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

13 IN RE: AMERANTH PATENT  
14 LITIGATION

15 **Lead Case No. 11cv1810 DMS (WVG)**  
16 **DECLARATION OF**  
17 **DOUGLAS S. DEDO**

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1 provided functionality and benefits beyond anything that Microsoft had done itself  
2 in this space and, as far as Microsoft was aware, beyond anything anyone else was  
3 doing in the space at the time.

4         6. Attached as Exhibit 1 to this declaration is a copy of a May 22, 1999  
5 Ameranth press release regarding Ameranth's demonstration of its 21<sup>st</sup> Century  
6 Restaurant System at the National Restaurant Association trade show in Chicago,  
7 Illinois. The press release includes a quote from Tony Barbagello of Microsoft  
8 highlighting Ameranth's "vision and integration skills." Microsoft's endorsed  
9 Ameranth's 21<sup>st</sup> Century Restaurant technology and believed that its technology  
10 was both visionary and groundbreaking. Microsoft's mobile devices division was  
11 conservative, and it was rare to publicly endorse the technology of a small "start  
12 up" like Ameranth. The fact that Microsoft was willing to do at this time, as  
13 Ameranth was in the very early stages of introducing its 21<sup>st</sup> Century Restaurant  
14 system to the hospitality industry, demonstrates that Microsoft believed that  
15 Ameranth's products represented a significant step forward from existing  
16 technology and presented an opportunity to expand and extend the use,  
17 capabilities, and functionality of the Windows CE platform. Ameranth had  
18 developed a way of integrating mobile device operating platforms -- like  
19 Windows CE -- and mobile devices running on such platforms into comprehensive  
20 software and hardware systems in a way no one else had done and which yielded  
21 results no one else was delivering. For these reasons, Microsoft wanted to partner  
22 with Ameranth and have Ameranth feature Windows CE/Pocket PC for its  
23 innovative products, systems and solutions in order to expand the use and  
24 adoption of Microsoft's mobile operating system and mobile devices.

25         7. Microsoft followed up its May 1999 endorsement of Ameranth with a  
26 Microsoft Hospitality Solutions Case Study about Ameranth's 21<sup>st</sup> Century  
27 Restaurant in the Fall of 1999. Attached as Exhibit 2 to this declaration is a true  
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1 and correct copy of the portion of Microsoft’s Fall 1999 Hospitality Solutions  
2 Case Study featuring Ameranth and its 21<sup>st</sup> Century Restaurant system. This  
3 Microsoft case study highlighted many of the innovative and novel features and  
4 functionality of the 21<sup>st</sup> Century Restaurant, including, for example, that it was a  
5 “fully integrated system,” and that it provided “unprecedented benefits” over and  
6 above what Windows CE did itself. The unique features of Ameranth’s system  
7 were identified to include the fact that: “Ameranth’s interface modules preserve  
8 the significant investment in existing fixed/terminal systems by projecting the  
9 capabilities of those systems into the wireless Windows CE environment and by  
10 enabling system providers to create hand-held user interfaces that have a look, feel  
11 and functionality similar to that of the host fixed-terminal system.” Microsoft  
12 believed that Ameranth’s innovative software modules, which created the  
13 “handheld user interfaces,” were novel and non-conventional both because they  
14 involved Ameranth’s own software solutions that provided functionality and  
15 delivered results no one else was providing and because they integrated and used  
16 mobile operating platforms—like Microsoft’s Windows CE—with other software  
17 and hardware components of the 21<sup>st</sup> Century Restaurant system to accomplish  
18 such unprecedented results. Microsoft also recognized the value in the 21<sup>st</sup>  
19 Century Restaurant system’s technology to work with different point of sale  
20 (“POS”) systems and mobile computing devices. This was appealing to Microsoft  
21 because, among other reasons, Microsoft did not intend for its Windows CE  
22 platform to be restricted to working with only a singular mobile device.

23 8. Ameranth’s vision and unique integration technology enhanced and  
24 expanded the potential of Windows CE and was available at the time only from  
25 Ameranth. Microsoft viewed a partnership with Ameranth as an excellent  
26 opportunity to grow the usage and adoption of its Windows CE platform and  
27 mobile devices into the hospitality industry because Ameranth was doing things in  
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1 the restaurant technology space no one else was doing at the time. This led to my  
2 first meeting with Ameranth's founder and CEO, Keith McNally, in late 1999, and  
3 my taking over responsibility within Microsoft for the relationship between  
4 Microsoft and Ameranth in 2000.

5 9. Ameranth received numerous awards for its technology related to the  
6 21<sup>st</sup> Century Restaurant system, including awards both from Microsoft and  
7 through recommendation or nomination by Microsoft. These included a 2000  
8 Moby Systems Award and a 2001 award from Computerworld for Ameranth's  
9 21st Century Restaurant system deployment with the Improv Comedy theatres.  
10 Microsoft nominated Ameranth for the Computerworld Honors Program award.  
11 As indicated in the July 5, 2001 letter from Computerworld to Ameranth, a copy  
12 of which is attached to this declaration as Exhibit 3, its Improv Comedy System  
13 was "an example of the revolutionary change" that Ameranth had created.  
14 Attached to this declaration as Exhibit 4 is a copy of an April 16, 2001 press  
15 release regarding Ameranth's receipt of the Computerworld award based on the  
16 nomination of Microsoft's Bill Gates.

17 10. Microsoft considered Ameranth's new systemic synchronization and  
18 integration technology to be innovative and ground-breaking in 1999-2000. As I  
19 myself stated at the time: "Ameranth provides a total turnkey solution integrating  
20 Pocket PC's with wireless networks, and linking them to PC servers, and the  
21 internet." Attached as Exhibit 5 to this declaration is a true and correct copy of an  
22 April 19, 2000 press release regarding the Ameranth and Microsoft partnering  
23 containing my quoted statement.

24 11. Ameranth's technology provided "end to end mobile computing  
25 solutions" and was a new and innovative development in the hospitality  
26 technology market. As I stated on April 19, 2000 in connection with the launch  
27 of Microsoft's Pocket PC: "Developing end-to-end mobile computing solutions is  
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1 new to many industries including the hospitality and healthcare industries.”  
2 Ameranth was one of only a handful of very carefully selected software  
3 integrators that Microsoft chose to participate in the Pocket PC launch at Grand  
4 Central Station in New York City, and I worked closely with Kathie Sanders and  
5 Keith McNally of Ameranth on that launch. The inclusion of Ameranth in this  
6 prestigious event was another confirmation of how impressed Microsoft was with  
7 Ameranth and its inventions and how Microsoft believed that Ameranth’s  
8 solutions represented a significant step forward in technology and an opportunity  
9 to expand the usage and possibilities of Microsoft’s mobile operating platform.

10 12. Ameranth’s technology was new, pioneering, unconventional and  
11 provided functionality and features beyond what was otherwise available in  
12 Windows CE. This was one of the reasons driving Microsoft’s decision to make a  
13 strategic multi-million investment into Ameranth in June 2000 in order to support  
14 and foster Ameranth’s 21<sup>st</sup> Century Restaurant system technology and its  
15 integration with and use of Microsoft’s Windows CE platform. I personally  
16 helped coordinate Microsoft’s strategic investment into Ameranth with Steve  
17 Ballmer and other Microsoft executives. Such an investment was quite a rare step  
18 for Microsoft’s mobile devices division to take. That Microsoft chose to make the  
19 investment into Ameranth was an indisputable affirmation of Microsoft’s belief  
20 that Ameranth had developed something new, special and valuable. Attached to  
21 this declaration as Exhibit 6 is a true and correct copy of a June 16, 2000 press  
22 release announcing Microsoft’s investment into Ameranth. As I am quoted saying  
23 in that press release: “Ameranth is occupying a critical space in information  
24 technology,” and “Ameranth provides a total turnkey solution integrating Pocket  
25 PC’s with wireless networks and linking them to PC servers and the internet.”  
26 Ameranth’s technology provided significant improvements to the computer  
27 systems and customers with which it was deployed and integrated. As I am  
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1 quoted in saying in the June 16, 2000 press release: “Through this integration,  
2 Ameranth’s customers are reducing costs and increasing productivity for their  
3 businesses and the customers they serve.” Ameranth’s technology solved  
4 important technical problems while reducing costs and increasing productivity. In  
5 time other companies in this industry followed Ameranth’s lead and incorporated  
6 wireless mobile devices into their businesses because they saw great business  
7 value in this technology.

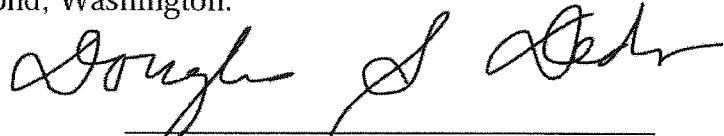
8 13. Attached as Exhibit 7 is a true and correct copy of the portion of a  
9 Microsoft Spring 2000 case study featuring Ameranth’s technology installed in  
10 the Improv Comedy Theaters. The case study notes that the Improv Theaters  
11 concluded, like Microsoft had, that Ameranth had developed and was providing  
12 an end to end, integrated solution that no one else could provide at the time. As  
13 the Case Study reports: “Looking or a total solution, Castillo [of the Improv  
14 Theaters] was particularly impressed with the fact that Ameranth could develop  
15 and install the entire web, PC and wireless system- something no other company  
16 could match.”

17 14. Confirming the esteem in which Microsoft’s management held Keith  
18 McNally and its respect for his vision, Microsoft selected Mr. McNally as the sole  
19 software integrator to represent Microsoft in a high profile public debate over  
20 whether the competing Microsoft or Palm mobile operating systems were  
21 superior. The debate was held at the COMDEX technology convention in Las  
22 Vegas in November of 2000 and was dubbed the “Battle of the Century- Palm vs.  
23 Pocket PC.” Keith McNally of Ameranth, Phil Holden of Microsoft and Ted  
24 Clark of Compaq Computers represented Microsoft. This team largely deemed to  
25 have won the debate, which was recognized in the mobile computing world as a  
26 decisive turning point in the contest for mobile market dominance between  
27 Microsoft and Palm. In part as a result of the debate, the industry recognized that  
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1 Microsoft would soon surpass Palm (then the leader in mobile computing  
2 technology), which is exactly what occurred. Keith McNally's role in the debate,  
3 and his vision of extending Ameranth's integration and synchronization solutions  
4 in conjunction with Microsoft's mobile computing platform, was one of the keys  
5 to the Microsoft victory. Ameranth's unique technology opened new and  
6 previously unexploited opportunities for Windows CE. Attached as Exhibit 8 to  
7 this declaration is a true and correct copy of a November 13, 2000 article from  
8 Microsoft's Pocket PC Column regarding the "Battle of the Century" debate.

9 I declare under penalty of perjury under the laws of the United States that  
10 the foregoing is true and correct and that this declaration was executed by me on  
11 August 31, 2018, at Redmond, Washington.

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14 Douglas S. Dedo

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