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ELECTRONICS FOR IMAGING, INC.

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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11
12 ELECTRONICS FOR IMAGING, INC., a
Delaware corporation,

13 Plaintiff,

14 v.

15 RAH COLOR TECHNOLOGIES LLC

16 Defendant.
17

CASE NO. 3:18-cv-01612-WHO

**FIRST AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT**

DEMAND FOR JURY TRIAL

Jeffer Mangels
Butler & Mitchell LLP
JMBM

1 Plaintiff Electronics for Imaging, Inc. (“EFI” or “Plaintiff”), for its claims against Defendant
2 RAH Color Technologies LLC (“RAH” or “Defendant”) alleges as follows:

3 **NATURE OF THE ACTION**

4 1. Under Federal Circuit law, upstream manufacturers or suppliers of accused products,
5 like EFI, should be given the opportunity to defend its own technology and therewith its customers.
6 “[L]itigation . . . brought by the manufacturer of infringing goods takes precedence over a suit by
7 the patent owner against customers of the manufacturer.” *See Katz v. Lear Siegler, Inc.*, 909 F.2d
8 1459, 1464 (Fed. Cir. 1990); *see also In re Google Inc.*, 588 F. App’x 988, 990 (Fed. Cir. 2014).
9 Because Defendant RAH repeatedly has sued EFI’s customers for patent infringement based on EFI
10 products, EFI seeks declaratory judgment of non-infringement of U.S. Patent Nos. 6,995,870 (the
11 “’870 patent”), 7,729,008 (the “’008 patent”), 7,312,897 (the “’897 patent”) and 8,760,704 (the ’704
12 patent; collectively with the ’870, ’008 and ’897 patents, the “patents-in-suit”).

13 **PARTIES**

14 2. EFI is a Delaware corporation with its principal place of business at 6750 Dumbarton
15 Circle, Fremont, California 94555. EFI is a leader in the transformation from analog to digital
16 imaging with scalable, digital, award-winning products. Based in Silicon Valley, California, EFI
17 develops breakthrough technologies for the manufacturing of signage, packaging, textiles, ceramic
18 tiles, and personalized documents, with a wide range of printers, inks, digital front ends, and a
19 comprehensive business and production workflow suite.

20 3. EFI is informed and believes that RAH is a limited liability company organized
21 under the laws of the Commonwealth of Virginia with an office at 7012 Colgate Drive, Alexandria,
22 Virginia 22307.

23 4. EFI is informed and believes that RAH’s business is directed to owning and
24 enforcing in litigation the patents-in-suit throughout the United States, including in the Northern
25 District of California. Upon information and belief, over the last several years, RAH has filed at
26 least 11 patent infringement lawsuits against 17 or more defendants located throughout the United
27 States. Upon information and belief, RAH does not itself manufacture or sell any products or offer
28 for sale any products or services in the United States.

JURISDICTION AND VENUE

1
2 5. This is a civil action regarding allegations of patent infringement arising under the
3 patent laws of the United States, Title 35 of the United States Code, in which EFI seeks declaratory
4 relief under the Declaratory Judgment Act. Defendant RAH has accused and sued EFI's customers,
5 alleging patent infringement based on their manufacture, use, sale, offer for sale, and importation of
6 EFI's products. Thus, a substantial controversy exists between EFI and Defendant that is of
7 sufficient immediacy and reality to empower the Court to issue a declaratory judgment. *See*
8 *Microsoft Corp. v. DataTern, Inc.*, 755 F.3d 899, 903 (Fed. Cir. 2014); *Arris Group, Inc. v. British*
9 *Telecommunications PLC*, 639 F.3d 1368, 1375 (Fed. Cir. 2011). This Court has jurisdiction over
10 the subject matter of this declaratory judgment action under 28 U.S.C. §§ 1331 and 1338(a), in that
11 it involves claims arising under the United States Patent Act, 35 U.S.C. § 1 *et seq.*

12 6. This Court may declare the rights and other legal relations of the parties pursuant to
13 28 U.S.C. §§ 2201 and 2202 because there is a case of actual controversy within the Court's
14 jurisdiction.

15 7. This Court has both general and specific jurisdiction over RAH because RAH has
16 purposefully directed its licensing and enforcement activities related to the patents-in-suit into the
17 Northern District of California. In terms of specific jurisdiction, RAH has purposefully directed its
18 licensing and enforcement activities at EFI customer Xerox Corporation ("Xerox") based on
19 Xerox's manufacture, use, sale, and offer for sale of EFI products, EFI's claims relate to those
20 activities, and the assertion of personal jurisdiction over RAH in California is fair and reasonable.
21 *See Xilinx, Inc. v. Papst Licensing GmbH & Co. KG*, 848 F.3d 1346, 1354 (Fed. Cir. 2017). For
22 example and without limitation, on information and belief, RAH, through its agents, affiliates,
23 and/or alter egos, has asserted patent rights against EFI customer Xerox based on Xerox's
24 manufacture, use, sale, and offer for sale of EFI products. RAH purposefully directed its activities
25 to California when it corresponded with Xerox's California counsel and traveled there to meet with
26 Xerox in Redwood City, California to discuss RAH's infringement allegations involving EFI
27 products and a potential licensing of RAH's patents. These activities relate to EFI's declaratory
28 judgment claims. RAH therefore has established the requisite minimum contacts with this district,

1 and, as such, the exercise of jurisdiction here would comport with traditional notions of substantial
2 justice and fair play. *See Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 476, (1985). Specific
3 jurisdiction over RAH also is fair and reasonable for the reasons set forth immediately below.

4 8. This Court also has personal jurisdiction over RAH because, on information and
5 belief, RAH conducts substantial business in this district, including regularly soliciting business and
6 engaging in other persistent courses of conduct. For example and without limitation, on
7 information and belief, RAH has accused other California companies of infringement, and traveled
8 to California to meet with them to discuss RAH's infringement allegations and potential licensing
9 of RAH's patents. For example, EFI is informed and believes that RAH repeatedly contacted
10 Adobe Systems, Inc. ("Adobe") at their San Jose, California headquarters over the course of four
11 years, including travelling to San Jose, California to meet with Adobe regarding RAH's
12 infringement allegations and potential licensing of RAH's patents. *See RAH Color Technologies*
13 *LLC v. Adobe Systems Inc.*, Case No. 18-cv-00733, D.I. 1, ¶¶ 27-38 (N.D. Ill. Jan. 31, 2018).
14 Specifically, RAH has alleged that it corresponded with Adobe and its counsel in California at least
15 a dozen times regarding the enforcement and licensing of its patents. Case No. 18-cv-00733, D.I. 1,
16 ¶¶ 27-38. RAH, through its owner and the inventor of the RAH patents, and its counsel also traveled
17 and met with Adobe in California regarding the enforcement of its patents at least twice. *Id.*, ¶ 33;
18 Dkt. 11 at 13. On information and belief, RAH also has sent letters to U.S. Espon, Inc. and Epson
19 America, Inc., both of whom are California corporations based in California, regarding the
20 enforcement and licensing of its patents. *See RAH Color Technologies LLC v. Seiko Espon Corp.*,
21 *et al.*, Case No. 10-cv-06710, Dkt. 1 (N.Y.W.D. Dec. 21, 2010). On information and belief, RAH
22 has corresponded, met, and entered into license agreements with other California-based companies
23 in connection enforcing and licensing its patents. In short, EFI is informed and believes that (1)
24 RAH repeatedly has sent correspondence to other companies based in California asserting
25 infringement of the patents-in-suit or related patents and demanding that such parties take a license to
26 RAH's patents; (2) RAH repeatedly has traveled to California to meet with such companies for the
27 purpose of asserting infringement of the patents-in-suit or related patents and demanding that such
28 companies take a license to its patents; and (3) RAH entered into licensing agreements with such

1 companies, thereby deriving substantial revenue from entities in California. Moreover, any burden on
2 RAH of being subject to suit in California is mitigated by RAH's status as a non-practicing entity
3 who, on information and belief, routinely has representatives traveling throughout the U.S. and
4 outside the U.S. to enforce and license its patents, and it has repeatedly initiated lawsuits in forums
5 other than in the state where it purports to reside. As a result of RAH's continuous and systematic
6 contacts with California, the exercise of personal jurisdiction over RAH in California is reasonable
7 and fair.

8 9. EFI's principal place of business is within this judicial district.

9 10. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c).

10 **INTRADISTRICT ASSIGNMENT**

11 11. Pursuant to Civil Local Rules 3-2(c) and 3-5(b), this Intellectual Property Action
12 shall be assigned on a district-wide basis.

13 **THE PATENTS-IN-SUIT**

14 12. United States Patent No. 6,995,870, entitled "System for Distributing and
15 Controlling Color Reproduction at Multiple Sites" (the '870 Patent);

16 13. United States Patent No. 7,729,008, entitled "System for Distributing and
17 Controlling Color Reproduction at Multiple Sites" (the '008 Patent).

18 14. United States Patent No. 7,312,897, entitled "System for Distributing and
19 Controlling Color Reproduction at Multiple Sites" (the '897 Patent).

20 15. United States Patent No. 8,760,704, entitled "System for Distributing and
21 Controlling Color Reproduction at Multiple Sites" (the '704 Patent).

22 16. RAH has alleged that it is the owner by assignment of each of the patents-in-suit.

23 **BACKGROUND**

24 17. RAH has directly accused EFI's products of infringing each of the patents-in-suit.
25 RAH's express infringement allegations taken together with all the other circumstances, including
26 that EFI makes, uses, sells, or offers to sell the accused print servers in the same manner that RAH
27 accuses EFI's customers of infringement, provides a sufficient basis for EFI's declaratory relief
28 claim.

1 18. On information and belief, on August 22, 2014, RAH sent a letter to Konica Minolta
2 indicating that it was using RAH’s patented technology. In its letter, RAH identified, among other
3 things, the ’870, ’008, and ’704 patents as being relevant to certain Konica Minolta products
4 purchased from EFI.

5 19. After receiving a letter from RAH identifying products purchased from EFI that
6 “relate to” RAH’s U.S. patents, on September 17, 2014 Konica Minolta notified EFI and demanded
7 that EFI defend, indemnify and hold harmless Konica Minolta regarding RAH’s claims based on
8 Konica Minolta’s purchase of EFI products.

9 20. On information and belief, on October 14, 2014, RAH sent a letter to Ricoh
10 Americas Corporation indicating that it was using RAH’s patented technology. In its letter, RAH
11 identified, among other things, the ’870, ’008, ’897 and ’704 patents as being relevant to certain
12 Ricoh products purchased from EFI.

13 21. After receiving RAH’s October 14, 2014 letter, Ricoh Company Ltd, parent
14 company to Ricoh Americas Corporation, sent EFI a letter notifying EFI of RAH’s claims.

15 22. On September 17, 2015, RAH sued Ricoh Americas Corporation (“Ricoh”) for
16 patent infringement in the United States District Court for the Eastern District of Pennsylvania.
17 RAH alleged that Ricoh’s Pro C651EX, Pro C751 and Pro C751EXs, each having an EFI Fiery E-
18 41A Controller and Color Profiler Suite, Ricoh Pro C901/C901s Graphic Arts with an EFI Fiery E-
19 42 Print Controller and Color Profiler Suite, Ricoh Pro C901/C901s Graphic Arts with an EFI Fiery
20 E-82 Print Controller and Color Profiler Suite, Ricoh Pro C5100s/C5110s, MP C8002, and MP
21 C6502, each with an EFI Fiery E-22B Color Controller and Color Profiler Suite, Ricoh Pro
22 C5100s/C5110s with an EFI Fiery E-42B Color Controller and Color Profiler Suite, Ricoh Pro
23 C751 with an EFI Fiery E-41A Controller and Color Profiler Suite, Ricoh MP C6003, C5503,
24 C4503, C3503, and C3003, each with an EFI Fiery E-22C Color Controller and Color Profiler Suite,
25 infringe the ’870 patent. *See RAH Color Technologies LLC v. Ricoh Americas Corporation*, Case
26 No. 15-cv-05203, Dkt. 1 [Complaint], at ¶¶ 23-32 (E.D. Pa. Sep. 17, 2015).

27 23. RAH further alleged that Ricoh’s Ricoh Pro C651EX, Pro C751, Pro C751EX, each
28 with Fiery E-41A Controller and Color Profiler Suite, Ricoh’s C901/C901s Graphic Arts with Fiery

1 E-42 Print Controller and Color Profiler Suite, Ricoh's Pro C901/C901s Graphic Arts with Fiery E-
 2 82 Print Controller and Color Profiler Suite, Ricoh's Pro C5100s/C5110s with Fiery E-22B Color
 3 Controller and Color Profiler Suite, Ricoh's Pro C5100s/C5110s with Fiery E-42B Color Controller
 4 and Color Profiler Suite, Ricoh's MP C8002, MPC6502, each with Fiery E-22B Color Controller
 5 and Color Profiler Suite, Ricoh's MP C6003, MP C5503, MP C4503, MP C3503, MP C3003, each
 6 with Fiery E-22C Color Controller and Color Profiler Suite, infringe the '897 patent. Case No. 15-
 7 cv-05203, Dkt. 1 [Complaint] at ¶ 43-52.

8 24. RAH further alleged that Ricoh's Pro C651EX, Pro C751 and Pro C751EXs, each
 9 having an EFI Fiery E-41A Controller and Color Profiler Suite, Ricoh Pro C901/C901s Graphic
 10 Arts with an EFI Fiery E-42 Print Controller and Color Profiler Suite, Ricoh Pro C901/C901s
 11 Graphic Arts with an EFI Fiery E-82 Print Controller and Color Profiler Suite, Ricoh Pro
 12 C5100s/C5110s, MP C8002, and MP C6502, each with an EFI Fiery E-22B Color Controller and
 13 Color Profiler Suite, Ricoh Pro C5100s/C5110s with an EFI Fiery E-42B Color Controller and
 14 Color Profiler Suite, Ricoh Pro C751 with an EFI Fiery E-41A Controller and Color Profiler Suite,
 15 Ricoh MP C6003, C5503, C4503, C3503, and C3003, each with an EFI Fiery E-22C Color
 16 Controller and Color Profiler Suite, infringe the '008 patent. Case No. 15-cv-05203, Dkt. 1
 17 [Complaint] at ¶ 53-62.

18 25. RAH further alleged that Ricoh's Pro C651EX, Pro C751, Pro C751 EX, each with
 19 Fiery E-41A Controller and Color Profiler Suite, Ricoh's Pro C901/C901s Graphic Arts with Fiery
 20 E-42 Print Controller and Color Profiler Suite, Ricoh's Pro C901/C901s Graphic Arts with Fiery E-
 21 82 Print Controller and Color Profiler Suite, Ricoh Pro C5100s/C5110s with Fiery E-22B Color
 22 Controller and Color Profiler Suite, Ricoh's Pro C5100s/C5110s with Fiery E-42B Color Controller
 23 and Color Profiler Suite, Ricoh's MP C8002 and MP C6502 with Fiery E-22B Color Controller and
 24 Color Profiler Suite, Ricoh's MP C6003, MP C5503, MP C4503, MP C3503, MP C3003, each with
 25 Fiery E-22C Color Controller and Color Profiler Suite, Ricoh's Pro C651EX with Fiery E-41A
 26 Controller and Color Profiler Suite, infringe the '704 patent. Case No. 15-cv-05203, Dkt. 1
 27 [Complaint] at ¶ 79-88.

1 26. Specifically, RAH alleged that “[a]ccurate color measurement and management is
2 central to the products made, imported, used, sold, and/or offered for sale in the U.S. by Ricoh.
3 These products include hardware, software, printers, and cameras that, alone or in combination,
4 infringe various claims of the Patents-in-Suit.” Case No. 15-cv-05203, Dkt. 1 [Complaint] at ¶ 22.

5 27. On June 30, 2017, RAH sued Quad/Graphics, Inc. (“Quad”) for patent infringement
6 in the United States District Court for the Northern District of Illinois. RAH alleged that Quad’s
7 use, manufacture, and importation of the “QG Accused Printer Servers,” which RAH defined as
8 including “EFI Fiery print servers, together with Command Workstation and Color Profiler Suite,
9 and other print servers and software” that have the same functionality, infringe the ’870 and ’897
10 patents (the “Quad Accused ’870 Products” and the “Accused ’897 Products”). *See RAH Color*
11 *Technologies LLC v. Quad/Graphics, Inc.*, Case No. 17-cv-04931, Dkt. 1 [Complaint], ¶¶ 41-111,
12 (N.D. Ill. Jun. 30, 2017).

13 28. Specifically, RAH alleged that “QG has in the past and continues to directly infringe
14 the asserted claims of the Patents-in-Suit pursuant to 35 U.S.C. § 271(a) by using methods and
15 using, making and importing systems, software, and apparatuses covered by the asserted patent
16 claims identified below.” Case No. 18-cv-00087, Dkt. 1 [Complaint] at ¶ 39.

17 29. On information and belief, RAH provided Quad with claim charts purportedly
18 demonstrating infringement of RAH patents. In the claim charts regarding the ’870 and ’897
19 patents, RAH alleges that EFI products are central to RAH’s infringement contentions, i.e.,
20 referring to “EFI” or “Fiery” products or product literature 84 times in 31 pages purportedly to
21 show that the claim limitations of asserted claims in the ’870 and ’897 patents are found in the
22 accused EFI print servers and software.

23 30. After receiving a copy of RAH’s Complaint, on August 15, 2017 Quad notified EFI
24 and demanded that EFI defend, indemnify and hold harmless Quad regarding RAH’s claims
25 regarding infringement of the ’870 and ’897 patents based on EFI products.

26 31. On September 20, 2017, RAH sued Xerox Corporation (“Xerox”) for patent
27 infringement in the United States District Court for the Northern District of Illinois. RAH alleged
28 that the “Xerox Accused Print Servers,” which RAH defined as including “EFI Fiery print servers

1 (including, but not limited to the EX Print Server for Xerox Color 560/570 Printers, Color 800/1000,
 2 Color C75, Color J75, iGen4, iGen 150, and 700i/700 Color Digital Press, and the EX-P 1000i Print
 3 Server for Xerox Color 800i/1000i Presses) together with EFI’s Command Workstation and/or
 4 Color Profiler Suite, and other print servers and software” that have the same functionality, infringe
 5 the ’870 and ’008 patents (the Xerox Accused ’870 Products” and the “Xerox Accused ’008
 6 Products,” respectively) (collectively, the Quad ’870 Accused Products and the Xerox Accused
 7 ’870 Products are referred to herein as the “Accused ’870 Products.”). *See RAH Color*
 8 *Technologies LLC v. Xerox Corporation*, Case No. 17-cv-06813, Dkt. 1 [Complaint], ¶¶ 46-152
 9 (N.D. Ill. Sep. 20, 2017).

10 32. Specifically, RAH alleged that “Xerox uses, makes, has made, sells, and offers to
 11 sell printer hardware and software that employ color measurement and management techniques in
 12 the U.S. which, alone or in combination, infringe various claims of the Patents-in-Suit.” Case No.
 13 17-cv-06813, Dkt. 1 [Complaint] at ¶¶ 44-45.

14 33. On information and belief, RAH provided Xerox with claim charts purportedly
 15 demonstrating infringement of RAH patents. In the claim charts regarding the ’870 and ’008
 16 patents, RAH alleges that EFI products are central to RAH’s infringement contentions, i.e.,
 17 referring to “EFI” or “Fiery” products or product literature 69 times in 35 pages purportedly to
 18 show that the claim limitations of asserted claims in the ’870 and ’008 patents are found in the
 19 accused EFI print servers and software.

20 34. After receiving a copy of RAH’s complaint, on October 2, 2017 Xerox notified EFI
 21 and demanded that EFI defend, indemnify and hold harmless Xerox regarding RAH’s claims
 22 regarding infringement of the ’870 and ’008 patents based on products supplied by EFI.

23 35. Following the transfer of RAH’s complaint against Quad from the Northern District
 24 of Illinois to the Eastern District of Wisconsin, on March 15, 2018, RAH filed a First Amended
 25 Complaint in its lawsuit against Quad. *See RAH Color Technologies LLC v. Quad/Graphics, Inc.*,
 26 Case No. 18-cv-00087, Dkt. 89 [Complaint] (E.D. Wisconsin). RAH continued to allege that
 27 Quad’s use, manufacture and importation of the “QG Accused Printer Servers” (*see supra*, ¶ 27)
 28 infringe the ’870 and ’897 patents. Case No. 18-cv-00087, Dkt. 89 [Complaint] at ¶¶ 43-111.

1 Further, RAH alleged that Quad’s use, manufacture and importation of “QG Accused Print
 2 Workflow Systems,” which RAH defined as including “EFI Fiery print server in combination with
 3 Command Workstation and Color Profiler Suite, and other prepress workflow management systems
 4 that include the same or equivalent functionality,” infringe the ’704 patent (“Accused ’704
 5 Products”). RAH also alleged that Quad’s use, manufacture, and importation of “QG Accused
 6 Color Managed Systems,” which RAH defined as including “EFI Fiery print servers together with
 7 Command Workstation and Color Profiler Suite, and other prepress workflow management systems
 8 and color managed software that include the same or equivalent functionality,” infringe the ’008
 9 patent (“Quad Accused ’008 Products”) (collectively, the Quad ’008 Accused Products and the
 10 Xerox Accused ’008 Products are referred to herein as the “Accused ’008 Products.”). Case No. 18-
 11 cv-00087, Dkt. 89 [Complaint] at ¶¶ 112-198.

12 36. EFI has expended considerable effort and financial resources to design, develop,
 13 manufacture and sell the accused Fiery print servers together with Command Workstation and Color
 14 Profiler Suite.

15 37. EFI has taken significant, concrete steps to manufacture and sell the accused Fiery
 16 print servers together with Command Workstation and Color Profiler Suite RAH claims infringe its
 17 patents. EFI has actually made and sold its accused Fiery print servers together with Command
 18 Workstation and Color Profiler Suite into the U.S. market. Having devoted resources to bringing its
 19 Fiery print servers to market, EFI fully intends to continue to sell its print servers. EFI has a legal
 20 right to sell its print servers and an adjudication from this Court is needed so EFI can exercise that
 21 legal right without risking an infringement claim from RAH.

22 38. The history of patent litigation between RAH and EFI’s customers, involving the
 23 same products and patents, warrant the declaratory judgment relief sought by EFI. RAH’s
 24 accusations have put EFI in the position of either abandoning its accused Fiery print servers or
 25 running the risk of being sued for infringement, which is precisely the type of situation that the
 26 Declaratory Judgment Act was intended to remedy.

27 39. An actual controversy exists between EFI and RAH regarding EFI’s alleged
 28 infringement of the RAH Patents. RAH has directly and specifically accused the EFI Fiery print

1 server of infringing its patents. RAH's lawsuit against EFI's customers and each of the acts set
2 forth above demonstrates RAH's intent to enforce its patents against EFI and its customers. RAH's
3 affirmative accusations that EFI's products infringe the RAH Patents necessarily create a case or
4 controversy adequate to support declaratory judgment jurisdiction. RAH's affirmative acts of suing
5 EFI's customers, particularly Quad and Xerox, have created a legal barrier to its business that EFI,
6 through its declaratory judgment, seeks to eliminate.

7 40. The parties' ongoing dispute can be adjudicated by this Court. The accused EFI
8 Fiery print servers have been designed, manufactured, and sold. The dispute is real and substantial
9 as evidenced by the numerous lawsuits filed by RAH against EFI's customers, including Quad and
10 Xerox. The issues involved touch on the legal relations of EFI and RAH, parties having adverse
11 legal interests concerning whether EFI can sell in the market without risking treble damages should
12 the challenge eventually fail. The dispute is amenable to specific relief; the resolution of EFI's
13 claims of non-infringement will conclusively determine the parties' competing legal claims. EFI's
14 request for a finding of non-infringement is manifestly susceptible of judicial determination because
15 it seeks an adjudication of present rights based upon established facts.

16 41. RAH's affirmative accusations of infringement have had an immediate impact on
17 EFI. RAH claims EFI's Fiery print servers infringe its patents, impacting EFI's current ability to
18 sell its print servers. EFI has actually made and sold the accused print servers, has the capacity to
19 sell print servers without delay, has inventory of print servers to sell, has potential customers for its
20 print servers, and continues to make direct sales of its accused print servers into the United States.
21 The passage of time will not change the parties' legal dispute because EFI will continue to make
22 sales in the future, either to new or existing customers directly in to the U.S. market.

23 42. EFI has been harmed by RAH's assertions that it infringes the RAH Patents. EFI has
24 suffered financial harm to its business as a result of claims for indemnification made by its
25 customers. Absent a judicial determination of non-infringement, EFI will continue to suffer
26 financial harm because its sales are clouded by the legal dispute between EFI and RAH about
27 whether EFI has the legal right to sell its accused print servers. EFI seeks a judicial determination
28 that it has the legal right to sell the accused print servers without license or fear of being forced to

1 defend against RAH's claims of infringement.

2 43. EFI's future sales will expose it to potential infringement liability and claims for
3 indemnification made by its customers. EFI will be forced to negotiate sales with potential
4 customers who may anticipate an infringement suit by RAH. RAH's claims of infringement
5 substantially impact the financial terms upon which EFI can offer to make, use, sell, offer for sale
6 and import print servers into the U.S. market, impacting EFI's legal right to sell print servers. The
7 current harm to EFI and its business can be redressed by this declaratory judgment action.

8 44. EFI has already devoted financial resources to secure a finding of non-infringement
9 in this Court. If the Court does not resolve the parties' patent infringement dispute, RAH is likely
10 to file an infringement lawsuit against EFI. RAH may seek to file its infringement claims against
11 EFI or EFI's customers in a different court. Such a result would not only prejudice EFI's efforts to
12 date, but would run the risk of allowing RAH to forum shop. For example, RAH continues to file
13 lawsuits in the U.S. District Court for the Northern District of Illinois even though that district has
14 no meaningful ties to RAH's claims or the parties. The District Court for the Northern District of
15 Illinois already has transferred the Quad action out of that district and Xerox and Adobe, the
16 defendants in the remaining two actions filed there, have sought to transfer those actions to this
17 Court.

18 45. For all the foregoing reasons, RAH's continued accusations and threats create an
19 uncertainty concerning EFI's current and future business plans and an immediate and real
20 controversy now exists between EFI and RAH on all claims asserted herein. Based on the
21 foregoing, there is an actual, immediate and justiciable controversy between EFI and RAH as to
22 EFI's liability for direct and indirect infringement of the '870, '008, '897, and '704 patents arising
23 from the alleged acts of direct infringement by EFI's customers' use, manufacture, sale, offer to
24 sell, and importation of EFI's products. *See Arris Group, Inc. v. British Telecommunications PLC*,
25 639 F.3d 1368, 1375 (Fed. Cir. 2011); *Microsoft Corp. v. DataTern, Inc.*, 755 F.3d 899, 903 (Fed.
26 Cir. 2014).

27

28

FIRST CLAIM FOR RELIEF

(Declaratory Judgment of Noninfringement of U.S. Patent No. 6,995,870)

46. EFI repeats and realleges each and every allegation contained in the preceding paragraphs above as if fully set forth herein.

47. RAH has alleged and continues to allege, in connection with the Quad and Xerox actions, that the Accused '870 Products infringe certain claims of the '870 patent. Because RAH's infringement allegations regarding the Accused '870 Products are based on Quad's and Xerox's use, manufacture, sale, and importation of EFI's products, RAH effectively has charged EFI with infringement and there exists a controversy between RAH and EFI as to EFI's liability for direct infringement and induced or contributory infringement based on the alleged acts of direct infringement by EFI's customers.

48. Based on EFI's alleged use of the standard International Color Consortium's ("ICC") profiles, RAH alleges that the Accused '870 Products infringe independent claim 34, and dependent claims 39 and 43 (which depend from claim 34), of the '870 patent. For example, RAH alleges that the claim limitation of "providing information for transforming input color image data into output color image data for the color input or output devices at said plurality of sites such that colors produced by the color devices appear substantially the same within colors attainable by each of the devices, wherein said information for transforming comprises information relating the color gamuts of different ones of said color devices to each other and user preferences for color reproduction for at least one of the color devices" of claim 34 reads on the Accused '870 Products as allegedly implemented in Quad and Xerox products.

49. Specifically, RAH alleges that the Accused '870 Products are compliant with ICC Version 4.0 profiles, which RAH alleges requires use of the ICC-defined perceptual intent reference medium gamut ("PRMG"). RAH further alleges that the PRMG provides a standardized gamut representation for image data in coordinates which are used to map colors from an input device to output devices using an intermediate color to color transformation. Upon information and belief, RAH alleges that the ICC effectively standardized the '870 patent's gamut descriptor. Thus, RAH alleges that the claim limitation "providing information for transforming input color image data into

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1 output color image data for the color input or output devices at said plurality of sites such that
 2 colors produced by the color devices appear substantially the same within colors attainable by each
 3 of the devices, wherein said information for transforming comprises information relating the color
 4 gamuts of different ones of said color devices to each other and user preferences for color
 5 reproduction for at least one of the color devices” reads on the Accused ’870 Products, in part,
 6 because of EFI’s compliance with ICC Version 4.0 profiles. As such, RAH alleges that the
 7 Accused ’870 Products infringe claims 34, 39, and 43 of the ’870 patent (collectively, “the Asserted
 8 ’870 Claims”).

9 50. RAH’s infringement claims are unfounded. By way of non-limiting example,
 10 Version 4.0 of the ICC Specification does not even mention PRMG. Further, Version 4.3 of the
 11 ICC Specification does not require PRMG. In Version 4.3, the ICC Specification states, under
 12 “6.3.3.1 General,” that “Perceptual rendering remains a proprietary art, due both to the current state
 13 of perceptual rendering algorithms, and also to the fact that viewer and application specific
 14 preferences can affect the nature of a desired reproduction (when exact colour matching is not the
 15 objective). It is not practical or desirable to specify standard perceptual rendering algorithms.
 16 Consequently, it is also not practical or desirable to require that perceptual rendering intents match
 17 an exact perceptual intent reference medium gamut (PRMG).” Further, the ICC Specification
 18 Version 4.3 states, under “6.3.3.3 Perceptual intent reference medium gamut (PRMG),” that
 19 “Perceptual rendering intent and saturation rendering intent transforms may *optionally* use the
 20 reflection color gamut specified in ISO 12640-3” (emphasis added). Thus, even if RAH’s
 21 unsupported allegation that using PRMG meets the Asserted ’870 Claims’ requirement of using a
 22 standardized color gamut is correct, it does not follow that the Accused ’870 Products’ conformity
 23 with ICC Version 4.0 (or Version 4.3) profiles necessarily establishes infringement of the ’870
 24 patent, as the use of PRMG is optional. In fact, the Accused ’870 Products do not implement
 25 PRMG, as RAH’s infringement allegations incorrectly assume. Accordingly, RAH’s infringement
 26 allegations are demonstrably wrong and, for at least this reason, the Accused ’870 Products do not
 27 infringe the Asserted ’870 Claims as RAH alleges.

1 Xerox's products.

2 56. Specifically, RAH alleges that the Accused '008 Products used to make calibration
3 measurements allegedly generate color values using device-independent color units, such as L*a*b
4 or CIEXYZ color units or density units. RAH further alleges that EFI's Command Workstation
5 supports ICC Specification Version 4.0, which utilizes standardized ICC color profiles, and thereby
6 implies that the Accused '008 Products allegedly perform calibration using standardized color
7 profiles. Thus, RAH alleges that the claim limitation "calibration data in device-independent units
8 of color" reads on EFI's Version 4.0-compliant technology and therefore infringes the Asserted
9 '008 Claims.

10 57. RAH's infringement claims are unfounded. By way of non-limiting example, in
11 contrast to the claimed method of the Asserted '008 Claims, which requires using "calibration data
12 in device-independent units of color," EFI utilizes Adobe Systems, Inc.'s PostScript for defining its
13 color spaces which specifies that color transformations for conducting calibration utilize device-
14 dependent units of color. Further, EFI's Command Workstation shows measurement results as a set
15 of density curves for C, M, Y, and K in connection with calibration. The CMYK color space and
16 associated density curves are *not* device-independent units of color, much less the device-
17 independent units of color identified by RAH. Therefore, for at least this reason, the Accused '008
18 Products do not infringe the Asserted '008 Claims.

19 58. Further, claim 28 recites that "one or more color transformations" are required "for
20 converting a first set of color coordinates into a second set of coordinates" and "at least partly in
21 accordance with calibration data in device-independent units of color." The Accused '008 Products
22 do not include such color transformations. Rather, the Accused '008 Products convert a first set of
23 color coordinates into a second set of color coordinates separately and independently of the
24 calibration data, which (as noted above) is not in device-independent units of color.

25 59. Accordingly, for at least this additional reason, the Accused '008 Products do not
26 infringe the Asserted '008 Claims as RAH alleges.

27 60. Accordingly, an actual and justiciable controversy exists between EFI and RAH as to
28 EFI's non-infringement of the '008 patent.

1 RAH alleges that the ICC effectively standardized the '897 patent's gamut descriptor. Thus, RAH
 2 alleges that the claim limitation "providing information for transforming input color image data into
 3 output color image data for the color input or output devices at said plurality of sites such that
 4 colors produced by the color devices appear substantially the same within colors attainable by each
 5 of the devices, wherein said information for transforming comprises information relating the color
 6 gamuts of different ones of said color devices to each other and user preferences for color
 7 reproduction for at least one of the color devices" reads on the Accused '897 Products, in part,
 8 because of EFI's compliance with ICC Version 4.0 profiles. As such, RAH alleges that the
 9 Accused '897 Products infringe claims 32-33 and 36-37 of the '897 patent (collectively, "the
 10 Asserted '897 Claims").

11 66. RAH's infringement claims are unfounded. By way of non-limiting example,
 12 Version 4.0 of the ICC Specification does not even mention PRMG. Further, Version 4.3 of the
 13 ICC Specification does not require PRMG. In Version 4.3, the ICC Specification states, under
 14 "6.3.3.1 General," that "Perceptual rendering remains a proprietary art, due both to the current state
 15 of perceptual rendering algorithms, and also to the fact that viewer and application specific
 16 preferences can affect the nature of a desired reproduction (when exact colour matching is not the
 17 objective). It is not practical or desirable to specify standard perceptual rendering algorithms.
 18 Consequently, it is also not practical or desirable to require that perceptual rendering intents match
 19 an exact perceptual intent reference medium gamut (PRMG)." Further, the ICC Specification
 20 Version 4.3 states, under "6.3.3.3 Perceptual intent reference medium gamut (PRMG)," that
 21 "Perceptual rendering intent and saturation rendering intent transforms may *optionally* use the
 22 reflection color gamut specified in ISO 12640-3" (emphasis added). Thus, even if RAH's
 23 unsupported allegation that using PRMG meets the Asserted '897 Claims' requirement of using a
 24 standardized color gamut is correct, it does not follow that the Accused '897 Products' conformity
 25 with ICC Version 4.0 (or Version 4.3) profiles necessarily establishes infringement of the '897
 26 patent, as the use of PRMG is optional. In fact, the Accused '897 Products do not implement
 27 PRMG, as RAH's infringement allegations incorrectly assume. Accordingly, RAH's infringement
 28 allegations are demonstrably wrong and, for at least this reason, the Accused '897 Products do not

1 infringe the Asserted '897 Claims as RAH alleges.

2 67. Accordingly, an actual controversy exists between EFI and RAH as to EFI's non-
3 infringement of the '897 patent.

4 68. Pursuant to the Declaratory Judgment Act, 28 U.S.C. §§2201, *et seq.* and to resolve
5 the legal and factual questions raised by RAH and to afford EFI and its customers relief from
6 uncertainty and controversy which RAH's infringement accusations have precipitated, EFI is
7 entitled to a declaration that the Asserted '897 Products do not infringe the Asserted '897 Claims.

8 **FOURTH CLAIM FOR RELIEF**

9 **(Declaratory Judgment of Noninfringement of U.S. Patent No. 8,760,704)**

10 69. EFI repeats and realleges each and every allegation contained in the preceding
11 paragraphs above as if fully set forth herein.

12 70. RAH has alleged and continues to allege, in connection with the Quad action, that
13 the Accused '704 Products infringe certain claims of the '704 patent. Because RAH's infringement
14 allegations regarding the Accused '704 Products are based on Quad's use, manufacture, and
15 importation of EFI's products, RAH effectively has charged EFI with infringement and there exists
16 a controversy between RAH and EFI as to EFI's liability for direct infringement and induced or
17 contributory infringement based on the alleged acts of direct infringement by EFI's customers.

18 71. Based on EFI's alleged use of the standard ICC profiles and reference to EFI's
19 Command Workstation, RAH alleges that the Accused '704 Products infringe independent claim
20 17, and dependent claim 18 (which depends from claim 17) of the '704 patent (collectively, the
21 "Asserted '704 Claims").

22 72. RAH alleges that the claim limitations of "graphical menu elements used by one or
23 more of said two or more programmable computers to provide a user interface on a display enabling
24 a user to initiate execution of programs for receiving color measurements and verifying the
25 accuracy of transforming input colors having a device independent interpretation for rendering on
26 one or more of said color rendering devices by comparing measured colors to reference colors with
27 respect to an error criterion" and "a program that receives measurement data representative of
28 rendered output of at least one of said a color rendering devices and accumulates a record of color

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1 reproduction performance of said at least one of said color rendering devices over time” and “a
2 program that uses said measurement data for comparing measured colors to reference colors to
3 produce color error data” of claim 17 reads on the Accused ’704 Products as allegedly implemented
4 in Quad products.

5 73. In support of its allegations that the Accused ’704 Products include “graphical menu
6 elements . . . for receiving color measurements,” RAH alleges “Command Workstation has a
7 graphical user interface that allows a user to collect measurements, at least for press calibration
8 purposes.” EFI’s Command Workstation, however, does not receive “color measurements” as
9 alleged by RAH, nor does it use “color measurements” for “press calibration purposes.” Further,
10 the Accused ’704 Products do not “produce color error data” utilizing “color measurements.”
11 Therefore, for at least these reasons, the Accused ’704 Products do not infringe the Asserted ’704
12 Claims.

13 74. In support of its allegations that the Accused ’704 Products “accumulates a record of
14 color reproduction performance of said at least one of said color rendering devices over time,” RAH
15 alleges that “[u]pon information and belief, [tonal characterization] curves are stored as part of a
16 database linking specific curves to specific presses.” Even if RAH’s allegation is correct, storing
17 tonal characterization curves as part of a database is not a “record of color reproduction
18 performance.” Further, the Accused ’704 Products do not “accumulate a record of color
19 reproduction performance,” as required by claim 17 of the ’704 patent. Therefore, for at least these
20 additional reasons, the Accused ’704 Products do not infringe the Asserted ’704 Claims.

21 75. Accordingly, an actual controversy exists between EFI and RAH as to EFI’s non-
22 infringement of the ’704 patent.

23 76. Pursuant to the Declaratory Judgment Act, 28 U.S.C. §§2201, *et seq.* and to resolve
24 the legal and factual questions raised by RAH and to afford EFI and its customers relief from
25 uncertainty and controversy which RAH’s infringement accusations have precipitated, EFI is
26 entitled to a declaration that the Accused ’704 Products do not infringe the Asserted ’704 Claims.

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PRAYER FOR RELIEF

WHEREFORE, EFI prays for judgment as follows:

- A. A declaration that EFI’s Accused ’870 Products do not and have not infringed the Asserted ’870 Claims;
- B. A declaration that EFI’s Accused ’008 Products do not and have not infringed the Asserted ’008 Claims;
- C. A declaration that EFI’s Accused ’897 Products do not and have not infringed the Asserted ’897 Claims;
- D. A declaration that EFI’s Accused ’704 Products do not and have not infringed the Asserted ’704 Claims;
- E. An award of EFI’s costs pursuant to Federal Rule of Civil Procedure 54;
- F. A finding that this is an exceptional case and an award to EFI of its reasonable attorney fees pursuant to 35 U.S.C. § 285; and
- G. Any and all other available legal and equitable relief that the Court deems just and proper.

DATED: May 7, 2018

JEFFER MANGELS BUTLER & MITCHELL LLP

By: /s/ Gregory S. Cordrey
 GREGORY S. CORDREY
 Attorney for Plaintiff ELECTRONICS FOR
 IMAGING, INC.

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DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b) and Local Rule 3-6, Plaintiff EFI hereby demands a jury trial for all claims in this action which can be tried to and before a jury.

DATED: May 7, 2018

JEFFER MANGELS BUTLER & MITCHELL LLP

By: /s/ Gregory S. Cordrey
GREGORY S. CORDREY
Attorney for Plaintiff ELECTRONICS FOR
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