

EXHIBIT 4

1 **HENNIGAN, BENNETT & DORMAN LLP**
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8 **Facsimile: (213) 694-1234**

9 Attorneys for Plaintiff
10 ACACIA MEDIA TECHNOLOGIES CORPORATION

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 ACACIA MEDIA TECHNOLOGIES CORPORATION,

15 Plaintiff,

16 vs.

17 COMCAST CORPORATION; COX
18 COMMUNICATIONS, INC.;
19 HOSPITALITY NETWORK, INC.;
20 CHARTER COMMUNICATIONS, INC.;
21 THE DIRECTV GROUP, INC.;
22 BOULDER RIDGE CABLE TV, D/B/A
23 STARSTREAM COMMUNICATIONS;
24 SEREN INNOVATIONS, INC.;
25 COMCAST CABLE
26 COMMUNICATIONS, LLC; COXCOM,
27 INC; ECHOSTAR SATELLITE LLC; and
28 ECHOSTAR TECHNOLOGIES CORPORATION

Defendants.

) Case No. C-04-02308 SI

) **ACACIA'S REPLY TO**
) **DEFENDANT COXCOM, INC.'S**
) **RESPONSE TO PLAINTIFF'S**
) **NOTICE OF PENDENCY OF**
) **OTHER ACTIONS**

HENNIGAN, BENNETT & DORMAN LLP
LAWYERS
LOS ANGELES, CALIFORNIA

1 Plaintiff Acacia Media Technologies Corporation hereby files this short reply
2 to Defendant Coxcom, Inc.'s Response to Acacia's Notice of Pendency of Other
3 Actions.

4 In its Response, Coxcom asserts that Judge Ware's December 18, 2003 Order
5 Consolidating Cases Acacia enjoins Acacia from filing any infringement action on the
6 patents-in-suit (and related patents) in any court other than the Central District of
7 California. This is not what Judge Ware's Order states. There are thus no grounds to
8 dismiss this action for lack of jurisdiction, as Coxcom asserts. Acacia is therefore
9 filing this reply to correct any misunderstanding of Judge Ware's Order which may
10 occur from reading only Coxcom's Response.

11 Coxcom short-cites Judge Ware's Order by failing to include the second
12 sentence of paragraph no. 7. Judge Ware's Order specifically contemplates that
13 Acacia may file actions in other jurisdictions:

14 7. Plaintiff shall file any case involving the '992 patent or a
15 patent which is a continuation or divisional of the '992 patent in
16 the Central District of California, Southern Division. Plaintiff
17 shall file a notice of related case with this Court in any action
18 that involves U.S. Patent Nos. '702, '992 or other patents held
19 by Plaintiff filed outside of California.

20 (December 18, 2003 Order Consolidating Cases at page 3; a true and correct copy of
21 which is attached hereto as Exhibit A).

22 Coxcom further does not submit Acacia's Notice of Filing of Related Case in
23 the Northern District of California, which Acacia filed with the Central District Court
24 pursuant to the above provision of the December 18 Order. In the Notice, Acacia in
25 pertinent part stated:

26 In [Judge Ware's December 18, 2003] Order, the Court states
27 that "Plaintiff shall file any case involving the '992 patent in the
28

HENNIGAN, BENNETT & DORMAN LLP
LAWYERS
LOS ANGELES, CALIFORNIA

1 Central District of California, Southern Division. Plaintiff shall
2 file a notice of related case with this Court in any action that
3 involves U.S. Patent Nos. '702, '992 or other patent held by
4 Plaintiff outside of California." Although not explicitly stated
5 in the Order, Acacia understands the Order to permit Acacia,
6 where venue is proper for certain defendants only in the
7 Northern District of California, to file a lawsuit involving the
8 '992 and the '702 patents in that judicial district and to file a
9 Notice of Related case with this Court in each of the pending
10 consolidated and related actions.

11 (June 15, 2004 Notice, at page 1; a true and correct copy of which is attached hereto
12 as Exhibit B).

13 Coxcom's request that this Court dismiss this action appears to be in
14 furtherance of its attempt to litigate these issues in a third court, the Northern District
15 of Georgia. Although Coxcom argues that Acacia may not file an action involving
16 these patents in any venue other than the Central District of California, Coxcom has
17 filed a declaratory judgment action against Acacia in the Northern District of Georgia
18 seeking a declaration of non-infringement and invalidity of Acacia's patents. Coxcom
19 filed its action in Georgia after Acacia had already filed this action in this Court. See,
20 Genentech, Inc. v. Eli Lilly and Co., 998 F.2d 931, 937 (Fed. Cir. 1993) (the first-filed
21 action is favored unless special circumstances exist).

22 Acacia has pending a motion before the Georgia court to dismiss Coxcom's
23 Georgia action under Fed.R.Civ.P., Rule 12(b)(1), (2), and (3) on the grounds that (i)
24 the Georgia court lacks personal jurisdiction over Acacia, (ii) venue is improper in
25 Georgia, and (iii) as the second-filed case, the court should not exercise its discretion
26 to hear the action. In the alternative, Acacia has requested that the Court transfer the
27
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1 case to the Northern District of California under 28 U.S.C. § 1404(a), because the
2 balance of convenience tips strongly to the Northern District of California.

3

4 DATED: August 10, 2004

HENNIGAN BENNETT & DORMAN LLP

5

6

By _____ /S/ _____

7

Roderick G. Dorman
Alan P. Block
Kevin I. Shenkman

8

9

Attorneys for Plaintiff,
ACACIA MEDIA TECHNOLOGIES
CORPORATION

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Exhibit A

From: Name: United States District Court
312 North Spring Street
Los Angeles, CA 90012
Voice Phone: (213) 894-5474

To: Name: Roderick Dorman
Company:
601 S Figueroa St, Ste 3300
City/State: Los Angeles, CA 90017-0000/CS
Fax Number: 213-694-1234

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**



Automated Document Delivery Service

Notice pursuant to Rule 77(d) FR Civ.P

The attached copy is hereby served upon you pursuant to Federal Rule of Civil Procedure 77(d).

Fax Notes:

Case 8:03-CV-00271 : ACACIA MEDIA TECH V. INNOVATIVE IDEAS

**Switch to e-mail delivery and get these documents sooner!
To switch, complete and submit
Optical Scanning Enrollment / Update form G-76.
Call 213-894-5474 for help and free technical support.**

If you received this document in error because the attorney with whom this document is directed is no longer the attorney on the case, a Notice of Change of Attorney Information, form G-6, must be filed. If there are other cases which you've received documents for which you are no longer the attorney, separate notices must be filed for each case. Failure to do so will result in the continued sending of documents to you. Form G-6 is available on the court's website at www.cacd.uscourts.gov or at the Clerk's Office.

Date and time of transmission: **Friday, December 19, 2003 2:26:22 PM**
Number of pages including this cover sheet: **04**

Exhibit 4 Page 32

Exhibit A Page 4

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DUPLICATE ORIGINAL

FILED
DEC 18 2003
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION AT SANTA ANA
BY *[Signature]* DEPUTY

NOT FOR CITATION

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

ACACIA MEDIA TECHNOLOGIES CORPORATION,

Plaintiff,

vs.

NEW DESTINY INTERNET GROUP, ET AL.,

Defendants.

SA CV02-1040-JW (MLGx);
SA CV02-1048-JW (MLGx);
SA CV02-1063-JW (MLGx);
SA CV02-1165-JW (MLGx);
SA CV03-0201-JW (MLGx);
SA CV03-0202-JW (MLGx);
SA CV03-0217-JW (MLGx);
SA CV03-0218-JW (MLGx);
SA CV03-0219-JW (MLGx);
SA CV03-0252-JW (MLGx);
SA CV03-0259-JW (MLGx);
SA CV03-0271-JW (MLGx);
SA CV03-0308-JW (MLGx); &
SA CV03-1610-JW (MLGx)

AND ALL RELATED CASE ACTIONS.

ENTER ON ICMS
DEC 19 2003

ORDER CONSOLIDATING RELATED CASES; SETTING CLAIMS CONSTRUCTION HEARING; SETTING INTERIM CASE MANAGEMENT CONFERENCE

The Court conducted a case management conference in the above-entitled matter on November 21, 2003. Present were Plaintiff Acacia Media and Defendants New Destiny Internet Group, Audio Communications, VS Media, Inc., Ademia Multimedia, Excalibur Entertainment, Cyberheat, International Web Innovations, Offendale, Adult Entertainment Broadcast Network, Cyber Trend, Private Media Group, Lightspeedcash, Innovative Ideas International, ASK.com, Game Link and On Command. The Court orders as follows:

Exhibit A Page 5

1 1. The Court orders the following related cases consolidated: SA CV02-1040-JW
 2 (MLGx), SA CV02-1048-JW (MLGx), SA CV02-1063-JW (MLGx), SA CV02-1165-JW
 3 (MLGx), SA CV03-0201-JW (MLGx), SA CV03-0202-JW (MLGx), SA CV03-0217-JW
 4 (MLGx), SA CV03-0218-JW (MLGx), SA CV03-0219-JW (MLGx), SA CV03-0252-JW
 5 (MLGx), SA CV03-0259-JW (MLGx), SA CV03-0271-JW (MLGx), and SA CV03-0308-JW
 6 (MLGx). The cases are consolidated for all pretrial purposes and shall bear the Case No. SA
 7 CV-02-1040-JW(MLGx).

8 2. The Court will hold a Claim Construction Hearing to construe the claims involving
 9 approximately ten disputed terms and phrases of U.S. Patent No. 5,132,992 on February 6, 2004
 10 at 10:00 a.m. to 4:00 p.m. in the United States District Court, Central District of California,
 11 Southern Division. At the hearing the Court will consider only intrinsic evidence to interpret the
 12 disputed claims, i.e., the claims themselves, the written description portion of the specification
 13 and the prosecution history. Pertinent portions of the intrinsic evidence should be highlighted
 14 and indexed to the disputed claim language. No tutorial or testimony will be allowed, unless the
 15 Court orders otherwise, based upon a timely motion noticed for hearing at least 10 days prior to
 16 the claim hearing by any party wishing to present testimony. Pursuant to the Court's order at the
 17 November 21, 2003 case management conference, no party shall file expert declarations in
 18 support of its claim construction contentions. The named inventors of the '992 patent shall not be
 19 deposed for purposes of claim construction.

20 3. Parties may engage in discovery for purposes of the claims construction hearing. The
 21 Court refers the action to Magistrate Judge Marc L. Goldman to establish a discovery plan and to
 22 hear and decide all discovery related disputes.

23 4. Parties shall file a joint claim construction contention chart, a brief and a file wrapper,
 24 no later than January 5, 2004. Defendants may submit individual or separate briefs. Reply
 25 briefs, if any, shall be filed no later than January 20, 2004.

26 5. Plaintiff shall make available a copy of the current claims construction chart to all
 27 parties electronically or by mail no later than December 1, 2003.

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1 6. Plaintiff may join additional Defendants to this action until December 9, 2003.

2 7. Plaintiff shall file any case involving the '992 patent or a patent which is a
3 continuation or divisional of the '992 patent in the Central District of California, Southern
4 Division. Plaintiff shall file a notice of related case with this Court in any action that involves
5 U.S. Patent Nos. '702, '992 or other patents held by Plaintiff filed outside of California.

6 8. The Court sets an interim telephonic case management conference on January 7, 2004
7 at 11:30 a.m. Plaintiff shall coordinate the telephone conference and contact the Court at (408)
8 535-5454. If any party is unable to participate, the party shall notify the Courtroom Deputy at
9 (714) 338-4759, no later than January 2, 2004.

10 9. Except as otherwise ordered, the parties are ordered to comply with the Local Rules of
11 Court for the Central District of California.

12 10. In addition to filing papers with the Court, parties shall lodge with chambers an
13 electronic copy, until further order of the Court. The parties shall electronically mail all papers
14 filed to jwpo@cand.uscourts.gov and crd_ware@caed.uscourts.gov, attached with PDF (Adobe
15 Acrobat) format. The subject of the electronic mail should specify "In re Acacia Media."

16 11. When filing papers in connection with any motion for determination by the Court, the
17 parties shall, in addition to filing papers electronically, lodge with chambers a printed copy of the
18 papers by the close of the next court day following the day the papers are filed. These printed
19 copies shall be marked "Chambers Copy" and shall be submitted to Judge James Ware, United
20 States District Court, 280 South First Street, San Jose, CA, 95113.

21 12. Until further order of the Court, the Clerk of Court is ordered to assign directly all
22 cases filed by the Plaintiff for infringement of the '992 patent and any related patents to U.S.
23 District Judge James Ware, through the Central District of California, Southern Division. At the
24 time of filing a lawsuit covered by this Order, the Plaintiff is ordered to notify the Clerk of the
25 Court of this direct assignment Order.

26 ///

27 Dated: December 12, 2003


JAMES WARE
United States District Judge

Exhibit A Page 7

Exhibit 4 Page 35

Exhibit B

1 **HENNIGAN, BENNETT & DORMAN LLP**
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9 Attorneys for Plaintiff
10 **ACACIA MEDIA TECHNOLOGIES CORPORATION**

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **SOUTHERN DIVISION**

14 **ACACIA MEDIA TECHNOLOGIES**
15 **CORPORATION,**
16 **Plaintiff,**
17 **vs.**
18 **NEW DESTINY INTERNET GROUP,**
19 **et. al.,**
20 **Defendants.**

Case No. SACV 02-1040 JW (MLGx)

Consolidated Cases:

- SA CV 02-1048-JW (MLGx)
- SA CV 02-1063-JW (MLGx)
- SA CV 02-1165-JW (MLGx)
- SA CV 03-0217-JW (MLGx)
- SA CV 03-0218-JW (MLGx)
- SA CV 03-0219-JW (MLGx)
- SA CV 03-0259-JW (MLGx)
- SA CV 03-0271-JW (MLGx)
- SA CV 03-0308-JW (MLGx)

Related Cases:

- SA CV 03-1801-JW (MLGX)
- SA CV 03-1803-JW (MLGX)
- SA CV 03-1804-JW (MLGX)
- SA CV 03-1805-JW (MLGX)
- SA CV 03-1807-JW (MLGX)

PLAINTIFF ACACIA MEDIA TECHNOLOGIES CORPORATION'S NOTICE OF FILING OF RELATED CASE -- C04-02308 FMS -- IN THE NORTHERN DISTRICT OF CALIFORNIA

21 **AND ALL RELATED CASE ACTIONS.**

Hearing Date: N/A
Hearing Time: N/A
Ctm: Hon. James Ware

22 Case No. SACV 02-1040 JW (MLGx)

PLAINTIFF ACACIA'S SUPPLEMENTAL BRIEF
RE CLAIM CONSTRUCTION

Exhibit B Page 8

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Exhibit 4 Page 37

1 TO THE COURT AND TO DEFENDANTS AND THEIR ATTORNEYS OF
2 RECORD:

3 PLEASE TAKE NOTICE that, pursuant to Northern District of California,
4 Local Rule 3-12(a) and this Court's December 12, 2003 Order Consolidating Related
5 Cases, Acacia Media Technologies Corporation ("Acacia") has filed the attached
6 Notice of Filing of Related Case regarding the filing of a lawsuit by Acacia involving
7 the '992 and '702 patents (and other related patents) in the Northern District of
8 California.

9 The filing of this action in the Northern District of California, and the filing of
10 this Notice to assure this case is assigned to the Honorable Judge Ware, conforms to
11 the Court's December 12, 2003 Order Consolidating Related Cases. In that Order, the
12 Court states that "Plaintiff shall file any case involving the '992 patent in the Central
13 District of California, Southern Division. Plaintiff shall file a notice of related case
14 with this Court in any action that involves U.S. Patent Nos. '702, '992 or other patent
15 held by Plaintiff outside of California." Although not explicitly stated in the Order,
16 Acacia understands the Order to permit Acacia, where venue is proper for certain
17 defendants only in the Northern District of California, to file a lawsuit involving the
18 '992 and the '702 patents in that judicial district and to file a Notice of Related case
19 with this Court in each of the pending consolidated and related actions.

20 The newly-filed action is directed at infringers in the cable and satellite
21 industries. It is entitled: *Acacia Media Technologies Corporation v. Comcast*
22 *Corporation; Cox Communications, Inc.; Hospitality Network, Inc.; Charter*
23 *Communications, Inc.; The Directv Group, Inc.; Echostar Communications*
24 *Corporation; Boulder Ridge Cable TV, d/b/a Starstream Communications; Seren*
25 *Innovations, Inc.; and Central Valley Cable TV, LLC, Case No. C 04-2308 FMS.*

26 In the newly-filed action, Acacia contends that defendants DirecTV and
27 EchoStar are infringing all five of the patents in the Yurt patent family -- U.S. Patent

28

1 Nos. 5,132,992 (the '992 patent); 5,253,275 (the '275 patent); 5,550,863 (the '863
2 patent); 6,002,720 (the '720 patent); and 6,144,702 (the '702 patent). Each of these
3 patents shares essentially the same patent specification -- the only difference amongst
4 these patents is the claims.

5 Acacia contends that defendants Comcast, Cox, Charter, Seren, and Boulder
6 Ridge are infringing the '992, the '275, the '863, and the '702 patents.

7 Acacia contends that defendant Central Valley is infringing the '992 and the
8 '863 patents.

9 Acacia has not yet served the summons or complaint in the newly-filed action
10 on any of the defendants. Acacia has learned today that defendant Comcast has filed a
11 declaratory relief action against Acacia in the District of Delaware. Acacia intends to
12 seek to dismiss, or in the alternative, transfer that case to this Court. Except for
13 Comcast, Acacia does not intend to serve the summons and complaint on any of the
14 defendants for at least thirty (30) days to provide time for Acacia to commence or
15 continue patent licensing discussions with each of those defendants.

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DATED: June 15, 2004

HENNIGAN BENNETT & DORMAN LLP

By _____ /s/

Roderick G. Dorman
Alan P. Block
Kevin I. Shenkman

Attorneys for Plaintiff,
ACACIA MEDIA TECHNOLOGIES
CORPORATION

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PROOF OF SERVICE

I, Sylvia A. Berson, declare:

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 601 South Figueroa Street, Suite 3300, Los Angeles, California 90017.

On **June 15, 2004**, I served a copy of the within document(s) described as **PLAINTIFF ACACIA MEDIA TECHNOLOGIES CORPORATION'S NOTICE OF FILING OF RELATED CASE -- C04-02308 FMS -- IN THE NORTHERN DISTRICT OF CALIFORNIA** by transmitting via United States District Court for the Central District of California Electronic Case Filing Program the document(s) listed above by uploading the electronic files for each of the above listed document(s) on this date, addressed as set forth on attached Service List.

The above-described document was also transmitted to the parties indicated below, by United States Mail only.

David A. York
Latham & Watkins
135 Commonwealth Drive
Menlo Park, CA 94025
Attorneys for Defendants
ICS, Inc. and AP Net Marketing

The above-described document was also transmitted to the parties indicated below, by Federal Express only.

Chambers of the Honorable James Ware
Attn: Regarding Acacia Litigation
280 South First Street
San Jose, CA 95113
3 copies

I am readily familiar with Hennigan, Bennett & Dorman LLP's practice in its Los Angeles office for the collection and processing of mail with the United States Postal Service; pursuant to that practice, envelopes placed for collection at designated locations during designated hours are deposited with the United States Postal Service with first class postage thereon fully prepaid that same day in the ordinary course of business; and,

1 **SERVICE LIST**

2 Juanita Brooks
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6 12390 El Camino Real
7 San Diego, California 92130
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9 *Ademia Multimedia, LIC - Adult*
10 *Entertainment Broadcast Network -*
11 *Audio Communications - Cyberheat,*
12 *Inc. - Game Link, Inc. - Holio.Net*
13 *L.L.C. - Lightspeedcash - Matrix*
14 *Content, Inc. - New Destiny - VS Media,*
15 *Inc.*

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22 *Attorneys for Defendant/Counterclaimant*
23 *Offendale Commercial Limited BV*

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E-FILING

COPY

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9 Attorneys for Plaintiff
10 ACACIA MEDIA TECHNOLOGIES CORPORATION

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 ACACIA MEDIA TECHNOLOGIES CORPORATION,

15 Plaintiff,

16 vs.

17 COMCAST CORPORATION; COX
18 COMMUNICATIONS, INC.;
19 HOSPITALITY NETWORK, INC.;
20 CHARTER COMMUNICATIONS, INC.;
21 THE DIRECTV GROUP, INC.;
22 ECHOSTAR COMMUNICATIONS
23 CORPORATION; BOULDER RIDGE
24 CABLE TV, D/B/A STARSTREAM
25 COMMUNICATIONS; SEREN
26 INNOVATIONS, INC.; AND CENTRAL
27 VALLEY CABLE TV, LLC,

28 Defendants.

ORIGINAL
JUN 14 2004
Clerk of the Court
Northern District of California
San Jose

C04 02308 FMS

) Case No.
) NOTICE OF RELATED CASES
) N.D. Cal. Local Rule 3-12.

1 HENNIGAN, BENNETT & DORMAN LLP
2 LAWYERS
3 LOS ANGELES, CALIFORNIA

6
NOTICE OF RELATED CASES

1 TO THE CLERK OF THE ABOVE-CAPTIONED COURT, AND TO ALL
 2 PARTIES AND THEIR COUNSEL OF RECORD:

3 PLEASE TAKE NOTICE that Plaintiff Acacia Media Technologies
 4 Corporation hereby provides notice that this action is related to the previously filed
 5 actions set forth below which are currently pending in the United States District Court
 6 for the Central District of California before the Honorable James Ware:

<u>Case Number</u>	<u>Defendant(s)</u>
SA CV-02-1040 JW (MLGx)	New Destiny Internet Group
SA CV-02-1048 JW (MLGx)	Audio Communications
SA CV-02-1063 JW (MLGx)	VS Media, Inc.
SA CV-02-1165 JW (MLGx)	Ademia Multimedia, LLC
SA CV-03-217 JW (MLGx)	International Web Innovations, Inc. and Offendale Commercial Ltd. BV
SA CV-03-218 JW (MLGX)	Adult Entertainment Broadcast Network
SA CV-03-219 JW (MLGx)	Cybertrend, Inc.
SA CV-03-259 JW (MLGx)	Lightspeedcash
SA CV-03-271 JW (MLGx)	Adult Revenue Service, Innovative Ideas International, Global Intermedia, Inc. and AskCS.com, Inc.
SA CV-03-308 JW (MLGx)	Game Link, Inc.
SA CV-03-1610 JW (MLGx)	On Command Corporation, et al.
SA CV-03-1801 JW (MLGx)	Club Jenna, Inc. and CJ, Inc.
SA CV-03-1803 JW (MLGx)	Cybernet Ventures, Inc.; ACMP, LLC; and Global Media Resources SA
SA CV-03-1804 JW (MLGx)	Global AVS, Inc., d/b/a DrewNet

HENNIGAN, BENNETT & DORMAN LLP
 LAWYERS
 LOS ANGELES, CALIFORNIA

<u>Case Number</u>	<u>Defendant(s)</u>
SA CV-03-1805 JW (MLGx)	ICS, Inc. and AP Net Marketing, Inc.
SA CV-03-1807 JW (MLGx)	National A-1 Advertising

Although each of the cases listed above is venued in the Central District of California, each of the cases is currently pending before the Honorable James Ware of the San Jose Division of the United States District Court for the Northern District of California. For this reason, plaintiff is filing this Notice of Related Cases pursuant to Local Rule 3-12 with respect to this action, even though this action is being filed in the United States District Court for the Northern District of California.

The present case is related to the above pending cases. The above pending cases all involve claims by Acacia Media Technologies Corporation that its patents -- U.S. Patent Nos. 5,132,992 and 6,144,702 -- are being infringed. Both of these asserted patents are related and share a common specification, only the claims differ. The Court in the pending actions is currently in the process of determining the construction of the claim terms used in these patents. The Court has held four days of hearings to discuss the claim construction for these patents.

The present case also involves claims by plaintiff that its U.S. Patent Nos. 5,132,992 and 6,144,702 are being infringed, and further includes claims that its U.S. Patent Nos. 5,253,275; 5,550,863; and 6,002,720 are also being infringed. These three patents are all related to U.S. Patent Nos. 5,132,992 and 6,144,702 and all share a common specification, only the claims differ.


The basis for the belief that this action qualifies as related pursuant to Local Rule 3-12(b)(1) is that all cases involve the same property -- U.S. Patent Nos. 5,132,992 and 6,144,702. The basis for the belief that this action qualifies as related pursuant to Local Rule 3-12(b)(2) is that there will be an unduly burdensome duplication of labor and expense or conflicting results if the case is conducted before

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a Judge other than Judge Ware. Assigning this case to Judge Ware is therefore likely to conserve judicial resources and promote an efficient determination of the action.

DATED: June 11, 2004

HENNIGAN BENNETT & DORMAN LLP

By: 
Roderick G. Dorman
Alan P. Block
Kevin I. Shenkman

Attorneys for Plaintiff,
ACACIA MEDIA TECHNOLOGIES
CORPORATION

400677v1

9

PROOF OF SERVICE

I declare as follows:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 601 South Figueroa Street, Los Angeles, California 90017.

On August 10, 2004, I served the foregoing document described as **ACACIA'S REPLY TO DEFENDANT COXCOM, INC.'S RESPONSE TO PLAINTIFF'S NOTICE OF PENDENCY OF OTHER ACTIONS** on the interested parties in this action follows:

- by transmitting via facsimile the documents listed above to the fax number set fourth below on this date. This transmission was reported as complete without error by a transmission report issued by the facsimile machine upon which the said transmission was made immediately following the transmission.
- by placing the document listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below
- by placing the document listed above in a sealed envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for Delivery.
- by personally delivering the document listed above to the persons at the address set forth below.

SEE ATTACHED SERVICE LIST

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postal meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on August 10, 2004, at Los Angeles, California.

/S/
Sylvia A. Berson

HENNIGAN, BENNETT & DORMAN LLP
LAWYERS
LOS ANGELES, CALIFORNIA

SERVICE LIST

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