

1  
2  
3  
4  
5 **UNITED STATES DISTRICT COURT**  
6 **CENTRAL DISTRICT OF CALIFORNIA**  
7 **SOUTHERN DIVISION**

8 ACACIA MEDIA TECHNOLOGIES )  
9 CORPORATION, )

10 Plaintiff(s), )

11 vs. )

12 CARPE DIEM, )

13 Defendant(s). )  
14 )  
15 )

16 AND ALL RELATED AND/OR )  
CONSOLIDATED CASE ACTIONS. )  
17 )

SA CV 03-0216-JW (MLGx)  
Consolidated with SA CV 02-1040-JW (MLGx)

**ORDER DEFERRING DEFAULT  
JUDGMENT; ORDER GRANTING  
PRELIMINARY INJUNCTION**

18 Plaintiff Acacia Media Technologies Corporation is moving the Court for entry of a  
19 default judgment against Defendant Carpe Diem in the form of a permanent injunction.

20 This case is ordered consolidated with SA CV 02-1040-JW (MLGx).

21 In the Consolidated Action, the Court is currently awaiting motions for summary  
22 judgment. The Court is concerned that granting a permanent injunction prior to resolution of the  
23 pending motions, even against a defaulting defendant, requires a determination of likelihood of  
24 success on the merits, which the Court is not in a position to make at this time. The Court defers  
25 granting a permanent injunction against Defendant Carpe Diem pending proceedings in the  
26 consolidated action. However, in view of the default by Defendant Carpe Diem, it is appropriate  
27 to grant some relief to the Plaintiff.  
28

1 IT IS HEREBY ORDERED that during the pendency of the Consolidated Action,  
2 Defendant, Carpe Diem, its officers, directors, shareholders, agents, retailers, servants,  
3 employees, and all other entities and individuals acting in concert with them or on their behalf  
4 who receive actual notice of this order by personal service or otherwise:

- 5 1. refrain from directly or indirectly using or causing to be used any system or  
6 method embodying any of the claims of U.S. Patent Nos. 5,132,992 and/or  
7 6,144,702 (the '992 patent and '702 patent respectively), including, without  
8 limitation, transmitting compressed, digital video information via any of its  
9 websites, or any communication channel, including, but not limited to the Internet,  
10 file transfer protocol (ftp), or electronic mail (e-mail); and
- 11 2. refrain from directly or indirectly distributing, posting, or displaying on the  
12 Internet, any advertisements for, banner advertisements for, or links to any system,  
13 or website employing any system or method, embodying any of the claims of the  
14 '992 patent and/or the '702 patent.

15 Plaintiff is invited to renew its motion for permanent injunction depending upon  
16 proceedings in the Consolidated Action.

17 Dated: August 5, 2004

18           /s/ James Ware            
19 JAMES WARE  
20 United States District Judge

21 03cv216pi