

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

_____)	
MODERN TELECOM SYSTEMS, LLC)	
)	C.A. No. _____
Plaintiff,)	
v.)	JURY TRIAL DEMANDED
)	
BROTHER INTERNATIONAL)	
CORPORATION, AND)	
BROTHER INDUSTRIES (U.S.A.), INC.,)	
)	
Defendants.)	
_____)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Modern Telecom Systems, LLC (“MTS” or “Plaintiff”), for its Complaint against Brother International Corporation and Brother Industries (U.S.A.), Inc. (collectively, “Brother” or “Defendants”) alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

THE PARTIES

2. Plaintiff is a limited liability company organized under the laws of the State of Delaware with a place of business at 913 N. Market Street, Suite 200, Wilmington, DE 19801.

3. On information and belief, Brother International Corporation is a corporation organized under the laws of Delaware with a place of business at 200 Crossing Boulevard, Bridgewater, New Jersey 08807. The Delaware Division of Corporations identifies Brother International Corporation’s registered agent as Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

4. On information and belief, Brother Industries (U.S.A.), Inc. is a corporation organized under the laws of Delaware with a place of business at 7819 North Brother Boulevard, Bartlett, Tennessee 38133. The Delaware Division of Corporations identifies Brother Industries (U.S.A.), Inc.'s registered agent as Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

5. On information and belief, Defendants sell and offer to sell products and services throughout the United States, including in this District, and introduce products and services into the stream of commerce and that incorporate infringing technology knowing that they would be sold in this District and elsewhere in the United States.

6. On information and belief, Defendants conduct a significant, persistent and regular amount of business in this District through product sales by its distributors and resellers and through online marketing, and derive substantial revenue from such business.

JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

8. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

9. Venue is proper in this District under 28 U.S.C. §§ 1391(b), (c) and/or 1400(b).

On information and belief, Defendants have placed, and are continuing to place, infringing products into the stream of commerce, via an established distribution channel, with the knowledge and/or understanding that such products are sold in this District. Defendants, directly or through intermediaries, conduct business in this District, and at least a portion of the acts of infringement and claims alleged in this Complaint have taken place and are continuing to take place in this District.

10. On information and belief, this Court has personal jurisdiction over Defendants because they are both incorporated in Delaware and have purposefully availed themselves of the privileges and benefits of the laws of the State of Delaware. Further, Defendants are subject to this Court's general and specific personal jurisdiction because Defendants have sufficient minimum contacts within the State of Delaware, pursuant to due process and/or the Delaware Long Arm Statute, because Defendants purposefully availed themselves of the privileges of conducting business in the State of Delaware, and because Plaintiff's causes of action arise directly from Defendants' business contacts and other activities in the State of Delaware, including regularly doing or soliciting business and deriving substantial revenue from products and services provided to individuals in this District. The exercise of jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice.

11. Defendants conceded personal jurisdiction and venue in Delaware under 28 U.S.C. §1400(b) in transferring and defending a currently pending claim of patent infringement to and in this District. *See Commercial Copy Innovations, Inc. vs. Brother International Corporation et al.*, 1:18-cv-00076-LPS-CJB (January 10, 2018) (case transferred to Delaware from Central District of California, 8:17-cv-01145).

BACKGROUND

12. The technology claimed in the patent asserted in this action was invented during the research and development activities of the Rockwell family of companies, including Rockwell Semiconductors Systems, Inc., Conexant Systems, Inc. ("Conexant"), and Mindspeed Technologies, Inc. ("Mindspeed"). In 1998, Rockwell International spun off its Rockwell Semiconductor group and renamed it Conexant. Conexant inherited Rockwell's mixed signal semiconductor expertise and intellectual property portfolio, and

was focused on developing semiconductor products for a broad range of communications networks. Conexant's Internet Infrastructure group was incorporated as a wholly-owned subsidiary named Mindspeed Technologies, Inc. ("Mindspeed") in 2001 and spun-off as an independent entity in 2003. Mindspeed's focus was on semiconductor and software solutions for Internet access devices, switching fabric, and network processors.

13. Plaintiff is the owner of the patent asserted in this action and has the exclusive right to sue and collect remedies for past, present, and future infringement of the patent.

14. Plaintiff assumed all the rights and obligations related to the patent from Modern Telecom Systems, LLC ("MTS-CA"), a California limited liability company, which had assumed all the rights and obligations related to the patent from Glacom Patents Licensing, LLC, which had assumed all the rights and obligations related to the patent from V-Dot Technologies, LLC (formerly, V-Dot Technologies, Limited) ("VDOT"), which had assumed all the rights and obligations related to these patents from Telecom Technology Licensing, LLC ("TTL"), which had assumed all the rights and obligations related to the patent from Mindspeed. Conexant, the assignee identified on the face of the patent, assigned the patent to Mindspeed in an assignment dated June 27, 2003.

INFRINGEMENT OF U.S. PATENT NO. 6,504,886

15. The allegations set forth in the foregoing paragraphs 1 through 14 are incorporated by reference into this claim for relief.

16. On January 7, 2003, U.S. Patent No. 6,504,886 ("the '886 Patent"), entitled "Communication of an Impairment Learning Sequence According to an Impairment

Learning Sequence Descriptor,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ‘886 Patent is attached as Exhibit 1.

17. The ‘886 Patent issued from United States Patent Application No. 09/956,207 (“the ‘207 Application”), filed on September 19, 2001. The ‘207 Application is a Continuation of U.S. Patent Application No. 08/969,971, entitled “Method and Apparatus for Generating a Line Impairment Learning Signal for a Data Communication System,” filed November 13, 1997, now U.S. Patent No. 6,332,009, which is a Continuation-In-Part of U.S. Patent Application No. 08/922,851, entitled “Method and Apparatus for Generating a Programmable Synchronization Signal for a Data Communication System,” filed September 3, 1997, now U.S. Patent No. 6,212,247.

18. Plaintiff is the assignee and owner of the right, title, and interest in and to the ‘886 Patent, including the right to assert all causes of action arising under the ‘886 Patent and the right to any remedies for infringement of the ‘886 Patent.

19. Defendants have infringed and continue to infringe the ‘886 Patent under 35 U.S.C. § 271, literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, infringing products without authorization (hereafter “Infringing Instrumentalities”). At a minimum, Infringing Instrumentalities include all Brother printers and other devices that operate pursuant to Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications of IEEE Std 802.11™ -2012 and IEEE Std 802.11™ -2009 (collectively, the relevant “Wi-Fi Standard”). This includes products like the Brother Multi-Function Printer MFC-J4320DW which is configured to operate pursuant to the Wi-Fi Standard.

20. Defendants directly infringed and continue to directly infringe at least claim 18¹ of the '886 Patent by making, using, selling, offering to sell, importing and/or providing and causing to be used the Brother Multi-Function Printer MFC-J4320DW which satisfies, literally or under the doctrine of equivalents, each and every claim limitation of claim 18 of the '886 Patent. The correspondence between the limitations of claim 18 of the '886 Patent and the Brother Multi-Function Printer MFC-J4320DW is shown in the claim chart attached hereto as Exhibit 2. The claim chart is incorporated by reference as if set forth herein. The citations to the Wi-Fi Standard in the claim chart are required for a product configured to operate pursuant to the Wi-Fi Standard. Additional details relating to the Brother Multi-Function Printer MFC-J4320DW and its infringement are within the possession, custody or control of Defendants.

21. TCL provides users of the Brother Multi-Function Printer MFC-J4320DW with instructions on how to connect to a Wi-Fi network and markets Wi-Fi connectivity in their promotional materials for the Brother Multi-Function Printer MFC-J4320DW. To connect to a Wi-Fi network, the Brother Multi-Function Printer MFC-J4320DW needs to operate pursuant to the Wi-Fi Standard and the required portions of the Wi-Fi Standard necessarily practice at least claim 18 of the '886 Patent.

22. On information and belief, the identified structure and functionality of the Brother Multi-Function Printer MFC-J4320DW that are shown in the claim chart are representative of the structure and functionality present in all Infringing Instrumentalities including but not limited to Brother's products with the following designations or trade names: Brother Color Laser / LED Printers, Brother Laser / LED Multi-Function Copiers. On information and belief, any other

¹ Plaintiff reserves the right to identify additional asserted claims and accused products as this litigation proceeds. For example, Plaintiff expressly reserves the right to identify additional asserted claims and accused products in its infringement contentions to be served during the discovery process.

product of Brother that operates pursuant to the Wi-Fi Standard is also an Infringing Instrumentality. Additional details relating to Infringing Instrumentalities and their infringement are within the possession, custody or control of Defendants.

23. Plaintiff offers this preliminary identification and description of infringement without the benefit of discovery or claim construction in this action, and expressly reserves the right to augment, supplement, and revise its identification and description of infringement based on additional information obtained through discovery or otherwise.

24. On information and belief, Defendants had knowledge and became aware that their products that operate pursuant to the Wi-Fi Standard infringe the '886 Patent prior to the filing of this Complaint. By way of example, in 2016, Mr. Toshikazu Koike, the CEO of Brother International Corporation, received a letter from MTS stating that the '886 Patent was being used in WiFi-enabled products that were being used, offered for sale and sold by Brother. In March 2017, Mr. Koike received another letter indicating that Brother needed to start licensing discussions with MTS. Discovery in this matter may reveal that Defendants are liable for willful infringement and/or have induced others to infringe the '886 Patent.

25. Defendants' acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendants the damages it has sustained as a result of Defendants' wrongful acts in an amount subject to proof at trial.

JURY DEMAND

26. Plaintiff requests a jury trial of all issues in this action so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

A. Declaring that Defendants have infringed the '886 Patent.

B. Awarding damages arising out of Defendants' infringement of the '886 Patent to MTS, together with prejudgment and post-judgment interest, in an amount according to proof.

C. Awarding attorneys' fees to MTS pursuant to 35 U.S.C. § 285 or as otherwise permitted by law.

D. Awarding such other costs and further relief as the Court may deem just and proper.

DATED: March 28, 2018

**KLEHR HARRISON
HARVEY BRANZBURG LLP**

/s/ Sean M. Brennecke

Sean M. Brennecke (#4686)
919 Market Street, Suite 1000
Wilmington, Delaware 19801
Telephone: (302) 552-5518
Facsimile: (302) 426-9193
sbrennecke@klehr.com

- and -

OF COUNSEL:

Daniel S. Carlineo, Esq.
(*pro hac vice* motion to be filed)
CARLINEO KEE, PLLC
1517 17th Street, NW; 3rd Floor
Washington, DC 20036
Telephone: (202) 780-6109
dcarlineo@ck-iplaw.com

Benjamin E. Fuller, Esq.
(*pro hac vice* motion to be filed)
KLEHR HARRISON
HARVEY BRANZBURG LLP
1835 Market Street, Suite 1400
Philadelphia, Pennsylvania 19103
Telephone: (215) 569-4769
Facsimile: (215) 568-6603
bfuller@klehr.com

*Attorneys for Plaintiff
Modern Telecom Systems, LLC*