

1 **MAZZARELLA ■ CALDARELLI LLP**  
William J. Caldarelli (SBN #149573)  
2 Michael D. Fabiano (SBN #167058)  
3 550 West C Street, Suite 700  
San Diego, CA 92101  
4 Tel: (619) 238-4900  
5 Fax: (619) 238-4959  
wjc@mazzcal.com  
mfabiano@mazzcal.com

6 Attorneys for Plaintiff Ameranth, Inc.

7  
8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10  
11 AMERANTH, INC.  
12 Plaintiff,  
13 v.  
14 PIZZA HUT, INC., PIZZA HUT OF  
15 AMERICA, INC., DOMINO'S PIZZA, LLC,  
16 DOMINO'S PIZZA, INC., PAPA JOHN'S  
17 USA, INC., OPENTABLE, INC.,  
GRUBHUB, INC., NETWAITER, LLC and  
LAUGHSTUB LLC,  
18 Defendants.

Civil Action No.: '11CV1810 JLS NLS

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**JURY TRIAL DEMANDED**

19  
20  
21 ///  
22 ///  
23 ///

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Ameranth, Inc., for its Complaint against defendants Pizza Hut, Inc., Pizza  
3 Hut of America, Inc., Domino's Pizza, LLC, Domino's Pizza, Inc., Papa John's USA, Inc.,  
4 OpenTable, Inc., GrubHub, Inc., Netwaiter, LLC and LaughStub LLC (collectively,  
5 "Defendants"), avers as follows:

6 **PARTIES**

7 1. Plaintiff Ameranth, Inc. ("Ameranth") is a Delaware corporation having a  
8 principal place of business at 5820 Oberlin Drive, Suite 202, San Diego, California 92121.  
9 Ameranth develops, manufactures and sells, *inter alia*, hospitality industry, entertainment,  
10 restaurant and food service information technology solutions under the trademarks 21<sup>st</sup>  
11 Century Communications™, 21st Century Restaurant™, among others, comprising the  
12 synchronization and integration of hospitality information and hospitality software  
13 applications between fixed, wireless and/or internet applications, including but not limited to  
14 computer servers, web servers, databases, affinity/social networking systems, desktop  
15 computers, laptops, "smart" phones and other wireless handheld devices..

16 2. Defendant Pizza Hut, Inc., is, on information and belief, a California  
17 corporation having a principal place of business in Plano, Texas. Defendant Pizza Hut of  
18 America, Inc., is, on information and belief, a Delaware corporation having a principal place  
19 of business in Plano, Texas. On information and belief, Pizza Hut, Inc. and Pizza Hut of  
20 America, Inc. are agents and affiliates of one another and knowingly and intentionally acted  
21 in concert and under common and coordinated plan, design and control in committing the acts  
22 alleged herein, such that each entity is jointly and severally liable for the acts of each other.  
23 Pizza Hut, Inc. and Pizza Hut of America, Inc. shall be referred to herein collectively as  
24 "Pizza Hut." On information and belief, Pizza Hut makes, uses, sells and/or offers for sale  
25 restaurant and foodservice information technology products, software, components and/or  
26 systems within this Judicial District, including products, software, components and/or systems  
27 comprising wireless and internet Point of Sale ("POS") and/or hospitality aspects.

1           3.           Defendant Domino's Pizza, LLC, is, on information and belief, a Michigan  
2 limited liability company having a principal place of business in Ann Arbor, Michigan.  
3 Defendant Domino's Pizza, Inc. is, on information and belief, a Delaware corporation having  
4 a principal place of business in Ann Arbor, Michigan. On information and belief, Domino's  
5 Pizza, LLC and Domino's Pizza, Inc. are agents and affiliates of one another and knowingly  
6 and intentionally acted in concert and under common and coordinated plan, design and  
7 control in committing the acts alleged herein, such that each entity is jointly and severally  
8 liable for the acts of each other. Domino's Pizza, LLC and Domino's Pizza, Inc. shall be  
9 referred to herein collectively as "Domino's." On information and belief, Domino's makes,  
10 uses, sells and/or offers for sale restaurant and foodservice information technology products,  
11 software, components and/or systems within this Judicial District, including products,  
12 software, components and/or systems comprising wireless and internet POS and/or hospitality  
13 aspects.

14           4.           Defendant Papa John's USA, Inc., ("Papa John's") is, on information and  
15 belief, a Kentucky corporation having a principal place of business in Louisville, Kentucky.  
16 On information and belief, Papa John's makes, uses, sells and/or offers for sale restaurant and  
17 foodservice information technology products, software, components and/or systems within  
18 this Judicial District, including products, software, components and/or systems comprising  
19 wireless and internet POS and/or hospitality aspects.

20           5.           Defendant OpenTable, Inc., ("OpenTable") is, on information and belief, a  
21 Delaware corporation having a principal place of business in San Francisco, California. On  
22 information and belief, OpenTable makes, uses, sells and/or offers for sale restaurant and  
23 foodservice information technology products, software, components and/or systems within  
24 this Judicial District, including products, software, components and/or systems comprising  
25 wireless and internet hospitality aspects.

26           6.           Defendant GrubHub, Inc. ("GrubHub") is, on information and belief, a  
27 Delaware corporation having a principal place of business in Chicago, Illinois. On  
28 information and belief, GrubHub makes, uses, sells and/or offers for sale restaurant and

1 foodservice information technology products, software, components and/or systems within  
2 this Judicial District, including products, software, components and/or systems comprising  
3 wireless and internet POS and/or hospitality aspects.

4 7. Defendant Netwaiter, LLC (“Netwaiter”) is, on information and belief, a  
5 California limited liability company having a principal place of business in Redlands,  
6 California. On information and belief, Netwaiter makes, uses, sells and/or offers for sale  
7 restaurant and foodservice information technology products, software, components and/or  
8 systems within this Judicial District, including products, software, components and/or systems  
9 comprising wireless and internet POS and/or hospitality aspects.

10 8. Defendant LaughStub LLC, (“LaughStub”) is, on information and belief, a  
11 California limited liability company having a principal place of business in Los Angeles,  
12 California. On information and belief, LaughStub makes, uses, sells and/or offers for sale  
13 entertainment box office management and ticketing information technology products,  
14 software, components and/or systems within this Judicial District, including products,  
15 software, components and/or systems comprising wireless and internet hospitality aspects.

16 **JURISDICTION AND VENUE**

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

19 10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and  
20 1338(a).

21 11. On information and belief, Defendants, and each of them, have engaged in (a)  
22 the offer for sale or license and sale or license of hospitality, restaurant, food service, ticketing  
23 and/or entertainment technology services, products and/or components in the United States,  
24 including this Judicial District, including services, products, software, components, tickets  
25 and/or systems comprising wireless and internet POS and/or hospitality aspects; (b) the  
26 installation and maintenance of said services, products, software, components and/or systems  
27 in hospitality industry, restaurant, food service, and/or entertainment information technology  
28 systems in the United States, including this Judicial District; and/or (c) the use of hospitality

1 industry, restaurant, food service, and/or entertainment information technology systems  
2 comprising said services, products, software, components and/or systems in the United States,  
3 including this Judicial District.

4 12. This Court has personal jurisdiction over Defendants, and each of them, as  
5 each Defendant has committed acts of patent infringement in this Judicial District including,  
6 *inter alia*, making, using, offering for sale or license, and/or selling or licensing infringing  
7 services, products, software, components and/or systems in this Judicial District.

8 13. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(b) and  
9 (c) and 1400(b) as regards all Defendants, both separately and together.

10 **BACKGROUND**

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

23 15. Ameranth began development of the inventions leading to the patents-in-suit in  
24 the late Summer of 1998, at a time when the then-available wireless and internet hospitality  
25 offerings were extremely limited in functionality, were not synchronized and did not provide  
26 an integrated system-wide solution to the pervasive ordering, reservations, affinity program  
27 and information management needs of the hospitality industry. Ameranth uniquely recognized  
28 the actual problems that needed to be resolved in order to meet those needs, and thereafter

1 conceived and developed its breakthrough inventions and products to provide systemic and  
2 comprehensive solutions directed to optimally meeting these industry needs. Ameranth has  
3 expended considerable effort and resources in inventing, developing and marketing its  
4 inventions and protecting its rights therein.

5 16. Ameranth's pioneering inventions have been widely adopted and are thus now  
6 essential to the modern wireless hospitality enterprise of the 21st Century. Ameranth's  
7 solutions have been adopted, licensed and/or deployed by numerous entities across the  
8 hospitality industry.

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

26 ///

27

28

**COUNT I**

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

**(35 U.S.C. § 271)**

1  
2  
3  
4 18. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-17  
5 above as if fully set forth herein.

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

10 20. Plaintiff Ameranth is the lawful owner by assignment of all right, title and  
11 interest in and to the '850 patent.

12 21. On information and belief, defendant Pizza Hut has infringed one or more  
13 valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through  
14 16 of the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or  
15 license and/or selling or licensing infringing systems, including but not limited to systems  
16 including wireless and internet POS and/or hospitality aspects in the United States without  
17 authority or license from Ameranth.

18 22. On information and belief, defendant Pizza Hut has actively induced others to  
19 infringe one or more valid and enforceable claims of the '850 patent, specifically one or more  
20 of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by knowingly  
21 encouraging, aiding and abetting restaurant and food service users to use infringing systems  
22 and services, including but not limited to systems and services including wireless and internet  
23 POS and/or hospitality aspects in the United States without authority or license from  
24 Ameranth.

25 23. On information and belief, defendant Pizza Hut has contributorily infringed  
26 one or more valid and enforceable claims of the '850 patent, specifically one or more of  
27 claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or  
28 license and/or selling or licensing components of systems on which valid and enforceable

1 claims of the '850 patent read, constituting a material part of the invention, knowing that the  
2 components were especially adapted for use in systems which infringe valid and enforceable  
3 claims of the '850 patent, to distributors and/or to restaurant and foodservice users for use in  
4 infringing systems and services, including but not limited to systems and services including  
5 wireless and internet POS and/or hospitality aspects in the United States without authority or  
6 license from Ameranth.

7 24. On information and belief, the infringement of defendant Pizza Hut has been  
8 done with knowledge and willful disregard of Ameranth's patent rights, making this an  
9 exceptional case within the meaning of 35 U.S.C. §285.

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

14 26. On information and belief, defendant Domino's has infringed one or more  
15 valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through  
16 16 of the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or  
17 license and/or selling or licensing infringing systems including but not limited to systems  
18 including wireless and internet POS and/or hospitality aspects in the United States without  
19 authority or license from Ameranth.

20 27. On information and belief, defendant Domino's has actively induced others to  
21 infringe one or more valid and enforceable claims of the '850 patent, specifically one or more  
22 of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by knowingly  
23 encouraging, aiding and abetting restaurant and food service users to use infringing systems  
24 and services, including but not limited to systems and services including wireless and internet  
25 POS and/or hospitality aspects in the United States without authority or license from  
26 Ameranth.

27 28. On information and belief, defendant Domino's has contributorily infringed  
28 one or more valid and enforceable claims of the '850 patent, specifically one or more of

1 claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or  
2 license and/or selling or licensing components of systems on which valid and enforceable  
3 claims of the '850 patent read, constituting a material part of the invention, knowing that the  
4 components were especially adapted for use in systems which infringe valid and enforceable  
5 claims of the '850 patent, to distributors and/or to restaurant and foodservice users for use in  
6 infringing systems and services, including but not limited to systems and services including  
7 wireless and internet POS and/or hospitality aspects in the United States without authority or  
8 license from Ameranth.

9 29. On information and belief, the infringement of defendant Domino's has been  
10 done with knowledge and willful disregard of Ameranth's patent rights, making this an  
11 exceptional case within the meaning of 35 U.S.C. §285.

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

16 31. On information and belief, defendant Papa John's has infringed one or more  
17 valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through  
18 16 of the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or  
19 license and/or selling or licensing infringing systems, including but not limited to systems  
20 including wireless and internet POS and/or hospitality aspects in the United States without  
21 authority or license from Ameranth.

22 32. On information and belief, defendant Papa John's has actively induced others  
23 to infringe one or more valid and enforceable claims of the '850 patent, specifically one or  
24 more of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by  
25 knowingly encouraging, aiding and abetting restaurant and food service users to use  
26 infringing systems and services, including but not limited to systems and services including  
27 wireless and internet POS and/or hospitality aspects in the United States without authority or  
28 license from Ameranth.

1       33.       On information and belief, defendant Papa John's has contributorily infringed  
2 one or more valid and enforceable claims of the '850 patent, specifically one or more of  
3 claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or  
4 license and/or selling or licensing components of systems on which valid and enforceable  
5 claims of the '850 patent read, constituting a material part of the invention, knowing that the  
6 components were especially adapted for use in systems which infringe valid and enforceable  
7 claims of the '850 patent, to distributors and/or to restaurant and foodservice users for use in  
8 infringing systems and services, including but not limited to systems and services including  
9 wireless and internet POS and/or hospitality aspects in the United States without authority or  
10 license from Ameranth.

11       34.       On information and belief, the infringement of defendant Papa John's has been  
12 done with knowledge and willful disregard of Ameranth's patent rights, making this an  
13 exceptional case within the meaning of 35 U.S.C. §285.

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

18       36.       On information and belief, defendant OpenTable has infringed one or more  
19 valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through  
20 16 of the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or  
21 license and/or selling or licensing infringing systems, including but not limited to systems  
22 including wireless and internet hospitality aspects in the United States without authority or  
23 license from Ameranth.

24       37.       On information and belief, defendant OpenTable has actively induced others to  
25 infringe one or more valid and enforceable claims of the '850 patent, specifically one or more  
26 of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by knowingly  
27 encouraging, aiding and abetting restaurant and food service users to use infringing systems  
28

1 and services, including but not limited to systems and services including wireless and internet  
2 hospitality aspects in the United States without authority or license from Ameranth.

3 38. On information and belief, defendant OpenTable has contributorily infringed  
4 one or more valid and enforceable claims of the '850 patent, specifically one or more of  
5 claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or  
6 license and/or selling or licensing components of systems on which valid and enforceable  
7 claims of the '850 patent read, constituting a material part of the invention, knowing that the  
8 components were especially adapted for use in systems which infringe valid and enforceable  
9 claims of the '850 patent, to distributors and/or to restaurant and foodservice users for use in  
10 infringing systems and services including but not limited to systems and services including  
11 wireless and internet hospitality aspects in the United States without authority or license  
12 from Ameranth.

13 39. On information and belief, the infringement of defendant OpenTable has been  
14 done with knowledge and willful disregard of Ameranth's patent rights, making this an  
15 exceptional case within the meaning of 35 U.S.C. §285.

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

20 41. On information and belief, defendant GrubHub has infringed one or more valid  
21 and enforceable claims of the '850 patent, specifically one or more of claims 5 through 16 of  
22 the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or  
23 license and/or selling or licensing infringing systems, including but not limited to systems  
24 including wireless and internet POS and/or hospitality aspects in the United States without  
25 authority or license from Ameranth.

26 42. On information and belief, defendant GrubHub has actively induced others to  
27 infringe one or more valid and enforceable claims of the '850 patent, specifically one or more  
28 of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by knowingly

1 encouraging, aiding and abetting restaurant and food service users to use infringing systems  
2 and services, including but not limited to systems and services including wireless and internet  
3 POS and/or hospitality aspects in the United States without authority or license from  
4 Ameranth.

5 43. On information and belief, defendant GrubHub has contributorily infringed  
6 one or more valid and enforceable claims of the '850 patent, specifically one or more of  
7 claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or  
8 license and/or selling or licensing components of systems on which valid and enforceable  
9 claims of the '850 patent read, constituting a material part of the invention, knowing that the  
10 components were especially adapted for use in systems which infringe valid and enforceable  
11 claims of the '850 patent, to distributors and/or to restaurant and foodservice users for use in  
12 infringing systems and services, including but not limited to systems and services including  
13 wireless and internet POS and/or hospitality aspects in the United States without authority or  
14 license from Ameranth.

15 44. On information and belief, the infringement of defendant GrubHub has been  
16 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 45. The aforesaid infringing activity has caused damage to plaintiff Ameranth,  
19 including loss of profits from sales it would have made but for the infringements. Unless  
20 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to  
21 Ameranth for which there is no adequate remedy at law.

22 46. On information and belief, defendant Netwaiter has infringed one or more  
23 valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through  
24 16 of the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or  
25 license and/or selling or licensing infringing systems, including but not limited to systems  
26 including wireless and internet POS and/or hospitality aspects in the United States without  
27 authority or license from Ameranth.

28

1       47.       On information and belief, defendant Netwaiter has actively induced others to  
2 infringe one or more valid and enforceable claims of the '850 patent, specifically one or more  
3 of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by knowingly  
4 encouraging, aiding and abetting restaurant and food service users to use infringing systems  
5 and services, including but not limited to systems and services including wireless and internet  
6 POS and/or hospitality aspects in the United States without authority or license from  
7 Ameranth.

8       48.       On information and belief, defendant Netwaiter has contributorily infringed  
9 one or more valid and enforceable claims of the '850 patent, specifically one or more of  
10 claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or  
11 license and/or selling or licensing components of systems on which valid and enforceable  
12 claims of the '850 patent read, constituting a material part of the invention, knowing that the  
13 components were especially adapted for use in systems which infringe valid and enforceable  
14 claims of the '850 patent, to distributors and/or to restaurant and foodservice users for use in  
15 infringing systems and services, including but not limited to systems and services including  
16 wireless and internet POS and/or hospitality aspects in the United States without authority or  
17 license from Ameranth.

18       49.       On information and belief, the infringement of defendant Netwaiter has been  
19 done with knowledge and willful disregard of Ameranth's patent rights, making this an  
20 exceptional case within the meaning of 35 U.S.C. §285.

21       50.       The aforesaid infringing activity has caused damage to plaintiff Ameranth,  
22 including loss of profits from sales it would have made but for the infringements. Unless  
23 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to  
24 Ameranth for which there is no adequate remedy at law.

25       51.       On information and belief, defendant LaughStub has infringed one or more  
26 valid and enforceable claims of the '850 patent, specifically one or more of claims 5 through  
27 16 of the '850 patent, in violation of 35 U.S.C. §271(a) by making, using, offering for sale or  
28 license and/or selling or licensing infringing systems, including but not limited to systems

1 including wireless and internet hospitality aspects in the United States without authority or  
2 license from Ameranth.

3 52. On information and belief, defendant LaughStub has actively induced others to  
4 infringe one or more valid and enforceable claims of the '850 patent, specifically one or more  
5 of claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(b) by knowingly  
6 encouraging, aiding and abetting entertainment venue users to use infringing ticketing and  
7 box office management systems and services, including but not limited to systems and  
8 services including wireless and internet hospitality aspects in the United States without  
9 authority or license from Ameranth.

10 53. On information and belief, defendant LaughStub has contributorily infringed  
11 one or more valid and enforceable claims of the '850 patent, specifically one or more of  
12 claims 5 through 16 of the '850 patent, in violation of 35 U.S.C. §271(c) by offering to sell or  
13 license and/or selling or licensing components of systems on which valid and enforceable  
14 claims of the '850 patent read, constituting a material part of the invention, knowing that the  
15 components were especially adapted for use in systems which infringe valid and enforceable  
16 claims of the '850 patent, to distributors and/or to entertainment venue users for use in  
17 infringing ticketing and box office management systems and services, including but not  
18 limited to systems and services including wireless and internet hospitality aspects in the  
19 United States without authority or license from Ameranth.

20 54. On information and belief, the infringement of defendant LaughStub has been  
21 done with knowledge and willful disregard of Ameranth's patent rights, making this an  
22 exceptional case within the meaning of 35 U.S.C. §285.

23 55. The aforesaid infringing activity has caused damage to plaintiff Ameranth,  
24 including loss of profits from sales it would have made but for the infringements. Unless  
25 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to  
26 Ameranth for which there is no adequate remedy at law.

27 ///

28

1 COUNT II

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

3 **(35 U.S.C. § 271)**

4 56. Plaintiff reiterates and incorporates the allegations set forth in paragraphs 1-18  
5 above as if fully set forth herein.

6 57. 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  
9 legally issued by the United States Patent & Trademark Office.

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

12 59. On information and belief, defendant Pizza Hut has infringed one or more  
13 valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through  
14 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by  
15 making, using, offering for sale or license and/or selling or licensing infringing systems,  
16 including but not limited to systems including wireless and internet POS and/or hospitality  
17 aspects in the United States without authority or license from Ameranth.

18 60. On information and belief, defendant Pizza Hut has actively induced others to  
19 one or more valid and enforceable claims of the '325 patent, specifically one or more of  
20 claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35  
21 U.S.C. §271(b) by knowingly encouraging, aiding and abetting restaurant and food service  
22 users to use infringing systems and services, including but not limited to systems and services  
23 including wireless and internet POS and/or hospitality aspects in the United States without  
24 authority or license from Ameranth.

25 61. On information and belief, defendant Pizza Hut has contributorily infringed  
26 one or more valid and enforceable claims of the '325 patent, specifically one or more of  
27 claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35  
28 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems

1 on which valid and enforceable claims of the '325 patent read, constituting a material part of  
2 the invention, knowing that the components were especially adapted for use in systems which  
3 infringe valid and enforceable claims of the '325 patent, to distributors and/or to restaurant  
4 and foodservice users for use in infringing systems and services, including but not limited to  
5 systems and services including wireless and internet POS and/or hospitality aspects in the  
6 United States without authority or license from Ameranth.

7 62. On information and belief, the infringement of defendant Pizza Hut has been  
8 done with knowledge and willful disregard of Ameranth's patent rights, making this an  
9 exceptional case within the meaning of 35 U.S.C. §285.

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

14 64. On information and belief, defendant Domino's has infringed one or more  
15 valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through  
16 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by  
17 making, using, offering for sale or license and/or selling or licensing infringing systems,  
18 including but not limited to systems including wireless and internet POS and/or hospitality  
19 aspects in the United States without authority or license from Ameranth.

20 65. On information and belief, defendant Domino's has actively induced others to  
21 infringe one or more valid and enforceable claims of the '325 patent, specifically one or more  
22 of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35  
23 U.S.C. §271(b) by knowingly encouraging, aiding and abetting restaurant and food service  
24 users to use infringing systems and services, including but not limited to systems and services  
25 including wireless and internet POS and/or hospitality aspects in the United States without  
26 authority or license from Ameranth.

27 66. On information and belief, defendant Domino's has contributorily infringed  
28 one or more valid and enforceable claims of the '325 patent, specifically one or more of

1 claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35  
2 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems  
3 on which valid and enforceable claims of the '325 patent read, constituting a material part of  
4 the invention, knowing that the components were especially adapted for use in systems which  
5 infringe valid and enforceable claims of the '325 patent, to distributors and/or to restaurant  
6 and foodservice users for use in infringing systems and services, including but not limited to  
7 systems and services including wireless and internet POS and/or hospitality aspects in the  
8 United States without authority or license from Ameranth.

9 67. On information and belief, the infringement of defendant Domino's has been  
10 done with knowledge and willful disregard of Ameranth's patent rights, making this an  
11 exceptional case within the meaning of 35 U.S.C. §285.

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

16 69. On information and belief, defendant Papa John's has infringed one or more  
17 valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through  
18 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by  
19 making, using, offering for sale or license and/or selling or licensing infringing systems,  
20 including but not limited to systems including wireless and internet POS and/or hospitality  
21 aspects in the United States without authority or license from Ameranth.

22 70. On information and belief, defendant Papa John's has actively induced others  
23 to infringe one or more valid and enforceable claims of the '325 patent, specifically one or  
24 more of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of  
25 35 U.S.C. §271(b) by knowingly encouraging, aiding and abetting restaurant and food service  
26 users to use infringing systems and services, including but not limited to systems and services  
27 including wireless and internet POS and/or hospitality aspects in the United States without  
28 authority or license from Ameranth.

1       71.       On information and belief, defendant Papa John's has contributorily infringed  
2 one or more valid and enforceable claims of the '325 patent, specifically one or more of  
3 claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35  
4 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems  
5 on which valid and enforceable claims of the '325 patent read, constituting a material part of  
6 the invention, knowing that the components were especially adapted for use in systems which  
7 infringe valid and enforceable claims of the '325 patent, to distributors and/or to restaurant  
8 and foodservice users for use in infringing systems and services, including but not limited to  
9 systems and services including wireless and internet POS and/or hospitality aspects in the  
10 United States without authority or license from Ameranth.

11       72.       On information and belief, the infringement of defendant Papa John's has been  
12 done with knowledge and willful disregard of Ameranth's patent rights, making this an  
13 exceptional case within the meaning of 35 U.S.C. §285.

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

18       74.       On information and belief, defendant OpenTable has infringed one or more  
19 valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through  
20 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by  
21 making, using, offering for sale or license and/or selling or licensing infringing systems,  
22 including but not limited to systems including wireless and internet hospitality aspects in the  
23 United States without authority or license from Ameranth.

24       75.       On information and belief, defendant OpenTable has actively induced others to  
25 infringe one or more valid and enforceable claims of the '325 patent, specifically one or more  
26 of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35  
27 U.S.C. §271(b) by knowingly encouraging, aiding and abetting restaurant and food service  
28 users to use infringing systems and services, including but not limited to systems and services

1 including wireless and internet hospitality aspects in the United States without authority or  
2 license from Ameranth.

3 76. On information and belief, defendant OpenTable has contributorily infringed  
4 one or more valid and enforceable claims of the '325 patent, specifically one or more of  
5 claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35  
6 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems  
7 on which valid and enforceable claims of the '325 patent read, constituting a material part of  
8 the invention, knowing that the components were especially adapted for use in systems which  
9 infringe valid and enforceable claims of the '325 patent, to distributors and/or to restaurant  
10 and foodservice users for use in infringing systems and services, including but not limited to  
11 systems and services including wireless and internet hospitality aspects in the United States  
12 without authority or license from Ameranth.

13 77. On information and belief, the infringement of defendant OpenTable has been  
14 done with knowledge and willful disregard of Ameranth's patent rights, making this an  
15 exceptional case within the meaning of 35 U.S.C. §285.

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

20 79. On information and belief, defendant GrubHub has infringed one or more valid  
21 and enforceable claims of the '325 patent, specifically one or more of claims 2 through 5, 7  
22 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by making,  
23 using, offering for sale or license and/or selling or licensing infringing systems, including but  
24 not limited to systems including wireless and internet POS and/or hospitality aspects in the  
25 United States without authority or license from Ameranth.

26 80. On information and belief, defendant GrubHub has actively induced others to  
27 infringe one or more valid and enforceable claims of the '325 patent, specifically one or more  
28 of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35

1 U.S.C. §271(b) by knowingly encouraging, aiding and abetting restaurant and food service  
2 users to use infringing systems and services including but not limited to systems and services,  
3 including wireless and internet POS and/or hospitality aspects in the United States without  
4 authority or license from Ameranth.

5 81. On information and belief, defendant GrubHub has contributorily infringed  
6 one or more valid and enforceable claims of the '325 patent, specifically one or more of  
7 claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35  
8 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems  
9 on which valid and enforceable claims of the '325 patent read, constituting a material part of  
10 the invention, knowing that the components were especially adapted for use in systems which  
11 infringe valid and enforceable claims of the '325 patent, to distributors and/or to restaurant  
12 and foodservice users for use in infringing systems and services, including but not limited to  
13 systems and services including wireless and internet POS and/or hospitality aspects in the  
14 United States without authority or license from Ameranth.

15 82. On information and belief, the infringement of defendant GrubHub has been  
16 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 83. The aforesaid infringing activity has caused damage to plaintiff Ameranth,  
19 including loss of profits from sales it would have made but for the infringements. Unless  
20 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to  
21 Ameranth for which there is no adequate remedy at law.

22 84. On information and belief, defendant Netwaiter has infringed one or more  
23 valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through  
24 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by  
25 making, using, offering for sale or license and/or selling or licensing infringing systems,  
26 including but not limited to systems including wireless and internet POS and/or hospitality  
27 aspects in the United States without authority or license from Ameranth.

28

1 85. On information and belief, defendant Netwaiter has actively induced others to  
2 infringe one or more valid and enforceable claims of the '325 patent, specifically one or more  
3 of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35  
4 U.S.C. §271(b) by knowingly encouraging, aiding and abetting restaurant and food service  
5 users to use infringing systems and services, including but not limited to systems and services  
6 including wireless and internet POS and/or hospitality aspects in the United States without  
7 authority or license from Ameranth.

8 86. On information and belief, defendant Netwaiter has contributorily infringed  
9 one or more valid and enforceable claims of the '325 patent, specifically one or more of  
10 claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35  
11 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems  
12 on which valid and enforceable claims of the '325 patent read, constituting a material part of  
13 the invention, knowing that the components were especially adapted for use in systems which  
14 infringe valid and enforceable claims of the '325 patent, to distributors and/or to restaurant  
15 and foodservice users for use in infringing systems and services, including but not limited to  
16 systems and services including wireless and internet POS and/or hospitality aspects in the  
17 United States without authority or license from Ameranth.

18 87. On information and belief, the infringement of defendant Netwaiter has been  
19 done with knowledge and willful disregard of Ameranth's patent rights, making this an  
20 exceptional case within the meaning of 35 U.S.C. §285.

21 88. The aforesaid infringing activity has caused damage to plaintiff Ameranth,  
22 including loss of profits from sales it would have made but for the infringements. Unless  
23 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to  
24 Ameranth for which there is no adequate remedy at law.

25 89. On information and belief, defendant LaughStub has infringed one or more  
26 valid and enforceable claims of the '325 patent, specifically one or more of claims 2 through  
27 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35 U.S.C. §271(a) by  
28 making, using, offering for sale or license and/or selling or licensing infringing systems,

1 including but not limited to systems including wireless and internet hospitality aspects in the  
2 United States without authority or license from Ameranth.

3 90. On information and belief, defendant LaughStub has actively induced others to  
4 infringe one or more valid and enforceable claims of the '325 patent, specifically one or more  
5 of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35  
6 U.S.C. §271(b) by knowingly encouraging, aiding and abetting entertainment venue users to  
7 use infringing ticketing and box office management systems and services, including but not  
8 limited to systems and services including wireless and internet hospitality aspects in the  
9 United States without authority or license from Ameranth.

10 91. On information and belief, defendant LaughStub has contributorily infringed  
11 one or more valid and enforceable claims of the '325 patent, specifically one or more of  
12 claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent, in violation of 35  
13 U.S.C. §271(c) by offering to sell or license and/or selling or licensing components of systems  
14 on which valid and enforceable claims of the '325 patent read, constituting a material part of  
15 the invention, knowing that the components were especially adapted for use in systems which  
16 infringe valid and enforceable claims of the '325 patent, to distributors and/or to  
17 entertainment venue users for use in infringing ticketing and box office management systems  
18 and services including but not limited to systems and services, including wireless and internet  
19 hospitality aspects in the United States without authority or license from Ameranth.

20 92. On information and belief, the infringement of defendant LaughStub has been  
21 done with knowledge and willful disregard of Ameranth's patent rights, making this an  
22 exceptional case within the meaning of 35 U.S.C. §285.

23 93. The aforesaid infringing activity has caused damage to plaintiff Ameranth,  
24 including loss of profits from sales it would have made but for the infringements. Unless  
25 enjoined, the aforesaid infringing activity will continue and cause irreparable injury to  
26 Ameranth for which there is no adequate remedy at law.

27 ///

28

**PRAYER FOR RELIEF**

1  
2       **WHEREFORE**, plaintiff Ameranth respectfully prays for judgment against  
3 Defendants, and each of them, as follows:

4           1.       Adjudging that the manufacture, use, offer for sale or license and /or sale or  
5 license of each of the Defendants' accused products, services, software and/or hardware  
6 infringes valid and enforceable claims of the '850 patent, specifically one or more of claims 5  
7 through 16 of the '850 patent, and valid and enforceable claims of the '325 patent, specifically  
8 one or more of claims 2 through 5, 7 through 8, and 11 through 15 of the '325 patent;

9           2.       Adjudging that each of the Defendants has infringed, actively induced others to  
10 infringe and/or contributorily infringed valid and enforceable claims of the '850 patent,  
11 specifically one or more of claims 5 through 16 of the '850 patent, and valid and enforceable  
12 claims of the '325 patent, specifically one or more of claims 2 through 5, 7 through 8, and 11  
13 through 15 of the '325 patent;

14           3.       Adjudging that each of the Defendants has infringed, actively induced others to  
15 infringe and/or contributorily infringed valid and enforceable claims of the '850 patent,  
16 specifically one or more of claims 5 through 16 of the '850 patent, and valid and enforceable  
17 claims of the '325 patent, specifically one or more of claims 2 through 5, 7 through 8, and 11  
18 through 15 of the '325 patent;

19           4.       Adjudging that Defendants' infringement of the valid and enforceable claims  
20 of the '850 and '325 patents has been knowing and willful;

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

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

28

