

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Acacia Media Technologies Corporation,

Plaintiff,

vs.

Mid-Continent Media, Inc., US Cable
Holdings LP, Sjoberg's Cablevision, Inc.,
Savage Communications Inc., Loretel
Cablevision, Arvig Communication Systems,
and Cannon Valley Communications, Inc.,

Defendants.

Civil No. 04-4069 DWF/JSM

COMPLAINT

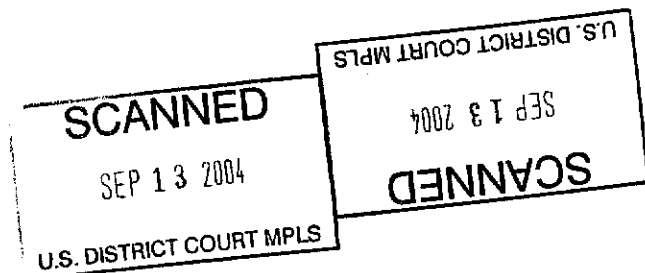
JURY TRIAL DEMANDED

Plaintiff Acacia Media Technologies Corporation, ("AMTC") for its Complaint against Defendants Mid-Continent Media, Inc., US Cable Holdings, L.P., Sjoberg's Cablevision, Inc., Savage Communications, Inc., Loretel Cablevision, Arvig Communication Systems, Cannon Valley Communications, Inc. (collectively "Defendants"), states and alleges as follows:

THE PARTIES

1. Plaintiff Acacia Media Technologies Corporation ("AMTC") is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business at 500 Newport Center Drive, Newport Beach, California 92660. AMTC is the owner by assignment of all rights and interests in U.S. Patent No. 5,132,992 ("the '992 patent") and 6,144,702 ("the '702 patent") (collectively, "the Patents-in-Suit").

2. Defendant Mid-Continent Media, Inc. ("Mid-Continent") is a corporation incorporated in the State of Minnesota having its place of business at 3600 Minnesota Drive, Minneapolis, Minnesota 55435.



3. Defendant US Cable Holdings, L.P. ("US Cable") is an entity having a place of business at 28 W. Grand Avenue, Montvale, NJ 07645.

4. Defendant Sjoberg's Cablevision, Inc. ("Sjoberg") is a corporation incorporated in the State of Minnesota having its place of business at 315 Main Avenue North, Thief River Falls, Minnesota 55037.

5. Defendant Savage Communications Inc., ("Savage") is a corporation incorporated in the State of Minnesota having its place of business at 773 Wildridge Court, Mahtomedi, Minnesota 55037.

6. Defendant Loretel Cablevision ("Loretel") is an entity having its principle place of business at 13 East Fourth Avenue, Ada, Minnesota 56510.

7. Defendant Arvig Communication Systems ("Arvig") is an entity having its principle place of business at 150 Second Street SW, Perham, Minnesota 56573.

8. Defendant Cannon Valley Communications, Inc. ("Cannon Valley") is a corporation incorporated in the State of Minnesota having its place of business at 202 North First Street, P.O. Box 337, Bricelyn, Minnesota 56014.

JURISDICTION AND VENUE

9. This is a civil action arising in part under laws of the United States relating to patents (35 U.S.C. §§271, 281, 283, 284, and 285). This court has federal jurisdiction of such federal question claims pursuant to 28 U.S.C. §§1331 and 1338(a).

10. The acts and transactions complained of herein were conceived, carried out, made effective, and had effect within the State of Minnesota and within this district, among other places. Venue is proper under 28 U.S.C. §§1391(b), 1391(c) and 1400(b), in that Defendants reside in this judicial district and Defendants have committed acts of infringement in this judicial district.

FIRST CLAIM FOR RELIEF
INFRINGEMENT OF U.S. PATENT NO. 5,132,992
Against All Defendants

11. Plaintiff incorporates herein by reference the allegations set forth in Paragraphs 1-10 of this Complaint as though fully set forth herein.

12. On July 21, 1992, United States Letters Patent No. 5,132,992, entitled "AUDIO AND VIDEO TRANSMISSION AND RECEIVING SYSTEM," was duly and legally issued for inventions comprising systems and methods for transmitting and/or receiving digital audio, video and audio-visual content. Plaintiff AMTC is the owner by assignment of the entire right, title, and interest in and to the '992 patent. (A true and correct copy of the '992 patent is attached hereto as Exhibit 1).

13. Defendants for a long time past have been and still are: (i) directly infringing the '992 patent under 35 U.S.C. §271(a) by advertising, selling and/or providing video, audio and/or audio-visual content to end-user customers by using systems and methods embodying the patented inventions; (ii) indirectly infringing the '992 patent under 35 U.S.C. §271(b) by actively inducing direct infringement by other persons who operate and/or use cable television systems that embody or otherwise practice one or more of the claims of the '992 patent when Defendants had knowledge of the '992 patent and knew or should have known that their actions would induce direct infringement by others and intended that their actions would induce direct infringement by others; and/or (iii) indirectly infringing the '992 patent under 35 U.S.C. § 271(c) by contributory infringement by providing non-staple articles of commerce, such as video and/or other components, to others for use in an infringing system or method with knowledge of the '992 patent and knowledge that these non-staple articles of commerce are used as a material part of the claimed inventions of the '992 patent. Defendants will continue to infringe unless enjoined by this court.

14. AMTC has provided Defendants with written notice of the '992 patent and of Defendants' infringement.

15. Defendants' foregoing acts of infringement were and continue to be willful.

16. As a result of Defendants' infringement, AMTC has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

17. Unless a preliminary and permanent injunction are issued enjoining Defendants and their agents, servants, employees, attorneys, representatives, and all others acting on their behalf from infringing the '992 patent, AMTC will be greatly and irreparably harmed.

SECOND CLAIM FOR RELIEF
INFRINGEMENT OF U.S. PATENT NO. 6,144,702
Against Defendants MidContinent, US Cable, Savage, Loretel, Arvig, and Cannon Valley

18. Plaintiff incorporates herein by reference the allegations set forth in Paragraphs 1-17 of this Complaint as though fully set forth herein.

19. On November 7, 2000, United States Letters Patent No. 6,144,702, entitled "AUDIO AND VIDEO TRANSMISSION AND RECEIVING SYSTEM," was duly and legally issued for inventions comprising systems and methods for transmitting and/or receiving digital audio, video and audio-visual content. Plaintiff AMTC is the owner by assignment of the entire right, title, and interest in and to the '702 patent. (A true and correct copy of the '702 patent is attached hereto as Exhibit 2).

20. Defendants Mid-Continent, US Cable, Savage, Loretel, Arvig, and Cannon Valley for a long time past have been and still are: (i) directly infringing the '702 patent under 35 U.S.C. §271(a) by advertising, selling and/or providing video, audio and/or audio-visual content to end-user customers by using systems and methods embodying the patented inventions; (ii) indirectly infringing the '702 patent under 35 U.S.C. § 271(b) by actively inducing direct infringement by

other persons who operate and/or use cable television systems that embody or otherwise practice one or more of the claims of the '702 patent when Defendants had knowledge of the '702 patent and knew or should have known that their actions would induce direct infringement by others and intended that their actions would induce direct infringement by others; and/or (iii) indirectly infringing the '702 patent under 35 U.S.C. §271(c) by contributory infringement by providing non-staple articles of commerce, such as video and/or other components, to others for use in an infringing system or method with knowledge of the '702 patent and knowledge that these non-staple articles of commerce are used as a material part of the claimed inventions of the '702 patent. Defendants will continue to infringe unless enjoined by this court.

21. AMTC has provided Defendants Mid-Continent, US Cable, Savage, Loretel, Arvig, and Cannon Valley with written notice of the '702 patent and of Defendants' infringement.

22. Defendants Mid-Continent, US Cable, Savage, Loretel, Arvig, and Cannon Valley's foregoing acts of infringement were and continue to be willful.

23. As a result of Defendants Mid-Continent, US Cable, Savage, Loretel, Arvig, and Cannon Valley's infringement, AMTC has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

24. Unless a preliminary and permanent injunction are issued enjoining Defendants Mid-Continent, US Cable, Savage, Loretel, Arvig, and Cannon Valley and their agents, servants, employees, attorneys, representatives, and all others acting on their behalf from infringing the '702 patent, AMTC will be greatly and irreparably harmed.

JURY DEMAND

Plaintiff hereby demands a jury trial pursuant to Rule 38 of the Federal Rules of Civil Procedure as to all issues in this lawsuit.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Acacia Media Technologies Corporation prays for judgment against Defendants as follows:

1. That Defendants have infringed, induced others to infringe, and/or committed acts of contributory infringement with respect to the claims of the '992 patent under 35 U.S.C. § 271(a), (b), and/or (c);
2. That Defendants, their subsidiaries, officers, agents, servants, employees, licensees, and all other persons or entities acting or attempting to act in active concert or participation with them or acting on their behalf, be preliminarily and permanently enjoined from further infringement, inducement of infringement, or contributory infringement of the '992 patent;
3. That Defendants MidContinent, US Cable, Savage, Loretel, Arvig, and Cannon Valley have infringed, induced others to infringe, and/or committed acts of contributory infringement with respect to the claims of the '702 patent under 35 U.S.C. § 271(a), (b), and/or (c);
4. That Defendants MidContinent, US Cable, Savage, Loretel, Arvig, and Cannon Valley, their subsidiaries, officers, agents, servants, employees, licensees, and all other persons or entities acting or attempting to act in active concert or participation with them or acting on their behalf, be preliminarily and permanently enjoined from further infringement, inducement of infringement, or contributory infringement of the '702 patent;

5. That this case be declared an exceptional case under 35 U.S.C. § 285 and Defendant be ordered to pay AMTC's damages, costs, expenses, and reasonable attorney's fees pursuant to 35 U.S.C. §§ 284 and 285; and

6. That the Court grant such other and further relief as the Court may deem just and proper under the circumstances.

Dated: September 10, 2004

WINTHROP & WEINSTINE, P.A.

By: 

David P. Pearson, #84712
Suite 3500
225 South Sixth Street
Minneapolis, Minnesota 55402
Tel: (612) 604-6400
Fax: (612) 604-6800

OF COUNSEL:

Hennigan, Bennett & Dorman LLP
Roderick G. Dorman (SBN 96908)
Alan P. Block (SBN 143783)
Kevin I. Shenkman (SBN 223315)
601 South Figueroa Street, Suite 3300
Los Angeles, California 90017
(213) 694-1200; FAX: (213) 694-1234

*Attorneys for Acacia Media Technologies
Corporation*

2143139v1

0125221

RECEIVED
WINTHROP WEINSTINE

04 SEP 10 AM 9:27
ATTORNEYS AND COUNSELORS AT LAW

CLERK
MINNEAPOLIS, MN

September 10, 2004

David P. Pearson
(612) 604-6692
dpearson@winthrop.com

Clerk of U.S. District Court
District of Minnesota
300 South Fourth Street
Minneapolis, MN 55415

Via Messenger

Re: Acacia Media Technologies Corporation v. Mid-Continent Media, Inc., et al.


Dear Clerk of U.S. District Court:

Enclosed for filing are the Civil Cover Sheet, seven (7) original Summons and Complaint and a copy of the Complaint for the above-captioned matter. Please execute all seven (7) of the Summonses and provide a copy of it along with a "time and date stamp" on the copy of the Complaint and send the original Summonses and Complaint back with the messenger.

Also enclosed is the filing fee in the amount of \$150.00. Thank you for your assistance with this matter.

Very truly yours,

WINTHROP & WEINSTINE, P.A.


David P. Pearson
DPP:mmr
Enclosures

2065018v2