

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

GALLIO IP LLC,

Plaintiff,

v.

XEROX CORPORATION and DAHILL  
OFFICE TECHNOLOGY CORPORATION  
d/b/a XEROX BUSINESS SOLUTIONS  
SOUTHWEST,

Defendants.

Civil Action No. 6:20-cv-667-ADA

Jury Trial Requested

**PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Gallio IP LLC (“Gallio” or “Plaintiff”) files this First Amended Complaint against Defendants Xerox Corporation (“Xerox”) and Dahill Office Technology Corporation d/b/a Xerox Business Solutions Southwest (“XBSS”) (Xerox and XBSS are collectively referred to as “Defendants”) for infringement of U.S. Patent No. 10,176,332 (the “’332 patent”). The ’332 patent is referred to herein as the “patent-in-suit.”

**THE PARTIES**

1. Plaintiff is a Texas limited liability company with a place of business in Dallas, Texas.
2. Defendant Xerox Corporation is a corporation organized and existing under the laws of New York with a principal place of business in Norwalk, Connecticut. Xerox is registered to do business in Texas and may be served with process through its registered agent Prentice Hall Corporation System, 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701.

3. Defendant Dahill Office Technology Corporation d/b/a Xerox Business Solutions Southwest is a corporation organized and existing under the laws of Texas with a principal place of business in San Antonio, Texas. XBSS is a wholly owned subsidiary of Xerox and may be served with process through its registered agent C T Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

**JURISDICTION AND VENUE**

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. Jurisdiction as to these claims is conferred on this Court by 35 U.S.C. §§1331 and 1338(a).

5. This Court has personal jurisdiction over Defendants in this action because Defendants have committed acts within this District giving rise to this action and have established minimum contacts with this forum such that the exercise of jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice. Defendants, directly and/or through subsidiaries or intermediaries (including distributors, retailers, and others), have committed and continue to commit acts of infringement in this District by, among other things, offering to sell and selling products and/or services that infringe the patent-in-suit. Moreover, Defendants are registered to do business in the State of Texas, have offices and facilities in the State of Texas and this District, and actively direct their activities to customers located in the State of Texas and this District.

6. On information and belief, Defendants have directly financially benefitted from doing business with the State of Texas. Defendants have entered into contracts with and made sales to and within the State of Texas valued at millions of dollars. For example, Defendant Xerox

has entered into contracts (*see, e.g.*, DIR-CPO-4412) with the State of Texas whereby Xerox is paid by the State of Texas to provide Xerox products and services.

7. On information and belief, Defendants have also directly benefitted from doing business with cities and other government organizations located within this District. For example, Defendant Xerox has entered into contracts with the City of Austin valued at millions of dollars whereby Xerox is paid by the City of Austin to provide Xerox products and services (*see, e.g.*, MA-5600-NC140000016).

8. Venue is proper in this District as to Defendant XBSS under 28 U.S.C. § 1400(b) because XBSS resides in this District. XBSS is a Texas corporation with headquarters at 8200 IH 10 W, Suite 400, San Antonio, Texas 78230.

9. Venue is proper in this District as to Defendant Xerox under 28 U.S.C. § 1400(b) because Xerox has committed acts of infringement, including inducing acts of patent infringement by others, in the District and has one or more regular and established places of business within the District. As discussed in Count I, below, Defendants have directly and indirectly infringed the '332 patent in this District. Xerox also has one or more regular and established places of business in this District. For example, Defendant Xerox has employees in this District that, upon information and belief, regularly conduct business on behalf of Xerox at one or more established places of business (see Exhibits C-D); Defendant Xerox has a regular and established place of business at 17280 Green Mountain Road, Suite 130, San Antonio, Texas 78247, where it has personal property valued at more than \$2 million dollars (see Exhibit E); Defendant Xerox has a regular and established place of business at 901 S Mopac Expressway, Building 2, Suite 595, Austin, Texas 78746, where it has a sales office; and Defendant Xerox has a lease for 6836 Austin Center Blvd, Suite 300, Austin, Texas 78731 at which publicly available information indicates Defendant Xerox

maintains property (see Exhibit F) and has been used since after the patent-in-suit issued for Xerox business purposes (see Exhibit G). Xerox also has a regular and established place of business in this District at 8200 IH 10 W, Suite 400, San Antonio, Texas 78230 (and other XBSS offices) where its agent XBSS is located. Recent statements by Xerox evidence that XBSS is an agent of Xerox. For instance, in a November 2019 proposal to the Region 4 Education Service Center, Xerox identified XBSS locations as “Xerox U.S. Sales Offices” and described XBSS as “provid[ing] Xerox Sales and Services.” *See Copiers and Printers, Solicitation Number 19-11 Region 4 Education Service Center, pp. 34, 294 (Xerox Corporation Nov. 26, 2019), available at [https://public.omniapartners.com/fileadmin/public-sector/suppliers/T-Z/Xerox\\_Corporation/Contract\\_Documents/R191104/Xerox\\_Response.pdf](https://public.omniapartners.com/fileadmin/public-sector/suppliers/T-Z/Xerox_Corporation/Contract_Documents/R191104/Xerox_Response.pdf).* Additionally, XBSS uses Xerox trademarks and e-mail domains to conduct business, suggesting to consumers that XBSS is acting on behalf of Xerox. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

### **THE PATENT-IN-SUIT**

10. The '332 patent is titled “Server, Data Output System, Data Output Method, and Output Terminal.” The inventions claimed in the patent-in-suit generally relate to a new and novel systems and methods for securing information intended for output at a shared output terminal (e.g., a shared office printer) from inadvertent disclosure or theft and preventing, among other things, inadvertent output of information (e.g., accidental printing of a document at an office printer). A copy of the patent-in-suit is attached hereto as Exhibit A.

11. The '332 patent issued on January 8, 2019, and stems from Application No. 11/452,281.

12. The patent-in-suit claims priority to Japanese patent application 2005-184854, filed on June 24, 2005.

13. The named inventors on the patent-in-suit are Nobuyuki Nonaka and Toshimi Koyama.

14. Each claim of the patent-in-suit is directed to patent eligible subject matter and is presumed valid.

**COUNT I**  
**(Infringement of U.S. Patent No. 10,176,332)**

15. Plaintiff incorporates paragraphs 1 through 14 herein by reference.

16. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

17. Plaintiff is the owner of the '332 patent with all substantial rights to the '332 patent including the exclusive right to enforce, sue, and recover damages for past and future infringement.

**DIRECT INFRINGEMENT (35 U.S.C. §271(a))**

18. Defendants have, and continue to, infringe one or more claims of the '332 patent in this judicial district and elsewhere in Texas and the United States.

19. Defendants have infringed, and continue to infringe, either by themselves or via an agent, at least claim 1 of the '332 patent by, among other things, making, selling, offering for sale, and/or using systems that implement secure printing services (the "Accused Systems"), including but not limited to systems that implement Xerox Workplace Suite or Xerox Secure Access, in this District and elsewhere in the United States. Defendants' infringements in this District are evidenced by, among other things, their offers to sell and/or support the Accused Systems directed to consumers in this District via Defendants' websites (e.g., <https://www.office.xerox.com/en-us/software-solutions/xerox-workplace-suite>,

<https://southwest.xeroxbusinesssolutions.com/xerox-solutions/> ) and bulk purchase initiatives with the State of Texas to promote the purchase of, among other things, that hardware and software used to make and use the Accused Systems (e.g., Xerox Workplace Suite, MFPs, RFID readers). *See, e.g., Texas Department of Information Resources - Xerox Corporation MDF/MPS/ECM Bulk Purchase Initiative, Fiscal Year 2020 (Xerox Corporation: DIR-CPO-4412), available at <https://pubext.dir.texas.gov/portal/internal/resources/DocumentLibrary/DIR%20Hardware%20Bulk%20Purchase%20FY20%20-%20Xerox.pdf>.*

20. Attached hereto as Exhibit B, and incorporated herein by reference, are claim charts illustrating how Accused Systems infringe the '332 patent.<sup>1</sup>

#### **INDIRECT INFRINGEMENT (INDUCEMENT - 35 U.S.C. §271(b))**

21. Based on the information presently available to Plaintiff, absent discovery, and in the alternative and in addition to direct infringement, Plaintiff contends that Defendants have, and continue to, indirectly infringe one or more claims of the '332 patent by inducing direct infringement by customers and end users of systems that implement secure printing (e.g., as illustrated in Exhibit B), including systems that implement Xerox Workplace Suite and Xerox Secure Access, in this District and elsewhere in the United States. Defendant Xerox has also induced XBSS to directly infringe by making, selling, offering for sale, and/or using the Accused Systems.

22. Defendant Xerox has had knowledge of the '332 patent and its infringements since at least April 29, 2020 when it was contacted by Gallio's licensing agent and provided with a chart

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<sup>1</sup> The charts attached as Exhibit B are illustrative and provided for purposes of satisfying Plaintiff's pleading obligations and should not be construed as limiting. Plaintiff will serve infringement contentions in this case in accord with the Local Rules, Court orders, and schedule entered by the Court.

illustrating Defendants' infringement of the '332 patent and its relevance to the Accused Systems. Defendant Xerox also has knowledge of the '332 patent and its infringements based on Plaintiff's Original Complaint (Dkt. No. 1), subsequent communications with counsel for Gallio (including communications in which Workplace Suite was specifically identified), and this complaint. Defendant XBSS has had knowledge of the '332 patent and its infringements at least based on this complaint.

23. On information and belief, despite having knowledge of the '332 patent, Defendants have specifically intended for persons who acquire and use the Accused Systems, including Defendants' customers, to make and/or use such systems in a way that infringes the '332 patent, including at least claim 1, and Defendants knew or should have known that their actions were inducing infringement. And Defendant Xerox has specifically intended for XBSS to offer for sale, sell, and/or make and use the Accused Systems in a way that infringes the '332 patent, including at least claim 1, and it knew or should have known that its actions were inducing infringement.

24. Defendants instruct and encourage customers and end users to use the Accused Systems in a manner that infringes the '332 patent. For example, Defendants provide service agents and instructional materials to assist customers and/or end users with making or using the Accused Systems (e.g., Xerox Workplace Suite 5.5 Documentation, *available at* <https://www.support.xerox.com/en-us/product/xerox-workplace-suite/documentation?platform=win10x64&language=en>, Xerox Secure Access Unified ID System Administration Guide, *available at* [http://download.support.xerox.com/pub/docs/SECUREACCESS/userdocs/any-os/en\\_GB/EN\\_SecureAccess\\_Admin\\_v1.6.pdf](http://download.support.xerox.com/pub/docs/SECUREACCESS/userdocs/any-os/en_GB/EN_SecureAccess_Admin_v1.6.pdf)). Upon information and belief, Xerox encourages

XBSS to offer for sale, sell, and/or make and use the Accused Systems by providing instructional materials and financial incentives.

25. Defendants are liable for their infringements of the '332 patent pursuant to 35 U.S.C. § 271.

26. Plaintiff has been damaged as a result of Defendants' infringing conduct described in this Count. Defendants are, thus, liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendants' infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

27. Plaintiff has satisfied the requirements of 35 U.S.C. § 287 and is entitled to recover damages for infringement occurring prior to the filing of this lawsuit.

**COUNT II**  
**(Willful Infringement)**

28. Plaintiff incorporates paragraphs 1 through 27 herein by reference.

29. Defendant Xerox was aware of the '332 patent before this complaint was filed.

30. On April 29, 2020 Plaintiff's licensing agent contacted Xerox and provided it with a chart illustrating its infringement of the '332 patent and its relevance to Accused Systems.

31. Defendant Xerox has been, or should have been, aware of its infringement of the '332 patent since at least its receipt and review of the April 29, 2020 communication, Plaintiff's Original Complaint, and subsequent communications between the parties.

32. On information and belief, despite being aware of the '332 patent and its infringement of the '332 patent, Defendant Xerox has not changed or otherwise altered the Accused Systems or its practices in an effort to avoid infringing the '332 patent.

33. Defendant Xerox did not even respond to the April 29, 2020 communication informing it of its infringements. Rather, despite having notice of the '332 patent, Xerox has, and



continues to, infringe the '332 patent, directly and/or indirectly, in complete disregard to Plaintiff's patent rights.

34. Defendant Xerox has acted recklessly and/or egregiously, and continues to willfully, wantonly, and deliberately engage in acts of infringement of the '332 patent, justifying a finding of willful infringement and an award to Plaintiff of increased damages under 35 U.S.C. § 284, and attorneys' fees and costs incurred under 35 U.S.C. § 285.

### **JURY DEMAND**

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

### **PRAYER FOR RELIEF**

Plaintiff asks that the Court find in its favor and against Defendants and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of the '332 patent have been infringed, either literally and/or under the doctrine of equivalents, by Defendants;
- b. Judgment that one or more claims of the '332 patent have been willfully infringed, either literally and/or under the doctrine of equivalents, by Defendants;
- c. Judgment that Defendants account for and pay to Plaintiff all damages and costs incurred by Plaintiff because of Defendants' infringing activities and other conduct complained of herein, including an accounting for any sales or damages not presented at trial;
- d. Judgment that Defendants account for and pay to Plaintiff a reasonable, ongoing, post judgment royalty because of Defendants' infringing activities, including continuing infringing activities, and other conduct complained of herein;
- e. That Plaintiff be granted pre-judgment and post judgment interest on the damages caused by Defendants' infringing activities and other conduct complained of herein;
- f. Find this case exceptional under the provisions of 35 U.S.C. § 285 and award enhanced damages;

- g. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: September 24, 2020

Respectfully submitted,

/s/ Ryan Griffin

Ryan Griffin

Texas Bar No. 24053687

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Attorneys for Plaintiff

**GALLIO IP LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record, who are deemed to have consented to electronic service, are being served September 24, 2020 with a copy of this documents via the Court's CM/ECF system.

/s/ Ryan Griffin

Ryan Griffin