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**E-FILED on** 11/13/08

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE  
CYGNUS TELECOMMUNICATIONS  
TECHNOLOGY, LLC, PATENT  
LITIGATION


MDL No. 1423  
No. C-02-00142-RMW  
No. C-02-00145-RMW  
No. C-02-05437-RMW  
No. C-03-05758-RMW  
No. C-03-03378-RMW  
No. C-03-03594-RMW  
No. C-03-03596-RMW  
No. C-03-04003-RMW  
No. C-04-03001-RMW  
No. C-04-03365-RMW  
No. C-04-04247-RMW  
No. C-04-04359-RMW  
No. C-06-03843 RMW  
No. C-02-00142-RMW  
No. C-06-04295 RMW  
No. C-06-06479 RMW

ORDER DENYING REQUEST FOR  
CLARIFICATION OF MARCH 30,2007  
ORDER

ORDER DENYING REQUEST FOR CLARIFICATION OF MARCH 30, 2007 ORDER  
C-06-03843 RMW, C-06-04295 RMW, C-06-06479 RMW

1           On October 24, 2008, Plaintiff Cygnus Telecommunications Technology, LLC ("Cygnus")  
2 moved for an order clarifying this court's March 30, 2007 order on defendants' motion for summary  
3 judgment. Previously, on September 22, 2008, counsel for Cygnus made a similar request by letter and  
4 filed the current motion because he had not received a response to the letter request. The court had  
5 responded, a copy of which is attached, but, inadvertently, a copy was not sent to Cygnus's counsel. The  
6 court apologizes for this oversight. Nonetheless, after considering Cygnus' motion, the court denies the  
7 request.

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10 DATED:           11/13/08

  
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RONALD M. WHYTE  
United States District Judge

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13 Counsel are responsible for distributing copies of this document to co-counsel that have not  
14 registered for e-filing under the court's CM/ECF program.

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16

**Dated:** 11/13/08

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JAS  
Chambers of Judge Whyte

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**Attachment**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
UNITED STATES COURTHOUSE  
280 SOUTH FIRST STREET  
SAN JOSE, CALIFORNIA 95113



CHAMBERS OF  
RONALD M. WHYTE  
UNITED STATES DISTRICT JUDGE

(408) 535-5331

October 10, 2008

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Re: Cygnus Telecommunications Technology, LLC v. Americom; MDL-1433;  
Case Nos. C-04-0142, C-02-0145, C-02-5437 and C-04-4359-RMW


Dear Counsel:

I write in response to Mr. Sutton's letter to me dated September 22, 2008 concerning "the applicability of [my] March 30, 2007 Order as it related to the on-sale bar under 35 U.S.C. § 102(b)" and Mr. Silvestrini's letter of September 25, 2008 objecting to Mr. Sutton's request. There is a misunderstanding as to what I said or at least intended to say at the September 19, 2008 hearing in the *Cygnus v. American Int'l Telephonics* case. Mr. Sutton raised a question concerning my March 30, 2007 Order which, of course, was the subject of the appeal to the Federal Circuit. My response to Mr. Sutton was intended only to say I could not discuss anything to do with that order because counsel representing the parties were not present. I merely meant

Counsel  
October 10, 2008  
Page two

to advise Mr. Sutton that if he had something he wanted to present to me, he should put it in a letter and copy all parties. I did not mean to suggest that I would or should take action or respond to any request he submitted. Now that I have seen the nature of his request, I believe it would be highly inappropriate for me to respond and I will not do so.

Very truly yours,

A handwritten signature in cursive script that reads "Ronald M. Whyte".

Ronald M. Whyte  
United States District Judge