



Covad Antitrust Suit Against BellSouth To Go Forward

Three judge panel of 11th Circuit Court of Appeals denies BellSouth petition to re-hear the company's appeal before the entire court

San Jose, Calif. (September 3, 2004)—The United States Court of Appeal for the Eleventh Circuit declined to BellSouth's request to rehear an earlier ruling that allows Covad Communications Company to pursue certain antitrust and tort claims against BellSouth Corporation.

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. In June of this year, a three-judge panel of the 11th Circuit Court ruled that the *Trinko* decision did not foreclose key Covad claims.

BellSouth requested that the full court review the panel's June decision. This week, the Eleventh Circuit issued an order denying BellSouth's request.

James Kirkland, Senior Vice President and General Counsel of Covad, said: "The Court's decision confirms that Covad's antitrust case can move forward, and we intend to vigorously pursue our claims."

About Covad

Covad is a leading national broadband service provider of high-speed Internet and network access utilizing Digital Subscriber Line (DSL) technology. It offers DSL, T1, 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 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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