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

AMERANTH, INC.,)	Civil No. 11cv1810 JLS (NLS)
)	
Plaintiff,	)	Consolidated with:
v.	)	12cv729 JLS (NLS) 12cv1640 JLS (NLS)
	)	12cv731 JLS (NLS) 12cv1642 JLS (NLS)
PIZZA HUT, INC.; ET AL.,	)	12cv732 JLS (NLS) 12cv1643 JLS (NLS)
	)	12cv733 JLS (NLS) 12cv1644 JLS (NLS)
Defendants.	)	12cv737 JLS (NLS) 12cv1646 JLS (NLS)
	)	12cv739 JLS (NLS) 12cv1648 JLS (NLS)
	)	12cv742 JLS (NLS) 12cv1649 JLS (NLS)
AND RELATED COUNTERCLAIMS.	)	12cv858 JLS (NLS) 12cv1650 JLS (NLS)
	)	12cv1627 JLS (NLS) 12cv1651 JLS (NLS)
	)	12cv1629 JLS (NLS) 12cv1652 JLS (NLS)
	)	12cv1630 JLS (NLS) 12cv1653 JLS (NLS)
	)	12cv1631 JLS (NLS) 12cv1654 JLS (NLS)
	)	12cv1633 JLS (NLS) 12cv1655 JLS (NLS)
	)	12cv1634 JLS (NLS) 12cv1656 JLS (NLS)
	)	12cv1636 JLS (NLS) 12cv1659 JLS (NLS)

**ORDER FOLLOWING SECOND CASE
MANAGEMENT CONFERENCE AND
CASE MANAGEMENT ORDER**

1 The court held a second Case Management Conference on February 20, 2013. The court
2 addressed issues raised in the Joint Case Management Statement and Discovery Plan and the parties'
3 Joint Motion for Determination of Discovery Dispute No. 1 regarding source code. After conferring
4 with the attorneys of record, and for good cause shown, the court **ORDERS**:

5 1. Settlement. The parties will consider in good faith appropriate settlement discussion
6 mechanisms as the case proceeds, including but not limited to private mediation or scheduling of
7 settlement conferences between Ameranth and individual defendants with the Court. The parties may
8 contact chambers to set up single-defendant settlement conferences.

9 2. Initial Disclosures. The parties shall serve Initial Disclosures by **March 1, 2013**.

10 3. Preservation of Discoverable Information. The court adopts the parties' language, as stated in
11 section III of their Joint Case Management Statement and Discovery Plan.

12 4. Discovery Plan.

13 A. Subjects for Discovery. The court adopts the parties' language, as stated in section
14 IV(a) of their Joint Case Management Statement and Discovery Plan.

15 B. Use of Discovery From First Phase of Lawsuit. The court adopts the parties'
16 language, as stated in section IV(b) of their Joint Case Management Statement and Discovery Plan.

17 C. Supplementation of Discovery Responses. Parties that previously served responses to
18 written discovery requests shall serve any supplemental responses to such requests by **April 15, 2013**,
19 including any supplemental productions of responsive documents. Parties that previously produced
20 source code for accused products/systems shall likewise supplement such source code productions by
21 **April 15, 2013**, to include any new versions, releases, upgrades and features available as of April 1,
22 2013.

23 D. Electronically Stored Information. The parties agree that general electronically stored
24 information production requests under Rules 34 and 45 of the Fed. R. Civ. Proc. shall not include
25 metadata absent a showing of good cause. However, fields showing the date and time that a document
26 was sent or received, and the complete distribution list shall be included in the production whenever
27 available. Other provisions regarding ESI are included in the Court's Protective Order issued in this
28 matter, and production of source code is addressed separately in the Court's Protective Order as well as

1 in an order adjudicating the parties first discovery dispute. The court **ORDERS** the parties to submit,
2 by **April 15, 2013**, a proposed ESI Order, which shall address, among other issues, a standardized
3 format for the production of ESI and the number of custodians and search terms. The proposed ESI
4 Order shall also identify an ESI liaison for each party, who shall be an in-house or outside technical
5 expert familiar with the party's technology and who can be available to participate in meaningful meet
6 and confer sessions regarding ESI.

7 E. Service of Preliminary Infringement Contentions. Ameranth will serve preliminary
8 infringement contentions and accompanying documents on the members of the various defendant groups
9 on the following schedule:

10 1. Pizza Companies and Providers—**April 1, 2013**

11 2. Food Ordering Companies—**April 15, 2013**

12 3. Reservations Companies—**April 29, 2013**

13 4. Hotel Companies—**May 13, 2013**

14 5. Travel Aggregators—**May 28, 2013**

15 6. Ticketing Companies—**June 10, 2013**

16 7. POS (Point of Sale) Companies—**June 24, 2013**

17 8. Others—**July 8, 2013**

18 The fact that particular documents or materials are to be produced pursuant to Patent Local Rule
19 3.2 does not excuse a party from the obligation to produce such materials in response to an earlier
20 request for production of documents unless as otherwise provided in Patent Local Rule 2.5. Ameranth
21 may amend its preliminary infringement contentions as permitted by Patent Local Rule 3.6. The court
22 denies Defendants' request regarding supplemental contentions to identify software limitations.

23 F. Service of Invalidity Contentions.

24 The defendants will serve, to the extent reasonably feasible, a Joint Set of Invalidity Contentions
25 under Patent Local Rule 3.3, along with all materials described in Patent Local Rules 3.4(a) and (b), by
26 **September 6, 2013**. The fact that particular documents or materials are to be produced pursuant to
27 Patent Local Rules 3.4(a) or (b) does not excuse a party from the obligation to produce such material in
28 response to an earlier request for production of documents, except as provided in Patent Local Rule 2.5.

1 The court denies without prejudice Ameranth's request to limit Defendants to no more than three (3)
2 purported anticipatory references, and no more than three (3) purported obviousness combinations.

3 G. Other Discovery. Pursuant to the Court's Protective Order in this matter
4 [Doc. No. 323], a two stage discovery process shall apply in this case. In the first stage, the parties
5 exchange core documentation regarding the patents, the accused systems/products, prior art, and
6 finances. In the second stage, the parties may request production of email under the terms set forth in the
7 Protective Order. The "first stage" discovery shall commence on **April 1, 2013**. The discovery that
8 Ameranth recently served is now deemed "served" as of April 1, 2013, and need not be re-served. The
9 "second stage" discovery shall commence **November 1, 2013**.

10 H. Format of Written Discovery.

11 (1) Ameranth discovery propounded to defendants. The court adopts the parties'
12 language, as stated in section IV(h)(1) of their Joint Case Management Statement and Discovery Plan.

13 (2) Defendant discovery propounded to Ameranth. The court adopts the parties'
14 language, as stated in section IV(h)(2) of their Joint Case Management Statement and Discovery Plan.

15 (3) Numerical Limits on Written Discovery. The parties will abide by the
16 numerical limitations for interrogatories and requests for admission contained in the Fed.R.Civ.Proc.
17 and the Local Rules for the Southern District of California, inclusive of any applicable joint requests
18 (except that the number of requests for admissions to establish the authenticity of a document are
19 unlimited). Interrogatories that a party previously served shall count against these limits. The court
20 denies without prejudice Ameranth's request to limit to fifty the number of requests for production of
21 documents to any other party, inclusive of any group or joint requests. While the court appreciates that
22 a limit on the document requests could be useful in this case it encourages the parties to meet and confer
23 and agree to a limit among themselves.

24 I. Limitations on Fact Depositions. The court adopts the parties' language, as stated in
25 section IV(i) of their Joint Case Management Statement and Discovery Plan.

26 J. Limitations on Expert Depositions. The court adopts the parties' language, as stated in
27 section IV(j) of their Joint Case Management Statement and Discovery Plan.

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1 K. Discovery Motions. All parties are limited to a collective total of twenty (20) joint
2 discovery motions, unless good cause is shown for more. These limitations do not apply to motions to
3 compel compliance with subpoenas issued to third parties.

4 5. Other Motions. The court adopts the parties' language, as stated in section V of their Joint
5 Case Management Statement and Discovery Plan.

6 6. Claim Construction. This court finds the parties' proposal regarding the claim construction
7 hearing reasonable, and recommends it to the district judge for approval.

8 7. Ameranth v. Apple lawsuit (Case No. 12-cv-2350 H (BGS)). The court has noted the parties'
9 statements regarding the relationship of that case to this case.

10 8. Electronic Service. The court adopts the parties' language, as stated in section VIII of their
11 Joint Case Management Statement and Discovery Plan.

12 9. Scheduling Order. Issued contemporaneously with this order is a scheduling order listing all
13 pretrial dates up to the claim construction hearing. Within three days of the district judge's issuance of a
14 claim construction order, the parties shall contact this chambers with their availability for the scheduling
15 of a third case management conference, at which the court will set all remaining dates in the case.

16 **IT IS SO ORDERED.**

17 DATED: February 22, 2013

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19 Hon. Nita L. Stormes
20 U.S. Magistrate Judge
21 United States District Court
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