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**News**

Thursday 26th April 2007

**UPDATED: Resellers accuse Sun of anti-competitive behaviour**

2:19PM, Thursday 26th April 2007



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

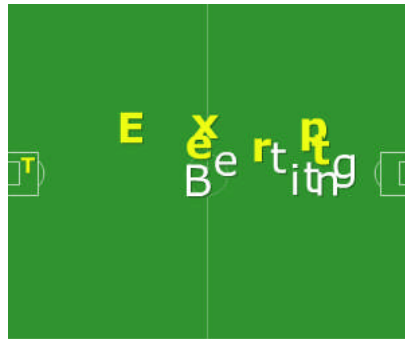
The [Association of Service and Computer Dealers International \(Ascdi\)](#) filed the complaint earlier this week with the OFT, over concerns about [Sun's](#) refusal to provide provenance information, which are details about distribution and product-specific sales.

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.



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'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.

'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.'

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."

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Sun said that it had not yet seen the complaint or been contacted by OFT, but would co-operate 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 Ascdi spokeswoman said.

Nicole Kobie

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