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Fox Sports, NeuLion Hit With IP Suits Over Web Simulations

By **Keith Goldberg**

Law360, New York (October 27, 2011, 9:04 PM ET) -- DDB Technologies LLC launched suits against News Corp. unit Fox Sports Interactive Media LLC and NeuLion Inc. in Texas federal court Thursday, alleging the companies infringed its patented method for producing online simulations of live sport broadcasts.

They're the latest in a string of suits DDB has filed against media and sports companies alleging they infringed U.S. Patent Numbers 5,526,479; 5,671,347; and 6,204,862 — all titled "Method and apparatus for broadcasting live events to another location and producing a computer simulation of the events at that location" — and U.S. Patent Number 7,373,587, titled "Representing subevents with physical exertion actions."

Starting in the 1980s and continuing through the early 1990s, inventors Daniel and David Barstow put together a method and apparatus for providing remote viewers simulations of live sporting events, according to the latest complaints. All of the technology required to produce such simulations is embodied in the four asserted patents, the complaints say.

In the late 1990s, David Barstow met with representatives of Fox Sports and drafted an agreement that specifically referred to at least one of DDB's patents, according to the Fox complaint. Between 2000 and 2003, DDB met with Fox Sports about its potential interest in purchasing or licensing at least one of the patents. However, Fox Sports informed DDB that it wasn't interested, the complaint said.

Fox Sports is infringing DDB's patents by providing simulations of live sporting events through the GameTrax feature on its website, msn.foxsports.com, DDB's suit claims.

NeuLion is infringing the patents by making and selling simulations of live sporting events, such as its Live Stats product, to client websites, according to DDB.

A representative for Fox Sports couldn't immediately be reached for comment Thursday. NeuLion declined comment.

DDB has launched and settled infringement suits with media and sports heavyweights like ESPN Inc., AOL Inc., Yahoo Inc., the National Football League, the National Basketball Association and the National Hockey League. DDB also dropped suits against Time Inc. and PGA Tour Inc. after the companies signed settlement and licensing agreements.

In March 2010, DDB scored a win in a long-running suit against Major League Baseball. MLB Advanced Media LP had tried and failed to argue that the patents belonged to Schlumberger Technology Corp., which formerly employed DDB's president. MLB agreed to license the patents-in-suit.

Michael Gannon of McDonnell Boehnen Hulbert & Berghoff LLP, an attorney for DDB, said that all David Barstow had wanted to do was market and grow his technology, and that Barstow has always been open to exploring relationships with any company that would use the technology.

"He's happy that his technology has proliferated on all of these sports websites, but he would ultimately like to enter into license deals with all of these entities," Gannon told Law360. "What's

happened in the past is that not all companies have been receptive to licensing agreements, meaning my client has had to seek redress in the courts."

The patents-in-suit are U.S. Patent Numbers 5,526,479; 5,671,347; 6,204,862; and 7,373,587.

DDB is represented by James G. Ruiz of Winstead PC and Michael D. Gannon, Leif R. Sigmond Jr., Rory P. Shea, Paul A. Kafadar and John D. Smith of McDonnell Boehnen Hulbert & Berghoff LLP.

Counsel information was not immediately available for Fox Sports and NeuLion.

The cases are DDB Technologies LLC v. Fox Sports Interactive Media LLC and DDB Technologies LLC v. NeuLion Inc., case numbers 1:11-cv-00929 and 1:11-cv-00931, in the U.S. District Court for the Western District of Texas.

--Additional reporting by Roxanne Palmer. Editing by Kat Laskowski.

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