

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Dallas County Community College District

DEFENDANTS

Chip Linton and Teachstream, Inc.

(b) County of Residence of First (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

304 CV 1886-N

(c) Attorney's (Firm Name, Address, and Telephone Number) Michael A. O'Neil, P.C. 5949 Sherry Lane, Suite 820 Dallas, Texas 75225 214-739-0088

Attorneys (If Known)

RECEIVED AUG 30 2004 DISTRICT COURT SOUTHERN DISTRICT OF TEXAS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff x 3 Federal Question (U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PLAINTIFFS AND DEFENDANTS (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State PTF 1 DEF 1 Incorporated or Principal Place of Business in This State PTF 4 DEF 4 Citizen of Another 2 PTF 2 Incorporated and Principal Place of Business in Another State PTF 5 DEF 5 Citizen or Subject of Foreign Country 3 PTF 3 Foreign Nation PTF 6 DEF 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 main columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES. Includes various legal categories like Insurance, Land Condemnation, Personal Injury, etc.

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- x 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

This is an action for declaratory judgment, brought under the Federal Declaratory Judgments Act 28 USC 2201.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

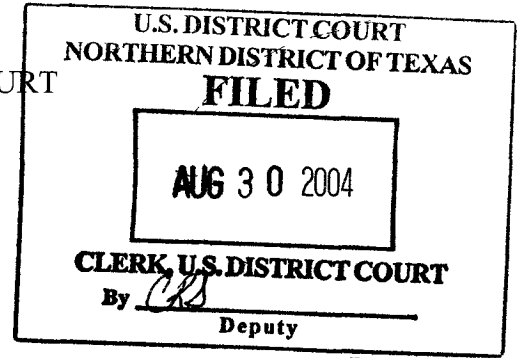
VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE DOCKET NUMBER

DATE August 30, 2004 SIGNATURE OF ATTORNEY OF RECORD Michael A. O'Neil

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SERIAL

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



DALLAS COUNTY COMMUNITY
COLLEGE DISTRICT

Plaintiff,

v.

CHIP LINTON and
TEACHSTREAM, INC.,

Defendants,

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3 0 4 CV 1 8 8 6 - N
Civil Action No. _____

DECLARATORY JUDGMENT COMPLAINT

Plaintiff Dallas County Community College, alleges:

1. This is an action for declaratory judgment, brought under the Federal Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202, and under the patent laws of the United States, 35 U.S.C. § 271 *et seq.*

PARTIES

2. Plaintiff, Dallas County Community College (“DCCCD”), is a political subdivision of the State of Texas. DCCCD provides educational services at the community college level at numerous venues all located within Dallas County, Texas.

3. Defendant, Chip Linton (“Linton”), is a resident of the State of Utah, residing at 94 Lone Hollow, Sandy, Utah 84092.

4. Defendant, Teachstream, Inc. (“Teachstream”), is a corporation organized under the laws of the State of Utah, having a principle place of business at 8686 S. 1300 E, Sandy, Utah 84094. Teachstream can be served by serving its registered agent for receiving service, Travis L.

Bowen, P.C., at 175 S. West Temple, Suite 710, Salt Lake City, Utah, 84147-0637.

JURISDICTION AND VENUE

5. Jurisdiction is proper in this Court under 28 U.S.C. §§ 2201, 2202, 1331, and 1338. Further, the Court has personal jurisdiction over the Defendants as the Defendants have, on information and belief, actively and purposely availed themselves of the privilege of doing business within the State of Texas, and therefore subjected themselves to suit in the State of Texas.

6. Venue is proper in this district under 28 U.S.C. § 1391(b) in that a substantial part of the events or omissions giving rise to this claim occurred in this district, and a substantial part of the property that is the subject of the action is situated in this district.

STATEMENT OF FACTS

7. DCCCD is a publicly-funded community college located in Dallas County, Texas. One of the many things offered by DCCCD is distance-learning education, which is offered from its LeCroy Center for Educational Telecommunications.

8. On or about June 7, 2004, DCCCD received a letter at its LeCroy Center from counsel for Teachstream, claiming that Teachstream is the inventor and owner of the inventions claimed in U.S. Patent No. 6,496,681 (“the ‘681 patent”)¹, and further claiming that DCCCD was practicing the inventions claimed therein. On or about July 26, 2004, counsel for Teachstream sent a second letter to DCCCD’s counsel, again claiming that DCCCD was infringing and that

¹ However, Linton is shown as the inventor of the ‘681 patent, and no assignment of the patent to Teachstream is indicated or has been found by DCCCD.

Teachstream was prepared to sue DCCCD for patent infringement.²

COUNT ONE - DECLARATORY JUDGMENT

9. An actual controversy has arisen and now exists between the parties relating to the infringement of the '681 patent. DCCCD contends that no such infringement has occurred.

10. A declaratory judgment is necessary in order that DCCCD can continue to offer its distance education services without fear of being unjustly accused of and sued for patent infringement by the Defendants.

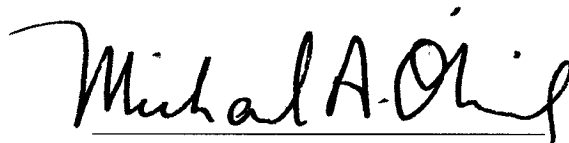
JURY DEMAND

11. DCCCD requests a jury trial of all issues in this action so triable.

WHEREFORE, DCCCD prays for a declaratory judgment against the Defendants:

- a. That DCCCD has not infringed U.S. patent number 6,496,681;
- b. Awarding DCCCD its costs, expenses, and attorneys' fees; and
- c. For such other and further relief as the Court deems just and proper.

Respectfully submitted,



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² It is unclear what standing Teachstream would have to enforce the '681 patent, as Linton is still the owner thereof.