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Standard Bank, MTN lose major mobile money patent trial



By Nur Bremmen: Staff reporter

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Banking and mobile giants Standard Bank and MTN Mobile have lost a major mobile patent trial to tech company 3MFuture Africa.

A patent court in the South African capital of Pretoria ruled that Standard Bank and MTN had infringed on the Cape Town-based 3MFuture Africa's payment card security technology patent, which that allows users to switch their payment cards on and off with their cellphones. 3MFuture claims that the technology eliminates the problems of card cloning, skimming and theft.

The presiding judge Mr Justice Tati Makgoka found that 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.

During the case, it was alleged that Standard Bank had found out everything it needed to about 3MFuture's technology before claiming that it was no longer interested in a partnership.

Dr Wolfram Reiners, director of 3MFuture Africa and co-inventor of the patented technology, is treating the ruling as victory for the little guy:

"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.

Standard Bank issued the following response to the ruling:

We are pleased with the finding that the Plaintiff's patent has been provisionally revoked, such revocation to become final unless the Plaintiff applies to amend the patent within one month. We are, however, disappointed by the finding that some of the claims of the Plaintiff's patent have been infringed.

It also stressed that "The defendant's counterclaim was granted but only provisionally and will become fully operative if 3M does not succeed in amending their patent".

During the case, MTN counsel Philip Ginsburg told the court that the claims made by 3MFuture Africa

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Claims related to computer programmes are not valid claims. If the court find that claims for computer programmes are not a subject matter for patentability, questions arise whether the court can grant any relief. We contend that your lordship cannot grant any relief on the patent specification as it stands."

The written judgment will be handed down on 11 September 2012.

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