



Overstock.com: Nothing New in Gradient Cross-Claims; Rucker/Gradient Litigation on Track for Trial

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Overstock.com Experts Success on Motion to Dismiss and Looks Forward to Trial on the Merits

SALT LAKE CITY, April 15, PRNewswire-FirstCall -- Overstock.com, Inc. (NASDAQ: OSTK) today announced it intends to file a demurrer (dismissal) to claims recently filed by Gradient Analytics in Overstock.com et al. v. Gradient Analytics et al. "We didn't oppose Gradient's request to file this because we know we can beat it. To date we have defeated every effort Gradient and Rucker Partners have made to avoid trial on the merits, and now at the eleventh hour, Gradient wants to launch its last remaining legal smoke screen," said Jonathan Johnson, Overstock.com's chief legal officer. "As we have previously, we will simply turn on the fans and blow that smoke right back at them." Johnson observed that several of the claims appear to be beyond the statute of limitations, and the others simply are not justified for other legal and factual reasons.

Overstock CEO Patrick Byrne added, "This lawsuit is an attempt by Gradient to distract attention from their failing business model. Besides, my criticisms of Gradient are protected by the First Amendment."

In a battle now more than two and a half years along, checked and with failed attempts by Gradient and Rucker Partners to avoid trial, Overstock.com continues to pursue defendants for libel, unfair business practices and tortious interference. The trial court and the California Court of Appeals denied both Gradient's and Rucker's early exit bids, finding the case legally sufficient to take to trial. The California Supreme Court implicitly endorsed those decisions when it declined Gradient and Rucker's arguments that the trial and appellate courts were in error.

In an apparent last ditch effort, Gradient filed cross-claims on April 14, essentially claiming that Overstock.com and Patrick Byrne, Overstock.com's chairman and CEO, have publicized and discussed openly the allegations of the Overstock.com complaint. The Overstock.com complaint presents serious allegations that during 2004 and 2005, Gradient, holding itself out as an investment analyst, and Rucker Partners, a well-known short-selling hedge fund, worked in concert to publicize Gradient reports on Overstock.com containing false statements in order to drive down the Overstock.com share price so that Rucker Partners could profit from its short positions in the stock.

Overstock.com's complaint is supported by sworn declarations from four ex-Gradient employees who assert that the Gradient business model allowed short selling hedge funds subscribers to pay up to \$40,000 for negative special reports which were then released to other Gradient subscribers and the media. Several of the declarations assert that Gradient actually allowed the hedge funds' editorial input into the report content, and provided advance notice of the report content to the paying subscriber hedge fund, and that Gradient would withhold publication for a period of time, allowing the subscriber hedge fund to position its portfolio to profit from the report's release and negative stock price consequence.

"Ultimately, this is a defense to Gradient's cross-claims. We have maintained all along that our allegations are true and fully supported by substantial evidence," said Byrne. He added, "It's hard to think that for more than two years they have been running from this fight, that these claims could not have surfaced sooner, and so this desperate bunch of cross claims cannot be seen as anything other than another effort at delay, delay, delay. I will not give up. We are going to prove this case to a jury."

Among the most surprising of the contents of the ex-Gradient employees' statements concerned Gradient's practice of marketing its subscriptions to short-selling hedge funds by using a list called, "Blow-ups By Grade." This list was said to contain the names of companies whose stocks experienced a sharp, sometimes one-day decline following the release of a negative Gradient report.

Statements of the ex-Gradient employees can be viewed at: http://www.overstock.com/cgi-bin/td.cgi?page=statoppppl&date_15-11151

Trial of the case is now set for September 9, 2008.

About Overstock.com

Overstock.com, Inc. is an online "crossover" retailer offering discount, brand-name merchandise for sale over the Internet. The company offers its customers an opportunity to shop for bargains conveniently, while offering its suppliers an alternative inventory liquidation distribution channel. Overstock.com, headquartered in Salt Lake City, is a publicly traded company listed on the NASDAQ Global Market System and can be found online at <http://www.overstock.com>.

Overstock.com is a registered trademark of Overstock.com, Inc. This press release contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Such forward-looking statements include, but are not limited to, statements regarding moving to trial, the results of any trial or portion thereof, the strength of evidence of either side related to the litigation, as well as all such other risks as identified in our Form 10-K for the year ended December 31, 2007, and all our subsequent filings with the Securities and Exchange Commission, which contain and identify important factors that could cause the actual results to differ materially from those contained in our projections or forward-looking statements.

SOURCE: Overstock.com

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