

## Voting Tech Firm Smartmatic Sues OAN, Newsmax

By **Khorri Atkinson**

Law360 (November 3, 2021, 7:34 PM EDT) -- Voting technology provider Smartmatic on Wednesday sued conservative media networks One America News Network and Newsmax Media Inc., accusing them of intentionally peddling election fraud conspiracy theories including unfounded claims that the firm's voting machines rigged votes in favor of President Joe Biden last year.

Represented by Benesch Friedlander Coplan & Aronoff LLP in separate defamation lawsuits, Smartmatic USA Corp. said the networks aired inaccurate reporting and conducted disinformation campaigns that claimed the company participated in a criminal conspiracy to rig and steal the 2020 U.S. election, undercutting their legal and ethical obligations. Smartmatic said the networks' actions have not only caused irreparable damage to the election technology firm's business but that they also contributed to an erosion of the public trust in the U.S. democratic process.

"Smartmatic is a victim of OANN's decision to increase its viewership and influence by spreading disinformation," the company said in its D.C. federal court complaint against the San Diego-based OAN.

While other news organizations informed their viewers that Biden and Vice President Kamala Harris had won the election, the complaint adds that OAN told its audience that the election had been stolen and that voting machines had switched votes cast for then-President Donald Trump to his Democratic rival.

"OANN knew it was not true. OANN had seen no evidence to support the assertion. But OANN chose to spread disinformation," the suit contends.

"The first time it happened could be a mistake. The second, third, fourth and fiftieth times it happened were intentional choices. OANN had every opportunity to do the right thing after the 2020 election for President and Vice President of the United States," Smartmatic said. "It could have reported the truth. Instead, OANN chose to do the wrong thing every time. It reported a lie."

Meanwhile, the case against the West Palm Beach, Florida-based Newsmax was lodged in Delaware Superior Court. According to that complaint, Newsmax allegedly "made the strategic decision to use disinformation about the 2020 U.S. election as a tool in its competition against Fox News," its main rival, which has a similarly politically conservative core audience.

Smartmatic claimed that Newsmax's ratings jumped to almost 10 times its preelection ratings following the election, arguing that the network knew it had no evidence to support what its anchors and guests had been saying about the company.

Representatives for the networks did not immediately reply to requests for comment on the suits on Wednesday.

Wednesday's complaints follow a similar defamation case that Smartmatic **slapped against** Fox News, several of its on-air personalities, and attorneys Rudy Giuliani and Sidney Powell in February. While Smartmatic is demanding \$2.7 billion in that case, the company has not specified the monetary damages it's seeking from OAN and Newsmax.

However, Smartmatic alleged that the election conspiracy theories the networks peddled have cost the company \$2 billion in value. Among other things, Smartmatic is seeking compensatory damages and actual, consequential and special damages in an amount to be determined at trial, as well as

attorney fees.

Smartmatic's suits echoed similar defamation claims made by voting machine company Dominion Voting Systems — which has also been the target of unfounded election conspiracy theories — over last year's presidential contest. Along with FOX, Newsmax and OAN, Dominion has also sued Giuliani, Powell, and MyPillow Inc. and its CEO Mike Lindell.

Smartmatic is represented by J. Erik Connolly, Nicole E. Wrigley, Lauren C. Tortorella, Emily Newhouse Dillingham, Michael J. Barrie, Kate Harmon and Kathryn E. Clausen of Benesch Friedlander Coplan & Aronoff LLP.

Counsel information for the defendants wasn't immediately available Wednesday.

The cases are Smartmatic USA Corp. et al. v. Herring Networks Inc., case number 1:21-cv-02900, in the U.S. District Court for the District of Columbia, and Smartmatic USA Corp. et al. v. Newsmax Media Inc., case number unknown, in the Superior Court of the State of Delaware.

--Editing by Steven Edelstone.

*Update: This article has been updated to include additional counsel information for Smartmatic.*