

Berry Big Problem

By Reg P. Wydeven
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Last week, President Bush gave the State of the Union address. He talked about the war on terrorism, social security, health care, the budget, and education. Basically, he said the U.S. is in pretty good shape and that things are going well. However, if you ask anyone who works in a government position or in the business world, or anyone else who uses a BlackBerry, they would say the state of the Union isn't so hot.

BlackBerries are hand-held devices that provide wireless email, internet access, and word processing. They also can be used as a cell phone, clock, calculator, date book, and MP3 player. Additionally, they slice, dice and puree.

The technology that fuels BlackBerries is at the center of a legal battle that millions of Americans are following very closely. NTP Inc., a small Virginia firm, owns the U.S. patent to the technology developed by engineer Thomas Campana Jr. and used by BlackBerries to instantaneously transmit data over radio frequencies. In 2001, NTP sued Research In Motion Ltd., the manufacturer of the BlackBerry, for infringing on its patent.

The jury ruled in favor of NTP and awarded the company 5.7 percent of RIM's BlackBerry sales within the U.S. A U.S. District Court judge later increased that rate to 8.55 percent. With over 4 million users, RIM has had to pay NTP over \$200 million and counting for the sale of BlackBerries.

The word through the vine is that RIM is getting a little tired of cutting these checks to NTP, so it appealed this juicy case to the U.S. Supreme Court. RIM appealed, alleging NTP's U.S. patent should not apply because RIM's main relay station for email and data transmission is located in Canada in Waterloo, Ontario, outside of U.S. jurisdiction. It was sour grapes for the BlackBerry manufacturer, though, when the Supreme Court refused to hear its appeal.

Many legal experts now feel the time is ripe for NTP to request that an injunction be imposed against RIM to block its use of NTP's patented technology for BlackBerries. If imposed, President Bush will surely find the Union to be in a state of anarchy.

While the President declared that as a nation we are addicted to oil, that vice can't compare to the death-grip BlackBerries have on their owners. If the BlackBerry BlackOut goes through, the business world and government agencies, not to mention law enforcement and the emergency health care industry, will be in utter turmoil.

Millions of Americans are closely following the case. Obviously, BlackBerry owners are waiting to see if they'll need to buy a new device. Software and hardware technology firms that manufacture products to be used with BlackBerries, such as Intel Corp., the world's largest semiconductor maker, are waiting to see if they have to come up with a new business plan. Intellectual property gurus are waiting to see if the relatively archaic patenting process will evolve to address the age of the Internet and the global marketplace.

RIM has a contingency plan in place that will allow BlackBerries to continue to operate in the event of an injunction. The plan utilizes different software to bridge NTP's patent, however, many experts feel this plan isn't foolproof if the bridge still infringes on another patent. Apparently, RIM's backup-backup plan is a 12-step program for its BlackBerry users.

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