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

IN RE: AMERANTH
PATENT LITIGATION

CASE NOS.

11cv1810 DMS (WVG) 12cv1643 DMS (WVG)
12cv0729 DMS (WVG) 12cv1644 DMS (WVG)
12cv0731 DMS (WVG) 12cv1646 DMS (WVG)
12cv0732 DMS (WVG) 12cv1648 DMS (WVG)
12cv0733 DMS (WVG) 12cv1649 DMS (WVG)
12cv0737 DMS (WVG) 12cv1650 DMS (WVG)
12cv0739 DMS (WVG) 12cv1651 DMS (WVG)
12cv0742 DMS (WVG) 12cv1652 DMS (WVG)
12cv0858 DMS (WVG) 12cv1653 DMS (WVG)
12cv1627 DMS (WVG) 12cv1654 DMS (WVG)
12cv1629 DMS (WVG) 12cv1655 DMS (WVG)
12cv1630 DMS (WVG) 12cv1656 DMS (WVG)
12cv1631 DMS (WVG) 13cv0350 DMS (WVG)
12cv1633 DMS (WVG) 13cv0352 DMS (WVG)
12cv1634 DMS (WVG) 13cv0353 DMS (WVG)
12cv1636 DMS (WVG) 13cv1072 DMS (WVG)
12cv1640 DMS (WVG) 13cv1520 DMS (WVG)
12cv1642 DMS (WVG) 13cv1525 DMS (WVG)
12cv2350 DMS (WVG) 13cv1840 DMS (WVG)

**DECLARATION OF WILLIAM J. CALDARELLI
IN SUPPORT OF AMERANTH, INC.'S
OPPOSITION TO DEFENDANTS' MOTION TO
STAY**

Date: December 13, 2013
Time: 1:30 p.m.
Location: Courtroom 13A
Judge: Hon. Dana M. Sabraw

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

10 2. Attached as **Exhibit 1** to the Notice of Lodgment filed herewith is a
11 true and correct copy of an excerpt from an exemplary Disclosure of Asserted
12 Claims and Infringement Contentions served previously in this matter by
13 Ameranth which lists, pursuant to Patent Local Rule 3.2(e), Ameranth products
14 that practice the patented inventions.

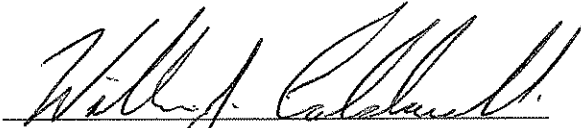
15 3. Attached as **Exhibit 10** to the Notice of Lodgment filed herewith are
16 true and correct copies of Identifications of Defects in the Defendants' CBM
17 petitions issued by the USPTO in response to the CBM petitions, dated October
18 23, 2013.

19 4. Attached as **Exhibit 11** to the Notice of Lodgment filed herewith are
20 true and correct copies of the Defendants' Notices in Response to Identification of
21 Defects in the four CBM petitions, dated October 30, 2013. The Notices propose
22 claim constructions for certain claim terms of the patents in suit.

23 5. Attached as **Exhibit 12** to the Notice of Lodgment filed herewith is a
24 true and correct copy of the Defendants' Initial Proposed Claim Constructions
25 served upon Ameranth in this lawsuit on July 13, 2012.

1 6. The earliest complaints in these consolidated patent infringement
2 lawsuits were filed in August of 2011, and now have been pending for well over 2
3 years. The case management dates have already been stayed, vacated and/or
4 continued twice in this matter to accommodate further consolidations,
5 reassignments, *etc.* Although no trial date is currently set and discovery is not yet
6 complete, a substantial amount of work, at significant expense, has occurred in the
7 litigation. A good deal of written discovery has taken place, numerous pleading
8 motions have been filed and ruled upon, and two motions for summary judgment
9 have been filed and denied. Many of the defendants have produced source code
10 for inspection, and others are scheduled to do so in the coming weeks. Extensive
11 document analysis and source code review has been conducted, and sets of
12 infringement contentions have been and are being served on the defendants. Prior
13 to the first stay of the case, the parties' claim construction efforts progressed to the
14 point of exchanges of terms to be construed. Thus, the litigation is well advanced.
15 In contrast, the defendants did not file the CBM petitions on which their stay
16 motion is based until October 15, 2013—more than two years since the filing of
17 the earliest of the consolidated cases and over a year after the CBM program
18 became available in September of 2012. During this period of delay, Ameranth
19 has expended considerable time, effort, expense and resources prosecuting the
20 consolidated lawsuits.

21 I declare under penalty of perjury under the laws of the United States that
22 the foregoing is true and correct and that this declaration was executed by me in
23 San Diego, California on November 8, 2013.

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25 
26 William J. Caldarelli