

JEFFER MANGELS BUTLER & MITCHELL LLP

Gregory S. Cordrey (Bar No. 190144)

Joseph J. Mellema (Bar No. 248118)

3 Park Plaza, Suite 1100

Irvine, CA 92614

Telephone: (949) 623-7200

Facsimile: (949) 623-7202

Email: gcordrey@jmbm.com

Email: jmellema@jmbm.com

Attorneys for Plaintiff

*Electronics For Imaging, Inc.*

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

**In re: RAH COLOR TECHNOLOGIES  
LLC PATENT LITIGATION**

CASE NO. 3:18-MD-02874- SI

**FOURTH AMENDED COMPLAINT FOR  
DECLARATORY JUDGMENT AND  
DEMAND FOR JURY TRIAL**

This Document Relates to Case:

3:18-cv-07465-SI

Judge Susan Illston

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

**NATURE OF THE ACTION**

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

Patent Nos. 6,995,870 (the “’870 patent”), 7,729,008 (the “’008 patent”), 8,416,444 (the “’444 patent”), and 8,760,704 (the “’704 patent”; collectively with the ’870, ’008 and ’444 patents, the “patents-in-suit”).<sup>1</sup>

## **PARTIES**

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

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

4. EFI is informed and believes that RAH’s business is directed to owning and enforcing in litigation the patents-in-suit throughout the United States, including in the Northern District of California. Upon information and belief, over the last several years, RAH has filed at least 14 patent infringement lawsuits against 20 or more defendants located throughout the United States. Upon information and belief, RAH does not itself manufacture, sell, offer for sale, or import any products or services, including any allegedly covered by the patents-in-suit.

## **JURISDICTION AND VENUE**

5. This is a civil action regarding allegations of patent infringement arising under the patent laws of the United States, Title 35 of the United States Code, in which EFI seeks declaratory relief under the Declaratory Judgment Act. Defendant RAH has accused and sued EFI’s customers, alleging patent infringement based on their manufacture, use, sale, offer for sale, and importation of EFI’s products. EFI denies any infringement based on the manufacture, use,

---

<sup>1</sup> EFI has dropped its claim regarding U.S. Patent Nos. 7,312,897 (the “’897 patent”) from its First Amended Complaint, though its mention remains in the complaint to provide background facts pertinent to this lawsuit.

1 sale, offer for sale, and importation of its products. Thus, a substantial controversy exists between  
 2 EFI and RAH that is of sufficient immediacy and reality to empower the Court to issue a  
 3 declaratory judgment. *See Microsoft Corp. v. DataTern, Inc.*, 755 F.3d 899, 903 (Fed. Cir. 2014);  
 4 *Arris Group, Inc. v. British Telecommunications PLC*, 639 F.3d 1368, 1375 (Fed. Cir. 2011). This  
 5 Court has jurisdiction over the subject matter of this declaratory judgment action under 28 U.S.C.  
 6 §§ 1331 and 1338(a), in that it involves claims arising under the United States Patent Act, 35  
 7 U.S.C. § 1 *et seq.*

8         6. This Court may declare the rights and other legal relations of the parties pursuant to  
 9 28 U.S.C. §§ 2201 and 2202 because there is a case of actual controversy within the Court's  
 10 jurisdiction.

11         7. On March 13, 2018, EFI filed suit in the Northern District of California. Case No.  
 12 3:18-cv-01612, Dkt. 1. On May 7, 2018, EFI filed its First Amended Complaint. Dkt. 18. On May  
 13 21, 2018, RAH filed a motion to dismiss EFI's First Amended Complaint. Dkt. 21. On November  
 14 14, 2018, the Court transferred this case to the Eastern District of Virginia in lieu of a dismissal.  
 15 Dkt. 43. Pursuant to a multidistrict litigation Transfer Order by the Judicial Panel on Multidistrict  
 16 Litigation entered on December 7, 2018, the Eastern District of Virginia transferred the case to  
 17 this district. *See* Case Nos. 3:18-cv-7465-SI and 3:18-md-02874-SI. On April 11, 2019, EFI filed  
 18 its Second Amended Complaint. Dkt. 63. On April 18, 2019, RAH filed a motion to dismiss  
 19 certain claims of EFI's Second Amended Complaint. Dkt. 64. On June 3, the Court granted in part  
 20 and denied in part RAH's motion. Dkt. 71. At the same time, the Court granted EFI leave to  
 21 amend its complaint in light of the Court's ruling. *Id.* As detailed below, EFI provides additional  
 22 allegations regarding RAH's infringement contentions against EFI's customers, including that  
 23 such contentions allege that the limitations of the asserted claims are met by EFI's products and  
 24 that EFI's documents and training materials instruct its customers to use its products in a manner  
 25 that alleged infringes. EFI denies that its products infringe or that it instructs its customers to use  
 26 EFI's products in a manner that infringes.

27         8. This Court has both general and specific jurisdiction over RAH because it resides  
 28 in the Eastern District of Virginia.

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

**THE PATENTS-IN-SUIT**

10. United States Patent No. 6,995,870, entitled “System for Distributing and Controlling Color Reproduction at Multiple Sites” (the ’870 Patent). A true and correct copy of the ’870 Patent is attached hereto as Exhibit A. According to the ’870 Patent, it discloses a system, method, and apparatus for distributing and controlling color reproduction at multiple sites. Claims 1-17, 19-32, 49-51 are directed to apparatus/user interface claims and claims 18, 33-48, 52-60 are directed to method claims.

11. United States Patent No. 7,729,008, entitled “System for Distributing and Controlling Color Reproduction at Multiple Sites” (the ’008 Patent). A true and correct copy of the ’008 Patent is attached hereto as Exhibit B. According to the ’008 Patent, it discloses a system, method, and apparatus for distributing and controlling color reproduction at multiple sites. Claims 1-27, 62-77 are directed to system claims, claims 28-42 are directed to method claims, and claims 43-61, 78-85 are directed to computer-readable medium claims.

12. United States Patent No. 8,416,444, entitled “System for Distributing and Controlling Color Reproduction at Multiple Sites” (the ’444 patent). A true and correct copy of the ’444 Patent is attached hereto as Exhibit C. According to the ’444 Patent, it discloses a system, method, and apparatus for distributing and controlling color reproduction at multiple sites. Claims 1-10, 34-73 are directed to apparatus/computer-readable medium claims, claims 29-33 are directed to method claims, and claims 11-28 are directed to system claims.

13. United States Patent No. 8,760,704, entitled “System for Distributing and Controlling Color Reproduction at Multiple Sites” (the ’704 Patent). A true and correct copy of the ’704 Patent is attached hereto as Exhibit D. According to the ’704 Patent, it discloses a system, method, and apparatus for distributing and controlling color reproduction at multiple sites. Claims 1-10, 29-42 are directed to system claims, claims 11-16, 22-28 are directed to apparatus claims, and claims 17-21 are directed to method claims.

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

**BACKGROUND OF THE CONTROVERSY**

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

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

17. After receiving a letter from RAH identifying products purchased from EFI that "relate to" RAH's U.S. patents, on September 17, 2014 Konica Minolta notified EFI and demanded that EFI defend, indemnify and hold harmless Konica Minolta regarding RAH's "[p]atent infringement claim[s]" based on Konica Minolta's purchase of EFI products.

18. On information and belief, on October 20, 2014, RAH sent a letter to Ricoh Americas Corporation indicating that it was using RAH's patented technology. In its letter, RAH identified, among other patents, the '870, '008, '444 and '704 patents as being relevant to certain Ricoh products purchased from EFI, including EFI Fiery Color/Print Controllers and Color Profiler Suite.

19. On December 17, 2014, after receiving RAH's October 20, 2014 letter, Ricoh Company Ltd., parent company to Ricoh Americas Corporation, sent EFI a letter notifying EFI of RAH's claims.

20. On September 17, 2015, RAH sued Ricoh Americas Corporation ("Ricoh") for patent infringement in the United States District Court for the Eastern District of Pennsylvania. Specifically, RAH alleged that "[a]ccurate color measurement and management is central to the products made, imported, used, sold, and/or offered for sale in the U.S. by Ricoh. These products include hardware, software, printers, and cameras that, alone or in combination, infringe various claims of the Patents-in-Suit." Case No. 15-cv-05203, Dkt. 1 [Complaint] at ¶ 22. A true and

1 correct copy of the operative complaint RAH filed against Ricoh is attached as Exhibit E.

2 21. In its complaint, among other things, RAH alleged that Ricoh's Pro C651EX, Pro  
3 C751 and Pro C751EXs, each having an EFI Fiery E-41A Controller and Color Profiler Suite,  
4 Ricoh Pro C901/C901s Graphic Arts with an EFI Fiery E-42 Print Controller and Color Profiler  
5 Suite, Ricoh Pro C901/C901s Graphic Arts with an EFI Fiery E-82 Print Controller and Color  
6 Profiler Suite, Ricoh Pro C5100s/C5110s, MP C8002, and MP C6502, each with an EFI Fiery E-  
7 22B Color Controller and Color Profiler Suite, Ricoh Pro C5100s/C5110s with an EFI Fiery E-  
8 42B Color Controller and Color Profiler Suite, Ricoh Pro C751 with an EFI Fiery E-41A  
9 Controller and Color Profiler Suite, Ricoh MP C6003, C5503, C4503, C3503, and C3003, each  
10 with an EFI Fiery E-22C Color Controller and Color Profiler Suite, infringe at least claims 19-22,  
11 25-27, 33-36, 38-40, 42, 43, and 58-60 the '870 patent. *See RAH Color Technologies LLC v. Ricoh*  
12 *Americas Corporation*, Case No. 15-cv-05203, Dkt. 1 [Complaint], at ¶¶ 23-32 (E.D. Pa. Sep. 17,  
13 2015).

14 22. RAH further alleged that Ricoh's Pro C651EX, Pro C751 and Pro C751EXs, each  
15 having an EFI Fiery E-41A Controller and Color Profiler Suite, Ricoh Pro C901/C901s Graphic  
16 Arts with an EFI Fiery E-42 Print Controller and Color Profiler Suite, Ricoh Pro C901/C901s  
17 Graphic Arts with an EFI Fiery E-82 Print Controller and Color Profiler Suite, Ricoh Pro  
18 C5100s/C5110s, MP C8002, and MP C6502, each with an EFI Fiery E-22B Color Controller and  
19 Color Profiler Suite, Ricoh Pro C5100s/C5110s with an EFI Fiery E-42B Color Controller and  
20 Color Profiler Suite, Ricoh Pro C751 with an EFI Fiery E-41A Controller and Color Profiler Suite,  
21 Ricoh MP C6003, C5503, C4503, C3503, and C3003, each with an EFI Fiery E-22C Color  
22 Controller and Color Profiler Suite, infringe at least claims 28, 30-33, 35, 37, 39, 41, 43, 45-47,  
23 49, 50, 52, 54, 56, 57, 60, 62, 64, 66, 73, and 75-77 of the '008 patent. Case No. 15-cv-05203,  
24 Dkt. 1 [Complaint] at ¶ 53-62.

25 23. RAH further alleged that Ricoh's Pro C651EX, Pro C751 and Pro C751EX, each  
26 having an EFI Fiery E-41A Controller and Color Profiler Suite, Ricoh Pro C901/C901s Graphic  
27 Arts with an EFI Fiery E-42 Print Controller and Color Profiler Suite, Ricoh Pro C901/C901s  
28 Graphic Arts with an EFI Fiery E-82 Print Controller and Color Profiler Suite, Ricoh Pro

1 C5100s/C5110s, MP C8002, and MP C6502, each with an EFI Fiery E-22B Color Controller and  
 2 Color Profiler Suite, Ricoh Pro C5100s/C5110s with an EFI Fiery E-42B Color Controller and  
 3 Color Profiler Suite, Ricoh MP C6003, C5503, C4503, C3503, and C3003, each with an EFI Fiery  
 4 E-22C Color Controller and Color Profiler Suite, infringe at least claims 11, 13, 20, 29-34, 36-38,  
 5 40-43, 45, 49-56, 58-60, and 63-72 of the '444 patent. Case No. 15-cv-05203, Dkt. 1 [Complaint]  
 6 at ¶ 69-78.

7 24. RAH further alleged that Ricoh's Pro C651EX, Pro C751, Pro C751 EX, each with  
 8 Fiery E-41A Controller and Color Profiler Suite, Ricoh's Pro C901/C901s Graphic Arts with Fiery  
 9 E-42 Print Controller and Color Profiler Suite, Ricoh's Pro C901/C901s Graphic Arts with Fiery  
 10 E-82 Print Controller and Color Profiler Suite, Ricoh Pro C5100s/C5110s with Fiery E-22B Color  
 11 Controller and Color Profiler Suite, Ricoh's Pro C5100s/C5110s with Fiery E-42B Color  
 12 Controller and Color Profiler Suite, Ricoh's MP C8002 and MP C6502 with Fiery E-22B Color  
 13 Controller and Color Profiler Suite, Ricoh's MP C6003, MP C5503, MP C4503, MP C3503, MP  
 14 C3003, each with Fiery E-22C Color Controller and Color Profiler Suite, Ricoh's Pro C651EX  
 15 with Fiery E-41A Controller and Color Profiler Suite, infringe at least claims 11-18, 22, 27, 29,  
 16 30, 32, 34, 35, and 37-41 of the '704 patent. Case No. 15-cv-05203, Dkt. 1 [Complaint] at ¶ 79-88.

17 25. On November 11, 2015, Ricoh Company Ltd. sent EFI a letter notifying EFI of  
 18 RAH's patent infringement complaint against Ricoh Americas Corporation and attached a copy of  
 19 the complaint.

20 26. On June 30, 2017, RAH sued Quad/Graphics, Inc. ("Quad") for patent infringement  
 21 in the United States District Court for the Northern District of Illinois. Specifically, RAH alleged  
 22 that "QG has in the past and continues to directly infringe the asserted claims of the Patents-in-  
 23 Suit pursuant to 35 U.S.C. § 271(a) by using methods and using, making and importing systems,  
 24 software, and apparatuses covered by the asserted patent claims identified below." Case No. 18-  
 25 cv-00087, Dkt. 1 [Complaint] at ¶ 39. A true and correct copy of the complaint RAH filed against  
 26 Quad is attached as Exhibit F.

27 27. RAH alleged that Quad's use, manufacture, and importation of the "QG Accused  
 28 Printer Servers," which RAH defined as including "EFI Fiery print servers, together with



1 Command Workstation and Color Profiler Suite, and other print servers and software” that have  
 2 the same functionality, infringe the ’870 and ’897 patents. *See RAH Color Technologies LLC v.*  
 3 *Quad/Graphics, Inc.*, Case No. 17-cv-04931, Dkt. 1 [Complaint], ¶¶ 41-111.

4 28. On information and belief, RAH provided Quad with claim charts purportedly  
 5 demonstrating infringement of RAH patents. In the claim charts regarding the ’870, ’008 and ’897  
 6 patents, RAH alleges that EFI products are central to RAH’s infringement contentions, i.e.,  
 7 referring to “EFI” or “Fiery” products or product literature 84 times in 31 pages purportedly to  
 8 show that the claim limitations of asserted claims in the ’870, ’008 and ’897 patents are found in  
 9 the accused EFI print servers and software. For example, the claim chart for the ’870 patent  
 10 alleges direct infringement by Quad based on its use of EFI’s Fiery print server, Command  
 11 Workstation and Color Profiler Suite to satisfy every limitation of independent claim 34. A true  
 12 and correct copy of the ’870 claim chart is attached as Exhibit J.

13 29. RAH’s infringement allegations also cite to EFI-provided user guides and  
 14 documentation for each limitation of independent claim 34 that allegedly shows that EFI instructs  
 15 or encourages the use of its products in a manner that allegedly infringes. For example, RAH  
 16 repeatedly refers to EFI documents describing the operation of its accused Fiery print server,  
 17 Command WorkStation and Color Profiler Suite, including reference to EFI’s Digital Front Ends  
 18 (“DFEs”) webpage identifying Fiery partners who sell Fiery® DFEs, including Ricoh, Sharp,  
 19 Toshiba, Xerox, and others, the Xerox® iGen® 5 Press product manual identifying the EX-P 5  
 20 Print Server, Powered by Fiery®, the Xerox® EXP 5 Print Server, Powered by Fiery® product  
 21 manual, an EFI-generated screenshot of EFI’s Command Workstation, including the statement that  
 22 “The interface of Command WorkStation remains consistent regardless of print engine brand.  
 23 Source: Tips & Tricks for Fiery Command WorkStation, ~2:55, available at  
 24 <https://www.youtube.com/watch?v=e8nmFmL0tzo>”, EFI’s Fiery Command Workstation and  
 25 Fiery Color Profiler Suite, the Xerox® EX Print Server, Powered by Fiery® for the Xerox® Color  
 26 800/1000 Presses product manual, the Xerox® EX-P 1000i Print Server, Powered by Fiery® for  
 27 the Xerox® Color 800i/1000i Presses product manual, the Color Printing guide for the Xerox®  
 28 EX Print Server, Powered by Fiery® for the Xerox® Color 800/1000 Press, Color Handbook, and



1 EFI's Fiery Color Reference for the Fiery®Color Server, all of which allegedly show the use of  
2 EFI's products infringe claim 34 of the '870 patent.

3 30. After receiving a copy of RAH's Complaint, on August 15, 2017 Quad notified EFI  
4 and demanded that EFI defend, indemnify and hold harmless Quad regarding RAH's claims  
5 regarding infringement of the '870 and '897 patents based on EFI products. Quad included a copy  
6 of RAH's Complaint.

7 31. Following the transfer of RAH's complaint against Quad from the Northern District  
8 of Illinois to the Eastern District of Wisconsin, on March 15, 2018, RAH filed a First Amended  
9 Complaint ("RAH's FAC") in its lawsuit against Quad (the "Quad lawsuit"). *See RAH Color*  
10 *Technologies LLC v. Quad/Graphics, Inc.*, Case No. 18-cv-00087, Dkt. 89 [Complaint] (E.D.  
11 Wis.). RAH continued to allege that Quad's use, manufacture and importation of the "QG  
12 Accused Printer Servers" (*see supra* ¶¶ 27-28) infringe the '870 and '897 patents. Case No. 18-cv-  
13 00087, Dkt. 89 [Complaint] at ¶¶ 43-111. Further, RAH alleged that Quad's use, manufacture and  
14 importation of "QG Accused Print Workflow Systems," which RAH defined as including "EFI  
15 Fiery print server in combination with Command Workstation and Color Profiler Suite, and other  
16 prepress workflow management systems that include the same or equivalent functionality,"  
17 infringe method claims 17-18 of the '704 patent. RAH's FAC alleges direct infringement by  
18 Quad based on its use of EFI's Fiery print server, Command Workstation and Color Profiler Suite  
19 to satisfy every limitation of independent claims 17 and 18. *Id.* at ¶¶ 170-198.

20 32. RAH also alleged that Quad's use, manufacture, and importation of "QG Accused  
21 Color Managed Systems," which RAH defined as including "EFI Fiery print servers together with  
22 Command Workstation and Color Profiler Suite, and other prepress workflow management  
23 systems and color managed software that include the same or equivalent functionality," infringe  
24 method claims 28-31, 33, 36, and 41 of the '008 patent. Case No. 18-cv-00087, Dkt. 89  
25 [Complaint] at ¶¶ 112-198. RAH's FAC alleges direct infringement by Quad based on its use of  
26 EFI's products, including its Fiery print server, Command Workstation and Color Profiler Suite to  
27 satisfy every limitation of independent claim 28. *Id.* The First Amended Complaint further  
28 alleged that "[t]he Chicago Office has had at least . . . a Xerox Color C75 Press with EFI Fiery

1 print server in the past, and currently has a Xerox Color C60 Printer with EFI Fiery print server,  
2 Command Workstation software, and Color Profiler Suite software. QG's Chicago Office also has  
3 an EFI ES-2000 spectrophotometer." A true and correct copy of the operative complaint RAH  
4 filed against Quad is attached as Exhibit G.

5 33. Following a settlement agreement between Quad and RAH that disposed of each  
6 and every claim in the Quad lawsuit, the court subsequently dismissed the Quad lawsuit on  
7 November 29, 2018.

8 34. On September 20, 2017, RAH sued Xerox Corporation ("Xerox") for patent  
9 infringement in the United States District Court for the Northern District of Illinois. Specifically,  
10 RAH alleged that "Xerox uses, makes, has made, sells, and offers to sell printer hardware and  
11 software that employ color measurement and management techniques in the U.S. which, alone or  
12 in combination, infringe various claims of the Patents-in-Suit." Case No. 17-cv-06813, Dkt. 1  
13 [Complaint] at ¶¶ 44-45. A true and correct copy of the complaint RAH filed against Xerox is  
14 attached as Exhibit H.

15 35. RAH alleged that the "Xerox Accused Print Servers," which RAH defined as  
16 including "EFI Fiery print servers (including, but not limited to the EX Print Server for Xerox  
17 Color 560/570 Printers, Color 800/1000, Color C75, Color J75, iGen4, iGen 150, and 700i/700  
18 Color Digital Press, and the EX-P 1000i Print Server for Xerox Color 800i/1000i Presses) together  
19 with EFI's Command Workstation and/or Color Profiler Suite, and other print servers and  
20 software" that have the same functionality, infringe claims 34, 39, and 43 of the '870 patent and  
21 claims 28, 30, 31, 35, 37 and 39 of the '008 patent. *See RAH Color Technologies LLC v. Xerox*  
22 *Corporation*, Case No. 17-cv-06813, Dkt. 1 [Complaint], ¶¶ 46-152.

23 36. After receiving a copy of RAH's complaint, on October 2, 2017 Xerox notified EFI  
24 and demanded that EFI defend, indemnify and hold harmless Xerox regarding RAH's claims  
25 regarding infringement of the '870 and '008 patents based on products supplied by EFI.

26 37. On February 23, 2018, RAH filed an amended complaint for patent infringement  
27 against Xerox. Case No. 17-cv-06813, Dkt. 21 [Amended Complaint]. The Amended Complaint  
28 included the same infringement allegations that EFI's Fiery Print server together with EFI's

1 Command Workstation and/or Color Profiler Suite infringed the '870 and '008 patents. *Id.*, ¶¶ 46-  
 2 139. A true and correct copy of the operative complaint RAH filed against Xerox is attached as  
 3 Exhibit I.

4 38. On September 14, 2018, RAH served Final Infringement Contentions ("FIC") on  
 5 Xerox identifying EFI products alleged to infringe the '870, '008, '444, and '704 patents.

6 39. RAH accused the following EFI products of infringing the '870 patent: All Xerox  
 7 printers and presses that are provided with EFI Fiery (EX) Print Server, Command WorkStation  
 8 and/or Color Profiler Suite, including but not limited to, Xerox Color 560/570 Printers, Color  
 9 800/1000, Color C75, Color J75, iGen4, iGen 150, 700i/700 Color Digital Press, Color  
 10 800i/1000i, Versant family of presses.

11 40. RAH accused the following EFI products of infringing the '008 patent: All Xerox  
 12 printers and presses that are provided with EFI Fiery (EX) Print Server, Command WorkStation  
 13 and/or Color Profiler Suite, including but not limited to, Xerox Color 560/570 Printers, Color  
 14 800/1000, Color C75, Color J75, iGen4, iGen 150, 700i/700 Color Digital Press, Color  
 15 800i/1000i, Versant family of presses.

16 41. RAH accused the following EFI products of infringing the '444 patent: All Xerox  
 17 printers and presses that are provided with EFI Fiery (EX) Print Server, Command WorkStation  
 18 and/or Color Profiler Suite, Xerox Color 560/570 Printers, Color 800/1000, Color C75, Color J75,  
 19 iGen4, iGen 150, 700i/700 Color Digital Press, Color 800i/1000i, Versant family of presses.

20 42. RAH accused the following EFI products of infringing the '704 patent: All Xerox  
 21 printers and presses that are provided with EFI Fiery (EX) Print Server, Command WorkStation  
 22 and/or Color Profiler Suite, Xerox Color 560/570 Printers, Color 800/1000, Color C75, Color J75,  
 23 iGen4, iGen 150, 700i/700 Color Digital Press, Color 800i/1000i, Versant family of presses.

24 43. In its FIC served on Xerox, RAH provided Xerox with claim charts purportedly  
 25 demonstrating infringement of RAH patents. In the claim charts regarding the '870 and '008  
 26 patents, RAH alleged that EFI products are central to RAH's infringement contentions, i.e.,  
 27 referring to "EFI" or "Fiery" products or product literature 69 times in 35 pages purportedly to  
 28 show that the claim limitations of asserted claims in the '870 and '008 patents are found in the

1 accused EFI print servers and software. For example, the claim chart for the '870 patent alleges  
 2 direct infringement by Xerox based on its use of EFI's Fiery print server, Command Workstation  
 3 and Color Profiler Suite to satisfy every limitation of independent claim 34 and dependent claims  
 4 39 and 43. A true and correct copy of RAH's '870 claim chart is attached as Exhibit K. The  
 5 claim chart for the '008 patent alleges direct infringement by Xerox based on its use of EFI's Fiery  
 6 print server, Command Workstation and Color Profiler Suite to satisfy every limitation of  
 7 independent claim 28. A true and correct copy of RAH's '008 claim chart is attached as Exhibit  
 8 L.

9       44. RAH's infringement allegations also cite to EFI-provided user guides and  
 10 documentation for each limitation of independent claims 34 of the '870 patent and claim 28 of the  
 11 '008 patent that allegedly shows that EFI instructs or encourages the use of its products in a  
 12 manner that allegedly infringes. For example, RAH repeatedly refers to EFI documents describing  
 13 the operation of its accused Fiery print server, Command WorkStation and Color Profiler Suite,  
 14 including EFI's Fiery Color Reference for the Fiery®Color Server, EFI's Fiery Color Profiler  
 15 Suite, Fiery Command Workstation, Configuration and Setup guide for the Fiery®EX Print  
 16 Server/Fiery®Controller for Xerox Color 550/560 Production Printer, Color Printing guide for the  
 17 Fiery®EX Print Server/Fiery®Controller for Xerox Color 550/560 Production Printer, and the  
 18 Color Printing guide for the Xerox EX Print Server, Powered by Fiery ® for the Xerox Color  
 19 800/1000 Press, all of which allegedly disclose that EFI instructs its customers to use its products  
 20 in an allegedly infringing manner.

21       45. In the claim charts regarding the '704 patent, RAH repeatedly alleges that EFI's  
 22 Fiery/EX Print Server would infringe this patent: "This chart was prepared specifically for Xerox  
 23 FreeFlow Core (On-Premise and Cloud), and applies to FreeFlow Core sold as a standalone  
 24 product or sold as a packaged bundle with its printers and presses...to the extent that Xerox sells  
 25 its printers and presses bundled with other print servers, including Xerox FreeFlow Print Server,  
 26 **EFI Fiery/EX Print Server**, or Kodak/Creo CX Print Server, **these bundled systems would**  
 27 **infringe this patent** in a similar fashion as set forth in this chart"; and "This chart was prepared  
 28 specifically for the Xerox Versant 2100 Press with FreeFlow Print Server...to the extent that **EFI**

1 **Fiery print server (e.g., EX Print Server models)** and Kodak Creo CX print server are sold  
 2 instead of FFPS with Xerox printers and presses (e.g., **EFI Fiery (EX) Print Server** for Xerox  
 3 Versant 2100, Color J75, iGen4, iGen 150, Color 800/1000, Color 800i/1000i; Kodak CX Print  
 4 Server for Xerox iGen4, Color 800/1000), **these bundled systems would infringe this patent** in a  
 5 similar fashion as set forth in this chart.” (emphasis added). The implication of RAH’s statement  
 6 is that the identified EFI products allegedly satisfy the limitations of asserted claims of the ’704  
 7 patent in the same manner depicted in the claim chart provided.

8 46. In the claim charts regarding the ’444 patent, RAH repeatedly alleges that EFI’s  
 9 Fiery/EX Print Server would infringe this patent: “This chart was prepared specifically for the  
 10 Xerox DocuColor 8080 Digital Press with CX Print Server...to the extent that **EFI Fiery**  
 11 **controllers/print servers** (and bundled software) and Xerox FreeFlow Print Server (and bundled  
 12 software) are sold with Xerox printers and presses instead of CX Print Server, the **Fiery** and  
 13 Xerox **controllers/print servers would infringe this patent** in a similar fashion as set forth in  
 14 this chart (e.g., EX Print Server models for Xerox Color 560/570, Color 800/1000, Color C75,  
 15 Color J75, iGen4, iGen 150, 700i/700 Color Digital Press, Color 800i/1000i; FreeFlow Print  
 16 Server for Xerox Color 560/570, Color 800/1000, Color C75, Color J75, iGen4, iGen 150,  
 17 700i/700 Color Digital Press, Color 800i/1000i); “This chart was prepared specifically for Xerox  
 18 FreeFlow Core (On-Premise and Cloud), and applies to FreeFlow Core sold as a standalone  
 19 product or sold as a packaged bundle with its printers and presses...to the extent that Xerox sells  
 20 its printers and presses bundled with other print servers, including Xerox FreeFlow Print Server,  
 21 **EFI Fiery/EX Print Server**, or Kodak/Creo CX Print Server, **these bundled systems would**  
 22 **infringe this patent** in a similar fashion as set forth in this chart”; and “This chart was prepared  
 23 specifically for Xerox FreeFlow Core (On-Premise and Cloud), and applies to FreeFlow Core sold  
 24 as a standalone product or sold as a packaged bundle with its printers and presses...to the extent  
 25 that Xerox sells its printers and presses bundled with other print servers, including Xerox  
 26 FreeFlow Print Server, **EFI Fiery/EX Print Server**, or Kodak/Creo CX Print Server, **these**  
 27 **bundled systems would infringe this patent** in a similar fashion as set forth in this chart.”  
 28 (emphasis added). The implication of RAH’s statement is that the identified EFI products

1 allegedly satisfy the limitations of asserted claims of the '444 patent in the same manner depicted  
2 in the claim chart provided.

3 47. In its FIC, in response to Local Patent Rule 2.2(h) of the Northern District of  
4 Illinois, which requires that a patentee identify any products that it contends are covered by the  
5 patents-in-suit and whether they are marked with the patents-in-suit, RAH identified products  
6 from several licensees and stated that it "is unaware if [the listed] licensees mark their products."

7 48. EFI, as a manufacturer or supplier of products to downstream customers, sells its  
8 products pursuant to agreements with those downstream customers, which often include  
9 indemnification obligations. Those obligations require EFI to indemnify the customer regarding  
10 patent infringement claims, including those based on the patents-in-suit, against the customer  
11 based on EFI's products.

12 49. For example, EFI and Xerox entered into a Master Agreement on January 5, 2000  
13 and an Amended and Restated Master Purchasing Agreement on January 31, 2017. Under Section  
14 15.1 of these agreements, EFI is required to indemnify Xerox for any patent infringement  
15 challenges, including those based on the patents-in-suit, against products sold to Xerox by EFI.

16 50. On or around June 24, 2019, EFI and Xerox came to an agreement that EFI would  
17 indemnify Xerox regarding RAH's infringement claims against Xerox based on EFI's products.

18 51. EFI has expended considerable effort and financial resources to design, develop,  
19 manufacture and sell the accused Fiery print servers together with Command Workstation and  
20 Color Profiler Suite.

21 52. EFI has taken significant, concrete steps to manufacture and sell the accused Fiery  
22 print servers together with Command Workstation and Color Profiler Suite RAH claims infringe  
23 its patents. In the course of developing and testing the accused Fiery print servers together with  
24 Command Workstation and Color Profiler Suite, EFI used these accused products, including the  
25 claimed methods accused by RAH against EFI's customers of infringing the patents-in-suit. EFI  
26 denies and disputes that its accused Fiery print servers together with Command Workstation and  
27 Color Profiler Suite as well as any method of using them infringe the patents-in-suit. EFI has  
28 actually made and sold its accused Fiery print servers together with Command Workstation and



1 Color Profiler Suite into the U.S. market. Having devoted resources to bringing its Fiery print  
2 servers to market, EFI fully intends to continue to sell its print servers. EFI has a legal right to sell  
3 its print servers and an adjudication from this Court is needed so EFI can exercise that legal right  
4 without risking an infringement claim from RAH.

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

10         54. An actual controversy exists between EFI and RAH regarding EFI's alleged  
11 infringement of the RAH Patents. RAH has directly and specifically accused the EFI Fiery print  
12 server of infringing its patents. RAH's lawsuit against EFI's customers and each of the acts set  
13 forth above demonstrates RAH's intent to enforce its patents against EFI and its customers.  
14 RAH's affirmative accusations that EFI's products infringe the RAH Patents and EFI's denials  
15 necessarily create a case or controversy adequate to support declaratory judgment jurisdiction.  
16 RAH's affirmative acts of suing EFI's customers, particularly Xerox, have created a legal barrier  
17 to its business that EFI, through its declaratory judgment, seeks to eliminate.

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

27         56. RAH's affirmative accusations of infringement have had an immediate impact on  
28 EFI. RAH claims EFI's Fiery print servers infringe its patents, impacting EFI's current ability to



1 sell its print servers. EFI has actually made and sold the accused print servers, has the capacity to  
 2 sell print servers without delay, has inventory of print servers to sell, has potential customers for  
 3 its print servers, and continues to make direct sales of its accused print servers into the United  
 4 States. The passage of time will not change the parties' legal dispute because EFI will continue to  
 5 make sales in the future, either to new or existing customers directly in to the U.S. market.

6         57. EFI has been harmed by RAH's assertions that it infringes the RAH Patents. EFI  
 7 has suffered financial harm to its business as a result of claims for indemnification made by its  
 8 customers. Absent a judicial determination of non-infringement, EFI will continue to suffer  
 9 financial harm because its sales are clouded by the legal dispute between EFI and RAH about  
 10 whether EFI has the legal right to sell its accused print servers. EFI seeks a judicial determination  
 11 that it has the legal right to sell the accused print servers without license or fear of being forced to  
 12 defend against RAH's claims of infringement.

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

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

28         60. On June 20, 2019, RAH sent a letter purporting to offer a covenant not to sue on

the '444 and '704 patents. However, that letter did not provide an unambiguous and adequate covenant not to sue consistent with *Super Sack Mfg. Corp. v. Chase Packaging Corp.*, 57 F.3d 1054, 1056 (Fed. Cir. 1995), and its progeny. For example, RAH's letter only covers direct infringement of *method* claims, stating "RAH Color Technologies LLC unconditionally and irrevocably promises not to sue EFI for infringement based on EFI's use of the method claims of the '444 or '704 patents before the patents expired." It explicitly does not cover acts of indirect infringement. RAH's letter also fails to explicitly cover non-method claims, stating "as to the non-method claims of the '444 or '704 patents, RAH Color Technologies LLC has no claim to damages from EFI." These statements conflict with, and make ambiguous, the following statement from RAH's letter: "This letter is an unconditional promise not to sue EFI for infringement of the '444 or '704 patents."

61. RAH's letter also refuses to extend a covenant not to sue to EFI's customers, stating "Nothing in this letter conveys any rights to any EFI customer or provides any covenant or license as to any EFI customer or third party. Nothing in this letter authorizes any activity of any EFI customer or any other third party. RAH Color Technologies reserves the right to sue such third parties for infringement of the '444 or '704 patents."

62. Based on the foregoing, and in view of RAH's serial lawsuits against EFI's customers—and its refusal to provide an explicit, unambiguous, and adequate covenant not to sue EFI or its customers—there is, and remains, a controversy regarding potential liability of EFI or its customers on all of the foregoing RAH patents, including the '444 and '704 patents, i.e., RAH's purported covenant not to sue does not divest the court's subject matter jurisdiction over EFI's declaratory relief claims, including those involving the '444 and '704 patents.

### FIRST CLAIM FOR RELIEF

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

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

64. RAH has alleged, and continues to allege in connection with the Xerox action, that the EFI Fiery (EX) Print Server, Command WorkStation and/or Color Profiler Suite that RAH

1 accused of infringement in its infringement contentions against Xerox (“Accused ’870 Products”)  
2 infringe certain claims of the ’870 patent. Because RAH’s infringement allegations regarding the  
3 Accused ’870 Products are based on the use, manufacture, sale, offer for sale, and importation of  
4 EFI’s products by EFI’s customers, including Xerox, RAH effectively has charged EFI with  
5 infringement and there exists a controversy between RAH and EFI as to EFI’s liability for direct  
6 infringement and induced infringement based on the alleged acts of direct infringement by EFI’s  
7 customers.

8         65. Based on EFI’s alleged use of the standard International Color Consortium’s  
9 (“ICC”) profiles, in the Xerox action RAH alleges that the Accused ’870 Products infringe  
10 independent claim 34, and dependent claims 39 and 43 (which depend from claim 34), of the ’870  
11 patent. For example, RAH alleges that the claim limitation of “providing information for  
12 transforming input color image data into output color image data for the color input or output  
13 devices at said plurality of sites such that colors produced by the color devices appear substantially  
14 the same within colors attainable by each of the devices, wherein said information for  
15 transforming comprises information relating the color gamuts of different ones of said color  
16 devices to each other and user preferences for color reproduction for at least one of the color  
17 devices” of claim 34 reads on the Accused ’870 Products.

18         66. Specifically, RAH alleges that the Accused ’870 Products are compliant with ICC  
19 Version 4.0 profiles, which RAH alleges requires use of the ICC-defined perceptual intent  
20 reference medium gamut (“PRMG”). RAH further alleges that the PRMG provides a standardized  
21 gamut representation for image data in coordinates which are used to map colors from an input  
22 device to output devices using an intermediate color to color transformation. Upon information  
23 and belief, RAH alleges that the ICC effectively standardized the ’870 patent’s gamut descriptor.  
24 Thus, RAH alleges that the claim limitation “providing information for transforming input color  
25 image data into output color image data for the color input or output devices at said plurality of  
26 sites such that colors produced by the color devices appear substantially the same within colors  
27 attainable by each of the devices, wherein said information for transforming comprises  
28 information relating the color gamuts of different ones of said color devices to each other and user

1 preferences for color reproduction for at least one of the color devices” reads on the Accused ’870  
 2 Products, in part, because of EFI’s compliance with ICC Version 4.0 profiles. As such, RAH  
 3 alleges that the Accused ’870 Products infringe claims 34, 39, and 43 of the ’870 patent  
 4 (collectively, “the Asserted ’870 Claims”).

5         67. RAH’s infringement claims are unfounded. By way of non-limiting example,  
 6 Version 4.0 of the ICC Specification does not even mention PRMG. Further, Version 4.3 of the  
 7 ICC Specification does not require PRMG. In Version 4.3, the ICC Specification states, under  
 8 “6.3.3.1 General,” that “Perceptual rendering remains a proprietary art, due both to the current  
 9 state of perceptual rendering algorithms, and also to the fact that viewer and application specific  
 10 preferences can affect the nature of a desired reproduction (when exact colour matching is not the  
 11 objective). It is not practical or desirable to specify standard perceptual rendering algorithms.  
 12 Consequently, it is also not practical or desirable to require that perceptual rendering intents match  
 13 an exact perceptual intent reference medium gamut (PRMG).” Further, the ICC Specification  
 14 Version 4.3 states, under “6.3.3.3 Perceptual intent reference medium gamut (PRMG),” that  
 15 “Perceptual rendering intent and saturation rendering intent transforms may *optionally* use the  
 16 reflection color gamut specified in ISO 12640-3 . . . .” (emphasis added). Thus, even if RAH’s  
 17 unsupported allegation that using PRMG meets the Asserted ’870 Claims’ requirement of using a  
 18 standardized color gamut is correct, it does not follow that the Accused ’870 Products’ conformity  
 19 with ICC Version 4.0 (or Version 4.3) profiles necessarily establishes infringement of the ’870  
 20 patent, as the use of PRMG is optional. In fact, the Accused ’870 Products do not implement  
 21 PRMG, as RAH’s infringement allegations incorrectly assume. Accordingly, RAH’s infringement  
 22 allegations are demonstrably wrong and, for at least this reason, the Accused ’870 Products do not  
 23 infringe the Asserted ’870 Claims as RAH alleges.

24         68. Accordingly, an actual and justiciable controversy exists between EFI and RAH as  
 25 to EFI’s non-infringement of the ’870 patent.

26         69. Pursuant to the Declaratory Judgment Act, 28 U.S.C. §§2201, *et seq.* and to resolve  
 27 the legal and factual questions raised by RAH and to afford EFI and its customers relief from  
 28 uncertainty and controversy which RAH’s infringement accusations have precipitated, EFI is

entitled to a declaration that the Accused '870 Products do not infringe the '870 patent.

## SECOND CLAIM FOR RELIEF

### (Declaratory Judgment of Noninfringement of U.S. Patent No. 7,729,008)

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

71. RAH has alleged, and continues to allege in connection with the Xerox action, that the EFI Fiery (EX) Print Server, Command WorkStation and/or Color Profiler Suite that RAH accused of infringement in its infringement contentions against Xerox ("Accused '008 Products") infringe certain claims of the '008 patent. Because RAH's infringement allegations regarding the Accused '008 Products are based on the use, manufacture, sale, offer for sale, and importation of EFI's products by EFI's customers, including Xerox, 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 infringement based on the alleged acts of direct infringement by EFI's customers.

72. Based on its characterization of EFI's devices and reference to EFI's Command Workstation, in the Xerox action RAH alleges that the Accused '008 Products infringe independent claim 28, and dependent claims 29-31, 33, 35-37, 39, and 41 (which depend from claim 28) (collectively, "the Asserted '008 Claims"). For example, RAH alleges that the claim limitation of "storing in memory at least tonal transfer curves for a plurality of color channels, color image data, and one or more color transformations for converting a first set of color coordinates into a second set of coordinates wherein said tonal transfer curves and said one or more color transformations are at least partly in accordance with calibration data in device-independent units of color and are useable in combination to control rendering of said color image data, and at least one of said one or more color transformations is a chromatic adaptation transform useable to compensate for change in viewing conditions" of claim 28 reads on the Accused '008 Products.

73. Specifically, RAH alleges that the Accused '008 Products used to make calibration measurements allegedly generate color values using device-independent color units, such as  $L^*a^*b$

1 or CIEXYZ color units or density units. RAH further alleges that EFI's Command Workstation  
 2 supports ICC Specification Version 4.0, which utilizes standardized ICC color profiles, and  
 3 thereby implies that the Accused '008 Products allegedly perform calibration using standardized  
 4 color profiles. Thus, RAH alleges that the claim limitation "calibration data in device-independent  
 5 units of color" reads on EFI's Version 4.0-compliant technology and therefore infringes the  
 6 Asserted '008 Claims.

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

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

22 76. Accordingly, for at least this additional reason, the Accused '008 Products do not  
 23 infringe the Asserted '008 Claims as RAH alleges.

24 77. Accordingly, an actual and justiciable controversy exists between EFI and RAH as  
 25 to EFI's non-infringement of the '008 patent.

26 78. Pursuant to the Declaratory Judgment Act, 28 U.S.C. §§2201, *et seq.* and to resolve  
 27 the legal and factual questions raised by RAH and to afford EFI and its customers relief from  
 28 uncertainty and controversy which RAH's infringement accusations have precipitated, EFI is

entitled to a declaration that the Accused '008 Products do not infringe the '008 patent.

### THIRD CLAIM FOR RELIEF

#### (Declaratory Judgment of Noninfringement of U.S. Patent No. 8,416,444)

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

80. RAH has alleged, and continues to allege in connection with the Xerox action, that EFI Fiery (EX) Print Server, Command WorkStation and/or Color Profiler Suite that RAH accused of infringement in its infringement contentions against Xerox (“the Accused ’444 Products”) infringe certain claims of the ’444 patent. Because RAH’s infringement allegations regarding the Accused ’444 Products are based on the use, manufacture, sale, offer for sale, and importation of EFI’s products by EFI’s customers, including Xerox, 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 infringement based on the alleged acts of direct infringement by EFI’s customers.

81. Based on EFI’s alleged use of the standard ICC profiles, in the Xerox action RAH alleges that the Accused ’444 Products infringe independent claim 11 and 41, and dependent claims 15, 20, and 42 (which depend from claims 11 or 41), of the ’444 patent (collectively with claims 11 and 41, the “Asserted ’444 Claims”). As described above, RAH alleges that “to the extent that EFI Fiery controllers/print servers (and bundled software) and Xerox FreeFlow Print Server (and bundled software) are sold with Xerox printers and presses instead of CX Print Server, the Fiery and Xerox controllers/print servers would infringe this patent in a similar fashion as set forth in this chart (e.g., EX Print Server models for Xerox Color 560/570, Color 800/1000, Color C75, Color J75, iGen4, iGen 150, 700i/700 Color Digital Press, Color 800i/1000i; FreeFlow Print Server for Xerox Color 560/570, Color 800/1000, Color C75, Color J75, iGen4, iGen 150, 700i/700 Color Digital Press, Color 800i/1000i). Accordingly, RAH alleges that EFI’s Fiery controllers/print servers, in connection with the sale of Xerox printers and presses, infringe for the same reasons described for the CX Print Server.

82. Thus, for example, RAH alleges that “a chromatic adaptation transform stored in a



1 file and accessible through a file header, said chromatic adaptation transform enabling conversion  
 2 of input color coordinates to output color coordinates representative of different viewing  
 3 conditions” of claim 11 reads on the Accused ’444 Products. In addition, for example, RAH  
 4 alleges that “wherein said information stored by said memory further comprises a gamut  
 5 descriptor data structure, said gamut descriptor representing a two dimensional array whose inputs  
 6 are coordinates related to lightness and hue and whose outputs represent the saturation at the  
 7 surface of a color gamut at said input coordinates” of claim 15 (a dependent claim of claim 11)  
 8 reads on the Accused ’444 Products.

9       83. Specifically, RAH alleges that the Accused ’444 Products are compliant with ICC  
 10 Version 4.0 profiles, which RAH alleges requires use of the ICC-defined chromatic adaptation  
 11 transform (i.e., “chromatic Adaptation Tag”). As alleged by RAH, the ICC-defined chromatic  
 12 Adaptation Tag must “convert[] an XYZ colour, measured at a device’s specific illumination  
 13 conditions, to an XYZ colour in the PCS illumination conditions after complete adaptation.” As  
 14 such, RAH alleges that the Accused ’444 Products infringe claims 11 and 41 of the ’444 patent, in  
 15 part, because of EFI’s compliance with ICC Version 4.0 profiles.

16       84. RAH’s infringement claims are unfounded. By way of non-limiting example, RAH  
 17 claims that the required tags for an ICC profile in accordance with ICC specification 4.0 include a  
 18 chromatic adaptation transform as recited in claims 11 and 41, in the form of a  
 19 “chromaticAdaptationTag”, and therefore, the Accused ’444 Products must include it. ICC  
 20 specification Version 4.0, however, states that the chromatic Adaptation Tag is “[r]equired only if  
 21 the chromaticity of the actual adopted white is different from that of the PCS adopted white.”  
 22 Thus, at best, ICC specification Version 4.0 does not support RAH’s broad statement that the  
 23 chromatic Adaptation Tag is required. The chromatic Adaptation Tag itself is used, according to  
 24 the ICC specification Version 4.0, to “convert[] an nCIEXYZ colour relative to the actual adopted  
 25 white to the nCIEXYZ colour relative to the PCS adopted white.” The Accused ’444 Products do  
 26 not convert nCIEXYZ colour in the manner described. Therefore, for at least these reasons, the  
 27 Accused ’444 Products do not infringe the Asserted ’444 Claims.

28       85. In connection with claim 15 of the ’444 patent, in the Xerox action RAH alleges

1 that the Accused '444 Products are compliant with ICC Version 4.0 profiles, which RAH alleges  
 2 requires use of the ICC-defined PRMG. RAH further alleges that the PRMG provides a  
 3 standardized gamut representation for image data in coordinates which are used to map colors  
 4 from an input device to output devices using an intermediate color to color transformation. Upon  
 5 information and belief, RAH alleges that the ICC effectively standardized the '444 patent's gamut  
 6 descriptor. Thus, RAH alleges that the claim limitation "wherein said information stored by said  
 7 memory further comprises a gamut descriptor data structure, said gamut descriptor representing a  
 8 two dimensional array whose inputs are coordinates related to lightness and hue and whose  
 9 outputs represent the saturation at the surface of a color gamut at said input coordinates" reads on  
 10 the Accused '444 Products, in part, because of EFI's compliance with ICC Version 4.0 profiles.

11 86. RAH's infringement claims regarding claim 15 are unfounded. By way of non-  
 12 limiting example, Version 4.0 of the ICC Specification does not even mention PRMG. Further,  
 13 Version 4.3 of the ICC Specification does not require PRMG. In Version 4.3, the ICC  
 14 Specification states, under "6.3.3.1 General," that "Perceptual rendering remains a proprietary art,  
 15 due both to the current state of perceptual rendering algorithms, and also to the fact that viewer  
 16 and application specific preferences can affect the nature of a desired reproduction (when exact  
 17 colour matching is not the objective). It is not practical or desirable to specify standard perceptual  
 18 rendering algorithms. Consequently, it is also not practical or desirable to require that perceptual  
 19 rendering intents match an exact perceptual intent reference medium gamut (PRMG)." Further, the  
 20 ICC Specification Version 4.3 states, under "6.3.3.3 Perceptual intent reference medium gamut  
 21 (PRMG)," that "Perceptual rendering intent and saturation rendering intent transforms may  
 22 *optionally* use the reflection color gamut specified in ISO 12640-3 . . . ." (emphasis added). Thus,  
 23 even if RAH's unsupported allegation that using PRMG meets claim 15's requirement of using a  
 24 standardized color gamut is correct, it does not follow that the Accused '444 Products' conformity  
 25 with ICC Version 4.0 (or Version 4.3) profiles necessarily establishes infringement of the '444  
 26 patent, as the use of PRMG is optional. In fact, the Accused '444 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 '444 Products do not

1 infringe claim 15 as RAH alleges.

2 87. Accordingly, an actual controversy exists between EFI and RAH as to EFI's non-  
3 infringement of the '444 patent.

4 88. 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 '444 Products do not infringe the '444 patent.

#### 8 **FOURTH CLAIM FOR RELIEF**

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

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

12 90. RAH has alleged and continues to allege, in connection with the Xerox action, that  
13 the EFI Fiery (EX) Print Server, Command WorkStation and/or Color Profiler Suite that RAH  
14 accused of infringement in its infringement contentions against Xerox ("Accused '704 Products")  
15 infringe certain claims of the '704 patent. Because RAH's infringement allegations regarding the  
16 Accused '870 Products are based on the use, manufacture, sale, offer for sale, and importation of  
17 EFI's products by EFI's customers, including Xerox, RAH effectively has charged EFI with  
18 infringement and there exists a controversy between RAH and EFI as to EFI's liability for direct  
19 infringement and induced infringement based on the alleged acts of direct infringement by EFI's  
20 customers.

21 91. Based on EFI's alleged use of the standard ICC profiles and reference to EFI's  
22 Command Workstation, RAH alleges that the Accused '704 Products infringe independent claims  
23 11 and 29, and dependent claims 12 (which depends from claim 11) and 30, 31, 34, and 35 (which  
24 depend from claim 29) of the '704 patent (collectively, the "Asserted '704 Claims"). As described  
25 above, RAH alleges that "This chart was prepared specifically for Xerox FreeFlow Core (On-  
26 Premise and Cloud), and applies to FreeFlow Core sold as a standalone product or sold as a  
27 packaged bundle with its printers and presses. In addition, other presses and software sold as a  
28 bundle would infringe this patent for the same reasons as set forth in this chart (e.g., Xerox

1 printers and presses that are provided with Kodak/Creo CX Print Server, including but not limited  
 2 to Xerox iGen4, 700i/700 Digital Color Press, DocuColor 8080 Digital Press, Color 800/1000  
 3 Press; Xerox printers and presses that are provided with Xerox FreeFlow Print Server, including  
 4 but not limited to, Xerox Color 560/570 Printers, Color 800/1000, Color C75, Color J75, iGen4,  
 5 iGen 150, 700i/700 Color Digital Press, Color 800i/1000i; Xerox printers and presses that are  
 6 provided with Kodak/Creo CX Print Server, including but not limited to Xerox iGen4, 700i/700  
 7 Digital Color Press, DocuColor 8080 Digital Press, Color 800/1000 Press). For example, to the  
 8 extent that Xerox sells its printers and presses bundled with other print servers, including Xerox  
 9 FreeFlow Print Server, EFI Fiery/EX Print Server, or Kodak/Creo CX Print Server, these bundled  
 10 systems would infringe this patent in a similar fashion as set forth in this chart” and “This chart  
 11 was prepared specifically for the Xerox Versant 2100 Press with FreeFlow Print Server. Any other  
 12 Xerox printers or presses operating in a similar fashion and bundled with similar software would  
 13 infringe this patent for the same reasons as set forth in this chart (e.g., FFPS bundled with Color  
 14 J75, iGen4, iGen 150, 800/1000, and 800i/1000i presses). In addition, other software sold bundled  
 15 with its printers and presses may infringe. For example, to the extent that EFI Fiery print server  
 16 (e.g., EX Print Server models) and Kodak Creo CX print server are sold instead of FFPS with  
 17 Xerox printers and presses (e.g., EFI Fiery (EX) Print Server for Xerox Versant 2100, Color J75,  
 18 iGen4, iGen 150, Color 800/1000, Color 800i/1000i; Kodak CX Print Server for Xerox iGen4,  
 19 Color 800/1000), these bundled systems would infringe this patent in a similar fashion as set forth  
 20 in this chart.”

21           92.       Thus, for example, RAH alleges that “at least one of said files comprising a three-  
 22 dimensional array whose inputs are device-independent color coordinates and whose output at  
 23 each input coordinate indicates whether said input coordinate is either inside or outside of a color  
 24 gamut” of claim 11 reads on the Accused ’704 Products. In addition, for example, RAH alleges  
 25 that “at least one instrument comprising an illumination source and one or more photosensors,  
 26 wherein said instrument provides measurements of colors printed by said press, said  
 27 measurements enabling corrections of at least said curves controlling tonal transfer for each color  
 28 channel” of claim 29 reads on the Accused ’704 Products.

93. RAH's allegations are unfounded. In support of its allegations that the Accused '704 Products include "at least one of said files comprising a three-dimensional array . . . either inside or outside of a color gamut," RAH identifies the "gamut Tag" of ICC specification Version 4.0, which it states "uses PCS values (e.g., XYZ device independent color values) as inputs, and outputs either a zero or non-zero" to determine if an input color value is in or out-of-gamut for a device. Claim 11, however, also requires that the "information for transforming," which includes the aforementioned "three dimensional array," is used to render color image data. The Accused '704 Products do not utilize the gamut Tag to render color image data, as RAH's infringement allegations incorrectly assume. Accordingly, RAH's infringement allegations are demonstrably wrong and, for at least this reason, the Accused '704 Products do not infringe claim 11 as RAH alleges.

94. The Accused '704 Products also do not use color measurements to enable corrections of tonal transfer for each color channel of a press as recited in claim 29 of the '704 patent and as alleged by RAH. Therefore, for at least this reason, the Accused '704 Products do not infringe claim 29, or claims 30, 31, 34, and 35 (which depend from claim 29).

95. Accordingly, an actual controversy exists between EFI and RAH as to EFI's non-infringement of the '704 patent.

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

#### **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 '870 patent;

B. A declaration that EFI's Accused '008 Products do not and have not infringed the '008 patent;

C. A declaration that EFI's Accused '444 Products do not and have not infringed the

1 '444 patent;

2 D. A declaration that EFI's Accused '704 Products do not and have not infringed the  
3 '704 patent;

4 E. An award of EFI's costs pursuant to Federal Rule of Civil Procedure 54;

5 F. A finding that this is an exceptional case and an award to EFI of its reasonable  
6 attorney fees pursuant to 35 U.S.C. § 285; and

7 G. Any and all other available legal and equitable relief that the Court deems just and  
8 proper.

9  
10 DATED: September 4, 2019

JEFFER MANGELS BUTLER & MITCHELL LLP

11  
12 By: /s/ Gregory S. Cordrey

GREGORY S. CORDREY

Gcordrey@jmbm.com

Jeffer Mangels Butler & Mitchell LLP

3 Park Plaza, Suite 1100

Irvine, CA 92614

Telephone: 949-623-7200

Facsimile: 949-623-7202

13  
14  
15  
16  
17 Attorney for Plaintiff

ELECTRONICS FOR IMAGING, INC.

**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: September 4, 2019

JEFFER MANGELS BUTLER & MITCHELL LLP

By: /s/ Gregory S. Cordrey

GREGORY S. CORDREY

Attorney for Plaintiff ELECTRONICS FOR IMAGING, INC.

JMBM  
Jeffer Mangels  
Butler & Mitchell LLP