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COMMERCIAL COPY INNOVATIONS, INC.

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

16 COMMERCIAL COPY INNOVATIONS,
17 INC.,

18 Plaintiff,

19 vs.

20 BROTHER INTERNATIONAL
CORPORATION

21 and

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

23 Defendants.
24

CASE NO. 8:17-cv-01145 JVS

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

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 place
7 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 place
11 of business at 200 Crossing Boulevard, Bridgewater, New Jersey 08807. BIC has made an
12 appearance through counsel and is presently before this Court.

13 3. Defendant BROTHER INDUSTRIES (U.S.A.), INC. (“BUSA”) is a corporation
14 organized and existing under the laws of the State of Delaware, with a principal place of business
15 at 7819 North Brother Blvd. Bartlett, Tennessee 38133. BUSA has made an appearance through
16 counsel and is presently before this Court.

17 **II. JURISDICTION AND VENUE**

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

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

24 6. In addition, Defendants provide to prospective customers, via their website at
25 <https://www.brother-usa.com/Wheretobuy/> and <http://www.brother-usa.com/service/>, listings of
26 authorized dealers and resellers that sell and service BIC products which are searchable by
27 product type and location. BIC has a large number of authorized dealers, resellers, and authorized
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1 service centers within Orange County, California, alone, selling and servicing BIC’s products,
2 including the Accused Products described herein.

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

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

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

18 **III. BACKGROUND AND FACTS**

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

24 11. Kodak is a world-renowned U.S.-based company, founded in 1888, which has been
25 an industry leader in the design and manufacture of cameras and film, digital imaging devices,
26 printers, ink, toner, and related devices. Over the nearly 130 years that Kodak has been in
27 business, Kodak has developed many valuable innovations in the photographic, imaging, and
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1 printing industries that led to the issuance of thousands of patents, including the Asserted Patents.
2 Many of these innovations were directly developed by engineers and scientists working at Kodak
3 Research Laboratories as part of Kodak’s continuous work to advance photography, imaging,
4 and printing technology.

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

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

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

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

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

2 **U.S. Patent No. 6,197,466 B2**

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

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

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

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

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

27 22. Brother Toner is usable with Brother laser printer and copier products to
28 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 weight
5 percent of the toner composition and consists of silicon and/or titanium oxides. By way of
6 example, a sample of Brother Toner collected from a cartridge of Brother's TN660 Black Toner
7 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 Patent”)
2 was duly and legally issued for an “Establishment at a Remote Location of an Internet/Intranet
3 User Interface to a Copier/Printer.” The ‘127 Patent recently expired on September 26, 2017.,
4 but was in force on July 5, 2017 when this lawsuit was initially filed. A true and correct copy of
5 the ‘127 Patent is attached hereto as Exhibit “B” and 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 Brother
18 Printers which directly infringe at least claim 1 of the ‘127 Patent, including at least Defendants’
19 DCP-L5500DN, DCP-L5600DN, DCP-L5650DN, MFC-L5700DW, MFC-L5800DW, MFC-
20 L5850DW, MFC-L5900DW, MFC-L6700DW, and MFC-L6800DW printer/copiers.

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

27 34. The Brother Printers comprise a print server equipped with a built-in web server
28 that allows remote users to monitor the printer status and configure the printer via a web browser

1 upon entry of an IP address or host name of a Brother Printer in the web browser. Remote users
2 can monitor the status of the Brother Printer and associated print jobs, configure one or more
3 print settings of the Brother Printer, and initiate/cancel printing operations over a network using
4 the Web Based Management utility accessing the web server of the Brother Printer. The Web
5 Based Management utility operates as an applet using Java programming language.

6 35. The Brother Printers are implemented with a 256MB memory for storing document
7 files and print job statuses that can be accessed from a control panel, or local user interface, of
8 the Brother Printer or via the Web Based Management utility to view their status or print the
9 documents, among other operations.

10 36. By way of example, Brother's DCP-L5500DN Series multifunction copier/printer
11 ("the DCP-L5500DN") accommodates printing in accordance with instructions provided by local
12 users at the printer as well as by remote users via use of the Web Based Management utility
13 components and functionality.

14 37. The DCP-L5500DN comprises a printhead, which is a marking engine, operable to
15 print up to 42 pages per minute in response to instructions provided by users either locally or
16 remotely. The marking engine is controllable locally via a local interface comprising a color
17 touchscreen display and remotely via the built-in web server accessible by remote network
18 computers. The DCP-L5500DN is implemented with a circuit board for controlling these
19 interfaces between users and the marking engine.

20 38. The built-in web server is accessed by remote network computers via a network
21 connection over a web browser. Upon entry of the DCP-L5500DN's IP address into the web
22 address field on a network computer, remote users may connect to the built-in web server to
23 access the homepage for the DCP-L5500DN. The homepage comprises a webpage screen
24 showing the status of the DCP-L5500DN and accommodating reception of print job configuration
25 commands from remote users to control operation of the DCP-L5500DN, including configuration
26 and initiation of print jobs. The printer homepage and corresponding data are downloaded to
27 remote network computers and comprise Java applets which require that JavaScript be enabled
28 on the remote network computer to function. The printer homepage provides for interaction with

1 the controller of the DCP-L5500DN to view printer status and configure, initiate, or cancel print
2 jobs. Print jobs are stored in the memory of the DCP-L5500DN and are accessible via the Web
3 Based Management printer homepage or at the local user interface comprising a touchscreen
4 display.

5 39. CCI expressly reserves the right to assert additional claims of the '127 Patent
6 against BIC and BUSA in relation to the Accused Printers, as well as other products of the
7 Defendants.

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

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

14 **VI. JURY DEMAND**

15 42. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of
16 Civil Procedure.

17 **VII. PRAYER FOR RELIEF**

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

- 20 a. Judgment that one or more claims of the Asserted Patents have been directly
21 infringed, either literally or under the doctrine of equivalents, by Defendants, or
22 judgment that one or more of the claims of the Asserted Patents have been directly
23 infringed by others and indirectly infringed by Defendants, to the extent Defendants
24 contributed to or induced such direct infringement by others;
- 25 b. Judgment that Defendants account for and pay to Plaintiff all damages to and costs
26 incurred by Plaintiff because of Defendants' infringing activities and other conduct
27 complained of herein, including enhanced damages as permitted by 35 U.S.C. §
28 284;

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- 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: October 7, 2017

/s/ Scott R. Hansen

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