

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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EDMUNDS HOLDING COMPANY,	)	
A Delaware Corporation, and	)	
	)	
EDMUNDS.COM, INC.,	)	
A New York Corporation,	)	
	)	
Plaintiffs,	)	C.A. No. _____
v.	)	
	)	
AUTOBYTEL INC.,	)	
A Delaware Corporation,	)	
	)	
Defendant.	)	
_____ )		

**COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiffs Edmunds Holding Company and Edmunds.com, Inc. (collectively, "Edmunds") for their Complaint against defendant Autobytel Inc. ("Autobytel"), hereby allege as follows:

**PARTIES**

1. Plaintiff Edmunds Holding Company is a corporation duly organized and existing under the laws of the State of Delaware, and has its principal place of business at 1620 26th Street, Santa Monica, California 90404.

2. Plaintiff Edmunds.com, Inc. is a corporation duly organized and existing under the laws of the State of New York, and has its principal place of business at 1620 26th Street, Santa Monica, California 90404.

3. On information and belief, defendant Autobytel is a corporation organized and existing under the laws of the State of Delaware, and has its principal place of business at 18872 MacArthur Boulevard, Irvine, California 92612.

### **NATURE OF THE ACTION**

4. This is an action for a declaration of non-infringement and invalidity of a United States Patent.

5. This action arises under the Declaratory Judgment Act, codified at 28 U.S.C. §§2201 and 2202, and under the patent laws of the United States, 35 U.S.C. §1 *et seq.*

### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction pursuant over this action to 28 U.S.C. §§ 1331, 1338 and 2201.

7. This Court has personal jurisdiction over Autobytel because Autobytel is a corporation organized and existing under the laws of the State of Delaware.

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400.

### **BACKGROUND**

9. On information and belief, defendant Autobytel is the assignee of U.S. Patent No. 6,282,517 (“the ‘517 patent”), entitled “Real Time Communication of Purchase Requests” (attached hereto as Exhibit A), which issued on or about August 28, 2001.

10. On information and belief, Autobytel has in recent years brought several patent infringement actions against numerous companies in the sales “leads” business.

11. On information and belief, in May 2003, Autobytel filed its first lawsuit for infringement of the ‘517 Patent, asserting the patent against three companies, including NCR Corporation, Sagetree, Inc., and Baseline Consulting Group, Inc., in the U.S. District Court for the Central District of California, in the case captioned *Autobytel Inc. v. NCR Corp., et al.*, Civil No. 8:2003cv00432. On information and belief, in October 2003, this lawsuit was dismissed with prejudice by Autobytel.

12. On information and belief, in September 2004, eleven months after the dismissal of the first lawsuit involving the '517 Patent, Autobytel filed its second lawsuit for infringement of the '517 Patent, asserting the patent against Dealix Corporation, in the U.S. District Court for the Eastern District of Texas, in the case captioned against *Autobytel Inc. v. Dealix Corp.*, Civil No. 2:2004cv00338. On information and belief, in March 2007, this lawsuit was dismissed with prejudice by Autobytel.

13. On information and belief, in November 2007, eight months after the dismissal of its second lawsuit involving the '517 Patent, Autobytel filed its third lawsuit for infringement of the '517 Patent, asserting the patent against four companies, including InsWeb Corp., LeadPoint Inc., Internet Brands, Inc. and Auto Internet Marketing, Inc., in U.S. District Court for the Eastern District of Texas, in the case captioned *Autobytel Inc. v. Insweb Corp., et al.*, Civil No. 2:2007cv00524. On information and belief, this lawsuit is currently pending.

14. On information and belief, in these lawsuits, Autobytel has alleged infringement of the '517 Patent based on the activities of companies Dealix Corp., Internet Brands, Inc., and Auto Internet Marketing, Inc., each of whom is engaged in obtaining and distributing sales leads from potential automobile buyers, and each of whom has purchased and is purchasing sales leads from Edmunds.

15. Accordingly, Edmunds brings this action in this Court to seek a declaration that its business activities, some of which include generating automobile sales leads, do not infringe the '517 Patent, and that the '517 Patent is invalid. An actual and justiciable controversy exists between the parties hereto regarding the non-infringement and invalidity of the '517 Patent. Edmunds and Autobytel have an adverse legal interest as to the '517 Patent, and a substantial

controversy of sufficient immediacy and reality exists to warrant the issuance of a declaratory judgment for non-infringement and invalidity of the '517 Patent.

**COUNT I**  
**DECLARATORY JUDGMENT OF  
NON-INFRINGEMENT OF THE '517 PATENT**

16. Edmunds repeats and realleges the allegations of the preceding paragraphs as if fully set forth herein.

17. Edmunds is not infringing and has not infringed, directly, by inducement or contributorily, any claim of the '517 Patent.

18. Accordingly, Edmunds is entitled to a declaratory judgment that it does not infringe any claim of the '517 Patent.

**COUNT II**  
**DECLARATORY JUDGMENT OF  
INVALIDITY OF THE '517 PATENT**

19. Edmunds repeats and realleges the allegations of the preceding paragraphs as if fully set forth herein.

20. One or more claims of the '517 Patent is invalid under one or more sections of Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101, 102, 103, and 112.

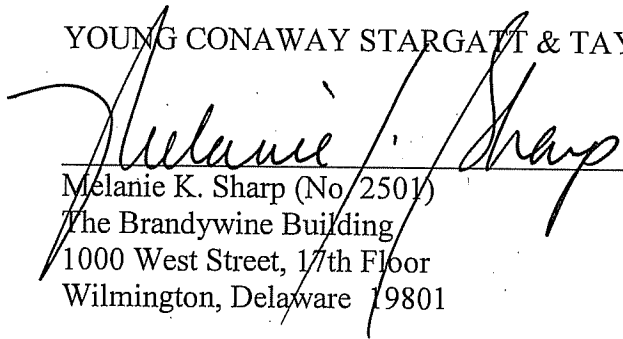
21. Accordingly, Edmunds is entitled to a declaratory judgment that one or more claims of the '517 Patent are invalid.

**PRAYER FOR RELIEF**

WHEREFORE, PLAINTIFFS pray for the following relief:

- (a) that this Court enter an Order declaring that Edmunds does not infringe any claim of the '517 Patent;
- (b) that this Court enter an Order declaring that the claims of the '517 Patent are invalid;
- (c) that Edmunds be awarded its attorneys' fees, costs and expenses; and
- (d) that the Court grant Edmunds such other and further relief as it may deem proper.

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Dated: March 13, 2008

*\* Motions for Admission Pro Hac Vice to be filed.*