

# Plaintiff Unable to Meet Relaxed Standard Under Akamai for Direct Infringement of Method Claims

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**[MEDGRAPH v. MEDTRONIC](#)**: Dec 13, 2016. Before Lourie, Plager, and Taranto.

## The Takeaway

Under ***Akamai V***, infringement of a method claim requires the plaintiff to show that the defendant conditioned the use of, or receipt of a benefit from, defendant's system on the performance of all of plaintiff's method steps.

## Procedural Posture

The W.D.N.Y. dismissed with prejudice plaintiff Medgraph's claims of infringement. Medgraph appealed. The CAFC affirmed.

## Analysis

- **Direct infringement of method claims:** The CAFC affirmed the district court's finding of noninfringement because all steps of the method claim were not performed by or attributable to a single entity. Under *Akamai V*, Medgraph had to show that "Medtronic conditions participation in an activity or receipt of a benefit upon performance of a step or steps of a patented method and establishes the manner and timing of performance." The evidence "indisputably show[ed] that Medtronic does not condition the use of, or receipt of a benefit from, [its diabetes management system] on the performance of all of Medgraph's method steps." The CAFC thus affirmed the grant of summary judgment of noninfringement of the method claims.
- **Direct infringement of the system claim:** The CAFC affirmed the district court's grant of summary judgment of noninfringement because the district court correctly construed "and" conjunctively according to its plain and ordinary meaning, rather disjunctively as "or." Because the asserted claim requires that the means for receiving and transmitting data

include both computer and telephonic capabilities, and because Medtronic's diabetes management system is not capable of transmitting patient data by telephone, a summary judgment of noninfringement was appropriate.

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