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IN THE THIRD JUDICIAL DISTRICT COURT

SALT LAKE COUNTY, STATE OF UTAH

WHENU.COM, INC. a Delaware
 corporation,

Plaintiff,

vs.

THE STATE OF UTAH, a body politic,
OLENE S. WALKER, in her official
 capacity as Governor of Utah., and
MARK SHURTLEFF in his official
 capacity as Utah Attorney General,

Defendants.

AFFIDAVIT OF KENT LEWIN

Civil No. 040907578

Honorable Joseph C. Fratto

STATE OF WASHINGTON)
 :SS
 COUNTY OF _____)

Kent Lewin, being first duly sworn, hereby deposes and states as follows:

1. I am over 18 years of age and have personal knowledge of the facts contained in this affidavit. I submit this Affidavit in opposition to the Motion for Preliminary Injunction filed by plaintiff WhenU.com.
2. I am the President of ArosNet, Inc. ("ArosNet"), a Utah corporation.
3. ArosNet is an Internet Service Provider ("ISP") that provides Internet service to businesses and individuals on the Wasatch Front.
4. As part of its ISP services, ArosNet provides dial up connections, ISDN dial up and dedicated connections, DSL connections, Frame Relay and Point to Point T1 connections.
5. ArosNet is directly harmed by spyware as it is defined in the Utah Spyware Control Act (the "Act").
6. Spyware harms both ArosNet and ArosNet's customers.
7. Spyware harms ArosNet by increasing Internet traffic over its Internet connections, thus utilizing valuable bandwidth, which slows connection times for ArosNet customers and requires ArosNet to purchase additional bandwidth.
8. Spyware also harms ArosNet because it decreases the performance of the Internet connections utilized by ArosNet's customers and, therefore, creates customer dissatisfaction with the services provided by ArosNet due to slow connection speed.

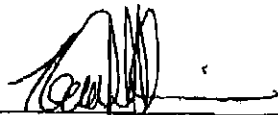
9. Finally, ArosNet is harmed by spyware because of its detrimental effect on the performance of the computers of ArosNet employees. Spyware detrimentally effects the speed in which programs run on the employees computer, including, but not limited to, the time it takes for the employees' computer to boot up.

10. Spyware harms ArosNet's customers because, as stated above, it slows the speed of their Internet connection, thus decreasing the speed in which Internet based applications are performed. This creates customer dissatisfaction and often results in the customers blaming and/or complaining to ArosNet regarding slow connection speeds.

11. ArosNet's technical support staff spends at least 20% of their overall technical support time in resolving problems caused by spyware on user's computers. Technical support resolution of problems caused by spyware is difficult because the customer can't simply uninstall the software.

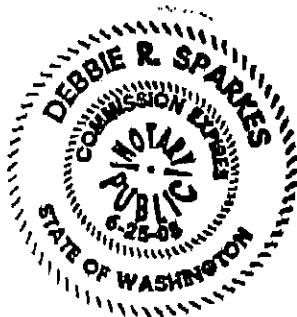
12. Spyware also harms ArosNet's business customers because it causes competitors' pop-up advertisements to cover the businesses' website.

DATED this 4th day of June, 2004.



Kent Lewin

The forgoing Affidavit was subscribed and sworn to before me by Kent Lewin this 4th day of June, 2004.





NOTARY PUBLIC

CERTIFICATE OF SERVICE

I hereby certify that I am employed by the law firm of MILLER MAGLEBY & GUYMON, P.C., 170 South Main Street, Suite 350, Salt Lake City, Utah 84101, and that pursuant to Rule 5(b), Utah Rules of Civil Procedure, a true and correct copy of the foregoing **AFFIDAVIT OF KENT LEWIN** was delivered to the following this 4th day of June by:

- Hand Delivery
- Facsimile
- Depositing the same in the U.S. Mail, postage prepaid
- Federal Express
- Certified Mail, Receipt No. _____, return receipt requested

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