

**Fill in this information to identify the case:**

Debtor Cytera Communications, LLC

United States Bankruptcy Court for the: \_\_\_\_\_ District of New Jersey  
(State)

Case number 23-14852

**Official Form 410  
Proof of Claim**

**04/22**

**Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.**

**Filers must leave out or redact** information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

**Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.**

**Part 1: Identify the Claim**

1. <b>Who is the current creditor?</b>	<u>AppSmart Agent Services, Inc.</u> <small>Name of the current creditor (the person or entity to be paid for this claim)</small>	
	Other names the creditor used with the debtor _____	
2. <b>Has this claim been acquired from someone else?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. <b>Where should notices and payments to the creditor be sent?</b>	<b>Where should notices to the creditor be sent?</b> See summary page	<b>Where should payments to the creditor be sent? (if different)</b>
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Contact phone <u>302-252-4440</u> Contact email <u>daluzt@ballardspahr.com</u>	Contact phone _____ Contact email _____
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
4. <b>Does this claim amend one already filed?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ <small>MM / DD / YYYY</small>	
5. <b>Do you know if anyone else has filed a proof of claim for this claim?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor?  No  
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_ \_

7. How much is the claim? \$ 8,976,128.29. Does this amount include interest or other charges?  
 No  
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as health care information.  
Services provided - see schedule

9. Is all or part of the claim secured?  No  
 Yes. The claim is secured by a lien on property.  
**Nature or property:**  
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: \_\_\_\_\_  
**Basis for perfection:** \_\_\_\_\_  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  
**Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$ \_\_\_\_\_  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amount should match the amount in line 7.)  
**Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_  
**Annual Interest Rate** (when case was filed) \_\_\_\_\_ %  
 Fixed  
 Variable

10. Is this claim based on a lease?  No  
 Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff?  No  
 Yes. Identify the property: \_\_\_\_\_



<p>12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?</p> <p>A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.</p>	<input checked="" type="checkbox"/> No	
	<input type="checkbox"/> Yes. Check all that apply:	<b>Amount entitled to priority</b>
	<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
	<input type="checkbox"/> Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
	<input type="checkbox"/> Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
	<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
	<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies.	\$ _____	
* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.		
<p>13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?</p>	<input checked="" type="checkbox"/> No	
	<input type="checkbox"/> Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.	\$ _____

**Part 3: Sign Below**

**The person completing this proof of claim must sign and date it. FRBP 9011(b).**

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

**A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.**

*Check the appropriate box:*

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 08/14/2023  
MM / DD / YYYY

/s/Renee Bergeron  
Signature

**Print the name of the person who is completing and signing this claim:**

Name Renee Bergeron  
First name Middle name Last name

Title COO of AppDirect

Company AppDirect  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 447 Sutter Street, Suite 405, PMB 1116, San Francisco, CA, 94108, USA

Contact phone \_\_\_\_\_ Email Renee.Bergeron@appdirect.co



# KCC ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (877)-726-6510 | International 001-310-823-9000

<b>Debtor:</b> 23-14852 - Cyxtera Communications, LLC		
<b>District:</b> District of New Jersey, Newark Division		
<b>Creditor:</b> AppSmart Agent Services, Inc.  c/o Ballard Spahr LLP Attn: Tobey M. Daluz 919 N. Market Street, 11th Floor Wilmington, DE, 19801 USA <b>Phone:</b> 302-252-4440 <b>Phone 2:</b>  <b>Fax:</b>  <b>Email:</b> daluzt@ballardspahr.com	<b>Has Supporting Documentation:</b> Yes, supporting documentation successfully uploaded <b>Related Document Statement:</b>	
	<b>Has Related Claim:</b> No <b>Related Claim Filed By:</b>	
	<b>Filing Party:</b>	
<b>Other Names Used with Debtor:</b>	<b>Amends Claim:</b> No <b>Acquired Claim:</b> No	
<b>Basis of Claim:</b> Services provided - see schedule	<b>Last 4 Digits:</b> No	<b>Uniform Claim Identifier:</b>
<b>Total Amount of Claim:</b> 8,976,128.29	<b>Includes Interest or Charges:</b> No	
<b>Has Priority Claim:</b> No	<b>Priority Under:</b>	
<b>Has Secured Claim:</b> No <b>Amount of 503(b)(9):</b> No <b>Based on Lease:</b> No <b>Subject to Right of Setoff:</b> No	<b>Nature of Secured Amount:</b> <b>Value of Property:</b>  <b>Annual Interest Rate:</b>  <b>Arrearage Amount:</b>  <b>Basis for Perfection:</b>  <b>Amount Unsecured:</b>	
<b>Submitted By:</b> Renee Bergeron on 14-Aug-2023 5:53:48 p.m. Eastern Time <b>Title:</b> COO of AppDirect <b>Company:</b> AppDirect		
<b>Optional Signature Address:</b> Renee Bergeron AppDirect 447 Sutter Street, Suite 405, PMB 1116  San Francisco, CA, 94108 USA <b>Telephone Number:</b>  <b>Email:</b> Renee.Bergeron@appdirect.com		

United States Bankruptcy Court for the District of New Jersey

Indicate Debtor against which you assert a claim by checking the appropriate box below. **(Check only one Debtor per claim form.)**

<input checked="" type="checkbox"/> Cyxtera Communications, LLC (Case No. 23-14852)	<input type="checkbox"/> Cyxtera DC Holdings, Inc. (Case No. 23-14858)	<input type="checkbox"/> Cyxtera Holdings, LLC (Case No. 23-14863)
<input type="checkbox"/> Cyxtera Technologies, Inc. (Case No. 23-14853)	<input type="checkbox"/> Cyxtera DC Parent Holdings, Inc. (Case No. 23-14859)	<input type="checkbox"/> Cyxtera Management, Inc. (Case No. 23-14864)
<input type="checkbox"/> Cyxtera Canada TRS, ULC (Case No. 23-14854)	<input type="checkbox"/> Cyxtera Digital Services, LLC (Case No. 23-14860)	<input type="checkbox"/> Cyxtera Netherlands B.V. (Case No. 23-14865)
<input type="checkbox"/> Cyxtera Canada, LLC (Case No. 23-14855)	<input type="checkbox"/> Cyxtera Employer Services, LLC (Case No. 23-14861)	<input type="checkbox"/> Cyxtera Technologies Maryland, Inc. (Case No. 23-14866)
<input type="checkbox"/> Cyxtera Communications Canada, ULC (Case No. 23-14856)	<input type="checkbox"/> Cyxtera Federal Group, Inc. (Case No. 23-14862)	<input type="checkbox"/> Cyxtera Technologies, LLC (Case No. 23-14867)
<input type="checkbox"/> Cyxtera Data Centers, Inc. (Case No. 23-14857)		

# Official Form 410 Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed.

Part 1:	Identify the Claim	
1. Who is the current creditor?	<p><u>AppSmart Agent Services, Inc.</u></p> <p><small>Name of the current creditor (the person or entity to be paid for this claim)</small></p> <p>Other names the creditor used with the debtor _____</p>	
2. Has this claim been acquired from someone else?	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. From whom? _____</p>	
3. Where should notices and payments to the creditor be sent?	<p><b>Where should notices to the creditor be sent?</b></p> <p><u>c/o Ballard Spahr LLP; Attn: Tobey M. Daluz</u></p> <p><small>Name</small></p> <p><u>919 N. Market Street, 11th Floor</u></p> <p><small>Number Street</small></p> <p><u>Wilmington, DE 19801</u></p> <p><small>City State ZIP Code</small></p> <p><u>USA</u></p> <p><small>Country</small></p> <p>Contact phone <u>302-252-4440</u></p> <p>Contact email <u>daluzt@ballardspahr.com</u></p> <p><small>Uniform claim identifier for electronic payments in chapter 13 (if you use one):</small></p> <p>_____</p>	<p><b>Where should payments to the creditor be sent? (if different)</b></p> <p>_____</p> <p><small>Name</small></p> <p>_____</p> <p><small>Number Street</small></p> <p>_____</p> <p><small>City State ZIP Code</small></p> <p>_____</p> <p><small>Country</small></p> <p>Contact phone _____</p> <p>Contact email _____</p>
4. Does this claim amend one already filed?	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____</p> <p style="text-align: right;"><small>MM / DD / YYYY</small></p>	
5. Do you know if anyone else has filed a proof of claim for this claim?	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Who made the earlier filing? _____</p>	

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor?  No  
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_ \_

7. How much is the claim? \$ 8,976,128.29 Does this amount include interest or other charges?  
 No  
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
 Limit disclosing information that is entitled to privacy, such as health care information.  
Services provided - see schedule

9. Is all or part of the claim secured?  No  
 Yes. The claim is secured by a lien on property.  
**Nature of property:**  
 Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: \_\_\_\_\_  
**Basis for perfection:** \_\_\_\_\_  
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  
**Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$ \_\_\_\_\_  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amount should match the amount in line 7.)  
**Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_  
**Annual Interest Rate** (when case was filed) \_\_\_\_\_ %  
 Fixed  
 Variable

10. Is this claim based on a lease?  No  
 Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff?  No  
 Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?  No  Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$15,150* earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies.	\$ _____

\* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?  No  Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ \_\_\_\_\_

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

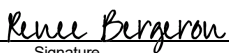
I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

8/14/2023

Executed on date \_\_\_\_\_  
MM / DD / YYYY

DocuSigned by:  
  
Signature  
1398F837D3A414...

Print the name of the person who is completing and signing this claim:

Name Renee Bergeron  
First name Middle name Last name

Title COO of AppDirect

Company AppDirect  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 447 Sutter Street, Suite 405, PMB 1116  
Number Street  
San Francisco, CA 94108  
City State ZIP Code Country

Contact phone \_\_\_\_\_ Email Renee.Bergeron@appdirect.com

## Schedule to Proof of Claim

In re: Cyxtera Communications, LLC  
Case No. 23-14852 (JKS) (Chapter 11)  
United States Bankruptcy Court for the District of New Jersey

Creditor: AppSmart Agent Services, Inc. (“AppSmart”)

This Schedule supplements the information stated in the accompanying Proof of Claim and shall constitute part of the Proof of Claim.

### I. Basis for the Claim

Prior to June 4, 2023 (the “Petition Date”), AppSmart and Cyxtera Communications, LLC (the “Debtor”) entered into a Referral Agreement dated November 30, 2018 (the “Agreement”), pursuant to which, among other things, the Debtor agreed to pay AppSmart for certain referral services that AppSmart provided to the Debtor.<sup>1</sup>

On July 19, 2023, the Bankruptcy Court entered an *Order (I) Authorizing the Rejection of Certain Executory Contracts, Each Effective as of the Rejection Date and (II) Granting Related Relief* [Docket No. 299] pursuant to which the Debtor rejected the Agreement effective as of June 4, 2023.

### II. Amount, Classification and Nature of Claim

As of the Petition Date, the Debtor was indebted to AppSmart in the amount of **\$92,537.41**, on account of unpaid prepetition account balances for referral fees owed pursuant to the Agreement in the amount of **\$92,537.41** per month. The Debtor further is indebted to AppSmart for an additional **\$8,883,590.88** arising from the rejection of the Agreement. Rejection damages were calculated based on the commissions owed under the Agreement for the next eight years, which is the average term of customers that the Debtors were obligated to pay referrals for under the Agreement. AppSmart’s total claim is **\$8,976,128.29** (the “Claim”). The Claim is unsecured.

### III. Notices

All notices and pleadings concerning this proof of claim should be sent to the following:

Tobey M. Daluz, Esquire  
Margaret A. Vesper, Esquire  
Ballard Spahr LLP  
919 N. Market Street, 11<sup>th</sup> Floor  
Wilmington, Delaware 19801

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<sup>1</sup> The Agreement contains confidential and propriety information, a copy of the Agreement will be made available to the Debtor upon request.



**IV. Reservation of Rights**

This Proof of Claim is asserted without prejudice to any other claim or interest that is, has been, or might in the future be asserted by AppSmart against the Debtor in this bankruptcy case or against any other person or entity. By filing this Proof of Claim, AppSmart does not waive (and expressly reserves) all of its procedural and substantive defenses to any claim that may be asserted against AppSmart by the Debtor, a trustee of the Debtor's estate, or any other person, including, without limitation, any defense based upon the lack of jurisdiction of the Bankruptcy Court to entertain any such claim, or any claim, interest, right, or right of action that AppSmart has or might have against the Debtor or any other person or entity, whether such claim, interest, right, or right of action arises prior to, upon, or after the Petition Date.

AppSmart further reserves the right to (i) amend, update or supplement this Proof of Claim, including the right to reclassify any claim set forth herein or in any Proof of Claim to be filed with respect to such claim's status as (a) secured, priority or unsecured, (b) contingent or noncontingent, and/or (c) liquidated and unliquidated, (ii) to amend this claim to assert rejection damages (iii) file additional Proofs of Claim, (iv) file requests for payment of an administrative expense in accordance with 11 U.S.C. § 503 and 507, and (v) seek relief under 11 U.S.C. § 502(c) or (j).