.

27 58. On information and belief, Apple actively induces others to infringe the '733 patent  
28 in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting customers of



1 Apple, including consumers and those businesses identified elsewhere in this complaint, to use  
2 the infringing PBS and Siri in the United States without authority or license from Ameranth.  
3 For example, Apple describes its PBS as an “Ecosystem”: “There are three major parts to the  
4 Passbook life cycle; creation, management and redemption. Passbook handles the middle, it  
5 lets users view and manage their passes and provides lock screen integration. You are  
6 responsible for the two ends; creating passes and redeeming passes.”

7 59. On information and belief, Apple contributorily infringes and continues to  
8 contributorily infringe one or more valid and enforceable claims of the ‘733 patent, in violation  
9 of 35 U.S.C. § 271(c), by offering to sell and/or selling components of systems on which  
10 claims of the ‘733 patent read, constituting a material part of the invention, knowing that the  
11 components were especially adapted for use in systems which infringe claims of the ‘733  
12 patent.

13 60. By distributing, selling, offering, offering to sell or license and/or selling or licensing  
14 the PBS, Apple provides non-staple articles of commerce to others, including those businesses  
15 identified elsewhere in this complaint, for use in infringing systems, products, and/or services.  
16 Additionally, Apple provides instruction and direction regarding the use of the PBS and  
17 advertises, promotes, and encourages the use of the PBS. Users of the PBS directly infringe  
18 one or more valid and enforceable claims of the ‘733 patent, for the reasons set forth  
19 hereinabove.

20 61. Apple has had knowledge of the ‘733 patent, at least as early as the filing of this  
21 complaint, including knowledge that the PBS “boarding pass” and “event ticketing” pass  
22 styles, which are non-staple articles of commerce, have been used by others, including those  
23 businesses identified elsewhere in this complaint, as a material part of the claimed invention of  
24 the ‘733 patent, and that there are no substantial non-infringing uses for the PBS.

25 62. On information and belief, the aforesaid infringing activities of defendant Apple have  
26 been done with knowledge and willful disregard of Ameranth’s patent rights, making this an  
27 exceptional case within the meaning of 35 U.S.C. § 285.



1 69. Apple infringes by its own actions and through, or in concert with, agents of Apple  
2 who are under the direction and control of Apple by virtue of contractual agreements between  
3 Apple and such parties, including, for example, IOS Developer Program Licensing Agreements  
4 and Passbook Marketing Agreements.

5 70. On information and belief, systems including the PBS, as deployed and/or used by  
6 Apple, its agents, distributors, partners, affiliates, licensees, third-party businesses, and/or their  
7 customers, infringe one or more valid and enforceable claims of the '077 patent, by, *inter alia*,  
8 doing, or providing the capability for doing, at least one of the following: (a) Configuring and  
9 transmitting menus in a system including a central processing unit, a data storage device, a  
10 computer operating system containing a graphical user interface, one or more displayable  
11 master menus, menu configuration software enabled to generate a menu configuration for a  
12 wireless handheld computing device in conformity with a customized display layout, and  
13 enabled for synchronous communications and to format the menu configuration for a  
14 customized display layout of at least two different wireless handheld computing device display  
15 sizes, and/or (b) Enabling ticketing, reservations, and other hospitality functions via iPhone and  
16 iPod Touch devices as well as via Web pages, storing hospitality information and data on at  
17 least one database, on at least one wireless handheld computing device, and on at least one  
18 Web server and Web page, and synchronizing applications and data, including but not limited  
19 to applications and data relating to orders, between at least one database, wireless handheld  
20 computing devices, and at least one Web server and Web page; utilizing communications  
21 control software enabled to link and synchronize hospitality information between at least one  
22 database, wireless handheld computing device, and web page, to display information on web  
23 pages 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 automatically  
25 communicated to at least one database and to wireless handheld computing devices; allowing  
26 information to be entered via wireless handheld computing devices, transmitted over the  
27 internet, and automatically communicated to at least one database and to Web pages.

1 71. On information and belief, customers of Apple use the PBS in a manner that  
2 infringes upon one or more valid and enforceable claims of the ‘077 patent. Apple provides  
3 instruction and direction regarding the use of the PBS and advertises, promotes, and  
4 encourages the use of the PBS.

5 72. Apple has had knowledge of the ‘077 patent, at least as early as the filing of this  
6 complaint. On information and belief, Apple actively induces others to infringe the ‘077 patent  
7 in violation of 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting customers of  
8 Apple, including consumers and those businesses identified elsewhere in this complaint, to use  
9 the infringing PBS in the United States without authority or license from Ameranth. For  
10 example, Apple describes its PBS as an “Ecosystem”: “There are three major parts to the  
11 Passbook life cycle; creation, management and redemption. Passbook handles the middle, it  
12 lets users view and manage their passes and provides lock screen integration. You are  
13 responsible for the two ends; creating passes and redeeming passes.”

14 73. On information and belief, the aforesaid infringing activities of defendant Apple have  
15 been done with knowledge and willful disregard of Ameranth’s patent rights, making this an  
16 exceptional case within the meaning of 35 U.S.C. § 285.

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

21 **PRAYER FOR RELIEF**

22 WHEREFORE, plaintiff Ameranth respectfully prays for judgment against defendant  
23 Apple, as follows:

24 1. Adjudging that the manufacture, use, offer for sale or license and /or sale or  
25 license of the PBS indirectly infringes valid and enforceable claims of the ‘850 patent, the ‘325  
26 patent, the ‘733 patent, and the ‘077 patent, as set forth hereinabove;

1           2.        Adjudging that the manufacture, use, offer for sale or license and/or sale or  
2 license of Siri indirectly infringes valid and enforceable claims of the ‘733 patent, as set forth  
3 hereinabove;

4           3.        Adjudging that Apple has infringed, actively induced others to infringe and/or  
5 contributorily infringed valid and enforceable claims of the ‘850 patent, the ‘325 patent, the  
6 ‘733 patent, and the ‘077 patent, as set forth hereinabove;

7           4.        Adjudging that Apple’s indirect infringement of the valid and enforceable  
8 claims of the ‘850 patent, the ‘325 patent, the ‘733 patent, and the ‘077 patent, has been  
9 knowing and willful;

10          5.        Enjoining Apple, and its officers, directors, employees, attorneys, agents,  
11 representatives, parents, subsidiaries, affiliates and all other persons acting in concert,  
12 participation or privity with Apple, and their successors and assigns, from infringing,  
13 contributorily infringing and/or inducing others to infringe the valid and enforceable claims of  
14 the ‘850 patent, the ‘325 patent, the ‘733 patent, and the ‘077 patent;

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

17          7.        Awarding Ameranth increased damages of three times the amount of damages  
18 found or assessed against Apple by reason of the knowing, willful and deliberate nature of  
19 Apple’s acts of infringement pursuant to 35 U.S.C. § 284;

20          8.        Adjudging this to be an exceptional case and awarding Ameranth its attorney’s  
21 fees pursuant to 35 U.S.C. §285;

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

23          10.       Awarding to Ameranth such other and further relief that this Court may deem  
24 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: January 23, 2013

CALDARELLI HEJMANOWSKI & PAGE LLP

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