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RIM co-CEO says Visto litigation "brazen strategy"

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By Sue Thomas

TORONTO (Reuters) - Research In Motion's co-CEO said on Tuesday that a company suing it for patent infringement is using a "brazen strategy," and downplayed worries that its business will be hit less than two months after the BlackBerry maker settled a similar lawsuit.

"These issues happen, and you have to deal with them, but they don't take one fiber away from your focus," Jim Balsillie, co-chief executive of Waterloo, Ontario-based RIM, told reporters after giving a speech in Toronto.

On Monday, Visto Corp., a closely held wireless e-mail firm, said it had filed a lawsuit in the United States claiming RIM had infringed four of its patents, and is seeking to bar it from selling its BlackBerry device and e-mail service in the United States.

RIM recently settled a similar lawsuit, agreeing in early March to pay U.S.-based patent company NTP Inc. \$612.5 million to resolve a four-year dispute that took a toll on its bottom line and resulted in customers delaying buying BlackBerrys.

California-based Visto is currently suing six companies for patent infringement, including Microsoft and RIM, whose BlackBerry handheld e-mail device has been popularized by executives typing e-mails with their thumbs while on the go.

"I don't think we're an easy target. We're the sixth of six, who knows who's going to be next," Balsillie said.

"This is a company who is clearly targeting everybody in its space to file suits...It's a brazen strategy to sue absolutely everybody, including the most valuable company in the world."

Analysts downplayed the potential impact the latest lawsuit will have on RIM, pointing to market talk that Visto's operations are losing money and the company is seeking instead to extract awards for its intellectual property.

"In the end we believe RIM can win this battle," said Scotia Capital analyst Gus Papageorgiou. "Visto is spreading itself quite thin going up against well-financed opponents such as RIM and Microsoft, in addition to a handful of smaller companies. We view Visto's actions as desperate."

RIM's share price rose 96 Canadian cents to close at C\$82.36 on the Toronto Stock Exchange on Tuesday, after losing almost 5 percent on Monday after news of the lawsuit emerged. On Nasdaq, it closed up about 2 percent at \$74.44.

Visto filed its lawsuit against RIM on the same day and in the same place, the Eastern District of Texas, where a jury found in favor of Visto in a long-running intellectual property lawsuit with rival Seven Networks Inc.

"The Eastern District of Texas is an excellent jurisdiction for a patent plaintiff to be in. It's probably the most plaintiff-friendly jurisdiction in the country," Steven Lieberman, a partner at Washington-based IP law firm Rothwell, Figg, Ernst & Manbeck, told Reuters in an interview.

"In excess of 80 percent of cases that go to trial in the Eastern District of Texas are decided in favor of the plaintiff. So, at least at the trial level, Visto would appear to have a high chance of success."

Lieberman said successful technology companies have always been the targets of patent-infringement lawsuits, but the trend has been exacerbated "by the fact that there are entities out there that are buying patents and looking for potential infringers."

It's a subject that Balsillie has been passionate about since the NTP case.

"I personally think that IP reform may be the most important economic policy issue of our time, because...it has a dramatic impact on innovation, commercialization, it touches on so many things," he said on Tuesday. "I never thought I'd become an IPR policy expert, but there goes life's path."

(\$1=\$1.11 Canadian)