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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

j2 GLOBAL COMMUNICATIONS, INC., a
Delaware corporation,
PLAINTIFF(S)

CASE NUMBER

JSL
F110X

v.

The Hot Lead Company, L.L.C.; Sunbelt Commu-
nications and Marketing, LLC; Robert Michael
Home; ^{Michael Gregory Horn} Don Magee; David Best; Larry Krouse aka
Lawrence Krouse; Scott Nickason aka Scott Nickason;
David Randall; David Vaughan; ^{Walter Albrecht aka Walter White,} DEFENDANT(S).

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiff's attorney
TODD E. WHITMAN, whose address is:

Allen Matkins Leck Gamble Mallory & Natsis, LLP
1900 Avenue of the Stars, Suite 1800
Los Angeles, California 90067

an answer to the complaint _____ amended complaint counterclaim cross-claim
which is herewith served upon you within 20 days after service of this Summons upon you, exclusive
of the day of service. If you fail to do so, judgement by default will be taken against you for the relief
demanded in the complaint.

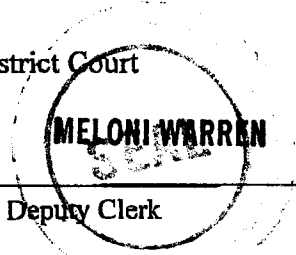
Clerk, U.S. District Court

Dated: 27 MAR 2007

By: _____

Deputy Clerk

(Seal of the Court)



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15 Attorneys for Plaintiff, j2 GLOBAL COMMUNICATIONS, INC.

16 UNITED STATES DISTRICT COURT
 17 CENTRAL DISTRICT OF CALIFORNIA

18 j2 GLOBAL COMMUNICATIONS,
 19 INC., a Delaware corporation,

20 Plaintiff,

21 vs.

22 THE HOT LEAD COMPANY, L.L.C.;
 23 SUNBELT COMMUNICATIONS
 24 AND MARKETING, LLC;
 25 ROBERT MICHAEL HORNE;
 26 MICHAEL GREGORY HORNE;
 27 DON MAGEE;
 28 DAVID BEST;
 LARRY KROUSE aka LAWRENCE
 KROUSE;
 SCOTT NICKASON aka SCOTT
 NICHASON;
 DAVID CRANDALL;
 DAVID VAUGHAN;
 WALTER ALBRECHT aka WALTER
 WHITE.

Defendants.

CV 07-01492
 Case No.: CV-07-
JSL FILED

COMPLAINT FOR:

- (1) VIOLATION OF FEDERAL TELEPHONE CONSUMER PROTECTION ACT (47 U.S.C. §227)
- (2) VIOLATION OF FEDERAL TELEPHONE CONSUMER PROTECTION ACT (47 C.F.R. §68.318(d))
- (3) TRÉSPASS TO CHATTELS
- (4) UNFAIR BUSINESS PRACTICES (Cal. B&P Code §17200 et seq.)
- (5) AIDING & ABETTING VIOLATIONS OF 47 U.S.C. §227 and of 47 C.F.R. §68.318(d)

(DEMAND FOR JURY TRIAL)

1 Plaintiff j2 GLOBAL COMMUNICATIONS, INC. alleges:

2 JURISDICTION AND VENUE

3 1. This action is filed in this Court because this Court has subject matter
4 jurisdiction over the controversy pursuant to 28 U.S.C. §1332 in that there is
5 complete diversity of citizenship and the amount in controversy is greater than
6 \$75,000.

7 2. This Court has general and specific personal jurisdiction over defendants,
8 because defendants have engaged in substantial, continuous and systematic activities
9 within California, and the claims in this action arise out of defendants' forum-related
10 activities.

11 3. As further set out below, defendants purposefully directed their activities
12 towards forum residents.

13 4. Further, defendants regularly conduct business or contract or arrange to
14 provide business and/or goods and/or services in this district.

15 5. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b)(2) in that a
16 substantial part of the events and/or omissions on which the claims are based
17 occurred in this Court's district.

18 PARTIES

19 6. Plaintiff j2 GLOBAL COMMUNICATIONS, INC. ("j2") is a Delaware
20 for-profit corporation with its principal place of business in Los Angeles, California.
21 j2's "eFax" service allows its customers to receive and send faxes through j2's
22 servers and over j2's lines from anywhere that email can be accessed, and j2 does
23 indeed send and receive millions of faxes every day.

24 7. j2 is informed and believes, and on that basis alleges, that defendant THE
25 HOT LEAD COMPANY, L.L.C. ("HLC") is a limited liability company organized
26 and existing under the laws of the State of Nevada. HLC's business is the sending of
27 hundreds of thousands of faxes every day. Upon information and belief, virtually all
28 of these faxes are "junk faxes," or unsolicited advertisements for commercial

1 products or services. HLC is one of the largest senders of junk faxes in the United
2 States. HLC does regular business, including intrastate business, in California,
3 although it is not authorized to do business in California.

4 8. j2 is informed and believes, and on that basis alleges, that defendant
5 SUNBELT COMMUNICATIONS AND MARKETING, LLC, (“Sunbelt”) is a
6 limited liability company that was organized under the laws of the State of Nevada,
7 but whose charter is in default. Sunbelt’s business was the sending of faxes. Upon
8 information and belief, virtually all of these faxes were “junk faxes.” Sunbelt was
9 one of the largest senders of junk faxes in the United States. Sunbelt did regular
10 business in California, although it was not authorized to do business in California.
11 Sunbelt went out of business because of its liability for violating laws prohibiting the
12 sending of unsolicited facsimile advertisements and/or because of one or more
13 injunctions and judgments issued against it. Sunbelt’s officers, directors and
14 employees formed HLC, transferring Sunbelt’s business, including the customer
15 base and assets, to HLC when they did so.

16 9. j2 is informed and believes, and on that basis alleges, that defendant
17 ROBERT MICHAEL HORNE (“Robert Horne”) is a competent adult individual
18 resident of the State of Texas and is an owner and executive officer of HLC. Robert
19 Horne formerly owned and directed Sunbelt. Robert Horne directs and has directed
20 each and all of the activities of the other defendants as referenced herein. Robert
21 Horne oversees, or oversaw during the time that he was employed by HLC and
22 Sunbelt, all functions of HLC and of Sunbelt. Robert Horne oversees, or oversaw
23 during the time that he was employed by HLC and by Sunbelt, HLC’s and Sunbelt’s
24 fax transmission operations and related activities. Robert Horne knows, or knew
25 during the time he was employed by HLC and by Sunbelt, that HLC’s and Sunbelt’s
26 machines sent many junk faxes. However, he has failed to stop the transmission of
27 these junk faxes despite having the ability and authority to do so.

28 10. j2 is informed and believes, and on that basis alleges, that defendant

1 MICHAEL GREGORY HORNE (“Greg Horne”) is a competent adult individual
2 resident of the State of Texas and an owner, director, and executive officer of HLC.
3 Greg Horne formerly owned and directed Sunbelt. Greg Horne directs and has
4 directed each and all of the activities of the other defendants as referenced herein.
5 Greg Horne oversees all functions of HLC, and he oversaw all functions of Sunbelt.
6 Greg Horne oversees HLC’s fax transmission operations and related activities, and
7 he oversaw Sunbelt’s fax transmission operations and related activities. Greg Horne
8 has known that HLC’s and Sunbelt’s machines sent many junk faxes. However, he
9 has failed to stop the transmission of these junk faxes despite having the ability and
10 authority to do so.

11 11.j2 is informed and believes, and on that basis alleges, that Defendant DON
12 MAGEE is a competent adult individual resident of the State of Texas and an
13 employee of HLC. Magee’s function at HLC is to physically send large numbers of
14 facsimile advertisements across the country, including to numbers owned by j2, and
15 he does that for HLC. Magee inputs the numbers to which to send the facsimiles
16 into a computer which then sends images that are received on facsimile machines
17 when Magee programs the computer to send the images. Magee also operates a
18 machine that randomly dials telephone numbers to determine which ones are
19 connected to facsimile machines, and he thereby routinely replenishes HLC’s
20 database of, upon information and belief, approximately nine million facsimile
21 numbers maintained by him and the other defendants. Magee is also involved in the
22 sending of junk faxes, and related activities, as further set forth below.

23 12.j2 is informed and believes, and on that basis alleges, that Defendant
24 DAVID BEST is a competent adult individual resident of the State of Texas and an
25 employee of HLC. Best’s function at HLC is to create, edit, and then physically
26 send large numbers of facsimile advertisements across the country, including to
27 numbers owned by j2, and he does that for HLC. Best inputs the numbers to which
28 to send the facsimiles into a computer, which then sends images that are received on

1 facsimile machines when Best programs the computer to send the images. Best also
2 operates a machine that randomly dials telephone numbers to determine which ones
3 are connected to facsimile machines, and he thereby routinely replenishes HLC's
4 database of, upon information and belief, approximately nine million facsimile
5 numbers maintained by him and the other defendants. Best is also involved in the
6 sending of junk faxes, and related activities, as further set forth below.

7 13.j2 is informed and believes, and on that basis alleges, that Defendant
8 LARRY KROUSE aka LAWRENCE KROUSE is a competent adult individual
9 resident of the State of Texas and a salesman of the junk fax broadcasting services of
10 HLC. Krouse has a business practice of misrepresenting the legality of HLC's
11 services to entice leads purchasers to enter into agreements with HLC to send out
12 masses of junk faxes. Krouse is also involved in the sending of junk faxes, and
13 related activities, as further set forth below.

14 14.j2 is informed and believes, and on that basis alleges, that Defendant
15 SCOTT NICKASON aka SCOTT NICHASON is a competent adult individual
16 resident of the State of Texas and a salesman of the junk fax broadcasting services of
17 HLC. Nickason aka Nichason has a business practice of misrepresenting the legality
18 of HLC's services to entice leads purchasers to enter into agreements with HLC to
19 send out masses of junk faxes. Nickason aka Nichason is also involved in the
20 sending of junk faxes, and related activities, as further set forth below.

21 15.j2 is informed and believes, and on that basis alleges, that Defendant
22 DAVID CRANDALL is a competent adult individual resident of the State of Texas
23 and a salesman of the junk fax broadcasting services of HLC. Crandall has a
24 business practice of misrepresenting the legality of HLC's services to entice leads
25 purchasers to enter into agreements with HLC to send out masses of junk faxes.
26 Crandall is also involved in the sending of junk faxes, and related activities, as
27 further set forth below.

28 16.j2 is informed and believes, and on that basis alleges, that Defendant

1 DAVID VAUGHAN is a competent adult individual resident of the State of Texas
2 and a salesman of the junk fax broadcasting services for HLC. Vaughan has a
3 business practice of misrepresenting the legality of HLC's services to entice leads
4 purchasers to enter into agreements with HLC to send out masses of junk faxes.
5 Vaughan is also involved in the sending of junk faxes, and related activities, as
6 further set forth below.

7 17.j2 is informed and believes, and on that basis alleges, that Defendant
8 WALTER ALBRECHT aka WALTER WHITE is a competent adult individual
9 resident of the State of Texas and a customer of HLC. Albrecht aka White uses
10 HLC's fax broadcasting to send junk faxes advertising t-shirts. Albrecht aka White
11 is also involved in the sending of junk faxes, and related activities, as further set
12 forth below.

13 GENERAL ALLEGATIONS

14 18.As more particularly described below, each defendant is or has been
15 knowingly and integrally involved in sending an average of hundreds of thousands
16 of junk faxes to United States' citizens every day. j2 brings this action to enjoin
17 defendants' unlawful, unfair, and fraudulent practices and to obtain statutory
18 damages.

19 j2'S "eFax" BUSINESS AND ITS RECEIPT OF MASSES OF JUNK FAXES

20 19.j2's eFax service allows its customers to receive documents transmitted as
21 faxes into their email accounts. j2 owns and maintains "fax servers" that enable
22 multiple desktops to send and receive faxes from the same or shared telephone lines.
23 j2's servers have the capacity to send or receive text or images and to transcribe both
24 text and images from an electronic signal received over a regular telephone line onto
25 paper. The fax sender dials a telephone number, to which j2 has subscribed, and
26 programs his or her fax machine to send a fax to the number leased by j2's customer.
27 Upon receiving an analog fax transmission initiated by the fax sender, one of j2's
28 servers, to which its customer's phone line is routed, answers the fax call and

1 connects the call to a fax card. The server then digitizes the telephone line's analog
2 signal that came in and creates a digital file that is emailed to the customer. The
3 email is sent to a customer's email address associated with the particular number to
4 which the fax is sent. j2's servers and customers are located all over the country,
5 including in Los Angeles County.

6 20. Every time that a fax signal is received by j2's equipment, it ties up one of
7 j2's lines and uses j2's limited bandwidth over which signals for the transmission of
8 faxes and emails are sent. This costs j2 money in that j2 is forced to purchase
9 additional lines and/or bandwidth to service its customers' needs. Further, although
10 they do not invade the privacy of j2's customers, the junk faxes cause j2's customers
11 to lose money that they have to pay for the unwanted faxes. Indeed, defendants'
12 junk fax advertising effectively shifts their advertising costs to fax recipients such as
13 j2 and its clients.

14 21. The junk faxes cause further damage to j2's reputation in that its customers
15 are often led to believe that j2 itself delivers the junk faxes. Numerous customers of
16 j2 have complained to it about their receipt of the junk faxes. Further, j2 has fielded
17 complaints from Attorneys General across the country who have complained that j2
18 is violating the law, when in fact it is defendants who are violating the law.

19 22. As of 2000, j2 had become aware that its equipment, and ultimately its
20 customers, were regularly receiving masses of junk faxes. Neither it nor its
21 customers had consented to the receipt of these faxes. Neither it nor its customers
22 had business relationships with these fax senders. These unsolicited faxes were
23 costing, and continue to cost, j2 and its customers money and time.

24 23. j2 determined that, unless it took some action, it and its customers would
25 continue to incur the expense associated with the receipt of the masses of junk faxes.

26 24. As a result, j2 began to request from its customers assignments of any
27 claims that they may have based on the receipt of the junk faxes. j2's customers
28 thereafter assigned to j2 any and all claims that they had for damages against the fax

1 senders based on the junk faxes received from defendants. Although j2 has standing
2 to bring any claims based on junk faxes received on its lines, as to each junk fax
3 with respect to which j2 claims damages in this action, it also has an assignment
4 from one of its customers of any and all rights that he or she may have. Further, no
5 customer consented to the receipt of any of the faxes at issue, and no customer had
6 an “established business relationship” with the fax sender. However, particularly
7 because j2 owns the lines over which the faxes are transmitted, and because it retains
8 the right to bring any legal actions in its customer agreements, j2 has standing
9 independent of its customers’ assignments.

10 DEFENDANTS’ MASS FAXING

11 25.HLC is, and Sunbelt was, a “fax broadcaster,” or an entity that transmits
12 messages to telephone facsimile machines on behalf of another person or entity for a
13 fee. 47 CFR 64.1200(f)(4). HLC and/or Sunbelt was the “fax broadcaster” with
14 regard to each and every fax received by j2 and for which j2 claims damages in this
15 action.

16 26.HLC is, and Sunbelt was, an “advertiser,” or an entity that advertises
17 services provided in media such as facsimiles. Upon information and belief, HLC is,
18 and Sunbelt was, the advertiser with regard to each and every fax received by j2 and
19 for which j2 claims damages in this action.

20 27.As further set forth herein, each defendant is and has been integrally
21 involved with the sending of junk faxes and related activities while working for HLC
22 and/or Sunbelt.

23 THE CONTENT OF THE JUNK FAXES

24 28.Upon information and belief, defendants create the content of all, or
25 virtually all, of the faxes that they send out. These faxes generically advertise
26 products and/or services such as life insurance, health insurance, mortgage services,
27 and/or other products and services, and they invite the recipients to contact
28 defendants with an expression of interest in the services. Defendants have sent these

1 masses of junk faxes to generate leads for their customers. Defendants receive fax
2 responses from persons who are interested in the advertised services, and they sell
3 these leads to their customers.

4 29. Upon information and belief, few, if any, of the junk faxes contain the
5 number of the actual fax machine from which the junk fax has been sent.
6 Defendants omit this information in an effort to avoid legal liability.

7 30. In an effort to minimize their chances of being identified and held liable,
8 defendants omit their identification information on the junk faxes.

9 31. Indeed, defendants even block or inaccurately state their caller
10 identification information when the junk faxes are sent, and/or they send faxes in a
11 fashion so that their caller identification is blocked or stated inaccurately.

12 32. Upon information and belief, defendants also edit the content of the faxes
13 by inserting toll-free "removal," or opt-out, numbers for placement in the junk faxes.
14 These numbers ostensibly allow fax recipients to call to request that they get no
15 further unsolicited faxes.

16 THE INDIVIDUAL DEFENDANTS' ACTIVE PARTICIPATION IN THE JUNK
17 FAX SENDING SCHEME

18 33. Each one of the individual defendants has a high degree of involvement
19 with all functions of HLC, including the transmission of junk faxes. Upon
20 information and belief, defendants Robert Michael Horne, Greg Horne, Krouse, and
21 Crandall, and possibly the other defendants, had a high degree of involvement with
22 all functions of Sunbelt, including the transmission of junk faxes.

23 34. Each one of the individual defendants participates in and/or oversees all
24 functions of HLC. Upon information and belief, defendants Robert Michael Horne,
25 Greg Horne, Krouse, and Crandall participated in and/or oversaw all functions of
26 Sunbelt, including the transmission of junk faxes.

27
28

1 FIRST CLAIM FOR RELIEF

2 (Violation of Federal Telephone Consumer Protection Act, 47 U.S.C. § 227 Against
3 All Defendants)

4 35.j2 realleges and incorporates herein paragraphs 1 through 34, inclusive.

5 36.Beginning before or about February 2003, defendants engaged in a
6 campaign to market and sell products and/or services in Los Angeles County and in
7 other counties in the State of California and most other states in the United States.

8 37.Specifically, defendants sent faxes containing advertisements of the
9 commercial availability or quality of property, goods, and/or services, without the
10 recipients' prior express invitation or permission, to fax machines all over the
11 country, including in Los Angeles County.

12 38.Defendants have sent, and continue to send, upon information and belief,
13 thousands, if not millions, of such faxes to j2 in Los Angeles County and across the
14 country. Upon information and belief, defendants have sent large numbers, if not
15 millions, of the above-referenced types of faxes during every month since 2003.

16 39.The federal TCPA provides that "[i]t shall be unlawful for any person
17 within the United States or any person outside the United States if the recipient is
18 within the United States to use any telephone fax machine, computer, or other device
19 to send an unsolicited advertisement to a telephone fax machine." 47 U.S.C. §
20 227(b)(1)(C). As used in 47 U.S.C. § 227, "[t]he term 'unsolicited advertisement'
21 means any material advertising the commercial availability or quality of any
22 property, goods, or services which is transmitted to any person without that person's
23 prior express invitation or permission." 47 U.S.C. § 227(a)(4).

24 40.The TCPA further provides a private right of action, allowing one to bring
25 an action based on a violation of the TCPA subsection prohibiting the transmission
26 of the types of faxes that are the subject of this litigation. The TCPA provides that
27 one may seek an injunction and "actual monetary loss from such a violation, or to
28 receive \$500 in damages for each such violation, whichever is greater."

1 41. The TCPA also provides for treble damages. “If the court finds that the
2 defendant willfully or knowingly violated this subsection . . . the court may, in its
3 discretion, increase the amount of the award to an amount equal to not more than
4 three times [the \$500 damages amount].” 47 U.S.C. §227(b)(1)(3).

5 42. j2 is informed and believes that, with respect to each violation, each
6 defendant had actual notice of participation, or a high degree of involvement, in a
7 plan to violate the TCPA by, as further specified above, knowing that the transmitted
8 faxes were unlawful advertisements, by participating in preparing their content, by
9 providing or obtaining the fax telephone number of j2 or other recipients, by
10 knowing that j2 or other recipients had not authorized the faxes’ transmission by
11 prior express invitation or permission, by ordering, directing, and overseeing each of
12 the above, and/or by failing to stop the sending of the junk faxes after receiving
13 actual notice of their transmission.

14 43. Further, each individual defendant owed to j2 a duty to refrain from
15 sending it unsolicited facsimile advertisements in violation of 47 U.S.C. §227, yet
16 each individual defendant concurred in a common plan and design and thereby
17 conspired with the other defendants to breach this duty, acting for his own individual
18 advantage in doing so. Specifically, each of these defendants participated in one or
19 more meetings in which a plan for sending unsolicited facsimile advertisements of
20 the type referenced herein was discussed, and each engaged in one or more wrongful
21 acts in furtherance of the sending of the unsolicited facsimile advertisements. By
22 entering into these agreements and participating in the sending, and intending to do
23 each of these things, these defendants participated in a conspiracy to do each of the
24 wrongful acts alleged in this Complaint, including the sending of the unsolicited
25 facsimile advertisements received by j2.

26 44. The above-referenced actions and violations by the defendants of 47
27 U.S.C. §227 were willful and/or knowing and, as a result, j2 is entitled to treble
28 damages for each of the unsolicited facsimile advertisements sent by defendants to

1 j2 and to its customers. Specifically, j2 claims damages of \$1500 for the sending by
2 defendants of each and every fax sent by defendants to it between March 2003 and
3 the date of trial. j2 has received at least 29,700 faxes from defendants since that
4 time.

5 45.j2 is informed and believes, and on that basis alleges, that the acts and
6 practices described above are continuing. On this basis, j2 seeks to enjoin
7 defendants from continuing to engage in the foregoing practices and prays for the
8 issuance of a preliminary and permanent injunction for such purpose.

9 WHEREFORE, j2 prays for judgment as set forth below.

10 SECOND CLAIM FOR RELIEF

11 (Violation of Federal Telephone Consumer Protection Act, 47 C.F.R. § 68.318(d)
12 Against All Defendants)

13 46.j2 realleges and incorporates herein paragraphs 1 through 45, inclusive.

14 47.The Federal Communications Commission implemented federal
15 regulations pursuant to Congressional authority granted under the T.C.P.A.
16 Specifically, the FCC implemented 47 C.F.R. §68.318(d) regarding identification
17 requirements. This regulation provides that

18 It shall be unlawful for any person within the United States to use a computer
19 or other electronic device to send any message via a telephone facsimile
20 machine unless such person clearly marks, in a margin at the top or bottom of
21 each transmitted page of the message or on the first page of the transmission,
22 the date and time it is sent and an identification of the business, other entity, or
23 individual sending the message and the telephone number of the sending
24 machine or of such business, other entity, or individual. If a facsimile
25 broadcaster demonstrates a high degree of involvement in the sender's
26 facsimile messages, such as supplying the numbers to which a message is
27 sent, that broadcaster's name, under which it is registered to conduct business
28 with the State Corporation Commission (or comparable regulatory authority),
must be identified on the facsimile, along with the sender's name.

48.Few, if any, of the faxes that are the subject of this litigation included the
date and time that the fax was sent.

1 49. Few, if any, of the faxes that are the subject of this litigation included an
2 accurate “identification of the business, other entity, or individual sending the
3 message.”

4 50. Few, if any, of the faxes that are the subject of this litigation included “the
5 telephone number of the sending machine or of such business, other entity, or
6 individual.”

7 51. Few, if any, of the faxes that are the subject of this litigation included an
8 identification of the “broadcaster’s name, under which it is registered to conduct
9 business with the State Corporation Commission.”

10 52. Defendants willfully and/or knowingly failed and refused to comply with
11 these requirements.

12 53. j2 seeks damages based on defendants’ violation of this section pursuant to
13 47 U.S.C. §227(b), which allows one to bring an action for at least \$500.00 for each
14 fax with one of the above-referenced violations. It also authorizes a fax recipient to
15 seek treble damages for the violations based on willful and knowing violations,
16 which damages j2 also seeks because each of the above-referenced violations was
17 willful and knowing.

18 54. Further, each individual defendant owed to j2 a duty to refrain from
19 sending it unsolicited facsimile advertisements in violation of 47 C.F.R. §68.318(d),
20 yet each individual defendant concurred in a common plan and design and thereby
21 conspired with the other defendants to breach this duty, acting for his own individual
22 advantage in doing so. Specifically, each of these defendants participated in one or
23 more meetings in which a plan for sending unsolicited facsimile advertisements
24 without the information required by 47 C.F.R. §68.318(d) was discussed, and each
25 engaged in one or more wrongful acts in furtherance of the sending of the
26 unsolicited facsimile advertisements. By entering into these agreements and
27 participating in the sending, and intending to do each of these things, these
28 defendants participated in a conspiracy to do each of the wrongful acts alleged in

¶¶48 to 51.

55.j2 is informed and believes, and on that basis alleges, that the acts and practices described above are continuing. On this basis, j2 seeks to enjoin defendants from continuing to engage in the foregoing practices and prays for the issuance of a permanent injunction for such purpose.

WHEREFORE, j2 prays for judgment as set forth below.

THIRD CLAIM FOR RELIEF

(Trespass to Chattels Against All Defendants)

56.j2 realleges and incorporates herein paragraphs 1 through 55, inclusive.

57.As described above, j2 owns equipment that receives and processes calls to its fax numbers. Neither j2 nor any customer of it has ever given defendants permission to send faxes of any kind to these servers.

58.In the process of sending the above-referenced faxes, defendants knowingly initiated the sending of electronic signals and/or facilitated the initiation of such signals from their locations directly to j2's telephone numbers where the calls are received at the servers. Each server has a finite number of lines, and, as a result, defendants temporarily or permanently prevented j2 and/or its customers from using lines by sending their faxes, causing a substantial deprivation in the ability of j2 and/or its customers to use its servers. When defendants sent their faxes, they knew that they would use j2's equipment and telephone numbers as set forth herein and/or they were substantially certain that their actions would use j2's equipment and telephone numbers.

59.These signals cause the servers' lines to be tied up, making it difficult for j2 and/or its customers to receive faxes. By tying up these lines, defendants effectively seized control of j2's equipment and misappropriated it to their own use, thereby shifting the cost of advertising from themselves to j2 and j2's customers. Further, each of j2's customers has a quota of maximum facsimiled pages he can receive each month without incurring additional charges or losing his service

1 entirely. By sending faxes to j2 for routing to its customers, defendants knowingly
2 cause these customers substantial monetary damages and/or loss of property rights
3 and/or loss of contract rights by reducing the number of faxes these customers can
4 receive without exceeding j2's quota and/or causing them to incur additional charges
5 for pages received and/or causing them to lose their service.

6 60.j2 and its customers were damaged as a proximate result of defendants'
7 trespass to chattels as set forth herein, including by the actions set forth in
8 paragraphs 57 to 59.

9 61.Further, each individual defendant owed to j2 a duty to refrain from
10 sending it unsolicited facsimile advertisements in violation of the common law of
11 trespass to chattel, yet each individual defendant concurred in a common plan and
12 design and thereby conspired with the other defendants to breach this duty, acting
13 for his own individual advantage in doing so. Specifically, each of these defendants
14 participated in one or more meetings in which a plan for sending unsolicited
15 facsimile advertisements of the type referenced herein was discussed, and each
16 engaged in one or more wrongful acts in furtherance of the sending of the
17 unsolicited facsimile advertisements. By entering into these agreements and
18 participating in the sending, and intending to do each of these things, these
19 defendants participated in a conspiracy to do each of the wrongful acts alleged in ¶¶
20 57 to 59.

21 62.In doing the acts herein alleged, defendants acted with oppression and
22 malice, entitling j2 to an award of punitive damages in an amount to be proven at
23 trial.

24 WHEREFORE, j2 prays for judgment as set forth below.

25 FOURTH CLAIM FOR RELIEF

26 (California Business & Professions Code §§17200, *et seq.* Against All Defendants)

27 63.j2 realleges and incorporates herein paragraphs 1 through 62, inclusive.

28 64.As referenced above, defendants have a number of unfair and/or fraudulent

1 and/or unlawful business practices attendant with their sending of junk faxes.

2 65. Defendants have had and, upon information and belief, continue to have an
3 unfair and/or fraudulent and/or unlawful business practice of searching for facsimile
4 numbers in California and in the rest of the United States to which to send their
5 unlawful facsimiles by using a machine designed to detect facsimile numbers by
6 randomly dialing telephone numbers and searching for facsimile machine signals.

7 66. Defendants have had and, upon information and belief, continue to have an
8 unfair and/or fraudulent and/or unlawful business practice of enticing persons to
9 engage in facsimile advertising by sending out unlawful facsimile advertisements
10 stating that "Fax Advertising Works," when, in fact, the type of "fax advertising" in
11 which defendants doesn't "work" because it is unlawful and exposes all persons
12 involved to legal liability.

13 67. Defendants have had and, upon information and belief, continue to have an
14 unfair and/or fraudulent and/or unlawful business practice of failing to adequately
15 advise prospective clients of laws prohibiting and/or restricting the sending of junk
16 faxes in conspicuous, unambiguous terms.

17 68. Defendants have had and, upon information and belief, continue to have an
18 unfair and/or fraudulent and/or unlawful business practice of deceiving prospective
19 clients into believing that sending unsolicited facsimile advertisements is legal.

20 69. Defendants have had and, upon information and belief, continue to have an
21 unfair and/or fraudulent and/or unlawful business practice of deceiving prospective
22 clients into believing that they cannot be held liable for the sending of unsolicited
23 facsimile advertisements by defendants.

24 70. Defendants have had and, upon information and belief, continue to have an
25 unfair and/or fraudulent and/or unlawful business practice of transmitting unsolicited
26 facsimile advertisements with their equipment.

27 71. Defendants have had and, upon information and belief, continue to have an
28 unfair and/or fraudulent and/or unlawful business practice of transmitting facsimiles

1 that omitted the date and time that the fax was sent.

2 72. Defendants have had and, upon information and belief, continue to have an
3 unfair and/or fraudulent and/or unlawful business practice of transmitting facsimile
4 advertisements that do not contain any identification of the senders of the facsimiles
5 they send.

6 73. Defendants have had and, upon information and belief, continue to have an
7 unfair and/or fraudulent and/or unlawful business practice of transmitting facsimile
8 advertisements that do not contain “the telephone number of the sending machine or
9 of such business, other entity, or individual.”

10 74. Defendants have had and, upon information and belief, continue to have an
11 unfair and/or fraudulent and/or unlawful business practice of transmitting facsimile
12 advertisements that do not contain identification of the name of the facsimile
13 broadcaster.

14 75. Defendants have had and, upon information and belief, continue to have an
15 unfair and/or fraudulent and/or unlawful business practice of refusing to remove
16 facsimile machine numbers of persons who request of defendants to have their
17 numbers removed.

18 76. Defendants have had and, upon information and belief, continue to have an
19 unfair and/or fraudulent and/or unlawful business practice of using false names and
20 dbas in order to conceal their true identities to avoid legal liability and to facilitate
21 their ability to obtain reduced rate telephonic services to bombard California and the
22 rest of the country with their unsolicited facsimiles.

23 77. Each of the above patterns and practices amount to unfair and/or fraudulent
24 and/or unlawful business practices within the meaning of California Business and
25 Professions Code §17200 *et seq.*

26 78. j2 is informed and believes, and on that basis alleges, that beginning at a
27 date unknown, and continuing thereafter up to and including the date and filing of
28 this Complaint, defendants engaged in the acts and practices described above.

1 79.j2 is presently unaware of all of the unfair and/or fraudulent and/or
2 unlawful business practices that defendants engage in or have engaged in -- apart
3 from j2's experience described herein -- but expects to uncover further evidence of
4 such practices through discovery and may seek to amend this complaint at that time.

5 80.j2 is informed and believes, and on that basis alleges, that as a direct and
6 legal result of defendants' practices, j2 and others have suffered damages and/or
7 losses, all to the detriment of such parties. As a result of defendants' unfair
8 competition, j2 has suffered competitive injury in fact and has lost money or
9 property.

10 81.j2 is informed and believes, and on that basis alleges, that the acts and
11 practices described above are continuing. On this basis, j2 seeks to enjoin
12 defendants from continuing to engage in the foregoing practices and prays for the
13 issuance of a permanent injunction for such purpose.

14 82.The acts and practices referenced above were, and are, unfair to the general
15 public and/or unlawful. As a direct and proximate result of defendants' unlawful
16 and/or fraudulent and/or unfair business practices, j2 and many others have been
17 damaged.

18 83.On this basis, j2 seeks an order requiring disgorgement of monies gained
19 by defendants as a result of their unfair and/or fraudulent and/or unlawful fraudulent
20 practices and restitution to the individuals and entities from whom the monies came.

21 84.Further, each individual defendant owed to j2 a duty to refrain from
22 engaging in each of the unfair and/or fraudulent and/or unlawful business practices
23 as referenced in this fourth claim, yet each individual defendant concurred in a
24 common plan and design and thereby conspired with the other defendants to breach
25 this duty, acting for his own individual advantage in doing so. Specifically, each of
26 these defendants participated in one or more meetings in which a plan for doing the
27 unfair and/or fraudulent and/or unlawful acts of the type referenced herein was
28 discussed, and each engaged in one or more wrongful acts in furtherance of these

1 acts. By entering into these agreements and participating in the acts, and intending
2 to do each of these things, these defendants participated in a conspiracy to do each of
3 the wrongful acts alleged in ¶¶ 65 to 76.

4 85. Further, by prosecution of this action, j2 expects to enforce an important
5 right affecting the public interest and thereby confer a significant benefit on the
6 general public or a large class of persons. The necessity and financial burden of
7 private enforcement, or of enforcement by one public entity against another public
8 entity, are such as to make the award appropriate, and the attorneys' fees should not
9 in the interest of justice be paid out of the recovery, if any. For those reasons, j2 will
10 request an award of attorneys' fees under C.C.P. §1021.5 and/or based on the fact
11 that j2 will have conferred a substantial benefit on a large number of people.

12 WHEREFORE, j2 prays for judgment as set forth below.

13 FIFTH CLAIM FOR RELIEF

14 (Aiding and Abetting Violations of the T.C.P.A., Trespass to Chattels, and
15 Violations of Business & Professions Code §17200 Against All Defendants)

16 86. j2 realleges and incorporates herein paragraphs 1 through 85, inclusive.

17 87. Each defendant knew at all times that the conduct of himself and of the
18 other defendants and of other unnamed persons and entities constituted breaches of
19 the T.C.P.A. and of the C.F.R., trespass to chattels, and unfair, unlawful, and
20 fraudulent business practices. Notwithstanding this knowledge, each defendant gave
21 substantial assistance or encouragement to the others to do the following things:

- 22 • Search for facsimile numbers in California and in the rest of the United
23 States to which to send unlawful facsimiles by using a machine designed to
24 detect facsimile numbers by randomly dialing telephone numbers and
25 searching for facsimile machine signals;
- 26 • Entice persons to engage in facsimile advertising by sending out
27 unlawful facsimile advertisements stating that "Fax Advertising Works,"
28 when, in fact, the type of "fax advertising" in which defendants engage does

1 not “work,” because it is unlawful;

- 2 • Fail to adequately advise prospective clients of laws prohibiting and/or
- 3 restricting the sending of junk faxes in conspicuous, unambiguous terms;
- 4 • Deceive prospective clients into believing that sending unsolicited
- 5 facsimile advertisements is legal;
- 6 • Deceive prospective clients into believing that they cannot be held
- 7 liable for the sending of unsolicited facsimile advertisements;
- 8 • Transmit unsolicited facsimile advertisements;
- 9 • Transmit facsimiles that omit the date and time that the fax was sent;
- 10 • Transmit facsimile advertisements that do not contain any identification
- 11 of the senders of the facsimiles they send;
- 12 • Transmit facsimiles that do not contain “the telephone number
- 13 of the sending machine or of such business, other entity, or individual”;
- 14 • Transmit facsimiles that do not contain identification of the name of the
- 15 facsimile broadcaster;
- 16 • Refuse to remove facsimile machine numbers of persons who request to
- 17 have their numbers removed from lists of numbers to which they send faxes;
- 18 • Use false names and dbas for their companies in order to conceal their
- 19 true identities to avoid legal liability and to facilitate inexpensive sending of
- 20 faxes.

21 88. Further, by prosecution of this action, j2 expects to enforce an important
22 right affecting the public interest and thereby confer a significant benefit on the
23 general public or a large class of persons. The necessity and financial burden of
24 private enforcement, or of enforcement by one public entity against another public
25 entity, are such as to make the award appropriate, and the attorneys’ fees should not
26 in the interest of justice be paid out of the recovery, if any. For those reasons, j2 will
27 request an award of attorneys’ fees under C.C.P. §1021.5 and/or based on the fact
28 that j2 will have conferred a substantial benefit on a large number of people.

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WHEREFORE, j2 prays for judgment as set forth below.

PRAYER

WHEREFORE, plaintiff j2 GLOBAL TELECOMMUNICATIONS, INC. prays for judgment against defendants as follows:

1. On the first cause of action, for general and special damages of \$44,550,000.00, or in an amount to be proven at trial, and trebled statutory damages;
2. On the second cause of action, for general and special damages of \$44,550,000.00, in an amount to be proven at trial, and trebled statutory damages;
3. On the third cause of action, for general and special damages in an amount to be proven at trial, and punitive damages;
4. On the fourth cause of action, for restitution of any monies wrongfully obtained by defendants;
5. On the fifth cause of action, for general and special damages in an amount to be proven at trial, and punitive damages;
6. On all causes of action, for a temporary, preliminary, and permanent injunction;
7. On the fourth cause of action, for an award of attorneys' fees;
8. For an award of lawful interest on the damages;
9. For the costs of suit herein; and,
10. For such other relief as the court deems just.

Dated: March 3, 2007

REDENBACHER & BROWN, LLP

John C. Brown

By: _____
JOHN C. BROWN
Attorneys for Plaintiff
j2 GLOBAL COMMUNICATIONS,
INC.

DEMAND FOR JURY TRIAL

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Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: March 3, 2007

REDENBACHER & BROWN, LLP

John C. Brown

By: _____
JOHN C. BROWN
Attorneys for Plaintiff
j2 GLOBAL COMMUNICATIONS,
INC.

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U.S. DISTRICT COURT
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Attorneys for Plaintiff, j2 GLOBAL COMMUNICATIONS, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CV 07-01492 JSL

Case No.: CV 07-

J2 GLOBAL COMMUNICATIONS,
INC.,

Plaintiff,

vs.

THE HOT LEAD COMPANY, L.L.C.,
et al.

Defendants.

**CERTIFICATE OF
INTERESTED PARTIES**

1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 PLEASE TAKE NOTICE that the undersigned, counsel of record for plaintiff,
3 j2 Global Communications, Inc., certifies that the following listed parties have a
4 direct, pecuniary interest in the outcome of this case:

- 5 1. j2 GLOBAL COMMUNICATIONS, INC.;
- 6 2. THE HOT LEAD COMPANY, L.L.C.;
- 7 3. SUNBELT COMMUNICATIONS AND MARKETING, LLC;
- 8 4. ROBERT MICHAEL HORNE;
- 9 5. MICHAEL GREGORY HORNE;
- 10 6. DON MAGEE;
- 11 7. DAVID BEST;
- 12 8. LARRY KROUSE aka LAWRENCE KROUSE;
- 13 9. SCOTT NICKASON aka SCOTT NICHASON;
- 14 10. DAVID CRANDALL;
- 15 11. DAVID VAUGHAN;
- 16 12. WALTER ALBRECHT aka WALTER WHITE.

17 Dated: March 5, 2007

REDENBACHER & BROWN, LLP

John C. Brown

By: _____
JOHN C. BROWN
Attorneys for Plaintiff
j2 GLOBAL COMMUNICATIONS,
INC.

28

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14 Email: jbrown@redbrownlaw.com

15 Attorneys for Plaintiff, j2 GLOBAL COMMUNICATIONS, INC.

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

18 **CV 07-01492**

19 Case No.: CV 07-

20 **NOTICE OF RELATED CASES**

21 J2 GLOBAL COMMUNICATIONS,
22 INC.,

23 Plaintiff,

24 vs.

25 THE HOT LEAD COMPANY, L.L.C.,
26 *et al.*

27 Defendants.
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COMES NOW plaintiff j2 Global Communications, Inc. (“j2”) and hereby states that the following case pending before the United States District Court for the Central District of California is related by parties and subject matter to the instant action:

1. *j2 Global Communications, Inc. v. Protus IP Solutions, Inc., et al.*, CV06-0566 DDP (AJWx), involves the same plaintiff as in the instant action and the same types of claims based on the mass transmissions of unsolicited facsimile advertisements across the United States and to j2’s facsimile numbers.

Dated: March 5, 2007

REDENBACHER & BROWN, LLP

John C. Brown

By: _____
JOHN C. BROWN
Attorneys for Plaintiff
j2 GLOBAL COMMUNICATIONS,
INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge J. Spencer Letts and the assigned discovery Magistrate Judge is Fernando M. Olguin.

The case number on all documents filed with the Court should read as follows:

CV07 - 1492 JSL (FMOx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

The United States District Judge assigned to this case will review all filed discovery motions and thereafter, on a case-by-case or motion-by-motion basis, may refer discovery related motions to the Magistrate Judge for hearing and determination

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.