

RIM to appeal court payout ruling

Stock expected to drop after judge adds \$8.9-million to patent infringement tab

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Research In Motion Ltd. says it will appeal a U.S. district court's decision to increase the amount a jury previously awarded **NTP Inc.**, which sued the maker of BlackBerry wireless e-mail devices for patent infringement.

"As the case remains before the court, it would be inappropriate for me to speculate or elaborate further at this time," RIM vice-president Mark Guibert said in an e-mail message yesterday. "But, as previously indicated, I can confirm that we still plan to file an appeal at the appropriate time."



On Friday, Judge James Spencer of the U.S. District Court for the Eastern District of Virginia ordered Waterloo, Ont.-based RIM to pay about \$8.9-million (U.S.) in addition to \$23.1-million that a jury awarded Arlington, Va.-based NTP in November, said NTP's lawyer, James Wallace.

RIM must also pay 8.55 per cent of all BlackBerry device sales after the November verdict date and pay 80 per cent or about \$5-million of NTP's legal fees, Mr. Wallace said.

Analysts say RIM shares will likely take a hit today because of the ruling. "The stock's definitely going to come under pressure," said Howard Lis, a senior technology analyst at Griffiths McBurney & Partners. "There's no question."

The court decision is a setback for RIM and its stock, particularly after a ratings upgrade by Lehman Brothers Inc. lifted the stock Friday to a 52-week high. It closed at \$27.40 (Canadian) on the Toronto Stock Exchange and \$20.45 (U.S.) on the Nasdaq Stock Market.

"This is going to again put the issue front and centre in investors' minds, and it'll probably be pretty volatile," Mr. Lis said.

The fact that U.S. markets are closed today for Memorial Day may help RIM, he added. "It probably won't be as volatile as it would be if Nasdaq was opened as well."

Another analyst, who declined to be named, said investors may view the extra damages that RIM must pay as a "slight negative" because the judge could have tripled the jury's award. "My guess is RIM opens a bit lower," he said.

NTP, which holds patents belonging to Illinois inventor Thomas J. Campana Jr., sued RIM 2½ years ago, alleging BlackBerry devices infringe on its patent for wireless communications in electronic mail systems.

A seven-member jury found that RIM had infringed on five of NTP's patents and that the infringement was willful. It awarded the company \$23.1-million in damages last November. The judge ruled Friday on the jury's verdict and other post-trial motions after mediation talks between the two companies broke down last month.

Judge Spencer still must decide whether to grant an injunction to block future sales of BlackBerry devices in the United States. Mr. Wallace said he expects that ruling will be made in two weeks or so.

RIM has already recorded a provision of \$39.5-million related to the NTP lawsuit for fiscal 2003, which ended March 1, but has said it may have to adjust that amount depending on the final rulings and potential appeals.

From now on, RIM said it will record an incremental provision for compensatory damages with respect to the NTP lawsuit and post-judgment interest of between \$3-million and \$4-million each quarter.



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