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Attorneys for Plaintiff Ameranth, Inc.

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF CALIFORNIA

3  
4 IN RE: AMERANTH  
PATENT LITIGATION

CASE NOS.

5 11cv1810 DMS (WVG) 12cv1643 DMS (WVG)  
6 12cv0729 DMS (WVG) 12cv1644 DMS (WVG)  
7 12cv0731 DMS (WVG) 12cv1646 DMS (WVG)  
8 12cv0732 DMS (WVG) 12cv1648 DMS (WVG)  
9 12cv0733 DMS (WVG) 12cv1649 DMS (WVG)  
10 12cv0737 DMS (WVG) 12cv1650 DMS (WVG)  
11 12cv0739 DMS (WVG) 12cv1651 DMS (WVG)  
12 12cv0742 DMS (WVG) 12cv1652 DMS (WVG)  
13 12cv0858 DMS (WVG) 12cv1653 DMS (WVG)  
14 12cv1627 DMS (WVG) 12cv1654 DMS (WVG)  
15 12cv1629 DMS (WVG) 12cv1655 DMS (WVG)  
16 12cv1630 DMS (WVG) 12cv1656 DMS (WVG)  
17 12cv1631 DMS (WVG) 13cv0350 DMS (WVG)  
18 12cv1633 DMS (WVG) 13cv0352 DMS (WVG)  
19 12cv1634 DMS (WVG) 13cv0353 DMS (WVG)  
20 12cv1636 DMS (WVG) 13cv1072 DMS (WVG)  
21 12cv1640 DMS (WVG) 13cv1520 DMS (WVG)  
22 12cv1642 DMS (WVG) 13cv1525 DMS (WVG)  
23 12cv2350 DMS (WVG) 13cv1840 DMS (WVG)

24 **DECLARATION OF WILLIAM J. CALDARELLI**  
25 **IN SUPPORT OF PLAINTIFF AMERANTH,**  
26 **INC.'S MOTION TO DISQUALIFY COUNSEL**

27 **Date: January 3, 2014**  
28 **Time: 1:30 p.m.**  
**Courtroom: 13A**

Complaint Filed: August 15, 2011

1 I, William J. Caldarelli, declare as follows:

2 1. I am an attorney licensed to practice by the State Bar of California  
3 and admitted to practice in the Southern District of California. I am a partner with  
4 the law firm of Caldarelli Hejmanowski & Page LLP, one of the counsel of record  
5 for plaintiff Ameranth, Inc. ("Ameranth") in this matter. On that basis, I have  
6 first-hand personal knowledge of the facts set forth in this declaration. If called  
7 upon to testify, I could and would do so competently as set forth herein. I provide  
8 this declaration in support of Ameranth's Motion to Disqualify Counsel.

9 2. Attached as Exhibit 1 to the Notice of Lodgment of Exhibits filed  
10 herewith is a true and correct copy of the profile of Jim Warriner appearing on the  
11 website of Norton Rose Fulbright as of November 13, 2013. I personally viewed  
12 and printed Mr. Warriner's profile from that website on that date. The profile  
13 states that Mr. Warriner clerked for the Honorable Chad Everingham in the United  
14 States District Court for the Eastern District of California.

15 3. Attached as Exhibit 2 to the Notice of Lodgment of Exhibits filed  
16 herewith is a true and correct copy of the profile of Jim Warriner appearing on the  
17 LinkedIn website as of November 13, 2013. I personally viewed and printed Mr.  
18 Warriner's profile from that website on that date. The profile indicates that Mr.  
19 Warriner served as a judicial clerk in the United States District Court from August  
20 2009 through September 2010. The profile further indicates that Mr. Warriner  
21 went to work for the Norton Rose Fulbright firm as an associate in August 2013.

22 4. Attached as Exhibit 3 to the Notice of Lodgment of Exhibits filed  
23 herewith is a true and correct copy of Markman Hearing Minutes from the  
24 Ameranth v. Menusoft lawsuit, Eastern District of Texas Civil Case No. 07-cv-  
25 271, filed on February 17, 2010 as Dkt. No. 92 in that court's electronic filing  
26 system.

1 5. Attached as Exhibit 4 to the Notice of Lodgment of Exhibits filed  
2 herewith is a true and correct copy of an email dated September 27, 2013, from  
3 Annette Devereux of Norton Rose Fulbright to efile\_sabraw@casd.uscourts.gov  
4 in Ameranth v. Pizza Hut, Case No. 11-cv-1810, cc'ing Jim Warriner, among  
5 others, including the undersigned.

6 6. Attached as Exhibit 5 to the Notice of Lodgment of Exhibits filed  
7 herewith is a true and correct copy of an email dated October 10, 2013, from  
8 Annette Devereux of Norton Rose Fulbright to efile\_sabraw@casd.uscourts.gov  
9 in Ameranth v. Pizza Hut, Case No. 11-cv-1810, cc'ing Jim Warriner, among  
10 others, including the undersigned.

11 7. Attached as Exhibit 6 to the Notice of Lodgment of Exhibits filed  
12 herewith is a true and correct copy of an email dated October 22, 2013, from  
13 Annette Devereux of Norton Rose Fulbright to efile\_sabraw@casd.uscourts.gov  
14 in Ameranth v. Pizza Hut, Case No. 11-cv-1810, cc'ing Jim Warriner, among  
15 others, including the undersigned.

16 8. Attached as Exhibit 7 to the Notice of Lodgment of Exhibits filed  
17 herewith is a true and correct copy of an email dated October 10, 2013, from Dan  
18 Davison of Norton Rose Fulbright to William Caldarelli and Ethan Watts re  
19 Ameranth v. Pizza Hut, and cc'ing Jim Warriner, among others.

20 9. Attached as Exhibit 8 to the Notice of Lodgment of Exhibits filed  
21 herewith is a true and correct copy of an email dated November 8, 2013, from  
22 Bert Greene of Norton Rose Fulbright to William Caldarelli, Michael Fabiano and  
23 John Osborne re the defendants amended CBM Petitions filed with the USPTO,  
24 and cc'ing Jim Warriner, among others.

25 10. Attached as Exhibit 9 to the Notice of Lodgment of Exhibits filed  
26 herewith is a true and correct copy of an email dated November 4, 2013, from  
27


1 Richard Zembek of Norton Rose Fulbright to William Caldarelli and Bert Greene  
2 re CBM Petition Service Agreement, and cc'ing Jim Warriner, among others.

3 11. Attached as Exhibit 10 to the Notice of Lodgment of Exhibits filed  
4 herewith is a true and correct copy of an Order granting defendant's motion to  
5 disqualify counsel entered by the Hon. Chad Everingham in Superspeed, LLC v.  
6 IBM Corp., Eastern District of Texas Case No. 2:07-cv-089 filed on January 18,  
7 2008, as Dkt. No. 77 in that court's electronic filing system.

8 12. Attached as Exhibit 11 to the Notice of Lodgment of Exhibits filed  
9 herewith is a true and correct copy of an archived webpage for Magistrate Judge  
10 Chad Everingham for the United States District Court for the Eastern District of  
11 Texas as of May 27, 2013, that I retrieved and printed from the internet archive  
12 Wayback Machine on November 14, 2013, showing Jim Warriner as the sole law  
13 clerk to Judge Everingham.

14 13. Attached as Exhibit 12 to the Notice of Lodgment of Exhibits filed  
15 herewith is a true and correct copy of an Akin Gump press release dated October  
16 3, 2011, that I viewed and printed from the Akin Gump website on November 14,  
17 2013, announcing that former Magistrate Judge Chad Everingham joined the Akin  
18 Gump firm as a partner at the same time that attorney David Stein (attorney for  
19 Hilton in these consolidated cases) joined the Akin Gump firm as a partner.

20 I declare under penalty of perjury under the laws of the United States that  
21 the foregoing is true and correct of my own personal knowledge and that this  
22 declaration was executed by me in San Diego, California, on November 20, 2013.

23  
24   
25 William J. Caldarelli  
26  
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