

## **New Patent Ruling Places RIM and Its Customers at Risk**

**Ken Dulaney, Monica Basso, Todd Kort, Martin Reynolds**

A new court ruling has dramatically raised the stakes in Research in Motion's (RIM's) legal battle with NTP. Customers should place mission-critical BlackBerry deployments on hold until RIM's legal position is clarified.

## NEWS ANALYSIS

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### Event

On 30 November 2005, a U.S. federal court denied a motion by RIM for a stay of proceedings in the patent infringement suit filed against it by the patent holding company NTP. RIM had requested the stay pending re-examination of NTP's patents by the U.S. Patent Office. The court also ruled that the \$450 million term sheet agreement between RIM and NTP, announced in March 2005, is not enforceable.

### Analysis

This latest court decision has caused Gartner to re-evaluate its long-held position on RIM's struggle with NTP (see "Latest Court Decision Changes Nothing for RIM BlackBerry Users"). The ruling strongly suggests that unless RIM reaches a settlement with NTP, the court will issue an injunction effectively ending RIM's operations in the U.S. (The court appears to be unwilling to wait for the Patent Office to issue a final verdict on NTP's patent claims — a process that, while it might end in RIM's favor, could take years.) Such an injunction would force RIM to shut down its U.S. operations; public safety, governmental operations and government contractors may be exempt. U.S. BlackBerry users would lose messaging services — though BlackBerry telephones would continue to function — and international users would lose message service while traveling in the U.S. International businesses with U.S. operations would also be affected.

Gartner believes RIM and NTP will reach a settlement within three weeks (0.6 probability). Such an agreement would be in both companies' interests, and any long-term negative impact on RIM would likely be minimal. If no settlement is reached, RIM will likely appeal to the U.S. Supreme Court. The company could also implement a planned "work-around" solution that bypasses the disputed patents. This path is also highly problematical, because the details of the work-around remain secret. (RIM will provide information only under a confidential customer agreement.) RIM claims its work-around is legally sound, but its history in the courts does not inspire confidence. Moreover, end-user validation and implementation would take time, resulting in a temporary loss of service.

### Recommendations for current and prospective RIM customers:

- Stop or delay all mission-critical BlackBerry deployments and investments in the platform until RIM's legal position is clarified.
- Demand that RIM's work-around plans be made available — in detail and in public — and carefully review their legal and operational impact. Gartner advises customers not to sign any agreements that could involve them in the RIM/NTP dispute.
- Consider alternative solutions for mission-critical applications, but recognize that these offerings, too, may face the threat of NTP patent infringement claims. (One solution that is probably not subject to possible NTP claims is the use of laptops with wireless cards, which could be implemented quickly and at low cost.) Recognize that alternative solutions could cause transition costs that will be unnecessary if the case is settled. If your applications are not mission-critical, you may choose to take no action as this time, but should still assess the potential impact of operation outages of unknown duration.

**Analytical Sources:** Ken Dulaney, Monica Basso, Todd Kort and Martin Reynolds, Gartner Research

### Recommended Reading and Related Research

- "Magic Quadrant for Enterprise Wireless E-Mail Software, 2H05" — This market has consolidated, leaving only seven vendors of "behind the firewall" software that meet Gartner's criteria for inclusion. **By Monica Basso and Ken Dulaney**
- "Latest Court Decision Changes Nothing for RIM BlackBerry Users" — An earlier twist in the RIM/NTP legal struggle gave enterprises no reason to change their RIM adoption plans at that point. **By Ken Dulaney, Todd Kort and Martin Reynolds**

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