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MTN, Standard Bank lose patent war

By Nicola Mawson, ITWeb deputy news editor.
Johannesburg, 3 Sep 2012

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3MFuture Africa's court win paves the way for it to sell its mobile money solution.

A two-year court battle over a mobile money patent has been settled in favour of a Cape Town-based technology firm, 3MFuture Africa.

3MFuture Africa took blue-chip giants Standard Bank and MTN to court over an alleged infringement of its payment card security technology patent. The locally-developed innovation allows users to switch payment cards on and off with their cellphones, and aims to eliminate the problems of card cloning, skimming and theft.

On Friday, the Court of the Commissioner of Patents ruled that Standard Bank and MTN had infringed 3MFuture Africa's payment functionality patent.

Justice Tati Makgoka found the technology was used by Standard Bank and MTN in their MTN Mobile Money Solutions joint venture until 13 January this year, when the on/off functionality was disabled, says a 3MFuture Africa statement.

3MFuture Africa had initially claimed for all 25 parts of its patent, but dropped the rest in favour of the on/off functionality in a bid to speed up the process. It now has a month to amend its patent to reflect only the on/off feature, otherwise Standard Bank and MTN's counterclaim to have the patent revoked – which was conditionally granted – will come into force.

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Wolfram Reiners, director of 3MFuture Africa and co-inventor, tells ITWeb that the innovation allows people to turn credit cards on for use to shop online or on their phone, and the cards are then automatically disabled after the transaction.

"This technology has the potential to virtually wipe out payment card fraud, by putting complete control over the card into the hands of its holder. 3MFuture Africa looks forward to helping make transactional banking a lot more secure."

Reiners says the company is now able to take its technology to the marketplace, and find suitable partners to implement it after it was unable to sell it to anyone else because it had been implemented by Standard Bank and MTN.

3MFuture Africa will now seek a court-sanctioned discovery process to uncover how much money was made off its innovation in a bid to secure damages, says Reiners. He would not speculate on the amounts involved, but two years ago said the claim could be between R500 million and R1 billion.

Reiners says 3MFuture Africa was up against large corporates with deep pockets that can stretch out

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litigation for years. "We were forced to find guarantees running into millions of rands before we could even consider going to court; there was a long and expensive discovery process, and this trial ran well over the original two weeks set aside due to delays at the hands of the respondents."

Endless talks

The court heard that, in more than 30 meetings and workshops during the course of a year, Standard Bank was able to learn everything about 3MFuture Africa's innovation. 3MFuture Africa was subsequently told that the bank did not want the technology – which then became a component of the MTN Mobile Money offering.

Reiners told ITWeb in 2010 that, early in 2001, Standard Bank asked it to produce a payment system that would allow secured credit card transactions. The technology itself was only granted the patent in 2003.

Reiners said Standard Bank requested a full proposal for the technology after several discussions, with several departments. "After we sent the proposal, we didn't hear from them again," he said in 2010.

Prior to discussions with Standard Bank, Reiners had been in discussions with Absa, another of SA's big four banks. MTN and Standard Bank later entered into a partnership and released the Mobile Money product in 2005, after which Reiners decided to take the issue to court based on legal advice.

Standard Bank says it is pleased that 3MFuture Africa's patent has been provisionally revoked, which will become final unless 3MFuture Africa applies to amend the patent within one month.

The bank says it is disappointed by the finding that some of the claims of 3MFuture Africa's patent were infringed. The full written judgment will be handed down on 11 September.

MTN did not immediately respond to a request for comment.

Standard Bank, MTN Group and MTN Mobile Money SA have to pay 3MFuture Africa's costs, while 3MFuture Africa was ordered to pay the defendants' costs, including counsel.

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