

FILED

JUL 13 2012

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Mformation Techs., Inc.,

NO. C 08-04990 JW

Plaintiff,

THIRD AMENDED VERDICT

v.

Research in Motion Ltd., et al.,

Defendants.

WE THE JURY IN THE ABOVE-ENTITLED
CASE UNANIMOUSLY FIND AS FOLLOWS:

DIRECT INFRINGEMENT BY CUSTOMERS

QUESTION NO. 1

Did Mformation prove by a preponderance of the evidence that on and after
October 27, 2008, RIM enterprise customers directly infringed any of the asserted
claims?

ANSWER: *[Circle one]*

Yes

No

[Proceed to Question 2.]

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1 **QUESTION NO. 2**

2 Do you find that the process used by RIM enterprise customers practice the
 3 following steps or sub-steps of Claim 1 of the '917 Patent?

4 *[Circle "Yes" or "No."]*

Claims	Steps	Findings	
Claim 1.	"transmitting registration information"	Yes	No
	"verifying the registration information"	Yes	No
	["without a request from the wireless device"]	Yes	No
	"establishing a mailbox"		
	["without a request from the wireless device"]	Yes	No
	"placing a command"		
	["without a request from the wireless device"]		
	"delivering the command by"		
	["without a request from the wireless device"]	Yes	No
	Sub-step A: "establishing a connection" ["with the connection established based on a threshold condition"]		
	["without a request from the wireless device"]	Yes	No
	Sub-step B: "transmitting the contents of the mailbox"		
	Sub-step C: "accepting the contents"	Yes	No
	"executing the command"	Yes	No

21 *[If you answered "Yes" to all of the steps or sub-steps listed in Question No. 2,*
 22 *proceed to Question No. 3. If you answered "No" to any of the steps or sub-steps,*
 23 *proceed to Question No. 11.]*

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QUESTION NO. 3

As to each dependent claim, please indicate which Claim or Claims you find are directly infringed by RIM enterprise customers.

[Circle "Yes" or "No."]

Claims	Findings	
Claim 6	<input checked="" type="radio"/> Yes	<input type="radio"/> No
Claim 21	<input checked="" type="radio"/> Yes	<input type="radio"/> No
Claim 22	<input checked="" type="radio"/> Yes	<input type="radio"/> No
Claim 23	<input checked="" type="radio"/> Yes	<input type="radio"/> No
Claim 24	<input checked="" type="radio"/> Yes	<input type="radio"/> No
Claim 25	<input checked="" type="radio"/> Yes	<input type="radio"/> No
Claim 27	<input checked="" type="radio"/> Yes	<input type="radio"/> No

[Proceed to the next Question.]

CONTRIBUTORY INFRINGEMENT

QUESTION NO. 4

Did Mformation prove by a preponderance of the evidence that on and after October 27, 2008, RIM manufactured and sold Blackberry Enterprise Server software and Blackberry wireless devices to one or more enterprise customers in the United States or imported and sold those products to one or more enterprise customers in the United States?

ANSWER: *[Circle one]*

Yes

No

[If you answered "Yes," proceed to the next Question. If you answered "No," proceed to Question No. 8.]

1 **QUESTION NO. 5**

2 Did Mformation prove by a preponderance of the evidence that the products
3 supplied by RIM contained important components used in the infringing process?

4 ANSWER: [Circle one]

5 **Yes** **No**

6 [If you answer "Yes," proceed to the next Question. If you answered "No," proceed
7 to Question No. 8.]

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9 **QUESTION NO. 6**

10 Did Mformation prove by a preponderance of the evidence that those
11 components supplied by RIM are not common components suitable for non-
12 infringing use?

13 ANSWER: [Circle one]

14 **Yes** **No**

15 [If you answered "Yes," proceed to the next Question. If you answered "No,"
16 proceed to Question No. 8.]

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18 **QUESTION NO. 7**

19 Did Mformation prove by a preponderance of the evidence that RIM supplied
20 the components with knowledge of the '917 Patent and knowledge that the
21 components were especially made or adapted for use in an infringing manner?

22 ANSWER: [Circle one]

23 **Yes** **No**

24 [Proceed to the next Question.]

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INDUCING INFRINGEMENT

QUESTION NO. 8

Did Mformation prove by a preponderance of the evidence that RIM intentionally took an action or series of actions that actually induced the direct infringement by the other company?

ANSWER: [Circle one]

Yes No

[If you answered "Yes," proceed to the next Question. If you answered "No," proceed to Question 11.]

QUESTION NO. 9

Did Mformation prove by a preponderance of the evidence that at the time it acted, RIM was aware of the '917 Patent?

ANSWER: [Circle one]

Yes No

[If you answered "Yes," proceed to the next Question. If you answered "No," proceed to Question 11.]

QUESTION NO. 10

Did Mformation prove by a preponderance of the evidence that RIM knew or should have known that its actions would cause direct infringement by the other company?

ANSWER: [Circle one]

Yes No

[Proceed to Question 11.]

DEFENSES

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QUESTION NO. 11

Did Mformation prove by a preponderance of the evidence that the provisional application filed on December 5, 2000 disclosed every limitation of Claim 1 of the '917 Patent?

ANSWER: *[Circle one]*

Yes **No**

[If you answered "Yes," proceed to the next Question. If you answered "No," proceed to Question No. 13.]

QUESTION NO. 12

Did RIM prove by clear and convincing evidence that the provisional application did not disclose every limitation of Claim 1 of the '917 Patent?

ANSWER: *[Circle one]*

Yes **No**

[If you answered "Yes," proceed to the next Question. If you answered "No," proceed to Question No. 14.]

QUESTION NO. 13

Did RIM prove by clear and convincing evidence that Mformation publicly demonstrated a prototype on July 24, 2000, that included every element of Claim 1 of the '917 Patent?

ANSWER: *[Circle one]*

Yes **No**

[Proceed to the next Question.]

1 **QUESTION NO. 14**

2 What was the level of ordinary skill in the field that someone would have had
3 at the time the claimed invention was made?

4 *[Please check one]*

5 Mformation's contention

6 RIM's contention

7 *[Proceed to the next Question.]*

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9 **QUESTION NO. 15**

10 What was the scope and content of the prior art at the time of the claimed
11 invention?

12 *[Please check one]*

13 Mformation's contention

14 RIM's contention

15 *[Proceed to the next Question.]*

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17 **QUESTION NO. 16**

18 What difference, if any, existed between the claimed invention and the prior art
19 at the time of the claimed invention?

20 *[Please check one]*

21 Mformation's contention

22 RIM's contention

23 *[Proceed to the next Question.]*
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1 **QUESTION NO. 17**

2 Which of the following factors has been established by the evidence with
3 respect to the claimed invention: *(check those that apply)*

- 4 Commercial success of a product due to the merits of the claimed
5 invention;
- 6 A long felt need for the solution provided by the claimed invention;
- 7 Unsuccessful attempts by others to find the solution provided by the
8 claimed invention;
- 9 Copying of the claimed invention by others;
- 10 Unexpected and superior results from the claimed invention;
- 11 Acceptance by others of the claimed invention as shown by praise from
12 others in the field or from the licensing of the claimed invention;
- 13 Other evidence tending to show nonobviousness;
- 14 Independent invention of the claimed invention by others before or at
15 about the same time as the named inventor thought of it, and;
- 16 Other evidence tending to show obviousness.

17 *[Proceed to the next Question.]*

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QUESTION NO. 18

With respect to Claims 1, 6, and 21-25, did RIM prove by clear and convincing evidence that all of the requirements of the '917 Patent existed in the use of a single system or method that predates the claimed invention or were described in a single previous publication or patent that predates the effective date by more than one year the claimed invention?

[Circle "Yes" or "No."]

Claims	Findings	
Claim 1	Yes	<input checked="" type="radio"/> No
Claim 6	Yes	<input checked="" type="radio"/> No
Claim 21	<input checked="" type="radio"/> Yes	No
Claim 22	<input checked="" type="radio"/> Yes	No
Claim 23	<input checked="" type="radio"/> Yes	No
Claim 24	<input checked="" type="radio"/> Yes	No
Claim 25	<input checked="" type="radio"/> Yes	No

[If you answered "No" to any Claim, proceed to the next Question. If you answered "Yes" to each Claim, have your Presiding Juror date and sign this verdict form and send out a note that you have reached a verdict.]

DAMAGES

[If you have answered "Yes" to Question 1 and answered "Yes" for each step and sub-steps of Question 2, and "Yes" to either each of Questions 4-7 or "Yes" to each of Questions 8-10 and "No" to both Questions 13 and 18, proceed to Questions 19 and 20.]

QUESTION NO. 19

What rate for the reasonable royalty per unit sold did Mformation prove with reasonable certainty?

\$ 8.00 rate per unit

QUESTION NO. 20

For how many units did Mformation prove with reasonable certainty that it is entitled to the rate established above?

10.4M number of units

Total: \$ 147.2M

(multiply the rate per unit by the number of units)

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1 [COMPLETION OF THE VERDICT FORM: After you have all agreed to the
2 answers contained on this Verdict form, the Presiding Juror is instructed to indicate
3 your decision on this form. The Presiding Juror is instructed to date and sign this
4 form and send out a note that the jury has reached a verdict. The Presiding Juror is
5 instructed to place the completed Verdict Form in the special folder provided to you
6 and to bring it into the Courtroom.]

7
8 DATED: 7/13/2012 Theresa H. Lowe Chan

9 Signature of Presiding Juror

10 Theresa H. Lowe Chan

11 Print Name of Presiding Juror

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