



## CASE IN POINT

### Cleversafe, Inc. v. Amplidata, Inc.

In 2008, a small Belgian start-up, Amplidata, developed a scale out storage system technology that was better than any other on the market. Amplidata's Distributed Storage System (DSS) was designed to solve the scalability and reliability problems faced by traditional storage systems via an algorithm that puts data into an object and then stores the data across multiple disks in Amplidata's storage system. By storing the data as an object, Amplidata's system is able to reconstruct the original data from any of the disks on which the data within the object resides.

#### "Bet-the-Company" Battle

Following its success in Belgium, in November 2010, Amplidata opened its US headquarters in Redwood, California. Seven months later, Cleversafe, a well-heeled venture backed competitor in the object storage system space, sued Amplidata in the Northern District of Illinois, claiming that its DSS infringed four patents relating to data storage systems. With one of the patents dropped early on in the case, the remaining three patents were at the center of a "bet the company" battle, with Cleversafe seeking a permanent injunction to block Amplidata's system from the US market. A win for Cleversafe could have put Amplidata out of business.

#### A Winning Defense Strategy

With our client's very survival at stake, a team of Cooley patent litigators developed a successful *Markman* strategy that ultimately resulted in a complete claim construction victory. In his first ever *Markman* ruling, Judge Lee agreed with Cooley on every material claim term, knocking out all three patents-in-suit. Cleversafe moved the court for reconsideration, but was denied. In early 2015, Cleversafe finally conceded defeat and stipulated that Amplidata did not infringe any of the patents in suit. The case is now on appeal.

#### Client Perspective

"Cooley demonstrated a superior level of skill and experience every step of the way. They never wavered. They stood by us when Cleversafe wanted nothing less than to put us out of the market. We are indebted to Cooley for its faith in us and our technology and for its standing by us when we needed it most. Without this victory, our acquisition would not have been possible."

– Mike Wall  
CEO, Amplidata

#### Key Facts

Amplidata developed a scale out storage system technology that was better than any other on the market

A well-funded competitor, Cleversafe, sought to put Amplidata out of business

Cooley developed a successful *Markman* strategy that resulted in a complete claim construction victory

This victory cleared the path for Amplidata's acquisition by one of the largest computer hard disk drive manufacturers in the world

# Cooley

Competitor patent suits are rare. Rarer are competitor suits where one party's survival is at stake. Throughout the course of the three-plus year long litigation, several Fortune 500 suitors ran due-diligence on Amplidata for a potential acquisition. The uncertainty caused by the lawsuit prompted many suitors to drop consideration of Amplidata. However, following the successful resolution of the district court case, one of the largest computer hard disk drive manufacturers in the world announced that it would acquire Amplidata. A team of Cooley M&A attorneys assisted Amplidata's Belgian counsel with the acquisition, which closed in March 2015. As noted by Mike Wall, Amplidata's CEO, "The victory paved the way for Amplidata's acquisition."

## The Cooley Team



**Tom Friel**  
+1 415 693 2162  
tfriel@cooley.com



**Chris Campbell**  
+1 703 456 8133  
ccampbell@cooley.com