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MAR 30 2005

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NORTHERN DISTRICT OF CALIFORNIA

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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 (San Francisco Division)

12 CYGNUS TELECOMMUNICATIONS) Northern California District Court
13 TECHNOLOGY, LLC,) Case No.

14 Plaintiff,

15 v.) COMPLAINT

16 MICHAEL J. SCHEELE, ERIC J. SCHEELE,)
17 M. J. SCHEELE AND ASSOCIATES, and) (JURY TRIAL DEMANDED)
18 CALLBACKNET.COM)

19 Defendants.

20 Cygnus Telecommunications Technology, LLC, a Delaware limited liability company
21 ("Plaintiff"), complains as follows:

22 1. This is a patent infringement case under the patent laws of the United States,
23 particularly 35 U.S.C. § 271 and § 281. Jurisdiction arises under 28 U.S.C. § 1338(a). Venue in
24 this judicial district arises under 28 U.S.C. 1400.

25 2. Plaintiff is a Delaware limited liability company having a place of business at 510
26 First Avenue North, Suite 705, Minneapolis Minnesota. It owns United States Patent 5,883,964,
27 granted March 16, 1999. It also owns United States Patent 6,035,027, granted March 7, 2000.

1 3. Defendant Michael J. Scheele is a telecommunications consultant and
2 entrepreneur doing business as M. J. Scheele and Associates and CallBackNet.com. He has
3 consulted with counsel for Plaintiff Cygnus, and has been a commissioned sales agent for The
4 Telephone Connection of Los Angeles, Inc. ("TTC"). He has actively induced infringement of
5 the Cygnus patents. He has a place of business at 2255 Van Ness Ave., San Francisco, CA
6 94109 within this judicial district.

7 4. Defendant Eric J. Scheele, believed to be a sibling of Michael Scheele, is a
8 partner in M. J. Scheele and Associates, is a Director of CallBackNet.com and has been a
9 commissioned sales agent for TTC for providing DID telephone numbers and service to
10 international call-back companies. He has actively induced infringement of the Cygnus patents.
11 On information and belief, he resides in Kansas City, Missouri, and does business in this judicial
12 district. 28 U.S.C. § 1694 applies where the Defendant is not a resident but has a regular and
13 established place of business, and his agent may be served.

14 5. Defendant M. J. Scheele and Associates is believed to be a California partnership
15 having a place of business at 2255 Van Ness Ave. San Francisco, CA 94109. It actively induces
16 infringement of the Cygnus patents by consulting with call-back companies, renting DID
17 numbers to call-back companies for use in infringing the patents, and assists resellers in
18 infringing the patents. On April 26, 1999, approximately one month after the first Cygnus patent
19 issued, the firm was retained by counsel for Cygnus for "expert witness testimony, market
20 analysis and other business development related issues." At the time, the firm had "a passive
21 unspecified stock interest in USA Global Link," but no other "commercial callback company as a
22 client." At the present time, it offers "wholesale DID's" for "call-back companies," and
23 advertises that it has "positioned ourselves to bring you, the switchless reseller, a program that is
24 simple, clear and without hidden charges." It claims to have "routed billions of minutes through
25 callback." The firm "[i]ntegrate[s] a switching platform for our resellers, distributors and agents
26 that meets all global demands without excessive fees and charges."
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1 6. On information and belief, Defendant CallBackNet.com is a service of M. J.
2 Scheele and Associates for assisting call-back companies in providing international call-back
3 services, including the sale of DID telephone numbers. If it is more than a dba of M. J. Scheele
4 and Associates, Cygnus seeks relief against this entity.

5 7. The patents in suit describe and claim a system and method for what is
6 known to the parties as International Call-back. The subscriber sends a signal to the service
7 provider when the subscriber desires to place a call. The signal may be over a number of
8 networks to enable the service provider to identify the subscriber and to look up the call-back
9 number for each subscriber. The call-back is at a lower cost from the service provider to the
10 subscriber than is the cost of a call from the subscriber to the service provider. A second path
11 from the service provider is used to reach the called party. Once the called party is reached, the
12 two call paths are bridged together to enable the subscriber to communicate with the called party.

13 8. Typically, the subscriber is in a country having relatively high rates for
14 international telephone calls, and the service provider is in a country having relatively low rates
15 for international telephone calls. Hence, International Call-back describes the automatic call-
16 back by the service internationally to the subscriber.

17 9. The effective filing date of the patents is April 24, 1992. They are presumed to be
18 valid under 35 U.S.C. § 282.

19 10. Each of the Defendants actively induces infringement of the patents by switchless
20 resellers of carrier services as well as carriers in violation of 35 U.S.C. §271(b), and is therefore
21 liable as an infringer. Cygnus seeks damages adequate to compensate for the infringement of the
22 Cygnus patents under 35 U.S.C. §284.

23 11. Cygnus also seeks an injunction against further inducement of infringement by
24 Defendants under 35 U.S.C. §283. The remedy at law for infringement damages is not adequate
25 to prevent future infringement.

26 12. Defendants advertise on the Internet that they assist switchless resellers in
27 providing international call-back services. Cygnus does not now know the identity of the
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1 resellers or the extent of damages and will require discovery to determine the amount of damage
2 for the infringement. Cygnus seeks damages for infringement during the six years preceding the
3 filing of this Complaint under 35 U.S.C. §286.

4 WHEREFORE, Plaintiff prays for:

5 A. A preliminary and permanent injunction against the use by each of the Defendants
6 of the patented system and method under 35 U.S.C. § 283.

7 B. Damages adequate to compensate for the infringement of the patent by each of the
8 Defendants under 35 U.S.C. § 284.

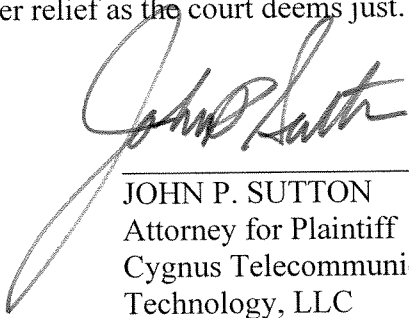
9 C. Increased damages up to three times the amount found by the jury, assessed
10 against each of the Defendants under 35 U.S.C. § 284.

11 D. Reasonable attorney fees under 35 U.S.C. § 285.

12 E. Costs.

13 F. Such other and further relief as the court deems just.

14 Dated: March 29, 2005

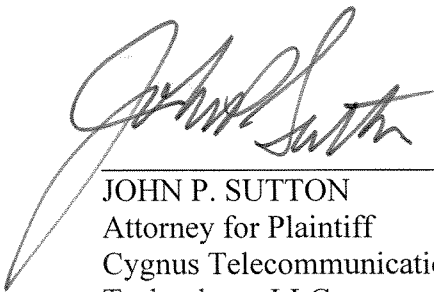
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16 _____
17 JOHN P. SUTTON
18 Attorney for Plaintiff
19 Cygnus Telecommunications
20 Technology, LLC

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JURY DEMAND

Plaintiff, Cygnus Telecommunications Technology, LLC hereby demands a trial by jury
in the above-captioned matter.

Dated: March 29, 2005



JOHN P. SUTTON
Attorney for Plaintiff
Cygnus Telecommunications
Technology, LLC

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