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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

AMERANTH, INC.,  
  
Plaintiff,  
  
v.  
  
DOMINO'S PIZZA, INC. and  
DOMINO'S PIZZA, LLC  
  
Defendants.

Case No.: 12cv0733 DMS (WVG)

**ORDER GRANTING AMERANTH'S  
MOTION FOR ISSUANCE OF A  
FINAL AND APPEALABLE  
AMENDED JUDGMENT**

This case comes before the Court on Ameranth's motion for issuance of a final and appealable amended judgment. Defendants filed an opposition to the motion, and Plaintiff filed a reply.

Ameranth requests that the Court issue a final judgment in accordance with the Federal Circuit's November 1, 2019 judgment, and that the final judgment incorporate the Court's Orders finding this case exceptional and awarding Defendants their attorneys' fees and costs. Defendants do not object to the issuance of a final judgment that complies with the Federal Circuit's judgment, but they do object to inclusion of the issues of exceptional case and fees and costs in that final judgment.

Clearly, the Court must enter an amended judgment in accordance with the Federal Circuit's opinion. Whether the Court must include in the amended judgment the

1 exceptional case finding and the award of fees and costs is hotly disputed, apparently more  
2 for tactical reasons than on the merits, but the Court finds no authority preventing it from  
3 including those issues. Indeed, this Court granted a similar request in another case. *See*  
4 *Digital Empire Limited v. Compal Electronics Inc.*, Case No. 14cv1688 DMS (KSC), ECF  
5 No. 167. Thus, in the interests of finality and the efficient administration of justice, the  
6 Court grants Ameranth's motion and issues the following Amended Judgment:

7       WHEREAS the Patent Trial and Appeal Board and/or the Federal Circuit Court of  
8 Appeals has held all claims of U.S. Patent No. 6,384,850 (the "'850 Patent"), all claims  
9 other than claim 14 of U.S. Patent No. 6,871,325 (the "'325 Patent"), and all claims of U.S.  
10 Patent No. 6,982,733 (the "'733 Patent") patent ineligible and/or invalid, and all appeals of  
11 those decisions have been exhausted;

12       WHEREAS the issue of patent eligibility of certain claims of U.S. Patent No.  
13 8,146,077 (the "'077 Patent") under 35 U.S.C. §101 (hereinafter "Section 101") was  
14 brought before this Court on summary judgment by Domino's Pizza, LLC and Domino's  
15 Pizza, Inc. (collectively hereinafter "Domino's"), fully briefed, oral argument heard, and a  
16 decision rendered;

17       WHEREAS, on October 11, 2018, the Court issued a Judgment (Doc. No. 66)  
18 declaring all asserted claims of the '077 Patent (claims 1, 4-9, 11, 13-18) patent ineligible  
19 under Section 101 and entering judgment in favor of Domino's on Domino's counterclaim  
20 for invalidity of Ameranth's '850, '325, '733, and '077 Patents;

21       WHEREAS, on November 1, 2019, the Federal Circuit, Case No. 2019-1141/2019-  
22 114, issued a Decision affirming in part and vacating in part the District Court's Order  
23 granting summary judgment, and remanded the matter to the District Court to vacate the  
24 October 11, 2018 Judgment with respect to claims 4 and 5 of the '077 Patent;

25       WHEREAS, on November 6, 2020, based upon the Court's October 11, 2018  
26 Judgment (Doc. No. 66), Domino's brought a motion to declare this case exceptional and  
27 to award it its fees and costs incurred in the matter under 35 U.S.C. §285 (hereinafter

28 ///

1 “Section 285”), and such motion was fully briefed and a decision rendered (Doc. No. 134);  
2 and

3 WHEREAS, on June 21, 2021, the Court issued an Order (Doc. No. 169) awarding  
4 Domino’s fees and costs against Ameranth pursuant to 35 U.S.C. §285,

5 Now, therefore, pursuant to Rule 58 of the Federal Rules of Civil Procedure and in  
6 accordance with the Mandate of the Federal Circuit (Doc. No. 108), IT IS HEREBY  
7 ORDERED AND ADJUDGED:

8 Domino's motion for summary judgment of unpatentability under Section 101 is  
9 granted in part, and claims 1, 6-9, 11, and 13-18 of the '077 Patent, only, are declared patent  
10 ineligible under Section 101 as set forth in the Court's Order Granting the Motion For  
11 Summary Judgment Of Unpatentability (Doc. No. 1395 in Case No. 11-cv-1810 DMS-  
12 WVG).

13 The case is declared exceptional under Section 285 as set forth in the Court’s Order  
14 Granting in Part Defendants’ Second Renewed Motion to Declare Case Exceptional (Doc.  
15 No. 134).

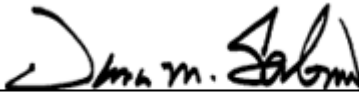
16 Domino’s is awarded fees and costs in this matter in the total amount of  
17 \$2,786,185.29 under Section 285, as set forth in the Court’s Order on Domino’s Request  
18 for Fees and Costs (Doc. No. 169).

19 Judgment is entered in favor of Domino’s on its counterclaim for patent ineligibility  
20 of claims 1, 6-9, 11, and 13-18, only, of the '077 Patent, and on all claims of the ‘850, ‘325,  
21 and ‘733 Patents other than claim 14 of the ‘325 Patent. Domino's other counterclaims  
22 are dismissed without prejudice.

23 The Clerk of Court shall enter judgment accordingly and close this case.

24 **IT IS SO ORDERED.**

1 Dated: November 18, 2021

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4 Hon. Dana M. Sabraw, Chief Judge  
5 United States District Court  
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