

## **Motorola, RIM trade lawsuits over patents**

### **Litigation filed after licensing talks sputter**

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Motorola Inc. and the BlackBerry's maker, Research in Motion, sued each other over the weekend for infringing on each other's patents after failing to renegotiate a cross-licensing agreement on certain types of cellular telephone technology.

On Saturday, Schaumburg-based Motorola sued RIM in U.S. District Court in Delaware and in U.S. District Court in the Eastern District of Texas. Also Saturday, Waterloo, Ontario-based RIM sued Motorola in U.S. District Court in the Northern District of Texas.

The litigation marks the first legal dispute between the two companies.

"This matter is significant to Motorola, as RIM is deriving a lot of value out of its use of Motorola's patents," said Motorola spokeswoman Jennifer Erickson. Neither she nor the company's lawsuits specified a monetary amount sought.

Ross Dannenberg, a senior partner at intellectual-property firm Banner & Witcoff, said neither RIM nor Motorola will want their dispute to escalate into a court-ordered halt of sales or service.

"I would expect this case to settle long before it comes to trial, once they come to agreement over the value of their patents," Dannenberg said.

In 2006 a patent dispute threatened to shut down BlackBerry e-mail service. RIM paid \$612.5 million to Virginia-based NTP, a company whose sole asset was its patent portfolio, to settle a multiyear legal battle over patent infringement.

Motorola's suit seeks to have a judge declare that Motorola is not infringing on five of RIM's patents, including two for a hand-held device "with a keyboard optimized for use with the thumbs." The other suit, citing BlackBerry's 8000 series of smart phones, including versions of the Curve and Pearl, claims that the BlackBerry-maker continues to violate seven of Motorola's patents. The suit also names BlackBerry's software that

transmits data between the mobile devices and corporate servers.

RIM's complaint claims that Motorola has infringed on nine patents and that it is trying to extract excessive royalties from RIM for use of Motorola technology.

Motorola spokeswoman Erickson said the company hasn't yet reviewed RIM's lawsuit, "but based on our understanding of the matter, we believe that their claims are entirely without merit and Motorola intends to vigorously defend itself."

RIM executives were not immediately available for comment.

#### Dispute over rates

The dispute apparently stems from a cross-licensing agreement in 2003 that expired at the end of 2007, with the two sides "unable to reach a suitable agreement going forward," Erickson said.

RIM said in its complaint that Motorola is asking for license payments that exceed both the rates of the 2003 deal and the current royalties that RIM pays to owners of similar technology. Moreover, RIM accused Motorola of charging the higher rates because it can't compete with RIM using fair business practices.

"Having suffered losses in the marketplace, Motorola has now resorted to demanding exorbitant royalties," the Canadian company said in its suit.

#### Motorola's share drops

Motorola's share of the global handset market dropped to 12.2 percent in the fourth quarter of 2007, down half from 2006. Last month, the company said it was exploring splitting off the handset unit.

At the beginning of December, RIM said it had 12 million subscribers. According to research firm IDC, the BlackBerry-maker commanded 45 percent of the U.S. market for mobile devices with high-level operating systems in 2007. Motorola, whose main offering in this segment is its Q smart phone, last year had market share of 9 percent.

The two companies also compete in server software. Motorola bolstered its standing in this field with the 2007 acquisition of Good Technology, which makes mobile computing and e-mail technology.