BlackBerry

A Teaching Case for WIPO

by

Intellectual Property Research Institute of Australia (IPRIA)\textsuperscript{1}

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Intellectual Property, Melbourne Law School, and Director, IPRIA.

Executive Summary
This case concerns a dispute between a US inventor and a Canadian
technology company over patent infringement. The technology in question is an
essential part of the BlackBerry communications device and the innovation is the
wireless receipt of e-mail. The resulting legal battle threatened to shut down the
BlackBerry system leaving millions of users, including essential government
employees in the US and elsewhere, without their main communications tool. The
inventor sought compensation for infringement through a company that operated
solely to manage intellectual property. The case raises important issues in the strategic
management of intellectual property.

1. Descriptive Part

1.1. Title:
BlackBerry Case

1.2. Country:
Canada and the United States of America

1.3. Key Words:
Patent, license, infringement, wireless, communications, BlackBerry

1.4. Facts:
The BlackBerry is a tool for communication in the wireless age. The device is
brilliantly designed to allow communications by wireless phone, broadband internet,
SMS, and e-mail using a small device that fits in the palms of one’s hands. Exhibit 1
contains the description of a popular model of the device, the BlackBerry 8800.

The BlackBerry supports multiple wireless network standards, enabling it to
operate seamlessly in many parts of the world. This mobility that the BlackBerry
allows is greatly prized by its end-users, who include senior executives at companies
and high-ranking government officials.

The creator, Research In Motion, Inc. (RIM), also supports third party
developers to enhance the functionality of the BlackBerry system. The BlackBerry is
so popular among Washington DC insiders that departments of the US Government
appealed to a Federal Court Judge to keep the devices operational despite the Judge’s
ruling that, unless an agreement could be made, the system should be shut down
because the technology infringed on another party’s patent rights. Exhibit 2 shows a
timeline of events.
About Research In Motion

Research In Motion (NASDAQ: RIMM) is a design company founded in Canada by a very talented engineer. Started in 1984, the company became highly successful; it counted General Motors as an early customer and won an Academy Award and an Emmy Award for technological innovation in motion pictures. The company’s first generation wireless device was rolled out in 1996, a two-way pager that could be carried in a pocket. In 1998, RIM signed contracts with Canadian and American telecom companies that allowed BlackBerry to carry voice signals. The BlackBerry was rolled out in January 1999. It was a breakthrough product that combined a phone, pager, e-mail, personal organizer, and web browser. It was small enough to hang on a belt and had a convenient little keyboard for typing messages (e.g., see Exhibit 1). The BlackBerry became a very successful product, and by 2007 had more than 8 million users.

RIM has grown over the years into a highly technology-intensive company. In the year 2000, its patent portfolio numbered only 16 issued utility patents. But by the end of 2007, the company had more than 400 utility and design patents issued by the United States Patent and Trademark Office (USPTO). RIM maintains an aggressive patenting, licensing and technology acquisition program.

About NTP

NTP is a patent holding company formed in Arlington, Virginia, in 1992 to manage the patent portfolio of Thomas Campana, Jr. Since his childhood, Mr. Campana had created electronic inventions. He built a company around his innovations in the early 1970s. In the 1980s he focused on wireless pager technology and received around 50 patents for these inventions. However, his company collapsed into bankruptcy in 1991. Mr. Campana partnered with Donald Stout, a Washington DC lawyer and partner in the intellectual property law firm Antonelli, Terry, Stout & Kraus, to create NTP as a vehicle to manage his patent portfolio. Mr. Campana continued to invent and file patents through the 1990s. NTP had no intention or capability to practice his patented inventions. It simply sought royalties through licensing. Its legal team was paid a flat rate plus contingency fees. NTP is a private company with around 20 investors.

History of the Case

In the beginning of 2000, just as the dot-com bubble reached its peak, Mr. Campana and Mr. Stout sent a letter to several companies, including RIM, informing them that they were infringing on NTP’s patents and requesting that they negotiate rights to license NTP’s technology. RIM never acknowledged receipt of the letter. Upon an internal review RIM concluded that they were not infringing and that no response was necessary. This decision to ignore the NTP letter set in motion a legal process that threatened the existence of RIM and BlackBerry. In November, 2001, NTP filed a complaint in US courts that BlackBerry infringed on their patent rights to wireless electronic delivery of mail.

The infringement case went through the legal process for a year. During this time RIM expanded its market from North America through Europe and Asia. It experienced a healthy 33% growth in revenues, nearly doubled the number of BlackBerry subscribers, and aggressively out-licensed its software to developers of complementary technologies. RIM also acknowledged the NTP lawsuit. Buried in note 10 of RIM’s 2002 financial statements (dated March 2, 2002) they report:
“During the current fiscal year, the Company was served with a complaint filed by NTP, Inc. (‘NTP’) alleging that the Company infringes on eight of its patents. Based on information examined to date, the Company believes NTP’s complaint is unsubstantiated.”

RIM continued with business as usual, referring to the infringement case as the “NTP matter”. However, RIM asked the US Patent and Trademark Office (USPTO) for a reexamination of the eight patents, questioning their validity based on prior art (see sidebar). If the patents were found to be invalid, then there was no reason for RIM to pay licensing fees or infringement penalties. This would give RIM freedom to operate, but it would also allow its competitors freedom to operate in this technology space as well.

The NTP infringement suit went to a jury trial in the United States in the second half of 2002. Five of the original eight patents were considered. The first page of one of the litigated patents is shown in Exhibit 3. The most important part of the patent is the Claims section, which defines the invention and thereby delimits the intellectual property owned by the party granted the patent. The first claim of this particular patent is shown in Exhibit 4.

In their defense RIM set up a demonstration of a prior art device and used it in the courtroom. However, during the trial it was determined that the demonstration device used newer technology and was not prior art. It was ruled a deception and the Judge ordered the jury to disregard the demonstration. In November, 2002, a jury in the United States District Court for the

Prior Art

To be entitled to protection by a patent, an invention must satisfy the three requirements of novelty, inventive step (non-obviousness) and utility (industrial applicability).

- An invention is new if it does not exist in the prior art.
- An invention has an inventive step if it is not obvious to a person skilled in the prior art.
- An invention has utility if it has at least one specific, substantial and credible use.

The characteristics of novelty and inventive step are judged against the ‘prior art’. The prior art is all information publicly available anywhere in the world, at the time of filing the application for a patent. Prior art invalidates an invention for lack of novelty if it discloses all features of the invention in clear and unmistakable terms. Prior art invalidates an invention for lack of inventive step if it discloses features from which the invention differs only in obvious ways.

Prior art may also impact the ‘freedom to operate’ of a firm. Freedom to operate is the ability of a firm to conduct its business without infringing on another party’s intellectual property rights.

A search for prior art should be conducted before a company launches a new product or service. Applications for patents, as well as granted patents, are published by Patent Offices, and thus become part of the prior art against which later applications are examined. Other sources of prior art include scientific publications, textbooks, newspapers, lectures, conference papers, demonstrations and exhibitions.

In addition to a purely technological assessment of an invention vis-à-vis the existing technologies, a prior art search can also be conducted using patent mapping techniques. Patent maps are usually graphical representations of either the interaction between one particular patent and related patents, or of a firm’s entire patent portfolio and the patents of other firms. Patent maps are produced by gathering related patent information of a target technology group, analysing the data by different criteria and presenting results using mapping tools such as charts and graphs. Patent maps may be tailored according to specific industries, countries and companies. Patent maps thus allow firms to assess the degree of risk of patent infringement by tracking the patenting activities of their competitors and seeing the potential gaps in the market.

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2 These patents are 5,625,670; 5,631,946; 5,819,172; 6,067,451 and 6,317,592. Patents may be downloaded via the internet at www.uspto.gov
Eastern District of Virginia reached a verdict in favor of NTP. It found RIM in “willful infringement” and the Judge ordered additional damages for the deception during the trial. RIM now owed NTP $53 million. Of this amount, $23.1 million was an assessment on BlackBerry sales and service revenues in the USA with an assumed royalty rate of 5.7%. RIM expensed legal fees amounting to an additional $4.7 million. An injunction was issued against the further sales of BlackBerry products and software, as well as discontinuing service in the USA until RIM placed $20 million in escrow. The USA represented the largest share of the BlackBerry market and RIM might not survive without it. They were betting the company that they could prevail on appeal.

RIM’s 2003 annual report, showing financial performance for the fiscal year ending March 1, 2003, was the first annual report to have an expense line item for ‘Litigation’, showing the company’s current and future expected costs with respect to the ongoing legal fight. As shown in Exhibit 5, Litigation expense was $58 million in 2003, and it increased dramatically over the next few years. The annual report also showed the number of BlackBerry users broke the half million mark (Exhibit 5).

During these first three years of the infringement fight with NTP, research and development expense as a percentage of revenue doubled (Exhibit 5). There was also an increase in intangible assets (acquired technology, patents and licenses) as a percentage of total assets (Exhibit 6). The fallout from the increasingly expensive and potentially disastrous legal fight led to a change in strategy at RIM to more aggressively acquire, protect and enforce its own intellectual property rights.

A few months after the November, 2002 ruling, during a reexamination of the NTP patents, the USPTO found that there existed prior art not considered in the earlier trial. This raised concerns about NTP’s claims of patentability. But then, in May of 2003, the United States District Court for the Eastern District, in Richmond, Virginia, ruled on enhanced compensatory damages and plaintiff’s attorney fees. It ordered RIM to pay NTP $57.3 million in damages for willful infringement and granted an injunction preventing RIM from making or selling BlackBerry products and discontinuing service in the USA. This ruling included an increase in the assumed royalty rate to 8.55% and required ongoing quarterly royalty payments. The injunction was stayed pending an appeal made by RIM to the Court of Appeals for the Federal Circuit.

In June of 2004 Thomas Campana Jr., the co-founder NTP, died after a long struggle with cancer. By the end of the year, BlackBerry users numbered more than two million.

At the end of 2004, the Court of Appeals for the Federal Circuit made a ruling that US patent law covers cases where the infringers are located abroad when the “control and beneficial use” is located within the USA. RIM filed a motion for rehearing “en banc”.

In March of 2005 a settlement was announced. It was reported that RIM would pay NTP $450 million. This amount included a fully paid-up license, and legal fees as well as damages. There would be no ongoing royalties. RIM recorded the acquisition of the license from NTP as an intangible asset valued at $20 million. However, the negotiations were not completed and the two parties reached an impasse. RIM took court action to enforce the terms of the settlement.

In 2005, BlackBerry users numbered more than 3 million. Many of the users were politicians, government employees, emergency service workers and others that

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3 En banc means a hearing with judges only (i.e., with no jury).
relied heavily on their BlackBerry devices for communications. It was noted that during the events of September 11, 2001, when cell phones and other devices failed, BlackBerry devices continued to operate. This versatility and reliance on the BlackBerry prompted the Justice Department to file a legal brief requesting the Federal Court to delay any shutdown that would prevent state and federal government workers from using the devices.

In their efforts to invalidate the NTP patents RIM conducted an extensive search for prior art. In June, RIM sent a letter to NTP announcing that they had discovered, in Trondheim, Norway, a set of technical manuals published by a Norwegian telecom company, Telenor. These documents described a wireless device for e-mail messaging. The manuals were published between 1986 and 1989, before the 1991 filing date of the first of the litigated patents and before Mr. Campana’s admitted invention period of July 1990. This announcement cast doubt on the validity of the claims of the NTP patents. However, the USPTO still had to examine this prior art and make a ruling. That would take time.

On November 30, 2005, the Court ruled that the settlement reached in March of that year, still under negotiation, was unenforceable. According to the Court’s decision,

“The Court finds the parties do not have a valid and enforceable settlement agreement. In accordance with the Memorandum Opinion submitted by the Court under seal, RIM’s Motion to Enforce the Parties’ Settlement Agreement is DENIED.”

This was bad news for RIM. The company was feeling pressure from some industry analysts to settle the case fearing that the final costs order might reach more than $1 billion. RIM wrote-off the license with NTP recording an expense of $18.3 million after amortization.

RIM appealed to the US Supreme Court. The Justices refused to hear the case, denying the petition for a writ of certiorari with no opinion given. The lower court ruling would stand. BlackBerry faced a complete shutdown in the USA. The US Department of Defense filed a brief stating that, due to the large number of government workers using BlackBerry products and services, it was crucial for national security to keep the system operational. At the same time, RIM announced that they had engineered a work-around for the NTP patents and it would be implemented if the Court ordered a shutdown of the BlackBerry service.

Less than a month later, on Friday the 3rd of March, 2006, RIM and NTP announced they had reached a final settlement to the patent dispute. RIM paid NTP $612.5 million. This settlement included a perpetual, paid-up license, as well as legal fees and damages. The settlement covered all patents owned and controlled by NTP. It also granted RIM unfettered rights to continue all business, including BlackBerry operations, and dropped any claim against RIM’s channel partners, suppliers, and customers in relation to RIM products or services. RIM recorded the acquisition of an intangible asset, the NTP license, valued at $20 million. The litigation against RIM by NTP was dismissed, ending the legal battle. Wall Street reaction was very positive. The following Monday morning RIM’s share price opened at $27.05 per share, up

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4 Civil Action Number 3:01CV767-JRS, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA.

5 A writ of certiorari is an order from a superior court to a lower court requesting the court records for review. Court Order 546 U.S. 05-763, UNITED STATES SUPREME COURT.
almost 13% from its Friday close of $23.97. This represents about a $600 million increase in share market value for RIM.
Exhibit 1: Description of a BlackBerry product from Research In Motion.

BlackBerry 8800

OVERVIEW
As stylish as it is powerful, the BlackBerry® 8800 smartphone is designed to let you do your best work from wherever you choose. It gives you phone, e-mail, organizer, web browsing and instant messaging. And then it goes a step further, providing GPS for enhanced access to location based applications and services, including the pre-loaded BlackBerry® Maps application. A media player for your video clips and music. Expandable memory to ensure you’ve got the room you need for your media files. And a high-capacity battery to allow you to make the most of it all.

The BlackBerry 8800 provides Quad-Band network support on 850/900/1800/1900 MHz GSM/GPRS and EDGE* networks to allow for international roaming between North America, Europe and Asia Pacific.

Sleek and performance-driven, it’s the stylish way to get things done.

**Exhibit 2: Timeline of Events**

<table>
<thead>
<tr>
<th>Year, Month</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1986-1989</td>
<td>Publication period for the Telenor technical manuals</td>
</tr>
<tr>
<td>1990, July</td>
<td>Thomas Campana's declared period of invention</td>
</tr>
<tr>
<td>1995, May</td>
<td>Thomas Campana files the first of his patents that are litigated</td>
</tr>
<tr>
<td>1996</td>
<td>Rollout of the first generation wireless device from RIM</td>
</tr>
<tr>
<td>1999</td>
<td>Rollout of BlackBerry</td>
</tr>
<tr>
<td>1999, December</td>
<td>Thomas Campana files the last of his patents that are litigated</td>
</tr>
<tr>
<td>2001, November</td>
<td>NTP files an infringement suit against RIM. RIM requests the USPTO reexamine the patents</td>
</tr>
<tr>
<td>2002, November</td>
<td>NTP wins the jury trial against RIM. RIM appeals</td>
</tr>
<tr>
<td>2003, March</td>
<td>USPTO considers prior art concerns during reexamination</td>
</tr>
<tr>
<td>2003, May</td>
<td>Appeals court rules on enhanced compensatory damages against RIM</td>
</tr>
<tr>
<td>2004, June</td>
<td>Thomas Campana dies</td>
</tr>
<tr>
<td>2005, March</td>
<td>RIM and NTP reach first settlement</td>
</tr>
<tr>
<td>2005, November</td>
<td>The settlement is determined to be unenforceable. RIM appeals to US Supreme Court</td>
</tr>
<tr>
<td>2006, January</td>
<td>US Supreme Court refuses to hear the appeal</td>
</tr>
<tr>
<td>2006, March</td>
<td>NTP and RIM reach the final settlement</td>
</tr>
</tbody>
</table>
Exhibit 3: Front Page of a Litigated NTP Patent

United States Patent

Campana, Jr. et al.

Inventors: Thomas J. Campana, Jr., Chicago; Michael P. Poneschke, Rockport; Gary F. Theilen, Palos Park, all of Ill.


Notice: The term of this patent shall not extend beyond the expiration date of Pat. No. 5,456,960.

Appl. No.: 443,830

Filed: May 18, 1995

Related U.S. Application Data


Field of Search

379/68, 379/75, 379/22, 379/25

References Cited

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1-125049 5/1989 Japan

OTHER PUBLICATIONS


ABSTRACT

A system (100) for transmitting information from one of a plurality of originating processors (A-N) to at least one plurality of destination processors (A-N) which may be transported during operation in accordance with the invention includes at least one gateway switch (14), a gateway switch storing information received from one of the at least one originating processor prior to transmission of the information to at least one destination processor; a RF information transmission network (30), for transmitting stored information received from one of the at least one gateway switch by RF transmission to at least one destination processor; at least one interface switch (304), an interface switch connecting a gateway switch to the RF transmission network and transmitting stored information received from one of the at least one gateway switch to the RF information transmission network; and wherein the information is transmitted to a receiving interface switch by an electronic mail system in response to an address of the receiving interface switch which has been added to the information originated by the originating processor by either the originating processor or gateway switch and the information is transmitted from the receiving interface switch to the RF information transmission network with an address of the destination processor to receive the information which has been added by either the originating processor, a gateway switch or the receiving interface switch.

276 Claims, 12 Drawing Sheets

Accessed from USPTO via Google Patents, 26 March, 2008,
http://www.google.com/patents?id=Yu4bAAAAEBAJ&dq=5,625,670
Exhibit 4: The First Four Claims from the Patent Shown in Exhibit 3
(Patent Number 5,625,670)

What is claimed is:7

1. A system for transmitting information from one of a plurality of originating processors contained in an electronic mail system to at least one of a plurality of destination processors contained in an electronic mail system with the information including originated information originating from one of the plurality of originating processors and being transmitted by an RF information transmission network to at least one of the plurality of destination processors and other originated information originating from one of the originating processors is transmitted with the electronic mail system without using the RF information transmission network to at least one of the destination processors comprising:
   at least one interface, one of the at least one interface connecting the electronic mail system containing the plurality of originating processors to the RF information transmission network; and wherein
   the originated information is transmitted in association with an address of the one interface from the one of the plurality of originating processors to the one interface with the electronic mail system responding to the address of the one interface to direct the originated information from the one of the plurality of originating processors to the one interface; and
   the originated information is transmitted from the one of the at least one interface to the RF information transmission network with an address of the at least one of the plurality of destination processors to receive the originated information being added at the originating processor originating the originated information, or by either the electronic mail system that contains the plurality of originating processors or the one interface.

2. A system in accordance with claim 1 wherein:
   the electronic mail system containing the plurality of destination processors is the same electronic mail system containing the plurality of originating processors.

3. A system in accordance with claim 1 wherein:
   the electronic mail system containing the plurality of destination processors is a different electronic mail system than the electronic mail system containing the plurality of originating processors.

4. A system in accordance with claim 1 wherein the RF information network comprises:
   at least one RF receiver, each RF receiver transferring the originated information to a different one of the plurality of destination processors.

... other claims follow.

Note: This patent contains a total of 276 claims.

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Exhibit 5: Research In Motion Selected Financial Data

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</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
<td>$3,037,103</td>
<td>$2,855,945</td>
<td>$2,150,447</td>
<td>$1,669,418</td>
<td>$994,616</td>
<td>$904,603</td>
<td>$721,327</td>
<td>$84,967</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Gross Margin</strong></td>
<td>$1,857,500</td>
<td>$1,140,247</td>
<td>$714,137</td>
<td>$711,281</td>
<td>$1,094,643</td>
<td>$54,928</td>
<td>$87,476</td>
<td>$38,303</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Research &amp; Development</strong></td>
<td>$230,175</td>
<td>$158,837</td>
<td>$102,690</td>
<td>$62,838</td>
<td>$55,518</td>
<td>$11,614</td>
<td>$8,581</td>
<td>$3,700</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Marketing, Admin</strong></td>
<td>$337,922</td>
<td>$341,337</td>
<td>$193,638</td>
<td>$106,452</td>
<td>$104,376</td>
<td>$43,768</td>
<td>$45,308</td>
<td>$12,904</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Amortization</strong></td>
<td>$72,870</td>
<td>$49,951</td>
<td>$35,941</td>
<td>$27,941</td>
<td>$23,583</td>
<td>$1,803</td>
<td>$8,986</td>
<td>$4,683</td>
<td></td>
<td></td>
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</tr>
<tr>
<td><strong>Litigation expense</strong></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Investment Income</strong></td>
<td>$52,117</td>
<td>$56,718</td>
<td>$37,117</td>
<td>$19,116</td>
<td>$1,428</td>
<td>$25,738</td>
<td>$22,921</td>
<td>$5,968</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Income before income taxes</strong></td>
<td>$659,240</td>
<td>$411,233</td>
<td>$98,173</td>
<td>$77,829</td>
<td>$17,125</td>
<td>$(10,093)</td>
<td>$(33,370)</td>
<td>$(18,506)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Provisions for recovery of income taxes</strong></td>
<td>$227,373</td>
<td>$156,863</td>
<td>$(139,440)</td>
<td>$(4,520)</td>
<td>$31,752</td>
<td>$(9,778)</td>
<td>$9,771</td>
<td>$5,538</td>
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<tr>
<td><strong>Net Income</strong></td>
<td>$631,572</td>
<td>$252,670</td>
<td>$2,513,077</td>
<td>$213,077</td>
<td>$51,028</td>
<td>$(14,657)</td>
<td>$(28,321)</td>
<td>$(3,211)</td>
<td>$10,496</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Number of Blackberry users</strong></td>
<td>8,000,000</td>
<td>4,699,046</td>
<td>2,510,905</td>
<td>1,000,930</td>
<td>514,033</td>
<td>340,068</td>
<td>165,000</td>
<td>165,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Growth of Blackberry users</strong></td>
<td>63%</td>
<td>95%</td>
<td>125%</td>
<td>100%</td>
<td>67%</td>
<td>91%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Revenue growth, year on year</strong></td>
<td>67%</td>
<td>52%</td>
<td>127%</td>
<td>94%</td>
<td>4%</td>
<td>33%</td>
<td>100%</td>
<td>71%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>R&amp;D as % of revenue</strong></td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>11%</td>
<td>13%</td>
<td>13%</td>
<td>0%</td>
<td>9%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Litigation as % of revenue</strong></td>
<td>6%</td>
<td>16%</td>
<td>26%</td>
<td>0%</td>
<td>13%</td>
<td>3%</td>
<td>0%</td>
<td>0%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Litigation expense as % of Net Income</strong></td>
<td>0%</td>
<td>3%</td>
<td>63%</td>
<td>4%</td>
<td>4%</td>
<td>64%</td>
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<tr>
<td><strong>Total Litigation expense</strong></td>
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<tr>
<td><strong>Net-down of NTP Licence</strong></td>
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<tr>
<td><strong>Net Cost of NTP litigation</strong></td>
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<td><strong>Balance Sheet Data</strong></td>
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<tr>
<td><strong>Total Assets</strong></td>
<td>$3,089,749</td>
<td>$2,314,349</td>
<td>$2,380,904</td>
<td>$1,832,378</td>
<td>$811,859</td>
<td>$548,147</td>
<td>$970,063</td>
<td>$307,227</td>
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<tr>
<td><strong>Total Liabilities</strong></td>
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<td>$219,176</td>
<td>$154,826</td>
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<td>$67,130</td>
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<td><strong>Shareholders Equity</strong></td>
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<td>$1,613,102</td>
<td>$657,033</td>
<td>$526,735</td>
<td>$802,933</td>
<td>$311,391</td>
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<tr>
<td><strong>Earnings per share</strong></td>
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<tr>
<td>Basic</td>
<td>$0.41</td>
<td>$0.88</td>
<td>$0.10</td>
<td>$0.64</td>
<td>$0.32</td>
<td>$0.32</td>
<td>$0.22</td>
<td>$0.14</td>
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<tr>
<td>Diluted</td>
<td>$0.31</td>
<td>$0.91</td>
<td>$0.04</td>
<td>$0.62</td>
<td>$0.32</td>
<td>$0.32</td>
<td>$0.22</td>
<td>$0.14</td>
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</table>

Note: ‘Litigation expense’ represents the current and expected costs of the NTP legal matter during the period covered by the appropriate annual report. The RIM fiscal year ends on or about March 1 of each year.

Source: Authors
Data: Research In Motion, Ltd. Annual Reports, 2000-2007
### Exhibit 6: Research In Motion - Intangible Assets Related to Intellectual Property.

#### RIM Intangible Assets value summary

<table>
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<tr>
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<tbody>
<tr>
<td>Total Assets</td>
<td>$3,068,949</td>
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<td>IP related Intangible Assets</td>
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<td>Acquired Technology at cost</td>
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<td>$6,106</td>
<td>$12,264</td>
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<td>46%</td>
<td>-3%</td>
<td>-25%</td>
<td>233%</td>
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<tr>
<td>Licenses at cost</td>
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<td>$86,352</td>
<td>$52,216</td>
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<tr>
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<tr>
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<td>$22,285</td>
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<td>Growth year on year</td>
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<td>-36%</td>
<td>50%</td>
<td>35%</td>
<td>168%</td>
<td>62%</td>
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<td>Patents at cost</td>
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<td>78%</td>
<td>91%</td>
<td>6%</td>
<td>33%</td>
<td>252%</td>
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<td>Total Intangibles at NHB</td>
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<td>$83,340</td>
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<td>$51,479</td>
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<tr>
<td>Growth year on year</td>
<td>81%</td>
<td>3%</td>
<td>30%</td>
<td>20%</td>
<td>222%</td>
<td>100%</td>
<td>91%</td>
<td>100%</td>
</tr>
</tbody>
</table>

*Acquired technology includes all licenses and patents acquired by the Company.

*Licenses include licenses or agreements that the Company has negotiated with third parties upon use of the third party's technology.

*Patents include all costs necessary to record a patent, as well as defense costs when there is perceived infringement by the Company of these patents.

Source: Authors
Data: Research In Motion, Ltd. Annual Reports
2. References:


UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, RICHMOND DIVISION, Case 3:01-cv-00767-JRS Document 422 Filed 11/30/2005.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, RICHMOND DIVISION, Case 3:01-cv-00767-JRS Document 424 Filed 11/30/2005,

UNITED STATES SUPREME COURT, Court Order 546 U.S. 05-763.