

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTER DISTRICT OF TEXAS
MARSHALL DIVISION**

GALLIO IP LLC,

Plaintiff,

v.

SEIKO EPSON CORPORATION,

Defendant.

Civil Action No. 2:20-cv-324

Jury Trial Requested

PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Gallio IP LLC (“Gallio” or “Plaintiff”) files this Original Complaint against Defendant Seiko Epson Corporation (“Epson” or “Defendant”) 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 is a corporation organized and existing under the laws of Japan with a principal place of business at 3-3-5 Owa, Suwa-Shi, Nagano 392-8502, Japan.

JURISDICTION AND VENUE

3. 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).
4. The Court has personal jurisdiction over Defendant in this action. Defendant is subject to personal jurisdiction pursuant to the Texas Long Arm Statute and based on its substantial

business in this State and judicial district, including: (A) at least part of its infringing activities alleged herein; and (B) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold and services provided to Texas and its residents. Defendant designs, develops, manufactures, and markets printers and related hardware and software and arranges for such products to be offered for sale in the State of Texas and this District. Defendant has placed and continues to place such products into the stream of commerce via an established distribution channel with the knowledge and/or intent that those products were sold and continue to be sold in the United State and Texas, including in this District. Defendant states in its 2020 Annual Report that “we stepped up our sales promotions and product awareness-building campaigns aimed at end-users in North America” for its printing solutions segment. And Defendant reported in its 2020 Annual Report that for the year ended March 31, 2020 its revenue based on customers in the United States was \$1,853,469,000. Indeed, Defendant’s US sales entity (Epson America, Inc.) has entered into contracts with the State of Texas for the provision of Epson branded products and services (e.g., DIR-TSO-3858). Thus, the Court has personal jurisdiction over Defendant, directly or through intermediaries, including its wholly-owned subsidiaries, because it has committed acts within Texas giving rise to this action and/or has established minimum contacts with Texas such that personal jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c). Defendant is a foreign entity and may be sued in any judicial district under 28 U.S.C. § 1391(c)(3).

THE PATENT-IN-SUIT

6. 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).

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

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

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

10. 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)

11. Plaintiff incorporates paragraphs 1 through 10 herein by reference.

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

13. 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.

14. Defendant has, and continues to, indirectly infringe one or more claims of the '332 patent, including (for example) at least claim 1, by inducing direct infringement by its affiliates, agents, customers, and end users of systems that implement secure printing services with authentication cards (the "Accused Systems"), including but not limited to systems that implement Epson Print Admin.

15. Attached hereto as Exhibit A, and incorporated herein by reference, is a claim chart illustrating how Accused Systems infringe the '332 patent.¹

16. Defendant's affiliates, agents, customers and end users of systems that implement Accused Systems directly infringe the '332 patent by making and/or using the Accused Systems (e.g., as illustrated by Exhibit A). Defendant's affiliates and agents (e.g., sales representatives) also directly infringe the '332 patent by offering for sale or selling Accused Systems (e.g., as illustrated by Exhibit A).

17. Defendant has had knowledge of the '332 patent and its infringements since at least July 25, 2020 when it was contacted by Gallio's licensing agent and provided with a chart illustrating infringement of the '332 patent by Accused Systems. Defendant also has knowledge of the '332 patent and its infringements based on this complaint.

18. On information and belief, despite having knowledge of the '332 patent, Defendant has specifically intended for persons who acquire and use Epson Print Admin to make and use Accused Systems in a way that infringes the '332 patent, including at least claim 1, and Defendant knew or should have known that its actions were inducing infringement. On information and belief, despite having knowledge of the '332 patent, Defendant has specifically intended for its affiliates and agents (e.g., sales agents) to offer for sale and/or sell Accused Systems (e.g., as illustrated by Exhibit A).

19. Defendant encourages its affiliates and agents (e.g., sales representatives) to sell systems configured with Epson Print Admin and authentication cards in a manner that infringes

¹ The chart attached as Exhibit A is 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.

(e.g., as illustrated by Exhibit A). For example, Defendant encourages its U.S. sales company Epson America, Inc. to market and sell Accused Systems.

20. Defendant also instructs and encourages customers and end users to make and use the Accused Systems in a manner that infringes the '332 patent. For example, Defendant provides materials that instruct customers and/or end users to make and use Accused Systems (e.g., as illustrated by Exhibit A). Examples of such instructional materials include: Epson Print Admin – Solution Overview (Seiko Epson Corporation 2018), *available at* https://files.support.epson.com/docid/other/epa_solution_overview_npd5973-00_en.pdf; Epson Print Admin – System Installation Guide (Seiko Epson Corporation 2018), *available at* https://files.support.epson.com/docid/other/epa_system_installation_guide_npd5974-00_en.pdf; Epson Print Admin – User's Guide (Seiko Epson Corporation 2018), *available at* https://files.support.epson.com/docid/other/epa_users_guide_npd5976-00_en.pdf; Epson Print Admin – Administrator's Guide (Seiko Epson Corporation 2018), *available at* https://files.support.epson.com/docid/other/epa_administrators_guide_npd5975-01_en.pdf.

21. Defendant is liable for its infringements of the '332 patent pursuant to 35 U.S.C. § 271.

22. Plaintiff has been damaged as a result of Defendant's infringing conduct described in this Count. Defendant is, thus, liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's 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.

23. 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)

24. Plaintiff incorporates paragraphs 1 through 23 herein by reference.

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

26. On July 25, 2020 Plaintiff's licensing agent contacted Epson and provided it with a chart illustrating its infringement of the '332 patent and its relevance to Accused Systems.

27. Defendant has been, or should have been, aware of its infringement of the '332 patent since at least its receipt and review of the July 25, 2020 communication and subsequent communications between the parties.

28. On information and belief, despite being aware of the '332 patent and its infringement of the '332 patent, Defendant has not changed or otherwise altered the Accused Systems or its practices in an effort to avoid infringing the '332 patent. Rather, despite having notice of the '332 patent, Defendant has, and continues to, infringe the '332 patent in complete disregard to Plaintiff's patent rights.

29. Defendant 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 Defendant 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 Defendant;
- 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 Defendant;
- c. Judgment that Defendant account for and pay to Plaintiff all damages and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein, including an accounting for any sales or damages not presented at trial;
- d. Judgment that Defendant account for and pay to Plaintiff a reasonable, ongoing, post judgment royalty because of Defendant's 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 Defendant's 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: October 6, 2020

Respectfully submitted,

/s/ Ryan Griffin

Ryan Griffin

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