



U.S. Department of Justice

Antitrust Division

*Liberty Place Building
325 Seventh Street NW
Washington, DC 20530*

January 13, 2003

Eliot I. Bernstein
Founder/President
Iviewit Holdings, Inc.
10158 Stonehenge Circle
Suite 801
Boynton Beach, FL 33437-3546

Re: MPEG LA Joint Patent Licensing Business Review (1997)

Dear Mr. Bernstein:

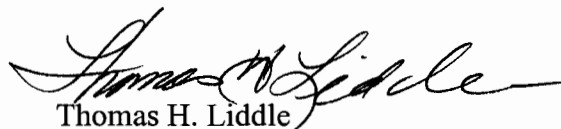
This letter is a response to your October 29, 2003, letter to R. Hewitt Pate, Assistant Attorney General for Antitrust. You seek "rescission" of the Department of Justice's Antitrust Division's June 26, 1997, Business Review of a proposal for jointly licensing a combination of patents, and removal of the "antitrust immunity" of the licensing authority. The proposal involved an arrangement among holders of video compression technology patents to jointly license, through the licensing authority MPEG LA, a single package or portfolio of their patents determined by an independent patent expert to be technically "essential" to compliance with the MPEG-2 compression technology standard. In your letter, you claimed that the MPEG LA independent patent expert was a member of your company's advisory board, and that he also represented you and your company in ostensibly seeking patent protection for inventions and technology you said were developed by you and your company and were a competitive threat to those covered by MPEG LA's portfolio patents. You further claimed that the independent expert, the law firm in which he was a partner, and other members or associates of that firm (working under the expert's supervision) – to benefit MPEG LA and to disadvantage you and your company – conspired to deny you the benefits of your inventions, to suppress your inventions and patent filings, and to commit fraud on the United States Patent and Trademark Office by, among other things, failing to list proper inventors, to file patent applications timely, and to specify and include critical elements of the inventions, and by filing patent applications that included material changes made without the knowledge or consent of the inventors.

Your allegations of attorney conflict of interest and ethical violations and of patent fraud clearly are serious charges, but based on the available information do not appear to raise separate antitrust concerns or to provide enough evidence of a possible antitrust violation to warrant any formal action. Nor do they provide an apparent basis for reconsidering the issuance of the June 26, 1997, MPEG LA business review letter since your allegations seem unrelated to the proposed

arrangement and network of agreements that were the subject of that review. In any case, as we said in the MPEG LA letter issued over six years ago, a business review letter is merely a statement of “the Department’s *current* enforcement intention” concerning the proposed conduct (emphasis added). And as we also said in that letter, “the Department reserves the right to bring an enforcement action in the future if the actual operation of the proposed conduct proves to be anticompetitive in purpose or effect.” Thus, business review letters confer no antitrust immunity or binding approval, and so there is no need for the Department to “rescind” them (nor any policy or practice of doing so) however circumstances or market conditions may change.

We appreciate your bringing this matter to our attention and your interest in antitrust enforcement. We regret we cannot be of any further help at this time. We also note from your counterclaim for damages filed in pending litigation against those you’ve accused of wrongdoing, a copy of which counterclaim you included in your submission to us, that you apparently have consulted and retained private counsel to pursue the rights and interests implicated by your allegations.

Sincerely,


Thomas H. Liddle
Litigation III