

MEDIA CLIPPINGS

Press Release

Computer Dealer's Association Files Complaint Against Sun Microsystems With UK Competition Authority

DELRAY BEACH, Fla., April 24 /PRNewswire/ -- The Association of Service and Computer Dealers International ("ASCDI"), which represents the interests of computer resellers, service providers and end users worldwide, yesterday filed a Complaint with the UK competition authority, the Office of Fair Trading against Sun Microsystems UK Limited ("Sun"). The Complaint seeks to reverse Sun policies that infringe UK competition law.

The Complaint concerns Sun's refusal to supply provenance information (i.e. product specific historical sales and distribution information) to independent resellers who resell Sun products in the UK. Prior to 2006, like other computer equipment manufacturers, Sun had not interfered with the free trade of Sun products by independent resellers. In 2006 however, Sun made the need for provenance information critical to the trade in its products in the UK, and elsewhere in the EU, under the guise of trademark protectionism. It began a policy of refusing to provide such information whenever requested by independent resellers. The ASCDI supports Sun's legitimate trademark rights but without Sun's cooperation, Sun has made it impossible to know whether a given Sun product is or has been placed on the EEA market with Sun's consent.

"Sun's policy effectively closes the secondary market trade in Sun products to anyone other than Sun. It is anti-competitive behaviour plain and simple," said ASCDI President Joe Marion.

Prior to filing the Complaint, the ASCDI had made numerous direct requests to Sun for access to its provenance information and to resolve the issue, but to no avail. Sun is the only major computer manufacturer challenging the importation of its products into the EEA. Provenance information is readily available from other manufacturers including IBM, HP and Cisco. These manufacturers support free trade of their products and don't hide behind trademark protectionism to limit or eliminate competition in the trade of their products in the UK and in the EU.

The Complaint states that Sun's refusal to supply the provenance information interferes with free trade and is prohibited by UK competition law, specifically the Chapter II prohibition of the Competition Act 1998. Case law makes it clear that Sun is prohibited from using its authorized distribution system to create obstacles to the resale of its products outside its authorized distribution network. The Complaint also asserts that Sun's refusal to disclose provenance information -- and its threats of litigation to independent resellers who trade in Sun computers -- is resulting in diminished competition in the secondary market. Some independent resellers have transitioned their businesses to other computer manufacturers, some have been left holding large inventories of Sun equipment they are or may be prohibited from selling, while others have gone out of business.

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At stake is an estimated \$1.4 billion market in 2007 in the EU for used Sun products. Absent interference from Sun, independent resellers should achieve a market share for Sun products of at least \$533 million. If Sun's behaviour continues unchecked, not only will this share drop, other manufacturers may follow suit, forcing independent resellers out of the market and giving manufacturers near monopolies for their respective products.

ASCDI's Complaint seeks a declaration from the Office of Fair Trading that Sun's refusal to provide provenance information on its used products is prohibited under the Chapter II prohibition of the Competition Act 1998, and seeks an order that Sun provide such information in a timely manner, without disclosure of such requests to Sun's direct sales force and a fee-free basis.

"Our goal is to keep the secondary computer marketplace free and open to independent resellers," Marion said. "Ultimately, it will be the customer/end-user that will benefit from a more open marketplace."

ASCDI

The Association of Service and Computer Dealers International, is a worldwide, non-profit organization based in the US. Its members are from all over the world, with a concentration in the US and the EU. Its membership comprises computer resellers, maintainers, lessors, and customer/end-users who provide technology business solutions, technical support and value added services to the business community. ASCDI promotes and enforces professional business practices, and provides information, services and education to its members, the technology industry and the public.

A Summary of the Complaint is attached and is posted at <http://www.ascdi.com>

UK COMPLAINT SUMMARY

Re. ASCDI v. Sun Microsystems UK Limited.

PARTIES:

The Association of Service and Computer Dealers International: ASCDI is a worldwide non-profit organization based in the United States. Its membership comprises original equipment manufacturers, computer resellers, maintainers, and lessors who provide technology business solutions, technical support and value added services to the business community.

The ASCDI promotes and enforces ethical professional business practices, and provides information, services and education to its members, the technology industry and the public.

Sun Microsystems Inc.: Sun Microsystems Inc. is a global company that manufactures computer hardware and software and network storage systems and support services. Sun Microsystems UK Limited ("Sun") is its UK subsidiary.

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VENUE:

The UK competition authority, the Office of Fair Trading

CLAIMS:

ASCDI asserts that Sun's refusal to supply provenance information infringes UK competition law. It is anti-competitive and an attempt to reserve the market for Sun products for itself. Provenance information is necessary to determine if a given Sun product was originally released in the EEA with Sun's consent. By refusing to provide provenance information -- which Sun exclusively controls -- independent resellers are unable to determine if the equipment is freely tradable in the EU.

IMPACT OF SUN'S BEHAVIOR:

As a result of Sun's policy not to disclose provenance information, there is diminished competition in the secondary market for Sun products. Some independent resellers have had to make costly transitions of their businesses to other products. Some have been left holding large inventories of Sun products that can not be sold or will sell at reduced values, and at least one reseller has gone out of business.

Customers/end-users' market choices for Sun products are limited. As the secondary market retracts, prices for new and used Sun equipment will rise and residual values decline.

APPLICABLE LAW:

The Chapter II prohibition of the Competition Act 1998.

REQUESTED RELIEF:

ASCDI requests the Office of Fair Trading to direct Sun to cease its infringement of UK competition law, and to provide provenance information to ASCDI members in a timely manner, without disclosure of such requests to Sun's direct sales force and on a fee-free basis.

Web site: <http://www.ascdi.com/>

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The press release was distributed, in its entirety, to the following publications. Other news stories about ASCDI's UK Complaint against Sun are also attached.

Publication	Audience	#of clips
TXCN - Texas Cable News	53,000	1
WIS 10	18,000	1
PR Newswire (UK)	3,000	3
KTVO	N/A	1
PR-inside	N/A	1
EU Politics Today (Internet Product Development Group Inc.)	53,000	1
Los Angeles Times	53,000	1
Dallas Morning News (TX)	53,000	1
KRON - San Francisco TV4	N/A	1
WPRI	8,000	1
AeA (American Electronics Association)	N/A	1
WTKR	6,000	1
WQAD	3,000	1
Press Enterprise, The	53,000	1
WFIE	11,000	1
Breitbart.com	N/A	1
Miami Today	53,000	1
SYS-CON Brazil	4,000	2
Yahoo! Finance	N/A	1
Bolsamania (Web Financial Group)	N/A	1
AJAX Magazine	4,000	2
WLDJ Magazine for BEA WebLogic Developers (SYS-CON Media)	4,000	2
BetaNews	N/A	1
SYS-CON Canada	4,000	2
National Hispanic Corporate Council: News	53,000	1

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SYS-CON Belgium	4,000	2
WATE	6,000	1
WHOTV	17,000	1
PR Newswire (United Kingdom)	3,000	3
WHBF	N/A	1
NBC6.com (NC)	53,000	1
SYS-CON Linux	4,000	2
PR Newswire	53,000	1
sparcproductdirectory.com	N/A	1
Financial Express	N/A	1
Sourcewire.com	N/A	1

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Sun re-resellers launch OFT complaint

ASCDI complains to the Office of Fair Trading

SOURCE: CRN; www.channelweb.co.uk, By Robert Jaques

*Also appeared on vnunet.com

DATE: April 24, 2007

A **complaint** has been filed with the **Office of Fair Trading** against **Sun Microsystems**, accusing the vendor of illegal and anticompetitive practices.

The allegation was made by the **Association of Service and Computer Dealers International** (ASCDI), which represents the interests of computer resellers, service providers and end users worldwide.

The charges centre on Sun's alleged refusal to supply product-specific historical sales and distribution information to independent companies which resell Sun products in the UK.

"Prior to 2006, like other computer equipment manufacturers, Sun had not interfered with the free trade of Sun products by independent resellers," the ASCDI claimed.

"In 2006, however, Sun made the need for provenance information critical to the trade in its products in the UK, and elsewhere in the EU, under the guise of trademark protectionism.

"It began a policy of refusing to provide such information whenever requested by independent resellers.

"The ASCDI supports Sun's legitimate trademark rights but without Sun's cooperation, Sun has made it impossible to know whether a given Sun product is or has been placed on the European Economic Area [EEA] market with Sun's consent."

This policy effectively closes the secondary market trade in Sun products to any company other than Sun, according to ASCDI president Joe Marion. "It is anti-competitive behaviour plain and simple," he said.

Prior to filing the complaint, the ASCDI said that it had made "numerous direct requests" to Sun for access to its provenance information and to resolve the issue, but to no avail.

It added that Sun is the only major computer manufacturer challenging the importation of its products into the EEA.

In contrast, provenance information is readily available from other manufacturers including IBM, HP and Cisco, according to the organisation.

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Sun hit with unfair trading complaint in U.K.



SOURCE:

DATE: 24 April, 2007

The Association of Service and Computer Dealers International has filed a Complaint with the UK competition authority, the Office of Fair Trading, against Sun Microsystems UK Limited. The complaint seeks to reverse Sun policies that it alleges infringe UK competition law.

The complaint alleges Sun refuses to supply provenance information (i.e. product specific historical sales and distribution information) to independent resellers who resell Sun products in the UK. Prior to 2006, like other computer equipment manufacturers, Sun had not interfered with the free trade of Sun products by independent resellers. In 2006 however, the ASCDI says Sun made the need for provenance information critical to the trade in its products in the UK, and elsewhere in the EU, under the guise of trademark protectionism. It began a policy of refusing to provide such information whenever requested by independent resellers. The ASCDI supports Sun's legitimate trademark rights but says that Sun has made it impossible to know whether a given Sun product is or has been placed on the EEA market with Sun's consent.

"Sun's policy effectively closes the secondary market trade in Sun products to anyone other than Sun. It is anti-competitive behaviour plain and simple," said ASCDI President Joe Marion.

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At stake is an estimated \$1.4 billion market in 2007 in the EU for used Sun products.

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"Our goal is to keep the secondary computer marketplace free and open to independent resellers," Marion said. "Ultimately, it will be the customer/end-user that will benefit from a more open marketplace."

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Sun re-resellers launch OFT complaint

Grey marketeers see red

SOURCE: Channel Register, By Lewis Page

DATE: April 25, 2007

An alliance of resellers has launched an official complaint against Sun Microsystems in the UK, alleging that the manufacturer is unfairly stifling the trade in used Sun products.

The Association of Service and Computer Dealers International (ASCDI) filed its members' grievance with the Office of Fair Trading (OFT) on Monday. A summary of the complaint is available [here](#).

In essence, the reseller body alleges that Sun has instituted a policy of refusing to provide provenance information on its products. This means, for instance, that a reseller holding Sun kit cannot find out if it was originally supplied for use in the European Economic Area. If the products were so supplied, they can legally be resold in the EEA. But if the reseller can't find this out, every deal is potentially illegal and business cannot be done.

"Sun's policy effectively closes the secondary market trade in Sun products to anyone other than Sun. It is anti-competitive behaviour plain and simple," ASCDI president Joe Marion said.

ASCDI members contend that they can offer end users Sun products at lower prices, benefiting the consumer. They argue that once Sun has sold something for use in a given region, people in that region should be able to buy and sell it second-hand from then on.

At present, according to ASCDI, other big names such as Cisco, IBM, and HP don't try to throttle the secondary market in their products. But the resellers are worried that if Sun is allowed to continue as it is, others might jump on the bandwagon. After all, there can't be many producers inside or outside the IT industry who wouldn't prevent second-hand trade in their products if they could.

ASCDI suggests that significant biz hardship has already occurred.

"Some independent resellers have transitioned their businesses to other computer manufacturers, some have been left holding large inventories of Sun equipment they are or may be prohibited from selling, while others have gone out of business," the alliance said.

ASCDI reckons Sun is in contravention of UK competition law and wants the OFT to sort it out. The resellers want the manufacturer to provide provenance information in a "timely" manner on a "fee-free basis". They also want this "without disclosure of such requests to Sun's direct sales force". That last one would call for a lot of internal rectitude on Sun's part, assuming an OFT ruling in the resellers' favour. ®

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Computer dealers accuse Sun of blocking used sales

Group says Sun's business practices effectively close trade in used products in the EU to anyone other than Sun

SOURCE: By Peter Sayer, IDG News Service

*Also appeared in PC World and InfoWorld

DATE: April 25, 2007

A group of computer dealers filed a complaint about Sun Microsystems with a U.K. government body that regulates business practices on Monday.

The Association of Service and Computer Dealers International (ASCDI) accused Sun of refusing to divulge information about the provenance of its products, effectively closing trade in used Sun products in the European Union to anyone other than Sun. The association estimates the E.U. market for used Sun equipment will be worth \$1.4 billion in 2007 and that, without interference from Sun, independent resellers should corner at least \$533 million of that.

Some vendors forbid their resellers to import products originally sold in one country for resale in another. They may do this in order to protect their reputation, as products may not meet the same safety or regulatory requirements in all markets, or their prices. The difference in software prices between the U.S. and E.U. countries, for instance, is often much greater than differences in sales taxes alone can account for.

According to the E.U. principle of free circulation of goods, a product legitimately sold in one member state can be freely traded in another, and so it should be possible to resell used goods throughout the E.U. that were originally authorized for sale in one member state.

However, Sun's refusal to tell second-hand equipment dealers in the E.U. where a particular item was originally sold makes it difficult or impossible for them to determine whether they have the right to resell it, and this behavior is contrary to the U.K.'s 1998 Competition Act, the association said.

Without a competitive market for second-hand equipment, trade-in prices will fall, leaving those who upgrade with a bigger bill to pay, the association said.

Other IT equipment makers, including IBM, Hewlett-Packard, and Cisco Systems, readily provide information about the provenance of second-hand equipment, as did Sun until last year, the association said.

The association, based in Delray Beach, Florida, filed its complaint against Sun's U.K. subsidiary, Sun Microsystems UK, with the Office of Fair Trading. It asked the regulator to order Sun to provide information about the provenance of its products on request, for free, and without passing on details of requests to its own direct sales force.

Rotenberg Associates LLC

Strategic Communications Counsel

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Sun staff in Europe did not respond to requests for comment.

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Sun slammed for anti-competitive UK practices

ASCDI complains to the Office of Fair Trading

SOURCE: IT Week; vnunet.com

DATE: April 24, 2007

A **complaint** has been filed with the **Office of Fair Trading** against **Sun Microsystems**, accusing the vendor of illegal and anticompetitive practices.

The allegation was made by the **Association of Service and Computer Dealers International** (ASCDI), which represents the interests of computer resellers, service providers and end users worldwide.

The charges centre on Sun's alleged refusal to supply product-specific historical sales and distribution information to independent companies which resell Sun products in the UK.

"Prior to 2006, like other computer equipment manufacturers, Sun had not interfered with the free trade of Sun products by independent resellers," the ASCDI claimed.

"In 2006, however, Sun made the need for provenance information critical to the trade in its products in the UK, and elsewhere in the EU, under the guise of trademark protectionism.

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"The ASCDI supports Sun's legitimate trademark rights but without Sun's cooperation, Sun has made it impossible to know whether a given Sun product is or has been placed on the European Economic Area [EEA] market with Sun's consent."

This policy effectively closes the secondary market trade in Sun products to any company other than Sun, according to ASCDI president Joe Marion. "It is anti-competitive behaviour plain and simple," he said.

Prior to filing the complaint, the ASCDI said that it had made "numerous direct requests" to Sun for access to its provenance information and to resolve the issue, but to no avail.

It added that Sun is the only major computer manufacturer challenging the importation of its products into the EEA.

In contrast, provenance information is readily available from other manufacturers including IBM, HP and Cisco, according to the organisation.

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Sun Microsystems accused of anti-competitive behaviour

Computer reseller body, the Association of Service and Computer Dealers International, files complaint with the UK Office of Fair Trading.

SOURCE: ITPro, Posted by Nicole Kobie at 4:39PM

DATE: Wednesday 25th April 2007



A computer reseller's association has filed a competition complaint against Sun Microsystems with the Office of Fair Trading (OFT).

The Association of Service and Computer Dealers International (Ascdi) filed the complaint earlier this week with the OFT, over concerns about Sun's refusal to provide provenance information, which are details about distribution and product-specific sales.

Ascdi President Joe Marion said that in late 2006 Sun successfully sued US firm Amtech for copyright infringement, after that firm resold new products. Then, presumably based on that judgement, Sun stopped allowing European vendors to sell used hardware which wasn't sold new by Sun in Europe, in order to protect their trademark. "Since Sun didn't sell it in the EU, you can't resell it," said Marion.

Resellers then asked Sun for provenance information, in order to see which products were available for resell in Europe without breaking the trademark rules. But according to Ascdi, Sun has so far refused to give out the information. "Only Sun has that," said Marion.

"There's no place else to go."

"Sun has created an environment in the EU making it difficult, if not impossible, to resell used Sun equipment," said Marion.

Ascdi said it has made several requests to Sun for access to provenance information, but without success. The body claimed Sun is the only major computer manufacturer challenging European imports of its products, as IBM, HP and Cisco all make their own provenance information available.

"None of them do what Sun does," said Marion. "There's no charges, no prohibition from moving equipment in from the rest of the world."

Marion said other manufacturers have not taken Sun's route because they want to encourage use of their own products. Marion said IBM representatives told him they'd rather have people buying used IBM equipment than not at all - "rather have you sell faded blue, than no blue at all."

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"It'd be nice if Sun would adopt the attitude of every other manufacturer. That would be ideal," he said.

As a result of Sun's policy, Marion said at least one Sun specialist resellers has gone out of business, while others have stopped selling Sun products, or have been stuck with large inventories they are not allowed to sell.

"Absent any competitor, Sun would be the only reseller of used Sun hardware in the EU," he said. That market is worth \$1.4 billion in Europe alone. Independent resellers could take a piece worth about \$533 million, Ascdi said.

Ascdi is seeking a declaration from the OFT that Sun's refusal to provide relevant information is against the Chapter II prohibition of the Competition Act 1998, and is seeking an order that Sun provide the requested information.

"We'd love to sit down with Sun and the Office of Fair Trading, and put the European market back in order," he said. "We need to figure out a process so we can check provenance and resell."

The complaint is now filed with the OFT, which will arrange for a meeting with Sun and attempt to resolve the situation, an Ascdi spokeswoman said.

Sun Microsystems would not comment on the filing at the time of going to press.

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Computer Dealer's Association Files Complaint Against Sun Microsystems

SOURCE: Special to ag-IP-news Agency

DATE: April 25, 2007

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These manufacturers support free trade of their products and don't hide behind trademark protectionism to limit or eliminate competition in the trade of their products in the UK and in the EU.

The Complaint states that Sun's refusal to supply the provenance information interferes with free trade and is prohibited by UK competition law, specifically the Chapter II prohibition of the Competition Act 1998.

Case law makes it clear that Sun is prohibited from using its authorized distribution system to create obstacles to the resale of its products outside its authorized distribution network. The Complaint also asserts that Sun's refusal to disclose provenance information -- and its

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threats of litigation to independent resellers who trade in Sun computers – is resulting in diminished competition in the secondary market. Some independent resellers have transitioned their businesses to other computer manufacturers, some have been left holding large inventories of Sun equipment they are or may be prohibited from selling, while others have gone out of business.

At stake is an estimated \$1.4 billion market in 2007 in the EU for used Sun products. Absent interference from Sun, independent resellers should achieve a market share for Sun products of at least \$533 million. If Sun's behavior continues unchecked, not only will this share drop, other manufacturers may follow suit, forcing independent resellers out of the market and giving manufacturers near monopolies for their respective products.

ASCDI's Complaint seeks a declaration from the Office of Fair Trading that Sun's refusal to provide provenance information on its used products is prohibited under the Chapter II prohibition of the Competition Act 1998, and seeks an order that Sun provide such information in a timely manner, without disclosure of such requests to Sun's direct sales force and a fee-free basis.

"Our goal is to keep the secondary computer marketplace free and open to independent resellers," Marion said.

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IT Dealer association complains to Office of Fair Trading about Sun Microsystems

SOURCE: PublicTechnology.net – e-Government and Public Sector IT News

DATE: April 25, 2007

The Association of Service and Computer Dealers International (“ASCDI”), which represents the interests of computer resellers, service providers and end users worldwide, yesterday filed a Complaint with the UK competition authority, the Office of Fair Trading against Sun Microsystems UK Limited (“Sun”). The Complaint seeks to reverse Sun policies that (it says) infringe UK competition law.

ASCDI says:

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CDA's OFT complaint against Sun Microsystems

SOURCE: Channel News – for the Voice and Data Communications Community

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Publication	Audience	#of clips	Date
KFSM	9,000	3	4/25/07
WNEM	12,000	3	4/25/07
WOITV	N/A	3	4/25/04
KPLC-TV	6,000	3	4/25/07
WTNZ	N/A	3	4/25/07
WAFB 9	27,000	3	4/25/07
WAFF	21,000	3	4/25/07
KLFY	24,000	3	4/25/07
WACH	N/A	2	4/25/07

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Computer dealers accuse Sun of blocking used sales

Group says Sun's business practices effectively close trade in used products in the EU to anyone other than Sun

SOURCE: By Peter Sayer: IDG News Service

*Also appeared on NetworkWorld, Tech World, ComputerWorld, and ComputerWorld Storage

DATE: April 25, 2007

A group of computer dealers filed a complaint about Sun Microsystems with a U.K. government body that regulates business practices on Monday.

The Association of Service and Computer Dealers International (ASCDI) accused Sun of refusing to divulge information about the provenance of its products, effectively closing trade in used Sun products in the European Union to anyone other than Sun. The association estimates the E.U. market for used Sun equipment will be worth \$1.4 billion in 2007 and that, without interference from Sun, independent resellers should corner at least \$533 million of that.

Some vendors forbid their resellers to import products originally sold in one country for resale in another. They may do this in order to protect their reputation, as products may not meet the same safety or regulatory requirements in all markets, or their prices. The difference in software prices between the U.S. and E.U. countries, for instance, is often much greater than differences in sales taxes alone can account for.

According to the E.U. principle of free circulation of goods, a product legitimately sold in one member state can be freely traded in another, and so it should be possible to resell used goods throughout the E.U. that were originally authorized for sale in one member state.

However, Sun's refusal to tell second-hand equipment dealers in the E.U. where a particular item was originally sold makes it difficult or impossible for them to determine whether they have the right to resell it, and this behavior is contrary to the U.K.'s 1998 Competition Act, the association said.

Without a competitive market for second-hand equipment, trade-in prices will fall, leaving those who upgrade with a bigger bill to pay, the association said.

Other IT equipment makers, including IBM, Hewlett-Packard, and Cisco Systems, readily provide information about the provenance of second-hand equipment, as did Sun until last year, the association said.

The association, based in Delray Beach, Florida, filed its complaint against Sun's U.K. subsidiary, Sun Microsystems UK, with the Office of Fair Trading. It asked the regulator to order Sun to provide information about the provenance of its products on request, for free, and without passing on details of requests to its own direct sales force.

Rotenberg Associates LLC

Strategic Communications Counsel

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Sun staff in Europe did not respond to requests for comment.

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Group Alleges Unfair Trading Practices at Sun

SOURCE: Datamonitor Computerwire; IT Jungle, By Timothy Prickett Morgan

DATE: April 26, 2007

Yesterday, server maker Sun Microsystems was slapped with a complaint from a trade group representing worldwide dealers in used Sun equipment, the Association of Service and Computer Dealers International. The ASCDI filed its complaint with the United Kingdom's Office of Fair Trading against Sun Microsystems UK Limited, the company's British subsidiary, and in that filing it alleges that Sun is engaging in unfair trading practices that stifle the trading of secondhand Sun gear not only in the United Kingdom or across Europe, but around the world.

The ASCDI is the result of the merger of two different trade groups that have represented dealers and resellers in used mainframe, midrange, and Unix gear that were founded in 1981. Back in the heydays of the mainframe market in the 1980s and the early 1990s, when mainframes cost tens of millions of dollars and there were myriad computer dealers and leasing companies in North America and Europe to provide the cash to acquire them, industry giants like Comdisco and El Camino Resources had billions of dollars in annual sales providing leasing services for corporate IT operations.

These dealers and lessors often rivaled the leasing arms of the IT vendors themselves in scope of services and depth of assets. The ecosystem of resellers and dealers, who often sold both new and used kit, was vibrant and constituted a real market for machinery, by which is meant that the laws of supply and demand were at work on processing capacity. The Computer Dealers and Lessors Association and the forerunners of the ASCDI group were the two big organizations, but only the ASCDI was left standing after Comdisco, El Camino, and a whole generation of lessors either retired from the market or went bust as interest rates dropped, the price of systems and servers plummeted, and investment opportunities were better in other areas--the stock market, for instance, gave better returns in the late 1990s.

Even though the market for secondhand equipment may not be as vibrant today as it was in days gone by, that doesn't mean this is a small potatoes business. In its filing with the Office of Fair Trading, the ASCDI said that the market for used Sun servers and storage products will amount to about \$1.4bn in 2007 in Europe alone. And without Sun's interference, the ASCDI estimates that resellers should be able to capture about \$533m of that, with Sun presumably getting the rest itself. What ASCDI really fears is that other IT vendors may catch on to Sun's tactics, and similarly cut off dealers in used gear.

According to the complaint, the ASCDI's members are concerned by Sun's refusal to supply historical sales and distribution data to dealers, which is called provenance information in legal parlance.

"Prior to 2006, like other computer equipment manufacturers, Sun had not interfered with the free trade of Sun products by independent resellers," explained a statement put out by the ASCDI regarding the complaint. "In 2006 however, Sun made the need for provenance

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information critical to the trade in its products in the UK, and elsewhere in the EU, under the guise of trademark protectionism. It began a policy of refusing to provide such information whenever requested by independent resellers. The ASCDI supports Sun's legitimate trademark rights, but without Sun's cooperation, Sun has made it impossible to know whether a given Sun product is or has been placed on the EEA market with Sun's consent." (EEA is short for the European Economic Area, and it describes the member countries of the European Union plus Iceland, Norway, and Liechtenstein.)

The trade body says that Hewlett-Packard, IBM, and Cisco Systems, just to name three big IT players who are keen on protecting their trademarks, readily offer the provenance information in Europe.

"Sun's policy effectively closes the secondary market trade in Sun products to anyone other than Sun. It is anti-competitive behavior plain and simple," said ASCDI's president, Joe Marion, in a statement accompanying the filing.

ASDCI says that Sun's practices are in violation of Chapter II of the United Kingdom's Competition Act of 1998. The organizations lawyers contend that the case law regarding secondhand markets prohibits Sun from putting up barriers for the resale of used equipment, and that the refusal to disclose provenance information--as well as alleged threats by Sun to sue resellers for causes not outlined in the statement--break this UK law.

ASDCI says that Sun's practices have driven some dealers from the market, and have left others holding large inventories of used gear, which only depreciate in value over time. With new products coming out from Sun, and even more looming on the horizon, this latter item is one that weighs heavily on dealers, who want to move gear out of their warehouses and money into their bank accounts before the price floor drops in the wake of new products.

ASDCI is requesting that the Office of Fair Trade rule that Sun's refusal to provide the provenance information is a violation of UK law and that Sun be ordered to provide the information to dealers for free, in a timely fashion, and without disclosing information regarding the dealers which get the information to its direct sales force. The latter item keeps Sun from coming in and trying to steal deals, presumably. And that also seems to be pushing it a bit too far. If Sun has to give out information to dealers, it seems fair, for the sake of competition, that Sun also be allowed to give the same information to its sales force.

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Sun accused of anti-competitive behavior

Computer dealers are taking Sun to the Office of Fair Trading, accusing the company of anti-competitive behavior.

SOURCE: ZDNet Asia/ZDNet.co.uk, By David Meyer, ZDNet UK

DATE: April 26, 2007

The Association of Service and Computer Dealers International (ASCDI) made the complaint to the Office of Fair Trading (OFT) on Monday, claiming that Sun has, since 2006, been denying independent resellers in the U.K. product-specific information on distribution and historical sales. "Sun's policy effectively closes the secondary market trade in Sun products to anyone other than Sun. It is anti-competitive behavior, plain and simple," said ASCDI president Joe Marion.

The ASCDI claimed that, in 2006, Sun made it mandatory for resellers to have so-called "provenance information" on the Sun products they sold, yet refused to provide that information to independent resellers. According to the association, this has made it "impossible to know whether a given Sun product is, or has been, placed on the [European] market with Sun's consent".

The association also claimed that repeated attempts to obtain the provenance information from Sun have failed, and pointed out that Sun's major rivals--including IBM, HP and Cisco--"readily" supply such information.

According to the ASCDI, Sun's stance on "trademark protectionism" has forced some independent resellers to switch to selling other computer manufacturers' equipment, while others have "gone out of business" or "been left holding large inventories of Sun equipment they are, or may be, prohibited from selling".

Both Sun and the OFT were unavailable for comment at the time of writing.

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UPDATED: Resellers accuse Sun of anti-competitive behaviour

A competition complaint has been filed against Sun Microsystems with the Office of Fair Trading (OFT).

SOURCE: PC Pro; ITPro, By Nicole Kobie

DATE: 2:19PM, Thursday 26th April 2007

The Association of Service and Computer Dealers International (Ascdi) filed the complaint earlier this week with the OFT, over concerns about Sun's refusal to provide provenance information, which are details about distribution and product-specific sales.

Ascdi President Joe Marion said that in late 2006 Sun successfully sued US firm Amtech for copyright infringement, after that firm resold new products. Then, presumably based on that judgement, Sun stopped allowing European vendors to sell used hardware which wasn't sold new by Sun in Europe, in order to protect their trademark. 'Since Sun didn't sell it in the EU, you can't resell it,' said Marion.

Resellers then asked Sun for provenance information, in order to see which products were available for resell in Europe without breaking the trademark rules. But according to Ascdi, Sun has so far refused to give out the information. 'Only Sun has that,' said Marion. 'There's no place else to go.'

'Sun has created an environment in the EU making it difficult, if not impossible, to resell used Sun equipment,' said Marion.

Ascdi said it has made several requests to Sun for access to provenance information, but without success. The body claimed Sun is the only major computer manufacturer challenging European imports of its products, as IBM, HP and Cisco all make their own provenance information available.

'None of them do what Sun does,' said Marion. 'There's no charges, no prohibition from moving equipment in from the rest of the world.'

Marion said other manufacturers have not taken Sun's route because they want to encourage use of their own products. Marion said IBM representatives told him they'd rather have people buying used IBM equipment than not at all - 'rather have you sell faded blue, than no blue at all.'

'It'd be nice if Sun would adopt the attitude of every other manufacturer. That would be ideal,' he said.

As a result of Sun's policy, Marion said at least one Sun specialist resellers has gone out of business, while others have stopped selling Sun products, or have been stuck with large inventories they are not allowed to sell.

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'Absent any competitor, Sun would be the only reseller of used Sun hardware in the EU,' he said. That market is worth \$1.4 billion in Europe alone. Independent resellers could take a piece worth about \$533 million, Ascidi said.

Ascidi is seeking a declaration from the OFT that Sun's refusal to provide relevant information is against the Chapter II prohibition of the Competition Act 1998, and is seeking an order that Sun provide the requested information.

'We'd love to sit down with Sun and the Office of Fair Trading, and put the European market back in order,' he said. 'We need to figure out a process so we can check provenance and resell.'

In a statement, Sun defended its trademark policy and denied acting in an anti-competitive manner.

Sun's policies actively encourage a vibrant market in its second-hand products on a fair and lawful basis," the statement said, adding that Sun takes "perfectly legitimate steps to enforce its registered trademark right."

Sun said that it had not yet seen the complaint or been contacted by OFT, but would cooperate fully with any inquiry.

The complaint is now filed with the OFT, which will arrange for a meeting with Sun and attempt to resolve the situation, an Ascidi spokeswoman said.

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Sun denies anticompetitive behavior

SOURCE: ZDNet Asia; ZDNet UK, By David Meyer, ZDNet UK

DATE: April 27, 2007

Sun has denied suggestions that it is engaging in anticompetitive behavior.

A complaint about Sun made to the Office of Fair Trading (OFT) by the Association of Service and Computer Dealers International (ASCDI) on Monday claimed that Sun was shutting out resellers by refusing to give them "provenance information" on its products-- historical details about where the equipment comes from.

Sun's policy, said the ASCDI, "effectively closes the secondary market trade in Sun products to anyone other than Sun", because the manufacturer requires all its equipment to have this information available when sold.

But Sun has hit back, claiming its policies "actively encourage a vibrant market in its second-hand products on a fair and lawful basis". A statement from the computer manufacturer indicated that it had not seen the complaint, nor had it been contacted by the OFT, but that it would fully cooperate with any inquiry by the OFT.

"It appears...that the basis of ASCDI's complaint is that, by taking perfectly legitimate steps to enforce its registered trademark rights and by declining to make commercially sensitive sales information publicly available, Sun has in some way breached the UK Competition Act 1998," the statement read. "Sun categorically denies that it is in any way acting in an anticompetitive manner or that its actions amount in any sense to an abuse of any dominant market position."

The OFT refused to comment on the ASCDI's allegations, saying its complaints process was confidential.

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Resellers' association files trading complaint against Sun

SOURCE: ComputerWeekly.com, by Antony Savvas

DATE: Thursday 26 April 2007

SECTION: IT Management – Politics and Law

PC resellers have reported Sun Microsystems to the Office of Fair Trading for alleged anti-competitive behaviour.

The Association of Service and Computer Dealers International (ASCDI), which represents computer resellers, service providers and end-users worldwide, claims that Sun's policies on the sale of its second-hand...

... kit infringe UK competition law.

The complaint concerns Sun's refusal to supply provenance information (product specific historical sales and distribution information) to independent resellers that resell Sun products in the UK.

ASCDI says that prior to 2006, like other computer equipment manufacturers, Sun "had not interfered with the free trade of Sun products by independent resellers".

In 2006 however, said ASCDI, "Sun made the need for provenance information critical to the trade in its products in the UK, and elsewhere in the EU, under the guise of trademark protectionism."

It began a policy of refusing to provide such information whenever requested by independent resellers, ASCDI said. ASCDI supports Sun's legitimate trademark rights, but says without Sun's co-operation, Sun has made it impossible to know whether a given Sun product is or has been placed on the market with Sun's consent.

"Sun's policy effectively closes the secondary market trade in Sun products to anyone other than Sun. It is anti-competitive behaviour plain and simple," said ASCDI president Joe Marion.

Provenance information is readily available from other manufacturers including IBM, HP and Cisco, said ASCDI.

At stake is an estimated £736m market in 2007 across the EU for used Sun products. ASCDI's complaint seeks a declaration from the Office of Fair Trading that Sun's refusal to provide provenance information on its used products is prohibited under the Competition Act 1998.

It also seeks an order that Sun provides the information in a timely manner, without disclosure of such requests to its own direct sales force and on a fee-free basis.

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“Our goal is to keep the secondary computer marketplace free and open to independent resellers,” said Marion.

“Ultimately, it will be the customer that will benefit from a more open marketplace.” Sun has not so far responded to the Office of Fair Trading complaint.

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Sun blocks second-hand sales, say dealers

OFT complaint alleges Sun is hogging a £700m market.

SOURCE: Tech World, Peter Sayer, IDG News Service

DATE: 26 April 2007

Sun Microsystems is preventing other companies trading in second-hand Sun products, according to a group of computer dealers.

Sun is refusing to divulge information about the provenance of used products, according to the Association of Service and Computer Dealers International (ASCDI).

The group, which has complained to the Office of Fair Trading (OFT) that this effectively closes trade in used Sun products in the EU to anyone other than Sun, and is against EU principles. The association estimates the EU market for used Sun equipment will be worth £700m in 2007 and that, without interference from Sun, independent resellers should pick up at least £265m of that.

Some vendors forbid their resellers to import products originally sold in one country for resale in another. They may do this in order to protect their reputation, as products may not meet the same safety or regulatory requirements in all markets, or to protect their prices.

The difference in software prices between the US and EU countries, for instance, is often much greater than differences in sales taxes alone can account for.

According to the EU principle of free circulation of goods, a product legitimately sold in one member state can be freely traded in another, and so it should be possible to resell used goods throughout the EU that were originally authorised for sale in one member state.

However, Sun's refusal to tell second-hand equipment dealers in the EU where a particular item was originally sold, makes it difficult or impossible for them to determine whether they have the right to resell it, and this behaviour is contrary to the 1998 Competition Act, the association said.

Without a competitive market for second-hand equipment, trade-in prices will fall, leaving those who upgrade with a bigger bill to pay, the association said.

Other IT equipment makers, including IBM, Hewlett-Packard and Cisco Systems, readily provide information about the provenance of second-hand equipment, as did Sun until last year, the association said.

The association filed its complaint against Sun Microsystems UK, with the Office of Fair Trading. It asked the regulator to order Sun to provide information about the provenance of its products on request, for free, and without passing on details of requests to its own direct sales force.

Rotenberg Associates LLC

Strategic Communications Counsel

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Sun staff in Europe did not respond to requests for comment.

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Sun accused of anti-competitive behavior

SOURCE: Monitor Today!

DATE: April 26, 2007

Computer dealers are taking Sun to the Office of Fair Trading, accusing the company of anti-competitive behavior.

The Association of Service and Computer Dealers International (ASCDI) made the complaint to the Office of Fair Trading (OFT) on Monday, claiming that Sun has, since 2006, been denying independent resellers in the U.K. product-specific information on distribution and historical sales. "Sun's policy effectively closes the secondary market trade in Sun products to anyone other than Sun. It is anti-competitive behavior, plain and simple," said ASCDI president Joe Marion.

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Virtualization: Sun Accused of Killing Secondary Market in Europe
ASCDI is saying Sun is breaking UK competition law and closing the secondary market in Sun products in Europe

SOURCE: Virtualization (SYS-CON Media), By Virtualization News Desk

DATE: May 2, 2007 03:00 PM

ASCDI, the Association of Service and Computer Dealers International, has complained to the Office of Fair Trading in the UK about Sun, saying it's breaking UK competition law and closing the secondary market in Sun products in Europe to anyone other than Sun by refusing to supply resellers with provenance information on Sun equipment.

Sun's policy went into effect last year and ASCDI claims resellers have had to shift their business to other product lines and are holding large inventories of Sun products that either can't be sold or can only be sold at a steep discount. One reseller, it said, has been forced out of business.

The trade association estimates the market in used Sun products in the European Union to be worth \$1.4 billion this year and under normal circumstances, it says, resellers would see a market share of \$533 million. "If Sun behavior continues unchecked," ASCDI says, "not only will this share drop, other manufacturers may follow suit, forcing independent resellers out of the market and giving manufacturers near monopolies for their respective products."

ASCDI says Sun is the only OEM refusing to cough up the information.

It wants an order from the authorities that Sun is acting anti-competitively and telling it to provide the information "in a timely manner, without disclosure of such requests to Sun's direct sales force on a fee-free basis."

Sun took a UK reseller called Amtec to court charged with infringing its trademark for trafficking in a Sun system that was originally sold in Israel and wended its way through several European countries to Britain. Sun has told resellers they can't sell used equipment that wasn't made for the territory and need the paperwork to prove it was but won't give it to them.

Sun sued Amtec on the basis of an EU law that says machines can't be sold without the permission of their trademark holder.

Ultimately Sun's policy has an impact on the worldwide secondary market. See, it seems that 40% of US machines wind up on the European market.

Meanwhile, we read in the papers that a two-week 25th anniversary Sun promotion really ticked off resellers because Sun cuts prices on many of its servers, storage, software and service by 50% or better but only for people who buy direct from the company. Its offer was e-mailed to customers including clients of its resellers. The resellers' scream was reportedly so loud that at press time Sun was scurrying to make changes and cut them in.

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Market for used servers, storage threatened by Sun silence, complaint alleges

SOURCE: SearchStorageChannel.com, By Nicole Lewis, Senior News Writer

DATE: May 7, 2007

Only weeks after enraging many of its U.S.-based resellers by offering cut-price equipment directly to customers, Sun Microsystems Inc. is being accused of unfair trade practices for restricting the ability of European resellers to buy or sell used Sun equipment.

The [UK Office of Fair Trading \(OFT\)](#) is currently considering [a complaint charging that Sun's refusal to give resellers information](#) on the history of a piece of equipment unless the reseller is an authorized member of Sun's partner program.

Without so-called provenance information unauthorized resellers have trouble selling used equipment without risking lawsuits for violating Sun copyrights, illegally restricting their ability to do business, the complaint alleges. Provenance information includes data on when and where used machines were legitimately sold, whether the machines were released by Sun or an authorized reseller, and where the machines can be resold without violating Sun's trademarks.

The complaint was filed with the OFT – a quasi-judicial government agency responsible for vetting fair-trade procedures in the U.K. – and was filed against Sun's UK operation in late April by the industry advocacy group [Association of Service and Computer Dealers International \(ASCDI\)](#), in Delray Beach, Fla.

Authorized resellers are able to get provenance information directly from Sun, according to [Bob Boyle](#), the ASCDI's chief lawyer, while unauthorized resellers trading Sun machines in the secondary market are not.

"Sun's decision to withhold information on provenance to unauthorized resellers says we don't want you infringing on their trademark. But they won't give us the information to determine whether a given product infringes or does not infringe," Boyle said. "We want to support and we want to protect Sun's trademark; we don't want to be sued for infringement."

Sun declined to comment through a spokesperson, but it did issue a statement denying it had acted in an anti-competitive manner or that it was conducting itself in a way that would show abuse of any dominant market position.

Effect on authorized and *unauthorized* resellers

"It appears, however, that the basis of ASCDI's complaint is that by taking perfectly legitimate steps to enforce its registered trademark rights and by declining to make commercially-sensitive sales information publicly available, Sun has in some way breached

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the UK Competition Act 1998," said Sun's statement issued a few days after the ASCDI complaint was filed.

"Sun categorically denies that it is in any way acting in an anti-competitive manner or that its actions amount in any sense to an abuse of any dominant market position. In the event that the OFT decides that the complaint by the ASCDI is worthy of further investigation Sun will of course co-operate fully with the inquiry."

[Illuminata Inc. analyst John Webster](#) said that if Sun is not providing provenance, as the complaint suggests, then Sun is sending a strong signal that unauthorized resellers of its used products should get with the program.

"What Sun is saying is: 'We are not going to give provenance willy-nilly to anybody.' If you want to be an authorized reseller here's the plan. Sign up," Webster said.

Webster predicted that if the OFT does nothing or comes down on the side of Sun, it will shore up Sun's authorized resellers and may even raise the prices of Sun products they resell.

"If you are an authorized reseller and you can provide provenance [information] then you can resell and the supply of available machines actually gets smaller if you take those machines that don't have provenance off the market," Webster said.

Last year the market for used server hardware – sold by independent dealers in Europe -- was worth \$110 million according to Netherlands-based analysts AME Research.

One beneficiary of this market is Livingston, N.J. – based [CIT Group Inc.](#) where Mark Hekimian, senior sales manager for the company's Sun Microsystems division, is anxiously awaiting the decision, which will affect hundreds of thousands of dollars worth of business for his company.

CIT leases and sells Sun used equipment to the broker market in the UK, as well as other countries in the EU, but Hekimian wonders how much longer he'll be able to do business there.

"This is hurting a lot of people in the UK who trade Sun equipment," Hekimian said. "The independent reseller that would buy from my company may now not want to buy Sun equipment for fear of an infringement lawsuit," Hekimian added.

Looming in Hekimian's mind is the case of [Amtec Computer Corp.](#), a company that was found guilty of illegally selling 10 Sun servers that originated from Israel and were intended for that market.

However, the servers were sold into the EU grey market and changed hands twice before Amtec bought them from a Danish company. Because the servers had been purchased in

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Israel and not in the EU, Amtec admitted that it had infringed Sun's trademarks and paid an out-of-court settlement of £450,000.

According to Boyle, since the Amtec case Sun has made an issue of provenance, unlike IBM and HP, two manufacturers that provide this information to unauthorized resellers trading their products. Boyle said he'd like to see the secondary market for Sun products continue, and hopes the OFT decision won't jeopardize the survival of the secondary market.

"I'd like to see us preserve the secondary market for Sun equipment because it keeps our members in business, it keeps choice available for Sun users and that's a good thing," Boyle said.