

The Honorable Judge Thomas Zilly

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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY DEPUTY

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CALLVISION, INC.,

Plaintiff,

v.

CENTILLION DATA SYSTEMS, LLC. and  
CTI GROUP (HOLDINGS), INC.,

Defendants.

Civil Case No. C03-0916Z

**SECOND AMENDED COMPLAINT**



**03-CV-00916-CMP**

Plaintiff, CallVision, Inc., ("CallVision") for its Second Amended Complaint states  
and alleges as follows:

**The Parties**

1. CallVision is a Washington corporation having its principal place of business  
at Nickerson Marina Building, 1080 W. Ewing Place, Suite 200, Seattle, Washington 98119.

2. CallVision is in the business of providing e-billing and related customer  
relationship management applications to telecommunications service providers. In  
particular, CallVision is a leading provider of online applications that enable  
telecommunications providers to leverage billing data into deeper, more valuable  
interactions with their customers. CallVision's applications enable a provider's business

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1 customers to view and analyze their bill to help allocate expenses, evaluate marketing  
2 programs, detect misuse, and verify the accuracy of charges. CallVision's applications also  
3 enable a provider's residential customers to view and pay their telecommunications bills via  
4 electronic funds transfer or credit cards.

5 3. Upon information and belief, Centillion Data Systems, LLC, ("CDS") is a  
6 Delaware corporation having its principal place of business at 333 North Alabama Street,  
7 Indianapolis, Indiana 46204. Upon information and belief, CDS does business in this  
8 district.

9 4. Upon information and belief, CTI Group (Holdings), Inc., ("CTIG") is a  
10 Delaware corporation having its principal place of business at 333 North Alabama Street,  
11 Indianapolis, Indiana 46204. Upon information and belief, CTIG does business in this  
12 district.

13 5. Upon information and belief, CTIG and CDS are providers of billing and  
14 customer management software and services to the communications and utility markets.

### 15 Jurisdiction

16 6. This is an action for Declaratory Judgment under 28 U.S.C. §2201; tortious  
17 interference; and unfair competition arising under the Washington Unfair Business Practices  
18 Act, RCW 19.86 et seq.

19 7. There is an actual controversy between the parties with regard to the non-  
20 infringement of United States Patent No. 5,325,290 ("the '290 patent") and United States  
21 Patent No. 5,287,270 ("the '270 patent). A reasonable apprehension of a suit for  
22 infringement of the '290 patent and the '270 patent has been created by the Defendants or  
23 those acting by or for the Defendants with respect to the ability of CallVision to make, use,  
24 sell, and/or offer to sell at least some of its products and services.

1           8.       This court has subject matter jurisdiction in accordance with 28 U.S.C.  
2       §§2201, 2202, 1331, 1338(a), and under its supplemental jurisdiction.

3                               **The Patents in Suit**

4           9.       On information and belief, Defendant CDS is the assignee of the '290 patent,  
5       entitled "Billing System with Data Indexing," issued June 28, 1994. The '290 patent was  
6       assigned originally to Compucom Communications Corp. Upon information and belief,  
7       Compucom Communications Corp. was renamed Centillion Data Systems, Inc., and the '290  
8       patent was assigned to Centillion Data Systems, Inc. A true and correct copy of the '290  
9       patent is attached as Exhibit A.

10          10.       On information and belief, Defendant CTIG is a parent or otherwise related  
11       company to CDS. Threats of suit against CallVision and its customers regarding the '290  
12       patent have been made by and on behalf of both CDS and CTIG.

13          11.       On information and belief, Defendant CDS is the assignee of the '270 patent,  
14       entitled "Billing System," issued February 15, 1994. The '270 patent was assigned  
15       originally to Compucom Communications Corp. Upon information and belief, Compucom  
16       Communications Corp. was renamed Centillion Data Systems, Inc., and the '270 patent was  
17       assigned to Centillion Data Systems, Inc. A true and correct copy of the '270 patent is  
18       attached as Exhibit B.

19          12.       On information and belief, Defendant CTIG is a parent or otherwise related  
20       company to CDS. Threats of suit against CallVision and its customers regarding the '270  
21       patent have been made by and on behalf of both CDS and CTIG.

**COUNT I**

**Declaration of Non-Infringement of U.S. Patent No. 5,325,290**

13. The allegations of the preceding paragraphs 1-12 are repeated, and incorporated herein by reference.

14. CallVision offers new and innovative products to providers of telecommunications services. CallVision's products enable the service provider to provide enhanced billing analysis and reports to their customers. CallVision's new and innovative products do not infringe the '290 patent.

15. Accordingly, CallVision has not infringed, is not now infringing, and has not contributorily infringed or induced infringement of any claims of the '290 patent.

**COUNT II**

**Declaration of Non-Infringement of U.S. Patent No. 5,287,270**

16. The allegations of the preceding paragraphs 1-15 are repeated, and incorporated herein by reference.

17. CallVision offers new and innovative products to providers of telecommunications services. CallVision's products enable the service provider to provide enhanced billing analysis and reports to their customers. CallVision's new and innovative products do not infringe the '270 patent.

18. Accordingly, CallVision has not infringed, is not now infringing, and has not contributorily infringed or induced infringement of any claims of the '270 patent.

**COUNT III**

**Declaration of Invalidity of U.S. Patent No. 5,325,290**

19. The allegations of the preceding paragraphs 1-18 are repeated, and incorporated herein by reference.



26. Upon information and belief, Defendants have knowingly and intentionally sent harassing and threatening letters to CallVision's customers claiming that the CallVision customers are infringing the '290 patent and the '270 patent.

27. Defendants have no good faith basis to believe that any CallVision product or service, or any actions by CallVision's customers infringe the '290 patent and/or the '270 patent.

28. Defendants' actions constitute tortious interference with CallVision's contractual, business, and prospective business relationships.

29. CallVision has suffered damages as a result of Defendants' actions.

30. CallVision has suffered irreparable injury, for which it has no adequate remedy at law, and will continue to suffer irreparable injury unless and until the Defendants' acts of tortious interference are enjoined by the Court.

## COUNT VI

### **Unfair Competition under Washington State Law**

31. The allegations of the preceding paragraphs 1-30 are repeated, and incorporated herein by reference.

32. Defendants' acts constitute unfair competition pursuant to RCW 19.86 et seq.

33. CallVision has suffered damages as a result of Defendants' actions.

34. CallVision has suffered irreparable injury, for which it has no adequate remedy at law, and will continue to suffer irreparable injury unless and until the Defendants' acts of unfair competition are enjoined by the Court.

**PRAYER FOR RELIEF**

WHEREFORE, CallVision prays for judgment against Defendants as follows:

A. A declaratory judgment that United States Patent No. 5,325,290 and United States Patent No. 5,287,270 are not infringed, contributorily infringed, or infringed through inducement by CallVision;

B. A declaratory judgment that each of the claims of United States Patent No. 5,325,290 and United States Patent No. 5,287,270 are invalid and unenforceable;

C. An order awarding CallVision its costs, in addition to its attorneys' fees, in accordance with 35 U.S.C. §285;

D. An order enjoining and restraining Defendants from committing acts of tortious interference and unfair competition and from making further charges of infringement, or acts of enforcement based on the '290 patent and the '270 patent against CallVision, CallVision's actual and prospective customers, and anyone in privity with CallVision;

E. A judgment that Defendants have engaged in acts of tortious interference with prospective business relationship, business relationship, and/or contractual relationship;

F. A judgment that Defendants have engaged in acts of unfair competition;

G. A judgment and order requiring that Defendants file with the Court and serve on CallVision, within 30 days after the service of the Court's order as herein prayed, a report in writing and under oath setting forth in detail the manner and form in which the Defendants' have complied with the Court's order;

H. A judgment and order requiring that Defendants notify the market place, in a manner pre-approved by CallVision, that CallVision is not infringing the '290 patent or the '270 patent and has never infringed the '290 patent or the '270 patent;

1 I. A judgment and order requiring Defendants to account for all gains, profits  
2 and advances derived from its acts of tortious interference and unfair competition;

3 J. A judgment and order requiring that Defendants, jointly and severally, pay to  
4 CallVision all damages sustained by CallVision, including, but not limited to, Plaintiff's  
5 actual damages, Defendants' profits, punitive damages, damages suffered as a result of  
6 indemnification of its customers, attorneys' fees and costs, alternative statutory damages,  
7 and ordering that the amount of damages awarded to CallVision be three times the amount  
8 thereof when applicable; and

9 K. Such other and further relief as this Court may deem just and equitable.

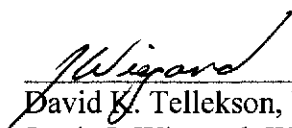
10 **Demand for Jury Trial**

11 CallVision hereby demands a trial by jury of all issues so triable.

12 CALLVISION, INC.

13 By its Attorneys,

14 Dated: October 15, 2003

15   
David K. Tellekson, WSBA No. 33523  
16 Jamie L. Wiegand, WSBA No. 31062  
DARBY & DARBY, P.C.  
17 1191 Second Avenue, Suite 1900  
Seattle, WA 98101  
Telephone: 206.262.8900  
18 Facsimile: 206.262.8901



The Honorable Thomas S. Zilly

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Civil Case No. CV03-0916Z

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this 15<sup>th</sup> day of October, 2003, a true and correct copy of the SECOND AMENDED COMPLAINT was served via messenger upon:

Brian Bodine, Esq.  
DAVIS WRIGHT TREMAINE, LLP  
2600 Century Square  
1501 Fourth Avenue  
Seattle, WA 98101-1688  
Telephone: (206) 622-3150  
Facsimile: (206) 628-7699

Via U.S. Mail, postage pre-paid, (courtesy copy via facsimile) upon:

1 Leonard D. Steinman, Esq.  
2 BLANK ROME LLP  
3 The Chrysler Building  
4 405 Lexington Avenue  
5 New York, New York 10174  
6 Telephone: 212-885-5000  
7 Facsimile: 212-885-5001

Michael C. Greenbaum, Esq.  
Victor M. Wigman, Esq.  
Peter S. Weissman, Esq.  
BLANK ROME LLP  
Watergate, Eleventh Floor  
600 New Hampshire Ave. NW  
Washington, D.C. 20037  
Telephone: (202) 772-5800  
Facsimile: (202) 572-1436

8 Dated: October 15, 2003

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MacKenzie M. Keever