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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 8, 1998

Secretary Magalie Roman Salas
Federal Communication Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: In the Matter of Toll Free Service Access Codes
CC Docket No. 95-155
Fourth Report and Order and Memorandum Opinion and Order

Dear Secretary Salas:

Thank you for the opportunity to participate in the Toll Free Service Access Codes proceeding. In the Fourth Report and Order and Memorandum Opinion and Order, the FCC listed me as a "Further Commenter" at page 39 and cited my then unpublished law review article at page 47.

If possible, I would like to have two items clarified before the order goes to print in the FCC reporter and/or elsewhere. First, my first name was listed incorrectly, and I have since dropped Olcott from my name. My name should be listed as "Lisa Dame" on page 39 of the Order in Appendix D. Second, my law review article has since been published and should be cited on page 47 as: Lisa Dame, *Confusingly Dissimilar Applications of Trademark Law to Vanity Telephone Numbers*, 46 CATH. U. L. REV. 1199, 1244 (1997).

I spoke with Ruth Dancey today regarding these two issues, and she advised me that I should fax these changes to you. I have also provided corrected copies of the pages that should be changed. Thank you for your consideration in this matter, and thank you again for giving me the opportunity to participate in the Toll Free proceeding.

Sincerely,



Lisa Dame

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*Main 202/418-0200
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Federal Communications Commission

FCC 98-48

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of) CC Docket No. 95-155
Toll Free Service Access Codes)

**FOURTH REPORT AND ORDER AND
MEMORANDUM OPINION AND ORDER**

Adopted: March 27, 1998

Released: March 31, 1998

By the Commission: Commissioner Harold Furchtgott-Roth dissenting in part and issuing a statement.

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Federal Communications Commission

FCC 98-48

List of Further Commenters



- 800 Users Coalition ("Coalition")
- ArtSnob Inc. ("ArtSnob")
- Car Rental Association ("CRA")
- ~~Dame Olcott, Linda ("Linda Dame Olcott")~~
- Communications Venture Services, Inc. ("CVS")
- Direct Marketing Association ("DMA")
- Enterprise Rent-A-Car, Inc. ("Enterprise")
- ICB, Inc. ("ICB")
- Lerman, Joshua ("Joshua Lerman")
- MCI Telecommunications Corporation ("MCI")
- National Association of Telecommunication End-Users ("NATE")
- New England 800 Company ("New England")
- National Electronics Warranty Corporation ("NEW")
- Palnik, Paul ("Paul Palnik")
- RCN Telecom Services, Inc. ("RCN")
- Sprint Corporation ("Sprint")
- U S West Communications, Inc. ("U S West")
- Vanity International

→ DAME, LISA ("LISA DAME")

IN: APPENDIX D
COMMENTS SUMMARY

Federal Communications Commission

FCC 98-48

within the United States to entities within the United States.⁴⁹ SWBT questions "how vanity numbers arising from NXX codes used in the Caribbean countries would be protected in 888."⁵⁰

12. Trademark Law. Most commenters assert that trademark and unfair competition laws will adequately protect the investment current holders of 800 numbers have made in their 800 numbers.⁵¹ GTE argues that a subscriber harmed by the holder of the corresponding number in a different code can seek relief from the courts.⁵² Similarly, Allnet Communications Service, Inc. ("Allnet") maintains that existing unfair trade and intellectual property laws provide the necessary protections and that, therefore, the "Commission does not need to delve into this arena."⁵³

13. Other commenters disagree, stating that trademarks or service marks do not adequately protect the investment current 800 holders have made in their 800 numbers.⁵⁴ AT&T maintains that not all vanity-number customers are eligible for trademark or service-mark registration.⁵⁵ DMA asserts that the Commission must consider trademark protections, but must also harmonize number allocation rules with principles of trademark and unfair competition.⁵⁶ Others argue that, regardless of whether trademark law adequately protects 800 subscribers, the Commission does not have the authority to draft new trademark law or inject itself into the field of trademark law.⁵⁷

14. SIC Codes. Most commenters generally oppose the use of SIC codes to protect incumbent toll free subscribers' financial interests in their toll free vanity numbers. They argue

⁴⁹ DMA Comments at 12 n.3.

⁵⁰ SWBT Comments at 17.

⁵¹ See, e.g., Sprint Comments at 21-22 n.11; BellSouth Comments at 16-17; SNET Comments at 6; Bell Atlantic Comments at 7; AirTouch Paging ("AirTouch") Comments at 14-15; PageNet Comments at 14-15; CompTel Comments at 13; LCI Comments at 8; USTA Reply Comments at 4.

⁵² GTE Comments at 9-10 n.15.

⁵³ Allnet Comments at 9; Joseph DeFabio Comments at 1 (asserting that the Commission should not attempt to preempt trademark law).

⁵⁴ U S West Comments at 21-22; 1-800-Flowers Comments at 14-15; Coalition Comments at 21-22; AT&T Comments at 26; Enterprise Reply Comments at 1; NYCHA Reply Comments at 11; Promoline Reply Comments at 7; TWC Reply Comments at 1-3; British Airways Reply Comments at 3-5; Bass Pro Reply Comments at 2; Paul Palnik Comments at 2.

⁵⁵ AT&T Comments at 26; Service Merchandise Comments at 6; 1-800-Flowers Comments at 14-15; Bass Pro Comments at 8 n.15 & n.16; Weather Channel Comments at 8-9; Coalition Comments at 21-22.

⁵⁶ DMA Comments at 11-14.

⁵⁷ See generally Lisa Dame Steed, *Confusingly Dissimilar Applications of Trademark Law to Vanity Telephone Numbers*, *Southern University of America Law Review*, at 143 (This article was filed by the author as Informal Comments). But see New England Comments at 2 (suggesting that the Commission act as the courts with respect to trademark law).

1244 (1997).
46 CATH. U.L. REV. 1199, 47

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NOTES/COMMENTS: