Ruling Puts BlackBerry Maker at Crossroads
Patent Settlement Invalidated; Service Could Be Stopped

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The maker of the popular BlackBerry e-mail device is facing a critical decision: Pony up a lot of money to settle a long-term patent dispute or inform most of its 3.65 million U.S. subscribers that it may have to shut off service.

The company, Research in Motion Ltd., was dealt legal blows yesterday when a judge invalidated an earlier settlement with Arlington-based NTP Inc., which holds the patents to the wireless technology. The judge also declined to stay a permanent injunction, which means BlackBerry service could face a shutdown of its operations in coming months.

"This is the end of the line," said Rebecca Arbogast, an analyst with research firm Stifel, Nicolaus & Co. "RIM kept betting that it would get lucky, but they kept losing every time a decision came up. This is about the worst possible outcome for them."

RIM says it is working on a technology work-around that would maintain service, but it has not provided details.

As the company finds itself on the losing side of a four-year court battle that seems to be coming to an end, fear of going dark spread among BlackBerry loyalists who rely heavily on their devices. In a statement, the company pledged to wage arguments against an injunction but said "there can never be an assurance of a favorable outcome in any litigation."

In coming weeks, RIM's fate lies in the hands of Judge James R. Spencer of the U.S. District Court for the Eastern District of Virginia, who will hear the parties' arguments and decide whether to grant NTP an injunction, which could give RIM as little as 30 days to settle the case before service would shut down for U.S.
customers. About 70 percent of the company's subscribers are in
the United States. Service to subscribers in other countries would
not be affected by the ruling.

NTP, which first filed its patent-infringement suit in 2001, has
said it will not cut off service for government and emergency
workers, who make up about 10 percent of RIM's user base. The
Department of Justice has asked for a 90-day grace period to
ensure continued service to government users.

Because Spencer's language in yesterday's decision suggests that
he will issue the injunction, RIM may have to pay about $2
billion in cash and stock to NTP to settle the case and keep the
service turned on, said Pablo Perez-Fernandez, senior analyst
with ThinkEquity Partners LLC, a research and investment firm.
"They don't have much of an option at this point."

In June, RIM and NTP's talks proposing a $450 million settlement
broke down. RIM declined to discuss its willingness to enter new
talks, but NTP attorney James Wallace said, "We would hope
[yesterday's] development would bring them back to the table."

As of August, NTP is also due $210 million in damages from
RIM for patent infringement, a penalty that increases by about $9
million every month, Wallace said.

Since it was introduced in 1998, the BlackBerry has become a
mainstay for executives, Capitol Hill staffers and other
businesspeople whose jobs require them to stay connected to their
e-mail while away from their office computers. The handheld
devices, which are equipped with tiny keyboards that allow users
to send and reply to e-mails by typing with their thumbs, are
priced at about $250 and also require service plans that cost about
$50 per month.

News of the potential injunction forced Peter O'Keefe, a
Washington-based financial and political consultant, to discuss
BlackBerry alternatives with his co-workers yesterday.