

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION**

Cleversafe, Inc.

Plaintiff,

Case No.:

vs.

Judge:

Amplidata, Inc.

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

1. Plaintiff Cleversafe Inc. (“Cleversafe”) brings this complaint for patent infringement against defendant Amplidata, Inc. (“Amplidata,” “Defendant”) and alleges and states as follows:

Nature of the Action

2. Cleversafe brings this action to enjoin use, sales, offers to sell and importation by Amplidata of software, products and other technology that infringes valid and enforceable U. S. Patents owned by Cleversafe and for monetary damages for use of such technology.

The Parties

3. Amplidata is a California corporation with a principal place of business in Redwood City, California.

4. Cleversafe, Inc. is a Delaware corporation with its principal place of business in Chicago, Illinois.

Jurisdiction

5. Subject matter jurisdiction is proper under 28 U.S.C. §§1331 and 1338 as Cleversafe’s claims for patent infringement arise under the Patent Act.

6. This Court has personal jurisdiction over Amplidata based on its transactions of business within this State and District, including offers to sell infringing products within the same.

Background

7. Cleversafe was founded in 2004 in Chicago, Illinois. Cleversafe makes and sells innovative solutions in the field of electronic data storage using novel and proprietary Cleversafe Technology.

8. Cleversafe Technology, including its proprietary Dispersed Storage Error Coding Processing, enables data to be encoded into “encoded data slices” which can be distributed to physically separate storage devices of a Dispersed Storage Network. Cleversafe Technology allows the encoded data slices to be dispersedly stored so that they can be quickly, accurately, and efficiently retrieved.

9. Cleversafe Technology further allows for superior data storage solutions with respect to the current state-of-the-art by permitting a data segment to be reassembled perfectly from a decode threshold number of encoded data slices, where the decode threshold number is less than all of the encoded data slices.

10. Cleversafe Technology provides data security by virtue of the fact the encoded data slices are unusable on their own and thus are made inherently secure.

11. The ingenuity of Cleversafe’s proprietary algorithms, methods, systems and software have been awarded eight issued U.S. Patents; and one additional allowed U.S. Patent Application.

12. Among the patents awarded to Cleversafe are:

- a.) U.S. Patent No. 7,953,771, (“the ‘771 patent”) awarded to S. Christopher Gladwin, Greg Dhuse, Vance T. Thornton, Manish Motwani, Ilya

Volvolvski, Wesley Leggette, Jamie Bellanca, Sarah Toledano, Jerri Lynn Foster, and Zachary J. Mark for Virtualized Data Storage Vaults on a Dispersed Data Storage Network, which is attached hereto as Exhibit A. The '771 patent was duly and legally issued on May 31, 2011. Cleversafe has been the assignee of the '771 patent since that date.

- b.) U.S. Patent No. 7,574,570, ("the '570 patent") awarded to S. Christopher Gladwin, Matthew M. England, Zachary J. Mark, Vance T. Thornton, Joshua J. Mullin and Sejal Kumarbhai Modi for Billing System for Information Dispersal System, which is attached hereto as Exhibit B. The '570 patent was duly and legally issued on August 11, 2009. Cleversafe has been the assignee of the '570 patent since that date.
- c.) U.S. Patent No. 7,953,937, ("the '937 patent") awarded to S. Christopher Gladwin and Matthew M. England for Systems, Methods, and Apparatus for Subdividing Data For Storage in a Dispersed Data Storage Grid, which is attached hereto as Exhibit C. The '937 patent was duly and legally issued on May 31, 2011. Cleversafe has been the assignee of the '937 patent since that date.
- d.) U.S. Patent No. 7,546,427, ("the '427 patent") awarded to S. Christopher Gladwin, Matthew M. England, Dhavi Gopala Krishna Kapila Lakshmana Harsha, Zachary J. Mark, and Vance T. Thorton for System For Rebuilding Dispersed Data, which is attached hereto as Exhibit D. The '427 patent was duly and legally issued on June 9, 2009. Cleversafe has been the assignee of the '427 patent since that date.

13. Kristoff De Spiegeleer, a person associated with Amplidata, approached Cleversafe in 2008 as a customer interested in purchasing and promoting Cleversafe Technology and gained access to highly confidential proprietary technology belonging to Cleversafe.

14. Cleversafe agreed to provide software to De Spiegeleer and requested his then-company A-Server, a foreign corporation, sign an End User Evaluation Agreement specifying the terms upon which software could be used.

15. Cleversafe provided A-Server and De Spiegeleer with not only software but know-how underlying its use and functionality.

16. Amplidata is a partner of A-Server.

17. De Spiegeleer, on information and belief, shared Cleversafe Technology with Amplidata for use in Amplidata's AmpliStor products that compete with Cleversafe products.

18. Indeed, Amplidata claims to offer products and services with nearly identical functionality to Cleversafe.

19. In 2011, Cleversafe became aware of efforts by Amplidata to enter the field of dispersed storage solutions in the United States.

20. Amplidata has sought to gain business with potential customers of dispersed storage solutions, including through a customer representatives based in Chicago, Illinois or the surrounding area.

Count I: Infringement of U.S. Patent No. 7,953,771 by Amplidata

21. Cleversafe realleges paragraphs 1-20. Inclusive, as if set forth at length herein.

22. Amplidata has been and is now infringing the '771 patent in violation of 35 U.S.C. § 271(a) by at least its offers to sell dispersed storage systems, methods or software including without limitation its "AmpliStor" system.

23. Based on the facts as recited above, such infringement is exceptional.

Count II: Infringement of U.S. Patent No. 7,574,570 by Amplidata

24. Cleversafe realleges paragraphs 1-20. Inclusive, as if set forth at length herein.

25. Amplidata has been and is now infringing the '570 patent in violation of 35 U.S.C. § 271(a) by at least its offers to sell dispersed storage systems, methods or software including without limitation its "AmpliStor" system.

26. Based on the facts as recited above, such infringement is exceptional.

Count III: Infringement of U.S. Patent No. 7,953,937 by Amplidata

27. Cleversafe realleges paragraphs 1-20. Inclusive, as if set forth at length herein.

28. Amplidata has been and is now infringing the '937 patent in violation of 35 U.S.C. § 271(a) by at least its offers to sell dispersed storage systems, methods or software including without limitation its "AmpliStor" system.

29. Based on the facts as recited above, such infringement is exceptional.

Count IV: Infringement of U.S. Patent No. 7,546,427 by Amplidata

30. Cleversafe realleges paragraphs 1-20. Inclusive, as if set forth at length herein.

31. Amplidata has been and is now infringing the '427 patent in violation of 35 U.S.C. § 271(a) by at least its offers to sell dispersed storage systems, methods or software including without limitation its "AmpliStor" system.

32. Based on the facts as recited above, such infringement is exceptional.

Request for Relief

- A. Declaring that Amplidata has infringed U.S. Patent Nos. 7,953,771, 7,574,570, 7,953,937 and 7,546,427.
- B. Permanently enjoining Amplidata, its subsidiaries, agents, officers, employees, directors, licensees, servants, successors, assigns and all others acting in privity or in concert with them, from:
 - a.) Infringing or inducing infringement of U.S. Patent Nos. 7,953,771, 7,574,570, 7,953,937 and 7,546,427;
 - b.) Misappropriating Cleversafe trade secrets embodied in Cleversafe Technology

- C. Awarding Cleversafe damages in an amount to be proven at trial adequate to compensate for Amplidata's infringing activities, together with interest and trebling pursuant to 35 U.S.C. §284;
- D. Awarding Cleversafe its costs and reasonable attorneys fees;
- E. Awarding Cleversafe such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff Cleversafe demands a trial by jury as to all claims and all issues properly triable thereby.

Dated: July 20, 2011

Respectfully submitted,

By: /s/Timothy Sendek
One of the Attorneys for Plaintiff
Cleversafe, Inc..

Allan Sternstein
asternstein@dykema.com
Michael Stolarski
mstolarski@dykema.com
Timothy K. Sendek
tsendek@dykema.com
Kyle Davis
kdavis@dykema.com
Dykema Gossett PLLC
10 South Wacker Drive, Suite 2300
Chicago, Illinois 60606
(312) 876-1700

William D. Cramer
wcramer@dykema.com
Dykema Gossett PLLC
Comerica Bank Tower
1717 Main Street, Suite 4000
Dallas, Texas 75201
214-462-6400

Timothy Markison
tmarkison@texaspatents.com
Garlick Harrison & Markison
PO Box 160727
Austin, Texas 78716-0727
312-233-2891