

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CHARLES C. FREENY III, BRYAN E.
FREENY, and JAMES P. FREENY,

Plaintiffs,

v.

BROTHER INTERNATIONAL
CORPORATION,

Defendant.

Case No. 2:17-cv-00183-JRG-RSP

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Charles C. Freeny III, Bryan E. Freeny, and James P. Freeny (collectively “Plaintiffs”), for their First Amended Complaint against Defendant Brother International Corporation, hereby allege as follows:

THE PARTIES

1. Plaintiff Charles C. Freeny III is an individual residing in Flower Mound, Texas.
2. Plaintiff Bryan E. Freeny is an individual residing in Ft. Worth, Texas.
3. Plaintiff James P. Freeny is an individual residing in Spring, Texas.
4. On information and belief, Defendant Brother International Corporation (“Brother”) is a corporation duly organized and existing under the laws of the State of Delaware, having its principal place of business at 200 Crossing Boulevard, Bridgewater, New Jersey 08807.
5. On information and belief, Brother has a number of authorized dealers and service companies within this judicial district. As advertised on Brother’s website at

<http://www.brother-usa.com/service/> and <http://www.brother-usa.com/HomeSewing/DealerLocator.aspx>, these authorized dealers and service companies

include at least the following companies located within this judicial district:

- Arista Business Equipment Inc., 4200 Republic Drive, Tyler, TX 75701;
- Advanced Business Equipment, 106 West Broad St., Texarkana, TX 75501;
- DP Solutions, 1508 S. First St., Lufkin, TX 75901;
- SSC Sewing Machine LLC, 112A Johnston St., Longview, TX 75601;
- Sharman's Sewing Center, 6005 South Broadway, Tyler, TX 75703;
- Bove Sewing Center, 1122 North University Mall, Nacogdoches, TX 75961;
- McCain, 2411 Texas Blvd., Texarkana, TX 75503;
- Bove Sewing and TV Center Inc., 501 E. Lufkin Ave., Lufkin, TX 75901; and
- Compusew, 3237 Independence Parkway, Plano, TX 75075.

6. On information and belief, Brother has entered into contracts with these authorized dealers and service companies that set forth requirements as to how the authorized dealers and service companies are to handle the sales and servicing of Brother products. These authorized dealers and service companies thereby act as Brother's agents with respect to the sales and servicing of Brother products in this judicial district.

JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the Patent Act, 35 U.S.C. §§101 et seq. This Court has jurisdiction over Plaintiffs' federal law claims under 28 U.S.C. §§1331 and 1338(a).

8. This Court has specific and/or general personal jurisdiction over Brother because it has committed acts giving rise to this action within this judicial district and/or has established minimum contacts within Texas and within this judicial district such that the exercise of jurisdiction over each would not offend traditional notions of fair play and substantial justice.

9. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b) because Brother has committed acts of patent infringement within this judicial district giving rise to this action, and Brother has a regular and established place of business in this judicial district.

BACKGROUND OF THE INFRINGING PRODUCTS

10. Brother manufactures and sells multifunction printers, including the MFC-L5700DW, MFC-L5800DW, MFC-L5850DW, MFC-L5900DW, MFC-L6700DW, MFC-L6750DW, MFC-L6800DW, MFC-L6900DW, MFC-L2720DW, and MFC-L2740DW printers (“the accused Brother products”). The accused Brother products provide a variety of document processing and reproduction functions, such as document copying, printing, scanning, and/or faxing functions. Brother sells the accused Brother products throughout the United States, including within this judicial district.

11. The accused Brother products can communicate wirelessly with different types of wireless devices such as smartphones, tablets, and laptop computers. For example, in its product brochure for the MFC-L5700DW, Brother states:

MFC-L5700DW

The Brother MFC-L5700DW monochrome laser All-in-One is ideal for offices and small workgroups that need a reliable and cost efficient solution. Maximize your productivity with print and copy speeds of up to 42ppm, and help lower your operating costs with cost-efficient output due to a high-yield replacement toner cartridge. This All-in-One offers flexible paper handling with a 300-sheet paper capacity, expandable to a 1,340-sheet total capacity with optional add-on trays. Quickly scan multi-page documents to a wide variety of destinations using the 50-page capacity auto document feeder. Enjoy flexible connectivity with Ethernet and wireless network interfaces, and convenient mobile device printing². Plus, advanced security features such as network user authentication help protect against unauthorized access. The customizable color Touchscreen display provides direct printing from and scanning to popular business cloud services^A.

Source: http://www.brother-usa.com/VirData/Content/en-US/MFC/ModelBrochures/MFC-L5700DW_2%20page%20Brochure.pdf

12. The accused Brother products can transmit and receive data wirelessly using different types of wireless signals. For example, in its product brochure for the MFC-L5700DW, Brother states that the device can communicate wirelessly using IEEE 802.11 b, g, and n communication protocols, which are transmitted in the 2.4 GHz and 5.0 GHz frequency bands:

Specifications:

Print Technology	Electrophotographic Laser
LCD Display (type/size)	3.7" Color Touchscreen
Paper Size (maximum)	Up to 8.5" x 14" (legal)
Print Speed (maximum)	Up to 42ppm
Print Resolution (maximum)	Up to 1200 x 1200 dpi
Emulations	PCL6, BR-Script3*, IBM Proprinter, Epson FX, PDF version 1.7, XPS Version 1.0
Memory (std. / max.)	256MB / 256MB
Duplex Printing Capability	Yes
Paper Input Capacity (maximum)[∞]	250-sheet capacity paper tray, 50-sheet capacity multi-purpose tray
Optional Input Capacity (max.*)[∞]	1,340 sheets via optional trays
Output Capacity (maximum)[∞]	150 sheets (face down), 1 sheet (face up)
Auto Document Feeder[∞]	Up to 50 pages
Standard Interfaces	Wireless 802.11b/g/n, Ethernet, Hi-Speed USB 2.0

Source: http://www.brother-usa.com/VirData/Content/en-US/MFC/ModelBrochures/MFC-L5700DW_2%20page%20Brochure.pdf

13. The accused Brother products include functionality for controlling access to the printer such that only authorized users and/or devices can access functions on the printer. This security feature requires that the device communicating with the printer transmit certain identifying information such as device identification data, user name, and/or password in order to authenticate and authorize the device to access functions on the printer. For example, in the

“Online User’s Guide” for the MFC-L5700DW published by Brother, Brother describes the Secure Function Lock 3.0 feature of the printer as follows:

Before Using Secure Function Lock 3.0

Use Secure Function Lock to configure passwords, set specific user page limits, and grant access to some or all of the functions listed here.

You can configure and change the following Secure Function Lock 3.0 settings using Web Based Management or BRAdmin Professional 3 (Windows®):

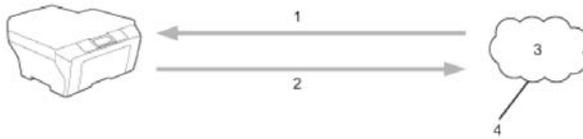
- **Print**
Print includes print jobs sent via AirPrint, Google Cloud Print™ and Brother iPrint&Scan.
If you register users' login names in advance, the users will not need to enter their passwords when they use the print function.
- **Copy**
- **Scan**
Scan includes scan jobs sent via Brother iPrint&Scan.
- **Send** (supported models only)
- **Receive** (supported models only)
- USB Direct Print
- Scan to USB (supported models only)
- **Web Connect** (supported models only)
- **Apps** (supported models only)
- **Page Limits**
- **Page Counters**
- **Card ID (NFC ID)** (supported models only)
If you register users' Card IDs in advance, a registered user can activate the machine by touching his registered card to the machine's NFC logo.

Source: http://download.brother.com/welcome/doc100522/cv_dcpl5500dn_use_oug.pdf

14. In addition to communicating wirelessly with other devices such as smartphones, tablets, and laptop computers, the accused Brother products can also transmit data over a Local Area Network (“LAN”) and/ or the Internet via a wired connection such as an Ethernet connection. For example, the MFC-L5700DW includes Web Connect functionality, which is described in the “Web Connect Guide” published by Brother as follows:

What Is Brother Web Connect?

Certain websites provide services that allow users to upload and view images and files on the websites. Your Brother machine can scan images and upload them to these services, and also download and print images that are already uploaded to these services.



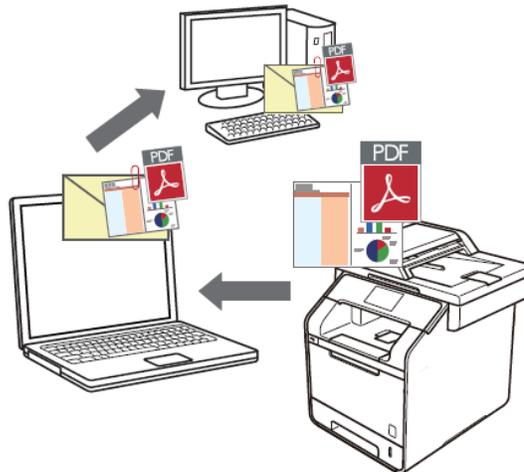
1. Printing
2. Scanning
3. Photos, images, documents and other files
4. Web Service

Source: http://download.brother.com/welcome/doc100503/cv_hll6300dw_use_wcg.pdf

15. The accused Brother products can also send and receive data in the format of email messages. For example, in the “Online User’s Guide” for the MFC-L5700DW published by Brother, Brother describes the capability of the MFC-L5700DW to send scanned documents as email attachments:

Scan to Email Attachment

Send a scanned document as an email attachment.



Source: http://download.brother.com/welcome/doc100522/cv_dcpl5500dn_use_oug.pdf

16. The accused Brother products can be controlled from an LCD touchscreen on the printer. The touchscreen has a “Home” screen from which the user can select the different basic functions of the printer, such as faxing, copying, and scanning. For example, in the “Basic User’s Guide” for the MFC-L5700DW published by Brother, Brother describes the operation of the touchscreen in the printer as follows:

Touchscreen LCD Overview

You can select from two types of screens to set the Home screen: Function screens and Shortcuts screen. When a Function screen is displayed, swipe left or right or press ◀ or ▶ to display the other Function screens.

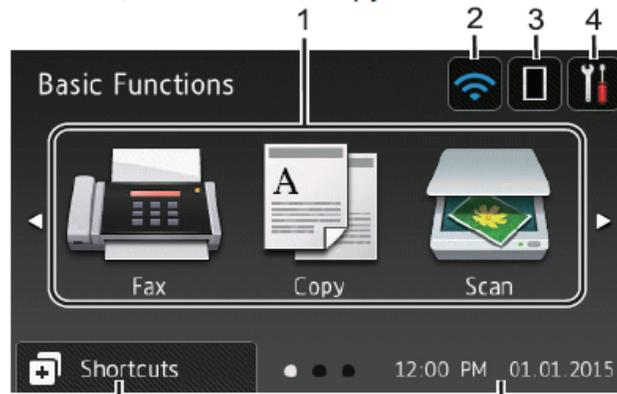
The Home screen displays the machine’s status when the machine is idle. This screen is also called the Ready Mode screen. When displayed, this screen indicates that your machine is ready for the next command.

If Active Directory® Authentication or LDAP Authentication is enabled, the machine's control panel will be locked.

The available features vary depending on your model.

Function screens

The Function screens provide access to features, such as Fax, Copy and Scan.



Source: http://download.brother.com/welcome/doc100514/cv_dcp15500dn_use_busr_a.pdf

17. In the accused Brother products, when a user selects a basic function through the touchscreen such as faxing, copying or scanning, the touchscreen then displays a submenu of functions for that basic function. Upon the user's selection of the particular task that the user wishes to be performed by printer within this submenu of functions, the printer will then perform that task using the appropriate combination of hardware and software components necessary to complete the task. For example, in the "Basic User's Guide" for the MFC-L5700DW published by Brother, Brother provides the following description of submenu functions available for the basic function of sending faxes:

Send and Receive a Fax Using Your Machine

Send a Fax

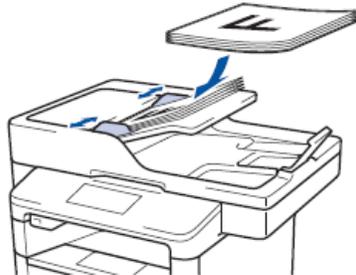
Related Models:

MFC-L5700DW/MFC-L5800DW/MFC-L5850DW/
MFC-L5900DW/MFC-L6700DW/MFC-L6800DW

1 Do one of the following:

- Place the document *face up* in the ADF.

(If you are faxing multiple pages, we recommend using the ADF.)



- Place the document *face down* on the scanner glass.



2 Press [Fax].

3 Enter the fax number.

- **Using the dial pad**

Press the digits to enter the fax number.



- **Using the Address Book**

Press  [Address Book], and then do one of the following:

- Swipe up or down or press  or  to display the number you want, and then press it.
- Press , and then enter the name and press [OK]. Press the name you want to dial.

When finished, press [Apply].

- **Using the call history**

Press  [Call History], and then press the [Outgoing Call] option.

Swipe up or down or press  or  to display the fax number you want, and then press it.

To send a fax, press [Apply].

Source: http://download.brother.com/welcome/doc100514/cv_dcp15500dn_use_busr_a.pdf

18. The accused Brother products include an “Address Book” functionality for storing, organizing, and retrieving contact information for potential recipients of data transmitted

from the printer. For example, in the “Online User’s Guide” for the MFC-L5700DW published by Brother, Brother provides the following instructions on the use of the Address Book functionality in the printer:

Store Address Book Numbers

Related Models: MFC-L5700DW/MFC-L5800DW/MFC-L5850DW/MFC-L5900DW/MFC-L6700DW/MFC-L6800DW

1. Press  [Fax] > [Address Book].
2. Do the following steps:
 - a. Press [Edit].
 - b. Press [Add New Address].
 - c. Press [Name].
 - d. Enter the name using the LCD (up to 16 characters), and then press [OK].
 - e. Press [Address].
 - f. Enter the fax or telephone number using the LCD (up to 20 digits), and then press [OK].



- To store an email address to use with Internet Fax or Scan to Email server, press  and enter the email address and press [OK].
(On certain models, you must download Internet Fax to use the Internet Fax feature and the Scan to Email server feature.)

- g. Press [OK].
- To store another Address Book number, repeat these steps.

3. Press .

Source: http://download.brother.com/welcome/doc100522/cv_dcpl5500dn_use_oug.pdf

19. The accused Brother products are designed to be compact, lightweight printers with a small physical footprint so that they take up minimal space within a room or office and can be easily moved to different locations. For example, Brother advertises the MFC-L5700DW dimensions and weight as follows:

Dimensions & Weights

Carton Dimensions (W"xD"xH")	21.5" x 20.5" x 25.2"
Carton Weight (lbs)	43.6 lbs.
Unit Dimensions (W"xD"xH")	17.1" x 16.8" x 19.1"
Unit Weight (lbs)	36.2 lbs.

Source: <http://www.brother-usa.com/MFC/ModelDetail/4/MFCL5700DW/spec>

**COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 6,490,443)**

20. Plaintiffs re-allege and incorporate by reference the allegations set forth in the Paragraphs above as if fully set forth herein.

21. On December 3, 2002, the United States Patent and Trademark Office duly and lawfully issued United States Patent Number 6,490,443 (“the ’443 patent”), entitled “Communication and Proximity Authorization Systems.” A true and correct copy of the ’443 patent is attached hereto as **Exhibit A**.

22. The ’443 patent describes, among other things, novel systems in which electronic devices can communicate wirelessly to provide and/or receive services from other electronic devices when they are within proximity of each other. These communications can occur over multiple communication signals and with the use of authorization codes.

23. The named inventor of the ’443 patent is Charles C. Freeny, Jr., who is now deceased.

24. Plaintiffs are the sons of Charles C. Freeny, Jr., and Plaintiffs are the owners and assignees of all right, title and interest in and to the ’443 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

25. Plaintiffs have complied with the requirements of 35 U.S.C. § 287 with respect to the ’443 patent.

26. On information and belief, Brother has directly infringed and continues to directly infringe one or more claims of the ’443 patent, including at least claim 1 of the ’443 patent, in the State of Texas, in this judicial district, and elsewhere in the United States by, among other

things, making, using, selling, offering for sale, and/or importing into the United States multifunction printers that embody one or more of the inventions claimed in the '443 patent, including but not limited to the accused Brother products, and all reasonably similar products, in violation of 35 U.S.C. § 271(a).

27. For example, claim 1 of the '443 patent recites “[a] proximity service unit for providing at least one predetermined service for use with multiple types of wireless devices,” with the unit including “a multiple channel wireless transceiver capable of receiving at least two signal types” and the unit providing a service in response to receiving a “request authorization code” from the wireless devices.

28. The accused Brother products constitute proximity service units that provide at least one predetermined service for use with multiple types of wireless devices. For example, the accused Brother products provide services such as document copying, printing, scanning, and/or faxing services. In addition, the accused Brother products can be used with multiple types of wireless devices such as smartphones, tablets, and laptop computers.

29. The accused Brother products also include a multiple channel wireless transceiver capable of receiving at least two signal types, and provide a service in response to receiving a “request authorization code” from the wireless devices. For example, the accused Brother products can receive multiple wireless signal types such as IEEE 802.11 b, g, and n communications transmitted in the 2.4 GHz and 5.0 GHz frequency bands. In addition, the accused Brother products include a security feature that requires a wireless device seeking to activate services such as printing functionality on the printer to transmit a request authorization code (such as device identification data, user name, and/or password) in order to activate those services.

30. On information and belief, Brother is inducing and/or has induced infringement of one or more claims of the '443 patent, including at least claim 1, as a result of, among other activities, instructing, encouraging, and directing its customers on the use of the accused Brother products in an infringing manner in violation of 35 U.S.C. § 271(b). On information and belief, Brother has had knowledge of the '443 patent since at least the date of service of the original Complaint in this action. Despite this knowledge of the '443 patent, Brother has continued to engage in activities to encourage and assist its customers in the use of the accused Brother products.

31. For example, through its website at www.brother-usa.com, Brother advertises the accused Brother products and provides instructions and technical support on the use the accused Brother products. The product brochures and user manuals discussed in the preceding paragraphs, for example, are available through Brother's website.

32. On information and belief, by using the accused Brother products as encouraged and assisted by Brother, Brother's customers have directly infringed and continue to directly infringe one or more claims of the '443 patent, including at least claim 1. On information and belief, Brother knew or was willfully blind to the fact that its activities in encouraging and assisting customers in the use of the accused Brother products, including but not limited to the activities set forth above, would induce its customers' direct infringement of the '443 patent.

33. On information and belief, Brother will continue to infringe the '443 patent unless enjoined by this Court.

34. Brother's acts of infringement have damaged Plaintiffs in an amount to be proven at trial, but in no event less than a reasonable royalty. Brother's infringement of Plaintiffs' rights

under the '443 patent will continue to damage Plaintiffs, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

COUNT II
(INFRINGEMENT OF U.S. PATENT NO. 7,110,744)

35. Plaintiffs re-allege and incorporate by reference the allegations set forth in the Paragraphs above as if fully set forth herein.

36. On September 19, 2006, the United States Patent and Trademark Office duly and lawfully issued United States Patent Number 7,110,744 (“the '744 patent”) entitled “Communication and Proximity Authorization Systems.” A true and correct copy of the '744 patent is attached hereto as **Exhibit B**.

37. The '744 patent describes, among other things, novel systems in which a diverse set of devices can communicate with one another through wireless signals when the devices are within a certain proximity distance to each other. One device within this system can be a “front end unit” that serves as an access point through which multiple end-user devices can be connected simultaneously to a larger network through different types of wireless signals.

38. The named inventor of the '744 patent is Charles C. Freeny, Jr., who is now deceased.

39. Plaintiffs are the sons of Charles C. Freeny, Jr., and Plaintiffs are the owners and assignees of all right, title and interest in and to the '744 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

40. Plaintiffs have complied with the requirements of 35 U.S.C. § 287 with respect to the '744 patent.

41. On information and belief, Brother has directly infringed and continues to directly infringe one or more claims of the '744 patent, including at least claim 18 of the '744 patent, in

the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, selling, offering for sale, and/or importing into the United States multifunction printers that embody one or more of the inventions claimed in the '744 patent, including but not limited to the accused Brother products, and all reasonably similar products, in violation of 35 U.S.C. § 271(a).

42. For example, claim 18 of the '744 patent recites “[a] communication unit connected to a public communication system, the communication unit capable of detecting a plurality of wireless devices and servicing each of the plurality of wireless devices by providing access to the public communication system when the wireless devices are within a predetermined proximity distance from the communication unit,” and where the communication unit includes a “multiple channel wireless transceiver simultaneously communicating with at least two wireless devices with different types of low power communication signals.”

43. The accused Brother products constitute a communication unit connected to a public communication system, the communication unit capable of detecting a plurality of wireless devices and servicing each of the plurality of wireless devices by providing access to the public communication system when the wireless devices are within a predetermined proximity distance from the communication unit. For example, the accused Brother products can detect a plurality of wireless devices such as smartphones, tablets, and laptop computers and communicate with these devices wirelessly when they are within range of the printer's transceiver as well as transmit data from these devices to the Internet.

44. In addition, the accused Brother products include a multiple channel wireless transceiver that can simultaneously communicate with at least two wireless devices with different types of low power communication signals. For example, the accused Brother products

can communicate with wireless devices such as smartphones, tablets, and laptop computers using multiple wireless signal types such as IEEE 802.11 b, g, and n communications transmitted in the 2.4 GHz and 5.0 GHz frequency bands, which are low power communication signals.

45. On information and belief, Brother is inducing and/or has induced infringement of one or more claims of the '744 patent, including at least claim 18, as a result of, among other activities, instructing, encouraging, and directing its customers on the use of the accused Brother products in an infringing manner in violation of 35 U.S.C. § 271(b). On information and belief, Brother has had knowledge of the '744 patent since at least the date of service of the original Complaint in this action. Despite this knowledge of the '744 patent, Brother has continued to engage in activities to encourage and assist its customers in the use of the accused Brother products.

46. For example, through its website at www.brother-usa.com, Brother advertises the accused Brother products and provides instructions and technical support on the use the accused Brother products. The product brochures and user manuals discussed in the preceding paragraphs, for example, are available through Brother's website.

47. On information and belief, by using the accused Brother products as encouraged and assisted by Brother, Brother's customers have directly infringed and continue to directly infringe one or more claims of the '744 patent, including at least claim 18. On information and belief, Brother knew or was willfully blind to the fact that its activities in encouraging and assisting customers in the use of the accused Brother products, including but not limited to the activities set forth above, would induce its customers' direct infringement of the '744 patent.

48. On information and belief, Brother will continue to infringe the '744 patent unless enjoined by this Court.

49. Brother's acts of infringement have damaged Plaintiffs in an amount to be proven at trial, but in no event less than a reasonable royalty. Brother's infringement of Plaintiffs' rights under the '744 patent will continue to damage Plaintiffs, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

**COUNT III
(INFRINGEMENT OF U.S. PATENT NO. 6,806,977)**

50. Plaintiffs re-allege and incorporate by reference the allegations set forth in the Paragraphs above as if fully set forth herein.

51. On October 19, 2004, the United States Patent and Trademark Office duly and lawfully issued United States Patent Number 6,806,977 ("the '977 patent"), entitled "Multiple Integrated Machine System." A true and correct copy of the '977 patent is attached hereto as **Exhibit C**.

52. The '977 patent describes, among other things, novel systems in which a single device can perform the functions of multiple different digital machines, such as the functions of a PC, a phone, a fax machine, a printer, a scanner, a copier, a networking device, and/or a personal digital assistant. The device controls all of these functions through the use of a modular design in which different functions rely on different combinations of hardware and software, with the device including a grouping control unit as well as subgroup function control units to manage the different functions as they are selected by the user.

53. The named inventor of the '977 patent is Charles C. Freeny, Jr., who is now deceased.

54. Plaintiffs are the sons of Charles C. Freeny, Jr., and Plaintiffs are the owners and assignees of all right, title and interest in and to the '977 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

55. Plaintiffs have complied with the requirements of 35 U.S.C. § 287 with respect to the '977 patent.

56. On information and belief, Brother has directly infringed one or more claims of the '977 patent, including at least claim 1 of the '977 patent, in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, selling, offering for sale, and/or importing into the United States multifunction printers that embody one or more of the inventions claimed in the '977 patent, including but not limited to the accused Brother products, and all reasonably similar products, in violation of 35 U.S.C. § 271(a).

57. For example, claim 1 of the '977 patent recites “[a] multiple integrated machine system capable of performing as at least two or more digital machines” Claim 1 also recites that the “first digital machine” is “a small office home office digital machine having at least two of the function modes selected from the group comprising a message center mode, a storage center mode, a document center mode, and an internet center mode,” with at least one of these modes including “an email function.” Claim 1 further recites that the claimed system also has “a digital machine element grouping control unit” for combining different digital machine elements to form different digital machines as well as at least two “subgroup function control units” for selecting different functions within each digital machine.

58. The accused Brother products constitute multiple integrated machine systems that are capable of performing as at least two or more digital machines, with one of those digital machines being a small office home office digital machine. For example, the accused Brother products are capable of performing as a small office home office digital machine with at least a message center and document center mode by providing document copying, printing, scanning,

and faxing capabilities. In addition, the accused Brother products have at least one email function such as the ability to send scanned documents as email attachments.

59. The accused Brother products are also capable of performing as a networking machine by allowing the printer to connect with, manage, and share resources with other devices within a computer network. The accused Brother products are also capable of performing as a personal digital assistant machine by, for example, storing and organizing contact information for users.

60. The accused Brother products also include “a digital machine element grouping control unit” for combining different digital machine elements to form different digital machines as well as at least two “subgroup function control units” for selecting different functions within each digital machine. For example, the accused Brother products include software that allows the user to switch between using the device as a small office home office machine, a network digital machine, and a personal digital assistant machine by selecting the desired function through the printer’s LCD touchscreen. The software in the accused Brother products also provides to the user different submenus of functions for each digital machine upon the user’s selection of that digital machine through the LCD touchscreen.

61. On information and belief, Brother has had knowledge of the ’977 patent and its contents since at least around November 26, 2010, when the ’977 patent was cited by the United States Patent and Trademark Office in the prosecution of U.S. Patent No. 8,508,806 (“the ’806 patent”). On information and belief, Brother’s parent corporation, Brother Kogyo Kabushiki Kaisha, is or was the owner of the ’806 patent and was involved in the prosecution of the ’806 patent. On information and belief, Brother Kogyo Kabushiki Kaisha has shared and continues to

share information with its United States subsidiary Brother regarding the prosecution of its United States patents, including the '806 patent.

62. The '806 patent is entitled "Communication Device Capable of Displaying Preview of Transmission Data." The specification of the '806 patent states that its "disclosure relates to a communication device for reading an original to obtain scanned data and for transmitting the scanned data to a prescribed destination."

63. In an Office Action dated November 26, 2010 in the prosecution of the '806 patent, the patent examiner identified the '977 patent as relevant prior art to the '806 patent. Brother Kogyo Kabushiki Kaisha responded to the Office Action on or about April 26, 2011.

64. On information and belief, based on Brother's knowledge of the '977 patent acquired from the prosecution of the '806 patent, Brother knew or should have known that there was an objectively high risk that the accused Brother products infringe the '977 patent.

65. On information and belief, Brother has induced infringement of one or more claims of the '977 patent, including at least claim 1, as a result of, among other activities, instructing, encouraging, and directing its customers on the use of the accused Brother products in an infringing manner in violation of 35 U.S.C. § 271(b). Despite its knowledge of the '977 patent since at least around November 26, 2010, Brother continued to engage in activities to encourage and assist its customers in the use of the accused Brother products.

66. For example, through its website at www.brother-usa.com, Brother advertises the accused Brother products and provides instructions and technical support on the use the accused Brother products. The product brochures and user manuals discussed in the preceding paragraphs, for example, are available through Brother's website.

67. On information and belief, by using the accused Brother products as encouraged

and assisted by Brother, Brother's customers have directly infringed one or more claims of the '977 patent, including at least claim 1. On information and belief, Brother knew or was willfully blind to the fact that its activities in encouraging and assisting customers in the use of the accused Brother products, including but not limited to the activities set forth above, would induce its customers' direct infringement of the '977 patent.

68. Brother's acts of infringement have damaged Plaintiffs in an amount to be proven at trial, but in no event less than a reasonable royalty.

69. On information and belief, Brother's infringement of the '977 patent has been willful, thereby entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in litigating this action under 35 U.S.C. § 285.

**COUNT IV
(INFRINGEMENT OF U.S. PATENT NO. 7,301,664)**

70. Plaintiffs re-allege and incorporate by reference the allegations set forth in the Paragraphs above as if fully set forth herein.

71. On November 27, 2007, the United States Patent and Trademark Office duly and lawfully issued United States Patent Number 7,301,664 ("the '664 patent"), entitled "Multiple Integrated Machine System." A true and correct copy of the '664 patent is attached hereto as **Exhibit D**.

72. The '664 patent describes, among other things, novel systems in which a single device can perform the functions of multiple different digital machines, such as the functions of a PC, a phone, a fax machine, a printer, a scanner, a copier, and/or a personal digital assistant. The device controls all of these functions through the use of a modular design in which different functions rely on different combinations of hardware and software, with the device including a

grouping control unit as well as subgroup function control units to manage the different functions as they are selected by the user.

73. The named inventor of the '664 patent is Charles C. Freeny, Jr., who is now deceased.

74. Plaintiffs are the sons of Charles C. Freeny, Jr., and Plaintiffs are the owners and assignees of all right, title and interest in and to the '664 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

75. Plaintiffs have complied with the requirements of 35 U.S.C. § 287 with respect to the '664 patent.

76. On information and belief, Brother has directly infringed one or more claims of the '664 patent, including at least claim 1 of the '664 patent, in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, selling, offering for sale, and/or importing into the United States multifunction printers that embody one or more of the inventions claimed in the '664 patent, including but not limited to the accused Brother products, and all reasonably similar products, in violation of 35 U.S.C. § 271(a).

77. For example, claim 1 of the '664 patent recites “[a] mobile multiple integrated machine system capable of performing as at least a communication machine and a personal digital assistant machine” Claim 1 also recites that the claimed system also has “a digital machine element grouping control unit” for combining different digital machine elements to form different digital machines as well as at least two “subgroup function control units” for selecting different functions within the communication machine and personal digital assistant machine.

78. The accused Brother products constitute mobile multiple integrated machine systems that are capable of performing as at least two or more digital machines, with one of those digital machines being a communication machine. The accused Brother products are capable of performing as a communication machine by, for example, providing data transmission functions such as faxing documents and sending scanned documents via email.

79. The accused Brother products are also capable of performing as a personal digital assistant machine by, for example, storing and organizing contact information for users.

80. The accused Brother products also include “a digital machine element grouping control unit” for combining different digital machine elements to form different digital machines as well as at least two “subgroup function control units” for selecting different functions within the communication machine and personal digital assistant machine. For example, the accused Brother products include software that allows the user to switch between using the device as a communication machine and a personal digital assistant machine by selecting the desired function through the printer’s LCD touchscreen. The software in the accused Brother products also provides to the user different submenus of functions for the communication machine and the personal digital assistant machine upon the user’s selection of that digital machine through the LCD touchscreen.

81. On information and belief, Brother is inducing and/or has induced infringement of one or more claims of the ’664 patent, including at least claim 1, as a result of, among other activities, instructing, encouraging, and directing its customers on the use of the accused Brother products in an infringing manner in violation of 35 U.S.C. § 271(b). On information and belief, Brother has had knowledge of the ’664 patent since at least the date of service of the original Complaint in this action. Despite this knowledge of the ’664 patent, Brother has continued to

engage in activities to encourage and assist its customers in the use of the accused Brother products.

82. For example, through its website at www.brother-usa.com, Brother advertises the accused Brother products and provides instructions and technical support on the use the accused Brother products. The product brochures and user manuals discussed in the preceding paragraphs, for example, are available through Brother's website.

83. On information and belief, by using the accused Brother products as encouraged and assisted by Brother, Brother's customers have directly infringed and continue to directly infringe one or more claims of the '664 patent, including at least claim 1. On information and belief, Brother knew or was willfully blind to the fact that its activities in encouraging and assisting customers in the use of the accused Brother products, including but not limited to the activities set forth above, would induce its customers' direct infringement of the '664 patent.

84. On information and belief, Brother will continue to infringe the '664 patent unless enjoined by this Court.

85. Brother's acts of infringement have damaged Plaintiffs in an amount to be proven at trial, but in no event less than a reasonable royalty. Brother's infringement of Plaintiffs' rights under the '664 patent will continue to damage Plaintiffs, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request that this Court enter judgment against Brother as follows:

- a. For judgment that Brother has infringed and continues to infringe the claims of the '443, '744, '977, and '664 patents;

- b. For judgment that Brother's infringement of the '977 patent has been willful;
- c. For a permanent injunction against Brother and its respective officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement of the '443, '744, '977, and '664 patents;
- d. For an accounting of all damages caused by Brother's acts of infringement;
- e. For a judgment and order requiring Brother to pay Plaintiffs' damages, costs, expenses, and pre- and post-judgment interest for its infringement of the '443, '744, '977, and '664 patents as provided under 35 U.S.C. § 284;
- f. For a judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiffs their reasonable attorneys' fees; and
- g. For such other relief at law and in equity as the Court may deem just and proper.

DEMAND FOR A JURY TRIAL

Plaintiffs demand a trial by jury of all issues triable by a jury.

Dated: June 9, 2017

Respectfully submitted,

/s/ Christopher D. Banys
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a) on June 9, 2017. Therefore, this document was served on all counsel who are deemed to have consented to electronic service.

/s/ Tiffany Dang
Tiffany Dang