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11 Attorneys for Plaintiff
12 COMMERCIAL COPY INNOVATIONS, INC.

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA,**
15 **SOUTHERN DIVISION**

16 COMMERCIAL COPY
17 INNOVATIONS, INC.,
Plaintiff,

18 vs.

19 LEXMARK INTERNATIONAL,
20 INC.,

21 Defendant.

CASE NO. 8:17-cv-01149-JVS-KES

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

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1 Plaintiff COMMERCIAL COPY INNOVATIONS, INC. files this Original
2 Complaint against Defendant LEXMARK INTERNATIONAL, INC. alleging as
3 follows:

4 **I. THE PARTIES**

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

9 2. Defendant LEXMARK INTERNATIONAL, INC. (“Lexmark”) is a
10 corporation organized and existing under the laws of the State of Delaware, with a
11 principal place of business at 740 West New Circle Road, Lexington, KY 40550.
12 Lexmark agreed to accept service of process, made an appearance through counsel,
13 and is presently before this Court

14 **II. JURISDICTION AND VENUE**

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

18 4. Lexmark maintains an established and regular place of business within
19 the Central District of California, Southern Division. Lexmark operates a sales
20 office for business channel and OEM sales of its products, including the Accused
21 Products as described herein, located at 2211 Michelson Drive, Irvine, California
22 92612.

23 5. In addition, Lexmark provides to prospective customers, via its website
24 at https://www.lexmark.com/en_us/products/hardware/dealer-locator.html, a
25 listing of authorized dealers selling Lexmark products which is searchable by
26 location. Lexmark has at least eight authorized dealers within Orange County,
27 California, alone, selling Lexmark products, including the Accused Products
28 described herein.

1 15. On March 6, 2001, United States Patent No. 6,197,466 B2 (“the ‘466
2 Patent”) was duly and legally issued for an “Electrophotographic Toner Surface
3 Treated with metal Oxide.” The ‘466 Patent remains in force as of the filing of this
4 Complaint. A true and correct copy of the ‘466 Patent is attached hereto as Exhibit
5 “A” and made a part hereof.

6 16. CCI is the owner of all right and title in the ‘466 Patent, including all
7 rights to enforce and prosecute action for infringement of the ‘466 Patent and to
8 collect damages for all relevant times against infringers of the ‘466 Patent.
9 Accordingly, CCI possesses the exclusive right and standing to prosecute the
10 present action for infringement of the ‘466 Patent by Defendant.

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

17 18. Without authority, consent, right, or license, and in direct infringement
18 of the ‘466 Patent, Lexmark markets, uses, sells, offers for sale, manufactures, has
19 manufactured, makes, has made, imports, and/or has imported systems or products
20 that directly infringe one or more claims of the ‘466 Patent. By way of example,
21 Lexmark make, uses, and sells the Lexmark Toner, including at least Lexmark
22 24015SA Black Toner used by the Lexmark E230, E232, E234, E240, E330, E332,
23 E340, E342 printers, which infringes at least Claim 9 of the ‘466 Patent.

24 19. Lexmark Toner is usable with Lexmark laser printer and copier
25 products to accommodate electrophotographic printing. The Lexmark Toner
26 comprises an electrophotographic toner composition and is described as such in, at
27 least, Lexmark’s product specification.

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1 20. Lexmark Toner comprises toner particles as well as metal oxide
2 particles dispersed within the toner particles. The metal oxide content of Lexmark
3 Toner is between 0.1 to 5.0 weight percent of the toner composition and consists of
4 silicon and/or titanium oxides. By way of example, a sample of Lexmark Toner
5 collected from a cartridge of Lexmark 24015SA Black Toner, was analyzed
6 inductively coupled plasma mass spectrometry analysis and was found to comprise
7 about 0.57% by weight, collectively, titanium oxide and silicon oxides. These
8 results are believed to be representative of all Lexmark Toner products.

9 21. At least a portion of the metal oxide particles comprising titanium
10 dioxide, silicon dioxide, or mixtures thereof, within the Lexmark Toner are
11 embedded below the surface of the toner particles. By way of example, using the
12 sample of Lexmark 24015SA Black Toner, several such metal oxide particles were
13 found embedded below the surfaces of toner particles via use of HAADF STEM
14 tomography imaging and energy-dispersive X-ray spectroscopy analysis. These
15 results are believed to be representative of all Lexmark Toner products.

16 22. CCI expressly reserves the right to assert additional claims of the '466
17 Patent against Lexmark.

18 23. CCI has been damaged as a result of the infringing conduct of Lexmark.
19 Lexmark is, 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
21 interest and costs as fixed by this Court under 35 U.S.C. § 284.

22 24. Based on Lexmark'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 25. CCI repeats and realleges all preceding paragraphs of this Complaint,
27 as though fully set forth herein.
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1 26. On September 17, 2002, United States Patent No. 6,453,127 B2 (“the
2 ‘127 Patent”) was duly and legally issued for an “Establishment at a Remote
3 Location of an Internet/Intranet User Interface to a Copier/Printer.” The ‘127
4 remains in force as of the filing of this Complaint. A true and correct copy of the
5 ‘127 Patent is attached hereto as Exhibit “B” and made a part hereof.

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

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

17 29. Without authority, consent, right, or license, and in direct infringement
18 of the ‘127 Patent, Lexmark markets, uses, sells, offers for sale, manufactures, has
19 manufactured, makes, has made, imports, and/or has imported Lexmark Printers
20 that directly infringe at least claim 1 of the ‘127 Patent.

21 30. Lexmark Printers are implemented with a Remote Operator Panel
22 utility which accommodates access by remote users to provide configuration and
23 operating instructions to the Lexmark Printers via a web browser. Use of the
24 Remote Operator Panel allows remote users to interface with the marking engines
25 of the Lexmark Printers to view one or more statuses of the Lexmark Printers, as
26 well as to configure and command operation of the Lexmark Printers. Upon
27 information and belief, the Remote Operator Panel is found on all recent and current
28 Lexmark model printers. By way of example, this includes at least Lexmark’s

1 C740, C790, C925, C950, C4150, CS310, CS510, CS720, CS725, CS820, CX510,
2 CX725, CX820, CX825, CX860, MS510, MS610, MS710, MS810, MS910,
3 MX410, MX510, MX611, MX710, MX810, MX910, X740, X790, X925, X950
4 series printers.

5 31. The Lexmark Printers include a web server accessible via a web
6 browser upon entry of an IP address or host name of a Lexmark Printer in the web
7 browser. Remote users can monitor the status of the Lexmark Printer and
8 associated print jobs, configure one or more print settings of the Lexmark Printer,
9 and initiate/cancel printing operations over a network using the Remote Operator
10 Panel utility accessing the web server of the Lexmark Printer. The Remote
11 Operator Panel utility operates as an applet using Java programming language.

12 32. The Lexmark Printers are implemented with a memory storing
13 document files and print job statuses which can be accessed from a control panel,
14 or local user interface, of the Lexmark Printers or via the Remote Operator Panel
15 utility to view their status or print the documents, among other operations.

16 33. By way of example, Lexmark's MX910 Series multifunction printers
17 ("the MX910") accommodate printing in accordance with instructions provided by
18 local users at the printer and by remote users via use of the Embedded Web Server
19 component and functionality.

20 34. The MX910 comprises a printhead, which is a marking engine,
21 operable to print up to 45 pages per minute in response to instructions provided by
22 users either locally or remotely. The marking engine is controllable locally via a
23 local user interface comprising a touchscreen display and remotely via an
24 Embedded Web Server accessible by a remote network computer. The MX910 is
25 implemented with a User Interface Controller Card for controlling these interfaces
26 between users and the marking engine.

27 35. The Embedded Web Server is accessed by remote network computers
28 via a network connection and web browser. Upon entry of the MX910's IP address

1 into the web browser address field on a network computer, remote users may
2 connect to the Embedded Web Server to access a Remote Operator Panel of the
3 MX910. The Remote Operator Panel comprises a webpage screen showing the
4 status of the MX910 and accommodating reception of print job configuration
5 commands from remote users to control operation of the MX910, including the
6 configuration and initiation of print jobs. The Remote Operator Panel page and
7 data are downloaded to remote network computers and rely on the use of Java
8 applets to function. The Remote Operator Panel provides for interaction with the
9 controller of the MX910 to view printer status, release held print jobs, create
10 bookmarks, and/or perform print-related tasks. Print jobs and held jobs are stored
11 in a memory accessible via the Embedded Web Server for viewing by remote users.
12 These jobs are also viewable locally by users via the local user interface comprising
13 a touchscreen display.

14 36. CCI expressly reserves the right to assert additional claims of the ‘127
15 Patent against Lexmark in relation to the Lexmark Printers, as well as other
16 products of Lexmark.

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

21 38. Based on Lexmark’s objective recklessness, CCI is further entitled to
22 enhanced damages under 35 U.S.C. § 284.

23 **VI. JURY DEMAND**

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

26 **VII. PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff respectfully requests that the Court find in its favor
28 and against Defendant, and that the Court grant Plaintiff the following relief:

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- a. Judgment that one or more claims of the Asserted Patents have been directly infringed, either literally or under the doctrine of equivalents, by Defendant, or judgment that one or more of the claims of the Asserted Patents have been directly infringed by others and indirectly infringed by Defendant, to the extent Defendant contributed to or induced such direct infringement by others;
- b. Judgment that Defendant account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendant’s 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 Defendant’s 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.

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DATED: September 28, 2017

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