

Visto wins patent case, files against RIM

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A Federal Court ruled Friday in favor of Visto Corporation that Seven Networks' mobile e-mail service had infringed on the company's system created several years back.

Visto now hopes the ruling will validate a similar suit it filed the same day against BlackBerry provider Research In Motion, in which it seeks an injunction to halt the service and monetary damages.

In the U.S. District Court for the Eastern District of Texas, the jury awarded damages of a royalty rate of 19.75 percent from Seven's infringed products' revenue at about \$3.6 million in the ongoing patent litigation.

It found that five claims from three separate patents were willfully infringed by Seven in its Enterprise, Server and Personal Edition products.

"Friday's sweeping decision against Seven Networks validates our claims that Visto's intellectual property serves as the basis for this industry's birth," Visto Chief Executive Officer Brian Bogosian said in a statement. "There was no ambiguity in the jury's decision. Likewise we believe that RIM's infringement of Visto's technology will be halted. Our case against RIM is based on similar technology, law and patents as the case we have just won in federal court against Seven Networks."

The next phase in the court will determine if the claims are enforceable as Visto seeks an injunction to stop Seven from further infringement,

followed by the appeals process.

Visto is looking to the Seven case to confirm patent infringement in its suit against RIM, in which three of the patents in the Seven case are identical to those against RIM. Visto further supports its claim with the validity upheld by the recent re-examination of patent No. 6,085,192 by the United States Patent and Trademark Office.

According to Visto, those patents RIM infringed upon are patent numbers 6,085,192; 6,023,708; 6,708,221; and 6,151,606.

"Based on Visto's sweeping victory in court against Seven Networks on Friday, RIM must understand that there is no place in the mobile e-mail space for this sort of behavior," Bogosian said. "Under the law, which protects consumers from products that contain infringing technology, RIM should not be able to sell the BlackBerry system."

This could mean another legal battle for the Waterloo, Ontario-based company RIM, which just settled a long-running IP litigation with NTP Software in March this year for \$612.5 million.

Visto had signed a license agreement with NTP only in December 2005.

A spokesperson from RIM could not be reached by press time.

The suits are just two of several that Visto has filed that include suits against Microsoft and Good Technology.

But the dispute between Seven and Visto isn't over yet, Seven announced Friday, saying the ruling "did not restrict or prohibit them from continued and normal business."

Filed in August of last year, Seven has a separate and on-going

countersuit against Visto in the same court, claiming infringement of two of its mobile e-mail patents that predate the Visto patents. The trial is set for June 2007.

"We are clearly disappointed with the verdict; however we are grateful for the limited nature of the damages and look forward to the next phase of the litigation and the outcome of the PTO's re-examination proceedings," said Harvey Anderson, Seven's senior vice president corporate affairs and general counsel.

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