

December 22, 1997

*Aquarius injunction is imminent.*

The Appeal Court instructed Judge Whyte to enter a Court Order preventing Avant! (OTC Symbol: AVNT) (Price: \$17.9375) from selling its ArcCell products. The Appeal Court did not instruct Judge Whyte to enter an order to stop Avant! from selling Aquarius simply because Judge Whyte's March 18, 1997 order was ambiguous. The Appeal Court could not conclude whether or not Judge Whyte found that Avant! used Cadence's code for intermediate copying in its clean room. The Appeal Court overturned Judge Whyte's decision on Aquarius and instructed Judge Whyte to clarify his Aquarius findings, and if it infringes, the Appeal Court instructed Judge Whyte to issue an injunction.

Merely because Judge Whyte did not include sufficiently clear language in his March 18, 1997 order for the Appeal Court to rule does not mean that there is uncertainty about the Aquarius injunction. The record is far more extensive and includes more than sufficient testimony, factual declarations and findings to clearly answer the Appeal Court's questions and require, as a matter of law and in accordance with the Appeal Court decision, that Judge Whyte order an Aquarius injunction.

Avant! has never attempted to deny that its founders literally stole tens of thousands of lines of Cadence's Symbad database code when they left Cadence. Avant! incorporated that code into its ArcCell products. Immediately after Cadence filed suit Avant! instituted its "clean room" project to remove the stolen code. The record includes undeniable evidence against Avant! In addition to identical errors and English language phrases in the Avant! code, Stephen Wu, Avant!'s Vice-President of Engineering, kept a detailed log of his copying, identifying file by file and day by day his copying activity. This evidence of direct copying is a part of the record. This contemporaneous development log kept by Mr. Wu was seized by the District Attorney during a search of Avant!'s offices. This log disclosed Mr. Wu's day-by-day copying of Cadence source code both before and after he resigned from Cadence.

This is one of the rare copyright cases where there is direct proof of copying. The district court had no need to engage in substantial similarity analysis as a proxy for that direct evidence. Cadence's experts Harvard Law School Professor Robert H. Mnookin, MIT Professor Randall Davis, and clean room expert Richard Belgard testified that Avant! had not even attempted to re-write all of the stolen code, that many stolen routines found in ArcCell "remained unaltered, in Aquarius" and that Aquarius' supposedly rewritten code is derived from the stolen code. These facts provide sufficient grounds for Judge Whyte to enjoin Aquarius.

Short selling involves a risk not associated with the purchase of stock including, but not only limited to, unlimited loss and stock borrowing risks. Additional information is available upon request.