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## DDB Tech Hits ESPN With Patent Suit Over GameCast

By **Megan Stride**

Law360, New York (April 09, 2010) -- Patent-holding company DDB Technologies LLC has sued ESPN Inc., alleging that the sports broadcaster has infringed four patents with its GameCast service and other live game simulation features on its Web site.

ESPN provides game simulation products that "embody the inventions set forth" in DDB's patents, despite being aware of the patents' existence, according to a complaint filed Thursday in the U.S. District Court for the Western District of Texas.

Representatives for the cable network could not be reached for comment Friday.

ESPN began providing its infringing products, which allow users to watch simulations of live sporting events like baseball, football and basketball games over the Internet, shortly after DDB President David R. Barstow met with channel representatives to discuss the patented technology in the 1990s, according to the complaint.

The defendant has known about the patents, which were issued between 1996 and 2008, since at least 1997, but has continued to use the protected technology to offer its products, DDB claims.

DDB reignited its correspondence with ESPN around 2000 to offer terms for a nonexclusive license to the patented technology that the sports broadcaster was using, the complaint argues, but those negotiations fell through when the broadcaster stopped responding to the plaintiff's attempts to discuss a license.

The suit is seeking a court order requiring ESPN to hand over all of its infringing products to DDB and enjoining the network from future infringement. It is also seeking compensatory damages and attorneys' fees.

Austin-based DDB filed a similar suit against MLB Advanced Media in 2004, claiming that the company's baseball game simulations infringed four of its patents, three of which are asserted in the current suit. After a judge declined to dismiss DDB's claims, the two companies reached a nonexclusive licensing agreement in March.

Michael Gannon of McDonnell Boehnen Hulbert & Berghoff LLP, who represents DDB, said his client hoped for a comparable outcome in its suit against ESPN.

"We believe that ESPN's product falls squarely within the scope of these patents," Gannon said Friday. "We're hoping ESPN steps up to the plate and acknowledges these patents by taking the license agreement, just like MLB Advanced Media has done. That's really what DDB is seeking."

"If ESPN doesn't want to do that," Gannon continued, "DDB is prepared to go forward and enforce its patents in court."

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 McDonnell Boehnen Hulbert & Berghoff LLP.

Counsel information for ESPN was not immediately available.

The case is DDB Technologies LLC v. ESPN Inc., case number 1:10-cv-00246, in the U.S. District Court for the Western District of Texas.

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