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21 COMMERCIAL COPY INNOVATIONS, INC.

22 **UNITED STATES DISTRICT COURT**
23 **CENTRAL DISTRICT OF CALIFORNIA,**
24 **SOUTHERN DIVISION**

25 COMMERCIAL COPY INNOVATIONS,
26 INC.,

CASE NO. SA CV 17-1145

27 Plaintiff,

28 vs.

**ORIGINAL COMPLAINT FOR
PATENT INFRINGEMENT**

BROTHER INTERNATIONAL
CORPORATION

and

BROTHER INDUSTRIES (U.S.A.), INC.,

JURY TRIAL DEMANDED

Defendants.

1 Plaintiff COMMERCIAL COPY INNOVATIONS, INC. files this Original Complaint
2 against Defendants BROTHER INTERNATIONAL CORPORATION and BROTHER
3 INDUSTRIES (U.S.A.), INC. alleging as follows:

4 **I. THE PARTIES**

5 1. COMMERCIAL COPY INNOVATIONS, INC. (“Plaintiff” or “CCI”) is a
6 corporation organized and existing under the laws of the State of Delaware, with a principal
7 place of business at 600 Anton Boulevard, Suite 1350, Costa Mesa, California 92626, within the
8 Central District of California.

9 2. Defendant BROTHER INTERNATIONAL CORPORATION (“BIC”) is a
10 corporation organized and existing under the laws of the State of Delaware, with a principal
11 place of business at 200 Crossing Boulevard, Bridgewater, New Jersey 08807. BIC may be
12 served with process by serving Corporation Service Company, 2710 Gateway Oaks Drive, Suite
13 150N, Sacramento, California, 95833.

14 3. Defendant BROTHER INDUSTRIES (U.S.A.), INC. (“BUSA”) is a corporation
15 organized and existing under the laws of the State of Delaware, with a principal place of business
16 at 7819 North Brother Blvd. Bartlett, Tennessee 38133. BUSA may be served with process by
17 serving Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware
18 19808.

19 **II. JURISDICTION AND VENUE**

20 4. This is an action for infringement of several United States patents. Federal
21 question jurisdiction is conferred to this Court over such action under 28 U.S.C. §§ 1331 and
22 1338(a).

23 5. BIC maintains an established and regular place of business within the Central
24 District of California, Southern Division, with a Printer Customer Support Center and a sales
25 office for its printer products, including the Accused Products, as described herein, at 26250
26 Enterprise Court, Suite 250, Lake Forest, California 92630.

27 6. In addition, Defendants provide to prospective customers, via their website at
28 <https://www.brother-usa.com/Wheretobuy/> and <http://www.brother-usa.com/service/>,

1 listings of authorized dealers and resellers that sell and service BIC products which are
2 searchable by product type and location. BIC has a large number of authorized dealers, resellers,
3 and authorized service centers within Orange County, California, alone, selling and servicing
4 BIC's products, including the Accused Products described herein.

5 7. Upon information and belief, Defendants have sufficient minimum contacts
6 within the Central District of California, Southern Division such that this venue is fair and
7 reasonable. Defendants have committed such purposeful acts and/or transactions in this District
8 that they reasonably should know and expect that they could be hailed into this Court as a
9 consequence of such activity. Defendants have transacted and, at the time of the filing of this
10 Complaint, are transacting business within the Central District of California, Southern Division.

11 8. Upon information and belief, Defendants sells printer products that are and have
12 been used, offered for sale, sold, and/or purchased in the Central District of California, Southern
13 Division. Defendants directly and/or through their distribution network, place infringing
14 products or systems within the stream of commerce directed at this district with the knowledge
15 and/or understanding that those products will be sold and/or used in the Central District of
16 California, Southern Division.

17 9. For these reasons, personal jurisdiction exists and venue is proper in this Court
18 under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b).

19 **III. BACKGROUND AND FACTS**

20 10. CCI has acquired all rights and title in and to U.S. Patents Nos. 6,197,466 ("the
21 '466 Patent") and 6,453,127 ("the '127 Patent") from the Eastman Kodak Company ("Kodak")
22 for the purpose of enforcing the rights embodied therein. These patents are sometimes referred
23 to collectively, hereinafter, as "the Asserted Patents" and each was developed by Kodak as part
24 of Kodak's research and development activities performed in furtherance of Kodak's design,
25 manufacture, and selling of printers and printing accessories and devices.

26 11. Kodak is a world-renowned U.S.-based company, founded in 1888, which has
27 been an industry leader in the design and manufacture of cameras and film, digital imaging
28 devices, printers, ink, toner, and related devices. Over the nearly 130 years that Kodak has been

1 in business, Kodak has developed many valuable innovations in the photographic, imaging, and
2 printing industries that led to the issuance of thousands of patents, including the Asserted
3 Patents. Many of these innovations were directly developed by engineers and scientists working
4 at Kodak Research Laboratories as part of Kodak's continuous work to advance photography,
5 imaging, and printing technology.

6 12. BIC is a wholly owned subsidiary of Brother Industries, Ltd., a Japanese
7 company, which is one of the largest manufactures and sellers of office equipment including
8 printers, ink, and toner, among other products in the world. BIC is the U.S.-based sales arm of
9 Brother Industries, Ltd. and sells products and systems that support the enhancement of office
10 productivity, including printers, copiers, servers, inkjet heads, inkjet ink, and toner throughout
11 the United States.

12 13. Defendants make, use, import, offer for sale, and sell printer products compatible
13 for use with Brother's Web Based Management utility (referred to collectively as the "Brother
14 Printers"). Additionally, Defendants make, use, import, offer for sale, and sell several
15 electrophotographic toner products ("Brother Toner") for use with laser printers and copiers to
16 customers, consumers, businesses, and end users of the products. The Brother Printers and
17 Brother Toner are sometimes referred to, collectively, as "the Accused Products."

18 14. Defendants use, offer for sale, and sell the Accused Products at several locations
19 within the Central District of California, Southern Division, including BIC's Lake Forest office.
20 Further, Defendants use, offer for sale, and sell the Accused Products in the Central District of
21 California, Southern Division, via the website which directs customers to both online retailers
22 and local stores selling the Accused Products.

23 15. BUSA is a wholly owned subsidiary of Brother Industries, Ltd. Upon information
24 and belief, BUSA manufactures the Accused Products.

25 16. It is proper to join BUSA and BIC in this suit because both are commonly owned
26 entities of Brother Industries, Ltd. and are engaged in the making and selling, respectively, of the
27 Accused Products within and throughout the United States. These activities form the basis of
28 each entities' infringing actions.

IV. PATENT INFRINGEMENT

U.S. Patent No. 6,197,466 B1

17. CCI repeats and realleges all preceding paragraphs of this Complaint, as though fully set forth herein.

18. On March 6, 2001, United States Patent No. 6,197,466 B1 (“the ’466 Patent”) was duly and legally issued for an “Electrophotographic Toner Surface Treated With Metal Oxide.” The ’466 Patent remains in force as of the filing of this Complaint. A true and correct copy of the ’466 Patent is attached hereto as Exhibit “A” and made a part hereof.

19. CCI is the owner of all right and title in the ’466 Patent, including all rights to enforce and prosecute action for infringement of the ’466 Patent and to collect damages for all relevant times against infringers of the ’466 Patent. Accordingly, CCI possesses the exclusive right and standing to prosecute the present action for infringement of the ’466 Patent by Defendants.

20. The ’466 Patent generally discloses and claims toners comprising particles treated with metal oxides. Metal oxides, such as titanium dioxide, silicon dioxide, or a combination thereof, are mixed with the toner particles in a manner causing embedment of metal oxide particles below the surface of toner particles. The resulting toner composition may exhibit more stable triboelectric charging and may therefore improve image quality in electrophotographic printing operations.

21. Without authority, consent, right, or license, and in direct infringement of the ’466 Patent, Defendants have manufactured, made, used, imported, sold, and offered to sell Brother Toner which directly infringes at least Claim 9 of the ’466 Patent. By way of example, at least Brother TN660 Black Toner used with the HL-L2300D / L2305W, HI-L2320D / L2340DW, HI-L2360DW / L2380DW, DCP-L2520DW / L2540DW, MFC-L2580W, MFC-L2700DW / L2705D, and MFC-L2720D / L2740DW printers directly infringes at least Claim 9 of the ’466 Patent.

22. Brother Toner is usable with Brother laser printer and copier products to accommodate electrophotographic printing. The Brother Toner comprises an

1 electrophotographic toner composition and is described as such in, at least, Brother's product
2 specification.

3 23. Brother Toner comprises toner particles as well as metal oxide particles dispersed
4 within the toner particles. The metal oxide content of Brother Toner is between 0.1 to 5.0
5 weight percent of the toner composition and consists of silicon and/or titanium oxides. By way
6 of example, a sample of Brother Toner collected from a cartridge of Brother's TN660 Black
7 Toner was analyzed by inductively coupled plasma mass spectrometry analysis and was found to
8 comprise about 1.11% by weight, collectively, of titanium and silicon oxides. These results are
9 believed to be representative of all Brother Toner.

10 24. At least a portion of the metal oxide particles comprising titanium dioxide, silicon
11 dioxide, or mixtures thereof, within the Brother Toner products are embedded below the surface
12 of the toner particles. By way of example, using the sample of Brother's TN660 Black Toner
13 was found to include several such metal oxide particles embedded below the respective surfaces
14 of toner particles using HAADF STEM tomography imaging and energy-dispersive X-ray
15 spectroscopy analysis. These results are believed to be representative of all Brother Toner.

16 25. CCI expressly reserves the right to assert additional claims of the '466 Patent
17 against BUSA and BIC, respectively.

18 26. CCI has been damaged as a result of the infringing conduct of BUSA and BIC.
19 BUSA and BIC are thus liable to CCI in an amount that adequately compensates for their
20 infringement, which by law cannot be less than a reasonable royalty together with interest and
21 costs as fixed by this Court under 35 U.S.C. § 284.

22 27. Based on BUSA's and BIC's respective objective recklessness, CCI is further
23 entitled to enhanced damages under 35 U.S.C. § 284.

24 **V. PATENT INFRINGEMENT**

25 **U.S. Patent No. 6,453,127 B2**

26 28. CCI repeats and realleges all preceding paragraphs of this Complaint, as though
27 fully set forth herein.
28

1 29. On September 17, 2002, United States Patent No. 6,453,127 B2 (“the ‘127
2 Patent”) was duly and legally issued for an “Establishment at a Remote Location of an
3 Internet/Intranet User Interface to a Copier/Printer.” The ‘127 remains in force as of the filing of
4 this Complaint. A true and correct copy of the ‘127 Patent is attached hereto as Exhibit “B” and
5 made a part hereof.

6 30. CCI is the owner of all right and title in the ‘127 Patent, including all rights to
7 enforce and prosecute action for infringement of the ‘127 Patent and to collect damages for all
8 relevant times against infringers of the ‘127 Patent. Accordingly, CCI possesses the exclusive
9 right and standing to prosecute the present action for infringement of the ‘127 Patent by
10 Defendants.

11 31. The ‘127 Patent generally discloses and claims printing apparatuses configurable
12 to operate in response to instructions provided by remote users. Remote users interface with the
13 printing apparatus using remote computers to configure and command its marking engine via a
14 network web server and downloadable software. An applet provides a printer interface display
15 screen on a remote computer viewable by the remote users of the printing apparatus.

16 32. Without authority, consent, right, or license, and in direct infringement of the ‘127
17 Patent, Defendants have manufactured, made, used, imported, sold, and offered to sell the
18 Brother Printers which directly infringe at least claim 1 of the ‘127 Patent, including at least
19 Defendants’ DCP-L5500DN, DCP-L5600DN, DCP-L5650DN, and DCP-L5700DN printers.

20 33. The Brother Printers are compatible for use with Brother’s Web Based
21 Management utility accommodating remote monitoring, configuration, and management of the
22 Accused Printers. The Web Based Management utility accommodates remote access by users of
23 the Accused Printers to provide configuration and operating instructions to the Accused Printers
24 via a web browser. Use of the Web Based Management utility allows remote users to interface
25 with the marking engines of the Accused Printers to view one or more statuses, as well as to
26 configure and command operation of the Accused Printers.

27 34. The Brother Printers include a web server accessible via a web browser upon
28 entry of an IP address or host name of a Brother Printer in the web browser. Remote users can

1 monitor the status of the Brother Printer and associated print jobs, configure one or more print
2 settings of the Brother Printer, and initiate/cancel printing operations over a network using the
3 Web Based Management utility accessing the web server of the Brother Printer. The Web Based
4 Management utility operates as an applet using Java programming language.

5 35. The Brother Printers are implemented with a memory storing document files and
6 print job statuses that can be accessed from a control panel, or local user interface, of the Brother
7 Printer or via the Web Based Management utility to view their status or print the documents,
8 among other operations.

9 36. CCI expressly reserves the right to assert additional claims of the '127 Patent
10 against BIC and BUSA in relation to the Accused Printers, as well as other products of the
11 Defendants.

12 37. CCI has been damaged as a result of BIC's and BUSA's infringing conduct. BIC
13 and BUSA are thus liable to CCI in an amount that adequately compensates for their
14 infringement, which by law cannot be less than a reasonable royalty together with interest and
15 costs as fixed by this Court under 35 U.S.C. § 284.

16 38. Based on BIC's and BUSA's respective objective recklessness, CCI is further
17 entitled to enhanced damages under 35 U.S.C. § 284.

18 **VI. JURY DEMAND**

19 39. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of
20 Civil Procedure.

21 **VII. PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff respectfully requests that the Court find in its favor and against
23 Defendants, and that the Court grant Plaintiff the following relief:

- 24 a. Judgment that one or more claims of the Asserted Patents have been directly
25 infringed, either literally or under the doctrine of equivalents, by Defendants, or
26 judgment that one or more of the claims of the Asserted Patents have been
27 directly infringed by others and indirectly infringed by Defendants, to the extent
28 Defendants contributed to or induced such direct infringement by others;

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- b. Judgment that Defendants account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendants’ infringing activities and other conduct complained of herein, including enhanced damages as permitted by 35 U.S.C. § 284;
- c. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendants’ infringing activities and other conduct complained of herein;
- d. That the Court declare this an exceptional case and award Plaintiff its reasonable attorney’s fees and costs in accordance with 35 U.S.C. § 285; and
- e. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

DATED: July 5, 2017

/s/ H.H. (Shashi) Kewalramani

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