

December 16, 1997

*Avant! suffers series of negative litigation developments.*

A hearing was held in the Avant! (OTC Symbol: AVNT) (Price: \$16.75) Civil litigation last Friday, December 12, 1997 in U.S. District Court in San Jose, California. Judge Ronald M. Whyte held the hearing to deal with several pending items including establishing the terms of an injunction order that will prevent Avant! from selling or servicing its ArcCell and ArcCell XO products. Surprisingly, Avant!'s lawyers did not deny that some of Avant!'s customers were still using these products and stated that an injunction will cause disruptions in these customer's design flow. These statements were superfluous since an Appeal Court has already ruled that "Avant! was not an innocent infringer" and stated that Avant! "cannot complaint of the harm that will befall it" from the injunction. Avant! has not separated the interest of its criminally charged leaders from those of its customers. The injunction order may require Avant! to disclose the identity of ArcCell users and may obligate Avant! to retrieve all copies of ArcCell sold. The injunction will likely be issued at a hearing scheduled for Friday, December 19, 1997.

The December 12th hearing was the first since Judge Whyte's Aquarius decision was reversed. At the hearing Judge Whyte indicated that he would not need additional discovery on Aquarius. Judge Whyte also refused to allow Avant! to submit additional factual declarations. Judge Whyte will decide if he needs additional briefs of any kind this week. Judge Whyte stated that any new briefs would not include factual material. Whether or not Judge Whyte asks for any additional briefs, all indications are that he will consider the injunction of Avant!'s Aquarius XO and Aquarius XO 2.0 products quickly. It is in Avant!'s interest to delay consideration of the Aquarius injunction as long as possible. Avant!'s best opportunity to delay was to have created the need for further discovery. We believe that the procedures necessary for Judge Whyte to take the Aquarius injunction under consideration can be completed within two weeks.

The findings contained in Judge Whyte's March 18, 1997 Order and the Appeal Court's September 23, 1997 Opinion indicate that an injunction against Avant!'s Aquarius products is required. Judge Whyte found that "Avant! copied" code that is "protected as copyrighted and as trade secret" and that the evidence shows Avant!'s "clean room procedures were inadequate". This establishes Aquarius' infringement. However, Judge Whyte considered the balance of hardship, set aside the presumption of irreparable harm, and denied the Aquarius injunction. As stated above, the Appeal Court found that harm to Avant! should not have been considered and that Judge Whyte "erroneously permitted Avant! to rebut the presumption of irreparable harm". The Appeal Court has instructed Judge Whyte to "enter an order enjoining the sale of Aquarius" if it infringes.

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