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MTN, Standard lose landmark case

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Cape Town-based technology firm 3MFuture Africa is celebrating a landmark judgment in its favour, in the patent infringement lawsuit it brought against blue-chip giants Standard Bank and MTN.

The Patent Court in Pretoria today ruled that Standard Bank and MTN had infringed 3MFuture Africa's world-beating payment card security technology patent, a locally-developed innovation that allows users to switch their payment cards on and off with their cellphones – thereby eliminating the problems of card cloning, skimming and theft.

Justice Tati Makgoka found that the technology was used by Standard Bank and MTN in their MTN Mobile Money Solutions (Pty) Ltd joint venture until 13 January this year, when the on/off functionality was disabled. All three entities were defendants in this matter.

The court had heard that in more than 30 meetings and workshops during the course of a year, Standard Bank was able to learn everything about the 3MFuture Africa innovation. 3MFuture Africa was then told that the bank was uninterested in the technology – which then became an important component of the MTN Mobile Money (Pty) Ltd offering.

Judge Makgoka also granted the defendants a counterclaim and provisionally revoked the patent, giving the plaintiff a month to file an application to amend the patent. If the application is granted, the counterclaim and provisional revocation will fall away.

For Dr Wolfram Reiners, director of 3MFuture Africa and co-inventor of the patented technology, the judgment handed down today caps several years' worth of struggling to obtain justice. It is a vindication of his company's assertion that its rights had been infringed – and sends a clear message to the business world to respect others' intellectual property rights.

“Our case was not as rare as one would think. Large corporates misappropriate the intellectual property of smaller companies on a regular basis, comfortable in the knowledge that they have deeper pockets, and can stretch out any litigation until the smaller company either gives up the fight or goes under,” he says.

“And that was the tack this time as well. 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.

“We have proved that South African patent law does work to protect companies' intellectual property rights, albeit at great financial cost,” says Reiners.

According to Reiners, smaller companies should always take precautionary steps to protect their intellectual property – such as patenting innovations – before approaching other companies with business propositions.

“If nothing else, this matter illustrates perfectly why it is critical to protect what is often a great financial and personal investment in your business. Had we not patented our payment card security technology, we would not have been able to successfully fight this case,” he says.

Today's court victory now allows 3MFuture Africa to once again take its technology into the marketplace, and find suitable partners to implement it.

“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. It is a great shame that millions of consumers have until now largely been deprived of its great benefits, but 3MFuture Africa looks forward to helping make transactional banking a lot more secure,” Reiners adds.

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