



Court of Appeals Permits Covad Antitrust Suit Against Bellsouth to Go Forward

San Jose, Calif., (June 28, 2004)—The United States Court of Appeal for the Eleventh Circuit ruled last Friday that Covad Communications Company could pursue certain antitrust and tort claims against BellSouth Corporation notwithstanding the Supreme Court’s recent ruling in *Verizon Communications Inc. v. Law Offices of Curtis V. Trinko, L.L.P.*, 124 S.Ct. 872 (2004) (“Trinko”).

In 2000, Covad asserted a variety of antitrust claims against BellSouth alleging that BellSouth used its monopoly power to engage in a concerted effort to thwart competition in the Internet access market. The United States District Court for the Northern District of Georgia dismissed Covad’s claims, holding that Covad’s claims were barred by the Telecommunications Act of 1996. In August 2002, the Eleventh Circuit reversed the district court’s ruling, reinstated Covad’s antitrust claims, and remanded the case back to the district court for further proceedings. Subsequently, the United States Supreme Court issued a ruling in the Trinko case, which upheld the dismissal of an antitrust case alleging a single breach of an incumbent phone company’s duty under the Telecommunications Act of 1996 to share its network with competitors. The Supreme Court subsequently remanded the 11th Circuit decision for further proceedings in light of the Trinko decision.

James Kirkland, Senior Vice President and General Counsel of Covad, said: “Many, including BellSouth, believed that the Supreme Court’s Trinko decision made antitrust suits challenging monopoly abuses by incumbent phone companies impossible. We are pleased that the Eleventh Circuit has reaffirmed, as Covad predicted at the time of the Trinko decision, that phone companies will still be held accountable for such abuses under the antitrust laws of this country. Covad intends to vigorously pursue its claims.”

About Covad

Covad is a leading nationwide provider of integrated voice and data communications. The company offers DSL, Voice Over IP, T1, Web hosting, managed security, IP and dial-up, and bundled voice and data services directly through Covad’s network and through Internet Service Providers, value-added resellers, telecommunications carriers and affinity groups to small and medium-sized businesses and home users.



Covad broadband services are currently available across the nation in 44 states and 235 Metropolitan Statistical Areas (MSAs) and can be purchased by more than 57 million homes and businesses, which represent over 50 percent of all US homes and businesses. Corporate headquarters is located at 110 Rio Robles San Jose, CA 95134. Telephone: 1-888-GO-COVAD. Web Site: www.covad.com.

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