

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 20050/2011

BETWEEN:

SOFTWARE BROKERS OF AMERICA, INC.  
doing business as INTCOMEX

PLAINTIFF

AND:



BARRINGTON OLIVER  
trading as BJ'S ELECTRONICS SUPERSTORE

DEFENDANT



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WRIT OF SUMMONS

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**TO:** BARRINGTON OLIVER trading as BJ'S ELECTRONICS SUPERSTORE  
72 Eastern Avenue, Edies Décor Building  
P.O. Box 1890, Grand Cayman KY1-1110  
Cayman Islands

**THIS WRIT OF SUMMONS** has been issued against you by the above named Plaintiff, of 3505 N.W. 107 Avenue, Doral, Florida 33178, U.S.A. in respect of the claims set out on the next page.

Within 14 days after service of this Writ on you, (or where this Writ is served on you out of the jurisdiction pursuant to an Order of the Court, within 28 days) counting the day of service, you must either satisfy the claim or return to the Courts Office, P.O. Box 495, George Town, Grand Cayman, KY1-1106, Cayman Islands the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein any intention to contest the proceedings, the Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 16<sup>th</sup> day of February 2011.

**NOTE** this Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of original issuance unless renewed by order of the Court

**IMPORTANT**

Directions for the Acknowledgement of service are given with the accompanying form.

**BETWEEN:**

**SOFTWARE BROKERS OF AMERICA, INC.  
doing business as INTCOMEX**

**PLAINTIFF**

**AND:**

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**DEFENDANT**

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**STATEMENT OF CLAIM**

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1. The Plaintiff is an American company incorporated in the state of Delaware and carries on business as an electronics wholesaler trading in the Caribbean and Latin America with its head office located in Doral, Florida.
2. The Defendant, Barrington Oliver, is a Caymanian and carries on business under the registered style BJ's Electronics Superstore, as a retailer of electronics from various locations within Grand Cayman including the Edies Décor Building at 72 Eastern Avenue, Grand Cayman.
3. On 17 August 2006, the Defendant, representing himself as owner of "BJ's Electronics" opened an account with the Plaintiff for the purposes of purchasing electronic goods from the Plaintiff for export to his business in the Cayman Islands. The material terms of the Plaintiff's Terms and Conditions of Sale which governed the account established with the Defendant were that:
  - (a) credit was provided on terms of net 30 days, i.e. invoices were to be settled within 30 days of billing;
  - (b) any balance due after 30 days would bear simple interest at the rate of 1.5% per month;
  - (c) the credit limit on the account was US\$10,000.00.
4. The Plaintiff states that the aforesaid account agreement was entered into in Doral, Florida and is governed by the law of the state of Florida.
5. Defendant sought and was granted by the Plaintiff increases in the credit limit on the account to US\$20,000.00 on 8 October 2009 and USD\$35,000.00 on 24 February 2010.

6. As at 30 June 2010 the Defendant owed a balance of US\$49,829.19 to the Plaintiff on the account in respect of electronic goods ordered by the Defendant under the said account.
7. The Defendant paid the sum of US\$20,000.00 by wire transfer to the Plaintiff on 24 August 2010 but failed to pay the balance owing, and by email of 20 September 2010 represented to the Plaintiff that he would settle the balance over the following three months.
8. Effective 27 September 2010 the Plaintiff suspended the Defendant's account privileges and required that the Defendant settle the balance due on the account.
8. The Defendant failed to pay the balance as represented, but in response to a demand letter from the Plaintiff's attorneys, Hampson and Company, paid the sum of US\$5,000.00 by wire transfer on 18 January 2011.
9. Commencing 6 August 2010 the Plaintiff has levied interest on the outstanding account at the rate of 1.5% per month in accordance with the account terms.
10. The Plaintiff pleads that the Defendant has admitted liability for the outstanding account but has failed in breach of the account agreement despite repeated requests to settle the balance owing or to honour payment plans proposed. The Plaintiff pleads that the account owing is a settled account as between the parties.
11. As at the date of issue of these proceedings the Defendant owed the Plaintiff the sum of US\$28,186.27 as detailed below with interest accruing at the contractual rate of 1.5% per month (simple interest), being US\$372.44 per month or US\$12.41 per diem on the principal sum owing of US\$24,829.19.

Date	Invoice No.	Interest	Credits	Balance
30 June 2010	Balance forward			49,829.19
6 August 2010	82518	747.44		50,576.63
24 August 2010			20,000.00	30576.63
7 Sept 2010	82653	447.44		31,024.07
4 October 2010	82772	447.44		31,471.51
8 Nov 2010	82915	447.44		31,918.95
7 Dec 2010	83039	447.44		32,366.39
10 Jan 2011	83179	447.44		32,813.83
18 Jan 2011			5,000.00	27,813.83
7 Feb 2011	83315	372.44		28,186.27
<b>Totals</b>		<b>3,357.08</b>	<b>25,000.00</b>	<b>28,186.27</b>

**THE PLAINTIFF THEREFORE CLAIMS AGAINST THE DEFENDANT:**

- (a) Judgment in the principal sum of US\$24,829.19 being the balance owing under the account;
- (b) Interest on the sum aforesaid in the sum of US\$3,357.08 as detailed in paragraph 10 above, and accruing both pre and post-judgment at the contractual rate of 1.5% per month (simple interest) or US\$372.44 per month/US\$12.41 per diem from the date of issue of these proceedings;

- (c) Fixed costs pursuant to GCR Order 62/7(1) in the sum of CI\$500.00 together with the prescribed fees of CI\$303.60 for issue of the Writ or alternatively its costs to be assessed;
- (d) Interest on all fixed or assessed costs and orders running from the date of service of the judgment, order or certificate of taxation respectively and at the prescribed rate of 5% per annum or such other rate prevailing in accordance with s.34 of the Judicature Law and the Judgment Debts (Rates of Interest) Rules 1995;
- (e) Such further and other relief as to this Honourable Court may seem just.

**DATED** at Grand Cayman this 16<sup>th</sup> day of February, 2011

  
Hampson and Company  
Attorneys for the Plaintiff

**THIS WRIT OF SUMMONS AND STATEMENT OF CLAIM** are filed by Hampson and Company, attorneys for the Plaintiff, whose address for service is that of its said attorneys, at Citrus Grove, 5<sup>th</sup> Floor, Goring Avenue, P.O. Box 698, Grand Cayman KY1-1107, Cayman Islands

**TO:** The Clerk of the Grand Court

**AND TO:** Barrington Oliver trading as BJ's Electronics Superstore

**Notes on address for service**

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by Plaintiffs' Attorney (or by Plaintiffs if suing in person) of his name, address and reference, if any, in the box below.

Hampson and Company Attorneys-at-Law Citrus Grove, 5 <sup>th</sup> Floor, Goring Avenue P.O. Box 698 Grand Cayman KY1-1107 Cayman Islands
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Indorsement by Defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

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BETWEEN:

SOFTWARE BROKERS OF AMERICA, INC.  
doing business as INTCOMEX

PLAINTIFF

AND:

BARRINGTON OLIVER  
trading as BJ'S ELECTRONICS SUPERSTORE

DEFENDANT

**ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS**

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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2. State whether the Defendant intend to contest the proceedings (tick appropriate box)  
 Yes  No

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3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick box)  
 Yes  No

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Service of the Writ is acknowledged accordingly

Signed .....

Attorney for the Defendant

Address for service:

**Please complete overleaf**

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE**  
**OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A *Stay of Execution* against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, *issue a Summons* for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

**See over for notes for guidance**

**Please complete overleaf**

### Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service (or 28 days in the case of a writ served outside the jurisdiction pursuant to an order of the Court), a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (*the name stated on the Writ of Summons*)".
4. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.