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Time Sued Over Online Sportcast Patents

By **Richard Vanderford**

Law360, New York (June 16, 2010) -- DDB Technologies LLC has accused Time Inc. of infringing four patents by showing simulations of sports matches on its Sports Illustrated website, the latest suit in the patent-holding company's bevy of litigation against major players in sports media.

Austin, Texas-based DDB filed its latest complaint Monday in the U.S. District Court for the Western District of Texas, alleging Time willfully infringed the patents-in-suit after licensing talks broke down.

Since the beginning of April, the plaintiff has filed suit against a slew of media and sports entities, including AOL Inc., Yahoo Inc., ESPN Inc., the NFL, the NBA and the NHL.

The current suit asserts four patents issued between 1996 and 2008 that cover simulated broadcasting of live sports. All were invented by DDB President David Barstow, a computer scientist with a doctorate from Stanford University, according to the complaint.

The suit targets a Sports Illustrated webcasting service called Game Flash, which lets users watch a simulation of live sporting events.

DDB made two attempts to license its technology for use by Sports Illustrated, according to the complaint.

Representatives for a DDB predecessor, Instant Sports, offered in 1997 to sell CNN and Sports Illustrated the technology covered by the patents, but they ultimately declined, the plaintiff alleges.

And in 2003, DDB approached Time and Sports Illustrated and proposed they buy a nonexclusive license for the patents, the suit states. Time had not responded by 2004, and DDB assumed the media company was not interested, it says.

Despite DDB's efforts to sell the technology or license its patents, Time nonetheless launched its Game Flash service without making any deal, DDB argues. The infringement there is "willful and wanton," it says.

The suit seeks no less than a reasonable royalty as damages, as well as treble damages for willful infringement. The plaintiff also wants Time to turn over the infringing "products and systems in its possession" so DDB can destroy them.

DDB's recent spate of lawsuits follows its 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 in March.

Several more suits from DDB against the sports industry are on the horizon, said Michael D. Gannon of McDonnell Boehnen Hulbert & Berghoff LLP, an attorney for the company.

"[This suit] is not the last one and there will be more," Gannon told Law360. Gannon declined to name his prospective targets.

A spokeswoman for Time declined to comment.

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

DDB is represented by Winstead PC and McDonnell Boehnen Hulbert & Berghoff LLP.

Counsel information for Time was not immediately available.

The case is DDB Technologies LLC v. Time Inc., case number 10-cv-428, in the U.S. District Court for the Western District of Texas.

--Additional reporting by Samuel Howard

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