

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

<p>Gladiator IP LLC, Plaintiff, v. Brother International Corporation, Defendant.</p>	<p>Case No. 1:20-cv-01461-MN Patent Case Jury Trial Demanded</p>
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AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Gladiator IP LLC (“Plaintiff”), through its attorneys, complains of Brother International Corporation (“Defendant”), and alleges the following:

PARTIES

1. Plaintiff Gladiator IP LLC is a corporation organized and existing under the laws of Texas that maintains its principal place of business at 7548 Preston Rd, Ste 141 PMB 1036, Frisco, TX 75034.

2. Defendant Brother International Corporation is a corporation organized and existing under the laws of Delaware that maintains an established place of business at 200 Crossing Blvd. Bridgewater, NJ 08807-0911.

JURISDICTION

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

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

5. This Court has personal jurisdiction over Defendant because it has engaged in systematic and continuous business activities in this District and is incorporated in this District's state. As described below, Defendant has committed acts of patent infringement giving rise to this action within this District.

VENUE

6. Venue is proper in this District under 28 U.S.C. § 1400(b) because Defendant has committed acts of patent infringement in this District and is incorporated in this District's state.

PATENTS-IN-SUIT

7. Plaintiff is the assignee of all right, title and interest in United States Patent Nos. 7,139,094; 7,768,662 (the "Patents-in-Suit"); including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times, including for past infringement, against infringers of the Patents-in-Suit. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the Patents-in-Suit by Defendant.

THE '094 PATENT

8. The '094 Patent is entitled "Systems and methods for simplified scanning using multi-function devices," and issued 11/21/2006. The application leading to the '094 Patent was filed on 12/28/2000. A true and correct copy of the '094 Patent is attached hereto as Exhibit 1 and incorporated herein by reference.

9. The '094 Patent is valid and enforceable.

THE '662 PATENT

10. The '662 Patent is entitled "System and method for controlling access," and issued 08/03/2010. The application leading to the '662 Patent was filed on 02/12/2002. A true

and correct copy of the '662 Patent is attached hereto as Exhibit 2 and incorporated herein by reference.

11. The '662 Patent is valid and enforceable.

COUNT 1: INFRINGEMENT OF THE '094 PATENT

12. Plaintiff incorporates the above paragraphs herein by reference.

13. **Direct Infringement.** Defendant has been and continues to directly infringe one or more claims of the '094 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, at least the Defendant products identified in the charts incorporated into this Count below (among the "Exemplary Defendant Products") that infringe method claims 30, 44, and 45 of the '094 Patent (the "'094 Method Claims") also identified in the charts incorporated into this Count below literally or by the doctrine of equivalents. On information and belief, numerous other devices that infringe the claims of the '094 Patent have been made, used, sold, imported, and offered for sale by Defendant and/or its customers.

14. Defendant also has and continues to directly infringe, literally or under the doctrine of equivalents, the '094 Method Claims, by having its employees internally test and use these Exemplary Products. Defendant is therefore at least liable for single actor direct infringement through employee internal testing.

15. Exhibit 3 includes charts comparing the '094 Method Claims to the Exemplary Defendant Products. As set forth in these charts, the Exemplary Defendant Products practice the technology claimed by the '094 Patent. Accordingly, the Exemplary Defendant Products incorporated in these charts satisfy all elements of the '094 Method Claims. Additionally,

these charts explain how Defendant is also liable for direct divided infringement, based on activities by end users under Defendant's direction and/or control.

16. Plaintiff therefore incorporates by reference in its allegations herein the claim charts of Exhibit 3.

17. Plaintiff is entitled to recover damages adequate to compensate for Defendants infringement.

COUNT 2: INFRINGEMENT OF THE '662 PATENT

18. Plaintiff incorporates the above paragraphs herein by reference.

19. **Direct Infringement.** Defendant has been and continues to directly infringe one or more claims of the '662 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, at least the Defendant products identified in the charts incorporated into this Count below (among the "Exemplary Defendant Products") that infringe method claims 6 and 20 of the '662 Patent also identified in the charts incorporated into this Count below (the "'662 Method Claims") literally or by the doctrine of equivalents. On information and belief, numerous other devices that infringe the claims of the '662 Patent have been made, used, sold, imported, and offered for sale by Defendant and/or its customers.

20. Defendant also has and continues to directly infringe, literally or under the doctrine of equivalents, the '662 Method Claims, by having its employees internally test and use these Exemplary Products. Defendant is therefore at least liable for single actor direct infringement through employee internal testing.

21. Exhibit 4 includes charts comparing the '662 Method Claims to the Exemplary Defendant Products. As set forth in these charts, the Exemplary Defendant Products practice the technology claimed by the '662 Patent. Accordingly, the Exemplary Defendant Products

incorporated in these charts satisfy all elements of the '662 Method Claims. Additionally, these charts explain how Defendant is also liable for direct divided infringement, based on activities by end users under Defendant's direction and/or control.

22. Plaintiff therefore incorporates by reference in its allegations herein the claim charts of Exhibit 4.

23. Plaintiff is entitled to recover damages adequate to compensate for Defendants infringement.

JURY DEMAND

24. Under Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. A judgment that the '094 Patent is valid and enforceable
- B. A judgment that the '662 Patent is valid and enforceable
- C. A judgment that Defendant has infringed directly one or more claims of the '094 Patent;
- D. A judgment that Defendant has infringed directly one or more claims of the '662 Patent;
- E. An accounting of all damages not presented at trial;
- F. A judgment that awards Plaintiff all appropriate damages under 35 U.S.C. § 284 for Defendants past infringement with respect to the '094 Patent.
- G. A judgment that awards Plaintiff all appropriate damages under 35 U.S.C. § 284 for Defendants past infringement with respect to the '662 Patent.

- H. And, if necessary, to adequately compensate Plaintiff for Defendants infringement, an accounting:
- i. that this case be declared exceptional within the meaning of 35 U.S.C. § 285 and that Plaintiff be awarded its reasonable attorneys fees against Defendant that it incurs in prosecuting this action;
 - ii. that Plaintiff be awarded costs, and expenses that it incurs in prosecuting this action; and
 - iii. that Plaintiff be awarded such further relief at law or in equity as the Court deems just and proper.

Respectfully submitted,

GAWTHROP GREENWOOD, PC

/s/ David deBruin

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Dated: February 18, 2021

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