

Cheryl R. Winn
Attorney At Law

September 2, 2005

Ms. Beth O'Donnell
Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602

RECEIVED
SEP 08 2005
PUBLIC SERVICE
COMMISSION

Re: Dialog Telecommunications, Inc., Complainant v. BellSouth
Telecommunications, Inc., Defendant
KPSC 2005-00095

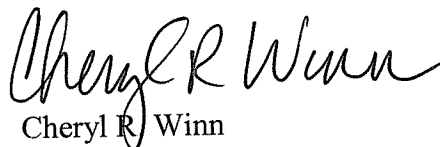
Dear Ms. O'Donnell:

Further in response to a request for examples of requests for refunds of sales tax during the Informal Conference held in this matter on June 21, 2005, BellSouth attaches a copy of the Sales and Use Tax Refund Application that it filed on behalf of one of its customers on August 18, 2005. Customer identifying information has been redacted pursuant to CPNI policy. The example illustrates the appropriate procedure for pursuing a customer's claim that tax does not apply, particularly since it includes the 3-way non-disclosure agreement with the Department of Revenue.

BellSouth reiterates that it stands ready and willing to file a refund claim on Dialog's behalf should Dialog submit its written arguments and supporting authorities to BellSouth.

The original and ten (10) copies of this filing are enclosed.

Sincerely,


Cheryl R. Winn

Enclosures

cc: Parties of Record

600428

SALES AND USE TAX
REFUND APPLICATION

Name of Business	BellSouth Telecommunications, Inc. <small>Enter Exact Name as it Appears on Your Permit (please print or type)</small>	(404) 249-3551 <small>Telephone Number (include area code)</small>
Location of Business	Room 1800, 1155 Peachtree Street Atlanta Fulton GA 30309 <small>Number and Street City or Town County State ZIP Code</small>	
Mailing Address	Room 1800, 1155 Peachtree Street Atlanta Fulton GA 30309 <small>P.O. Box or Number and Street City or Town County State ZIP Code</small>	
	<p>(1) Sales and use tax account number under which tax was paid to the Kentucky State Treasurer 162112 08994</p> <p>(2) Period(s) in which tax was reported and paid <u>May, 2004 - June, 2005</u> <i>Attach detailed schedule if more than one period involved.</i></p> <p>(3) Amount of tax refund requested <u>[REDACTED]</u></p> <p>(4) Was compensation claimed when tax was remitted to the state? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(5) Was sales or use tax added to the sales price (bracket system) and collected from the purchaser(s) as a separate charge? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No. If yes, will the tax be refunded to the purchaser(s)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(6) Explain in detail the reason(s) for refund. Attach schedule and copies of pertinent invoices, resale certificates and/or exemption certificates if applicable. Attach separate sheet if necessary. <u>See attached</u></p> <p>(7) Banking Information (if electronic fund transfer requested) Name of Bank _____ Depositor Account Number (DAN) _____ Routing Transit Number (RTN) _____ Account Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Other</p>	
Instructions	<p>(1) This application must be completed in order for consideration to be given to the refund request. Substitutions will not be accepted, nor will they preserve your rights to a refund.</p> <p>(2) Only the person making payment of the tax directly to the Kentucky State Treasurer may file the application for refund. Compensation, if claimed, will be deducted from any refund.</p> <p>(3) Claims for refunds or credits must be filed within four years from the date the tax was paid to the State Treasurer. After the statute of limitations has expired, no claims for refunds or credits will be considered.</p> <p>(4) No taxpayer will be issued a refund or credit for sales or use tax where the tax has been collected from a purchaser as provided by KRS 139.210 and 139.340, unless the amount of tax collected from the purchaser is refunded to him by the taxpayer who paid the tax to the State Treasurer.</p> <p>(5) Mail completed application to the Kentucky Department of Revenue, Sales and Use Tax Division, P.O. Box 1274, Frankfort, Kentucky 40602-1274.</p>	

I, the undersigned, declare under the penalties of perjury that I have examined this application (including any attached schedules, statements or exemption certificates) and to the best of my knowledge and belief, the statements contained herein are true, complete and correct, and that I am duly authorized to sign this application. It is understood that the books and records supporting this refund application must be maintained for a period of four years from the date the refund is issued and are subject to audit at the discretion of the Department of Revenue. I, the undersigned, consent and agree that any excess amount refunded pursuant to this application shall be recovered within four years from the date the refund is issued. The undersigned certifies that no tax liability of any kind is due or owing the Commonwealth of Kentucky by this applicant.

Signed Susan Smith Creel
Name Susan Smith Creel
(Print or Type)

Title AUP - Tax
Date Aug. 18, 2005

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF REVENUE
FRANKFORT
40602

INFORMATION DISCLOSURE AGREEMENT FOR REFUND CLAIMS

This disclosure agreement is made and entered into by and between BellSouth
_____ (“the Vendor”), of PO Box 33009, Charlotte,
NC and _____ (city)
(state) _____, (“the Purchaser”), of _____, KY,
_____ (city) _____ (state)
and the Department of Revenue, Commonwealth of Kentucky.

WHEREAS, the Vendor is a retailer engaged in business in the Commonwealth of Kentucky selling tangible personal property and remitting Kentucky Sales and Use Tax under Account No. _____, and the Purchaser is an entity engaged in business in Kentucky holding Sales and Use Tax Account No. _____ (if applicable);

WHEREAS, the Purchaser has purchased and paid for tangible personal property (including sales tax on the purchase price) from the Vendor;

WHEREAS, the Vendor is filing a claim for refund under its Sales and Use Tax Account Number with the Department of Revenue for the periods: _____, and the amount \$ _____ claiming that tangible personal property purchased by the Purchaser was exempt from Sales and Use taxation under KRS Chapter 139; and

WHEREAS, Kentucky Sales Tax law (particularly KRS 131.190) prohibits the Department of Revenue from divulging any tax information regarding the Vendor's account except to the Vendor or a properly authorized agent;

THEREFORE, to comply with Kentucky law and to allow for the review of the validity of the refund filed by the Vendor, the parties enter into this Refund Disclosure Agreement:

1. The Department of Revenue agrees to: (a) review the claim for refund filed by the Vendor and, if valid, remit payment to the Vendor under the terms of KRS 139.770; and (b) communicate the status and final disposition of the claim for refund to the Purchaser, including any adjustments such as vendor compensation, offsets for any outstanding tax liabilities of the vendor, etc.
2. The Vendor agrees to: (a) provide the Department of Revenue with records or documents necessary for the Department of Revenue's review of the Vendor's claim; (b) receive and disburse any refund or credit back to the Purchaser from which it was originally collected; and (c) designate the Purchaser to receive or provide information regarding the refund period covered by this agreement.
3. The Purchaser agrees: (a) that it is the party that paid the sales and use tax in question to the Vendor filing the claim for refund referenced in this agreement; (b) to provide the Department of Revenue with records or documents necessary for the Department of Revenue's review of the claim for refund.

4. The terms of this agreement relate only to information sharing and do not transfer responsibilities of the vendor which remitted the tax to the state treasury to submit refund claims or protest refund adjustments.
5. The terms of this Refund Disclosure Agreement shall be confidential and shall be divulged only as is necessary to enforce this Agreement.
6. This Refund Disclosure Agreement shall be enforceable only in Franklin Circuit Court, Frankfort, Kentucky.

In witness whereof, the parties have executed this Refund Disclosure Agreement on the dates set forth below by their signatures.

Susan Smith Creel

By AVP - Tax ^{Vendor}

This 18 ^{Title} day of August, 2005.

Subscribed and sworn to before me this 18 day of August, 2005

Audrey Shortz

NOTARY PUBLIC
STATE AT LARGE

My commission expires: _____



By [Redacted] ^{Purchaser}

Title
This 14th day of July, 2005

Subscribed and sworn to before me this 14th day of July, 2005.

[Redacted]
NOTARY PUBLIC
STATE AT LARGE
My commission expires: July 14, 2007

KENTUCKY DEPARTMENT OF REVENUE

By: _____
Date: _____ Title _____

This document is invalid if the text, as originally provided by the Kentucky Department of Revenue, is altered in any manner.

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF REVENUE
FRANKFORT
40602

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Susan Smith Creel

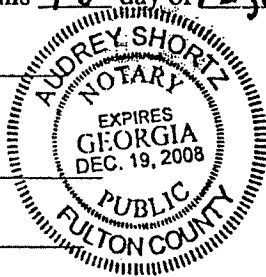
By AVP - Tax
Vendor

Title
This 18 day of Aug, 2005

Subscribed and sworn to before me this 18 day of August, 2005

Audrey Shortz

NOTARY PUBLIC
STATE AT LARGE
My commission expires: _____



By _____
Purchaser

Title
This 31 day of January, 2005

Subscribed and sworn to before me this 31 day of January, 2005.

NOTARY PUBLIC
STATE AT LARGE
My commission expires: Oct 19, 2007

KENTUCKY DEPARTMENT OF REVENUE

By: _____
Date: _____ Title _____

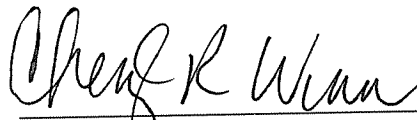
This document is invalid if the text, as originally provided by the Kentucky Department of Revenue, is altered in any manner.

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing was served on the following individuals by mailing a copy thereof, this 2nd day of September, 2005.

Jim Bellina
Dialog Telecommunications, Inc.
756 Tyvola Road
Suite 100
Charlotte, NC 28217

Honorable Douglas F. Brent
Attorney at Law
Stoll, Keenon & Park, LLP
2650 AEGON Center
400 West Market Street
Louisville, KY 40202
brent@skp.com


Cheryl R. Winn