

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

COLORQUICK, L.L.C.,	§	
	§	
<i>Plaintiff,</i>	§	
	§	No. 6:09-cv-572
v.	§	
	§	JURY DEMANDED
FEDEX OFFICE AND PRINT	§	
SERVICES, INC.	§	
	§	
<i>Defendant.</i>	§	

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**PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT  
AND JURY DEMAND**

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Plaintiff ColorQuick, L.L.C. brings this action for patent infringement against Defendant FedEx Office And Print Services, Inc., and alleges as follows:

**I. THE PARTIES**

1. Plaintiff ColorQuick, L.L.C. is a New Jersey limited liability company having a principal place of business at 9100 Pennsauken Highway, Pennsauken, New Jersey 08110.
2. Upon information and belief, Defendant FedEx Office And Print Services, Inc. is a Texas corporation having a principle place of business at 13155 Noel Road, Suite 1600, Dallas, Texas 75240, where it may be served.

**II. JURISDICTION AND VENUE**

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. The Court’s jurisdiction over this action is proper under the above statutes, including 35 U.S.C. § 271, *et seq.*, and 28 U.S.C. §§ 1331 and 1338(a).

4. Personal jurisdiction exists generally over Defendant because Defendant has sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and within the Eastern District of Texas. Personal jurisdiction also exists specifically over the Defendant because of its conduct in making, using, selling, offering to sell, and/or importing products covered by and/or manufactured in accordance with the claimed inventions of United States Patent No. 6,839,149 (“the ‘149 patent”) and practicing methods covered by the claims of the ‘149 patent within the State of Texas and within the Eastern District of Texas.

5. Venue is proper in this Court under 28 U.S.C. §§ 1391(b), (c), and (d).

### **III. PATENT INFRINGEMENT**

6. Plaintiff is the owner of all rights, title, and interest in and the ‘149 Patent, which duly and legally issued on January 4, 2005.

7. The ‘149 Patent describes and claims methods and apparatuses for preparation of production data for a print job using a still image proxy of a page description language image file. A true and correct copy of the ‘149 Patent is attached hereto as Exhibit A.

8. The ‘149 Patent is valid and enforceable. 35 U.S.C. § 287 has been satisfied.

9. Defendant has been infringing the ‘149 Patent by making, using, selling, offering for sale, and/or importing in or into the United States, without authority, products and/or processes that fall within the scope of the claims of the ‘149 Patent including, but not limited to, digital print services through its Design & Print Center on its website at <http://www.fedex.com/us/office/index.html> (“Design & Print Center”) and/or its kiosks located in certain FedEx Office retail stores (“FedEx Office Kiosks”).

10. By making, using, selling, offering for sale, and/or importing in or into the United States, without authority, the Design & Print Center and/or FedEx Office Kiosks, Defendant has

also induced customers who use its Design & Print Center and/or FedEx Office Kiosks to infringe the '149 Patent under 35 U.S.C. § 271(b), and have contributed to these customers' infringement of the '149 Patent under 35 U.S.C. § 271(c). For example, Defendant has intentionally and knowingly invited and instructed its customers to use its Design & Print Center and/or FedEx Office Kiosks for creating a still image proxy of a PDL image file, electronically manipulating an image display of the still image proxy and recording information about the manipulations, and using the information about the manipulations to revise the PDL image file so as to match the PDL image file to the manipulations made to the image display of the still image proxy. The infringing products, products made by infringing processes, and/or infringing methods have no substantial non-infringing uses.

11. As a direct and proximate result of Defendant's acts of patent infringement, including direct patent infringement, inducing patent infringement, and contributing to patent infringement, Plaintiff has been and continues to be injured and has sustained and will continue to sustain substantial damages in an amount not presently known.

12. Plaintiff has no adequate remedy at law against these acts of patent infringement. Unless Defendant is permanently enjoined from their unlawful infringement of the '149 Patent, Plaintiff will suffer irreparable harm.

#### **IV. PRAYER FOR RELIEF**

Plaintiff respectfully requests that judgment be entered in its favor and against Defendant FedEx Office and Print Services, Inc. and that the Court grant the following relief to Plaintiff:

- A. Declare that the '149 Patent is valid and enforceable;
- B. Declare that Defendant has infringed the '149 Patent;
- C. Award damages to Plaintiff to which it is entitled for patent infringement;

- D. Enter a preliminary and thereafter a permanent injunction against Defendant's direct infringement of the '149 Patent;
- E. Enter a preliminary and thereafter a permanent injunction against Defendant's active inducements of infringement and/or contributory infringements of the '149 Patent by others;
- F. Award interest on Plaintiff's damages; and
- G. Such other relief as the Court deems just and proper.

**V. JURY DEMAND**

In accordance with FED. R. CIV. P. 38 and 39, Plaintiff asserts its rights under the Seventh Amendment of the United States Constitution and demands a trial by jury on all issues.

Dated: June 3, 2010.

Respectfully submitted,

/s/ Alfonso Garcia Chan

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ATTORNEYS FOR PLAINTIFF

COLORQUICK, L.L.C.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-f(a)(3) on June 3, 2010.

/s/ Justin B. Kimble  
Justin B. Kimble