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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES

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17 PEOPLE OF THE STATE OF CALIFORNIA,
18 Plaintiff,
19 v.
20 ECONOLITE CONTROL PRODUCTS, INC., a
California Corporation, and DOES 1 through 100,
21 inclusive,
22 Defendants.

Case No.

**COMPLAINT FOR
INJUNCTIVE RELIEF, CIVIL
PENALTIES, ATTORNEYS'
FEES, AND OTHER
EQUITABLE RELIEF BASED
ON VIOLATIONS OF
CARTWRIGHT ACT AND
UNFAIR COMPETITION LAW**

1 **INTRODUCTORY STATEMENT**

2 California Attorney General Bill Lockyer brings this action, based on the Cartwright
3 Act and Unfair Competition Law, to enjoin unlawful tie-in sales, impose civil penalties for the
4 conduct, and restore competition in the market for traffic signal equipment in Southern California.
5 The illegal tie-in sales which are the subject of this action affected intersections owned by public
6 entities throughout Southern California, including Laguna Hills, Laguna Woods, Irvine, Carson,
7 Monterey Park, Whittier, Beverly Hills, San Juan Capistrano, Ontario, Chino, Palm Desert, Rancho
8 Cucamonga, Fontana, Hermosa Beach, Tustin, Santa Monica, Garden Grove, San Bernardino
9 County, Anaheim, Simi Valley, Thousand Oaks, Torrance, Ladera Ranch, Chino Hills, Glendora,
10 Aliso Viejo, Burbank, Cerritos, Lake Elsinore, La Quinta, Hemet, Orange County, Placentia,
11 Alhambra, Rancho Mirage, City of Orange, Rolling Hills Estates, Monterey Park, and Los Angeles
12 County.

13 **PARTIES, JURISDICTION, AND VENUE**

14 The People of the State of California, ex rel Bill Lockyer, Attorney General of the
15 State of California (“the People”), allege the following:

16 1. Bill Lockyer is the Attorney General of the State of California (“the Attorney
17 General”). The Attorney General is authorized to enforce the Cartwright Act and Unfair
18 Competition Law on behalf of the People of the State of California pursuant to Business &
19 Professions Code sections 16750, 16754, 17204 and 17206.

20 2. Defendant ECONOLITE CONTROL PRODUCTS, INC. (“Econolite”) is,
21 and at all relevant times was, a corporation organized under the laws of the State of California. Its
22 principal offices are located in the County of Orange, State of California.

23 3. The true names and capacities of defendants named as DOES 1 through 100
24 are unknown and are therefore sued by fictitious names. Plaintiff will amend this complaint to show
25 the true names and capacities when they are ascertained.

26 4. Venue is proper in Los Angeles County because Econolite sells its products

1 for use by public entities in Los Angeles County, and injuries occurred here.

2 **RELEVANT GEOGRAPHIC AND PRODUCT MARKETS**

3 5. The relevant geographic market is Southern California which includes those
4 parts of California south of, and including, Kern County.

5 6. The relevant product markets are the markets for: (1) Econolite NEMA
6 controllers (“Econolite controllers”); (2) Autoscope Video Detection Systems; (3) traffic signals
7 (“signals”); and (4) Emergency Vehicle Preemption Systems.

8 7. A controller is a computerized device, present at every intersection with
9 signals and operates within a system of controllers often by a controller known as an on-street
10 master controller. Complex programs are used by traffic engineers to maximize the flow of traffic
11 through a particular jurisdiction. To obtain the most efficient traffic flow, public entities usually
12 choose a particular system that fully functions using only a certain type and brand of controller and
13 installs such controllers in each intersection. Cities are unlikely to change the brand of controller
14 in their intersections, or permit other brands of controllers to be installed in their system, because
15 the cost of switching the entire system of controllers is high and because maintaining a system with
16 different controllers increases maintenance costs, and degrades the functionality of the system.
17 Econolite controllers, including systems of Econolite controllers, have been chosen by public
18 entities throughout Southern California.

19 8. Econolite video detection systems (known as “Autoscope”) are used to detect
20 the number of vehicles at an intersection. Additionally, Autoscope has several proprietary features
21 which are unavailable in other brands of video detection systems and is often specifically required
22 by public entities to be installed in city intersections.

23 9. Emergency vehicle preemption systems (“EVP”) are used by emergency
24 vehicles to “preempt” the normal operation of traffic signals in order to facilitate travel in
25 emergencies. The dominant EVP system used in California is known as Opticom, manufactured by
26 Minnesota Mining & Manufacturing Company and is available to contractors directly by purchasing

1 the products through its Southern California distributor at prices lower than the product can be
2 purchased from Econolite.

3 10. Signals are the presentation of lights at an intersection. Signals include
4 vehicle and pedestrian signals, mounting framework, pedestrian push buttons, and anchor bolts.
5 Signals are commodity products, not proprietary, and are usually not specified by brand or
6 manufacturer in a traffic signal project.

7 **NATURE OF THE VIOLATIONS**

8 11. Public entities are continually developing or improving roads and
9 intersections to facilitate vehicle and pedestrian travel. Public entities develop plans and
10 specifications for such projects, detailing the particular traffic signal components and equipment
11 required for the project. Public entities publish these plans and specifications, requesting electrical
12 contractors to submit bids for the project, and generally awards the contract to the lowest responsible
13 bidder. To prepare responsive bids, electrical contractors obtain prices from distributors and
14 manufacturers for the various materials and equipment specified by the public entity. Public
15 entities' plans and specifications sometimes require contractors to install either Econolite controllers
16 or Autoscope video detection systems. When required to be installed by city bid schedules and
17 specifications, contractors are not free to substitute other brands of controllers or video detection
18 systems.

19 12. Contractors in Southern California desiring to bid on traffic signal projects
20 involving Econolite controllers or Autoscope video detection systems must obtain quotes for those
21 products from Econolite because there are no other practical means of purchasing those controllers.

22 13. When a city specifies a product Econolite exclusively manufactures or sells,
23 Econolite sends price quotes to contractors known to be interested in bidding on the job with all
24 products it intends to sell for a single, lump sum price. Between the years 1997 and 2002, Econolite
25 sent out such quotes for approximately 406 intersections in Southern California. For these 406
26 intersections, Econolite sent these bundled quotes 988 times, the number of contractors Econolite

1 knew to be bidding on jobs relating to these intersections.

2 **FIRST CAUSE OF ACTION**

3 Violations of Cartwright Act Bus & Prof. Code § 16720

4 (Unlawful Tie-In Sales)

5 14. Plaintiff repeats and realleges Paragraphs 1 through 13.

6 15. Econolite has engaged in illegal tie-in sales whenever any traffic signal
7 project requires Econolite controllers or Autoscope video detection systems. As a condition of
8 selling Econolite controllers or Autoscope video detection systems (referred to alternatively as
9 “tying product(s)”), Econolite has required electrical contractors to purchase other non-proprietary
10 products, most often, signals, but also emergency vehicle preemption system products, and battery
11 back-up devices, among other products (collectively referred to as “tied product(s)).”

12 16. Econolite has the economic power to condition the purchase of signals and
13 other equipment as a condition of purchasing Econolite controllers or Autoscope video detection
14 systems. Econolite’s economic power is based on public entities’ requirement that contractors
15 purchase its proprietary products for traffic signal installation projects, that there are no adequate
16 substitutes for its products, and Econolite’s status as the exclusive source for purchase of its
17 proprietary products.

18 17. Econolite’s tie-in sales have restrained competition in the market for non-
19 controller, non-proprietary equipment, primarily signals, EVPs, and battery-back up systems.
20 Competition by Econolite’s competitors, and between and among contractors, is foreclosed in traffic
21 signal installation projects involving Econolite controllers or Autoscope video detection systems.

22 18. As a direct result a not insubstantial amount of commerce is affected in the
23 tied product markets. The amount of Econolite’s tie-in sales are not de minimis and the affected
24 sales involved hundreds of intersections and hundreds of thousands, if not millions, of dollars.

25 19. Econolite’s tie-in sales have caused, and continue to cause, irreparable harm
26 because they are contrary to the public interest and violate the Cartwright Act and the Unfair

1 Competition Law, as set forth below, and both statutes specifically provide for injunctive relief for
2 such conduct. Further, Econolite's tie-in sales foreclose its competitors from competing for the sale
3 of the tied products in public and private traffic signal projects.

4 **SECOND CAUSE OF ACTION**

5 Violation of Bus. & Prof. Code § 16727

6 (Unlawful Tie-in Sales)

7 20. Plaintiff repeats and realleges Paragraphs 1 through 19.

8 21. Econolite's conduct with respect to the sale of traffic control equipment for
9 use within the State of California constitutes illegal tie-in sales in violation of Business &
10 Professions Code section 16727.

11 **THIRD CAUSE OF ACTION**

12 Violation of Unfair Competition Law Bus. & Prof. Code § 17200

13 (Unfair Competition)

14 22. Plaintiff repeats and realleges Paragraphs 1 through 21.

15 23. The practices described herein are unlawful as violations of the antitrust laws
16 or unfair business practices as incipient violations of antitrust laws, constitute acts of unfair
17 competition, and are prohibited by Business and Professions Code section 17200. Each tie-in sale,
18 and solicitation of such sale, constitutes an act of unfair competition.

1 **PRAYER**

2 **WHEREFORE**, plaintiff prays for judgment against Econolite as follows:

3 1. For preliminary and permanent injunctions barring the illegal conduct alleged
4 above and restoring effective competition in the relevant markets;

5 2. That pursuant to Business and Professions Code section 17206, Econolite be
6 ordered to pay \$2,500 per violation of the Unfair Competition Law;

7 3. That plaintiff recover its costs of suit, including reasonable attorney fees attributed
8 to the first causes of action; and

9 4. For such other and further legal and equitable relief as the Court may deem just
10 and proper.

11 Dated: April 22, 2004

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