

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

FLEXIWORLD TECHNOLOGIES, INC.,

Plaintiff,

v.

BROTHER INTERNATIONAL CORPORATION,

Defendant.

C.A. No.: 2:22-cv-02236-JPM-tmp

Jury Trial Demanded

DEFENDANT BROTHER INTERNATIONAL CORPORATION'S ANSWER TO SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT AND COUNTERCLAIMS

Pursuant to Federal Rule of Civil Procedure 12, Defendant Brother International Corporation ("Defendant"), by and through its undersigned counsel, answer the Second Amended Complaint for Patent Infringement ("Complaint") of Flexiworld Technologies, Inc. ("Flexiworld" or "Plaintiff") as follows:

NATURE OF THE SUIT¹

1. This paragraph of the Complaint alleges legal conclusion to which no response is required. To the extent a response is required, Defendant admits that the Complaint states that Plaintiff brought this action for alleged patent infringement under the patent laws of the United States, Title 35 of the United States Code. Defendant denies the remaining allegations and characterizations in this paragraph of the Complaint.

2. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations.

3. This paragraph of the Complaint alleges a legal conclusion to which no response is required. To the extent a response is required, Defendant admits that it is a Delaware corporation.

¹ Defendant's adoption of Plaintiff's formatting is for convenience only and should not be construed as an admission.

Defendant denies the remaining allegations and characterizations in this paragraph of the Complaint.

JURISDICTION AND VENUE

4. This paragraph alleges legal conclusions to which no response is required.

5. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant does not contest, for purposes of this action only, that this Court has personal jurisdiction over it. Defendant denies that it has committed any acts of infringement related to the Asserted Patents, in addition to the remaining allegations and characterizations in this paragraph of the Complaint.

6. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies that it has committed any acts of infringement related to the Asserted Patents, in addition to the remaining allegations and characterizations in this paragraph of the Complaint.

7. Defendant admits that it maintains websites that provide information regarding Brother products, and that these may be accessed by customers within this District. Except as expressly admitted herein, Defendant denies the remaining allegations of this paragraph of the Complaint.

8. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies that it has committed any acts of infringement related to the Asserted Patents, in addition to the remaining allegations and characterizations in this paragraph of the Complaint.

9. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant admits that it has a physical presence within the Western District of Tennessee but denies that it has committed any acts of infringement related to the Asserted Patents and the remaining allegations of this paragraph of the Complaint.

10. This paragraph of the Complaint alleges legal conclusions to which no response is

required. To the extent a response is required, Defendant denies that it has committed any acts of infringement related to the Asserted Patents, in addition to the remaining allegations and characterizations in this paragraph of the Complaint.

11. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant admits that Plaintiff purports to base venue under 28 U.S.C. §§1391 (b), (c), and 1400(b) but denies that this District is the most convenient venue. Defendant denies the remaining allegations and characterizations in this paragraph of the Complaint.

12. This paragraph of the Complaint alleges legal conclusions to which no response is required.

FLEXIWORLD AND THE PATENTS-IN-SUIT

13. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations.

14. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations.

15. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations.

16. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations.

17. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations.

18. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations.

19. Defendant lacks information sufficient to admit or deny the allegations in this

paragraph of the Complaint, and on that basis denies the allegations.

20. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations.

The '181 Patent

21. Defendant admits that a purported copy of the '181 Patent has been attached to the Complaint and admits that, on its face, the purported copy of the '181 Patent is titled "Wireless Printing Device For Printing Digital Content Received Via Wireless Communication Compatible, At Least Partly, With IEEE 802.11 or Bluetooth." Defendant lacks information sufficient to admit or deny if the document attached as Exhibit 1 is a true and correct copy of the '181 Patent. Defendant lacks information sufficient to admit or deny the remaining allegations in this paragraph of the Complaint, and on that basis, denies the allegations.

22. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

23. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations of this paragraph of the Complaint.

24. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations in this paragraph of the Complaint.

25. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

The '071 Patent

26. Defendant admits that a purported copy of the '071 Patent has been attached to the Complaint and admits that, on its face, the purported copy of the '071 Patent is titled “Printers, Printer Controllers, Printer Software, or Printer Firmware for Supporting Wireless Printing or Printing Over Air.” Defendant lacks information sufficient to admit or deny if the document attached as Exhibit 2 is a true and correct copy of the '071 Patent. Defendant lacks information sufficient to admit or deny the remaining allegations in this paragraph of the Complaint, and on that basis, denies the allegations.

27. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

28. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations of this paragraph of the Complaint.

29. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations in this paragraph of the Complaint.

30. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

The '856 Patent

31. Defendant admits that a purported copy of the '856 Patent has been attached to the Complaint and admits that, on its face, the purported copy of the '856 Patent is titled “Printing Devices Supporting Printing Over Air or Printing Over A Wireless Network.” Defendant lacks information sufficient to admit or deny if the document attached as Exhibit 3 is a true and correct

copy of the '856 Patent. Defendant lacks information sufficient to admit or deny the remaining allegations in this paragraph of the Complaint, and on that basis, denies the allegations.

32. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

33. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations of this paragraph of the Complaint.

34. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations in this paragraph of the Complaint.

35. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

GENERAL ALLEGATIONS

36. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations of this paragraph of the Complaint.

37. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations of this paragraph of the Complaint.

38. Defendant denies the allegations of this paragraph of the Complaint.

39. Defendant denies the allegations of this paragraph of the Complaint.

40. Defendant admits that the YouTube channel in this paragraph of the Complaint

contains videos and that the website refers to the YouTube channel but denies the remaining allegations of this paragraph of the Complaint.

41. Defendant admits that it maintains a Facebook page but denies the remaining allegations of this paragraph of the Complaint.

42. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

43. Defendant admits that it attended the Consumer Electronics Show in 2019 but denies the remaining allegations of this paragraph of the Complaint.

44. Defendant admits that it provides customer support to its consumers and that it maintains the website listed. The rest of this paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the remaining allegations of this paragraph of the Complaint.

45. Defendant denies the allegations of this paragraph of the Complaint.

46. Defendant admits that Plaintiff attempted to send two vague letters, and that Defendant was served with the First Amended Complaint in this action. Defendant denies that it was served with the Original Complaint, and notes that it was not named as Defendant in the Original Complaint. The rest of this paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the remaining allegations and characterizations in this paragraph of the Complaint.

47. Defendant denies the allegations of this paragraph of the Complaint.

48. Defendant denies the allegations of this paragraph of the Complaint.

49. This paragraph of the Complaint contains hypothetical allegations to which Defendant is incapable of responding. To the extent a response is required, Defendant denies the allegations of

this paragraph of the Complaint.

50. Defendant denies the allegations of this paragraph of the Complaint.

51. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

52. Defendant admits that Exhibits 4-6 are attached to the Complaint and purport to be claim charts related to the Patents-in-Suit. Defendant denies that it has committed any acts of patent infringement of the Patents-in-Suit and therefore denies the remaining allegations of this paragraph of the Complaint, as well as any allegations contained in Exhibits 4-6.

53. Defendant admits that it sells other products besides the Accused Products but denies the remaining allegations of this paragraph of the Complaint.

54. Defendant denies the allegations of this paragraph of the Complaint.

55. Defendant admits that Exhibits 4-6 are attached to the Complaint and purport to be claim charts related to the Patents-in-Suit. Defendant denies that it has committed any acts of patent infringement of the Patents-in-Suit and therefore denies the remaining allegations of this paragraph of the Complaint, as well as any allegations contained in Exhibits 4-6.

56. This paragraph of the Complaint alleges legal conclusions to which no response is required. Defendant lacks information sufficient to admit or deny the allegations in this paragraph of the Complaint, and on that basis denies the allegations.

57. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

58. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of

the Complaint.

59. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

60. For each count of alleged infringement listed below, Defendant incorporates by reference its responses to the allegations contained in paragraphs 1-59 of the Complaint, including these responses to the General Allegations.

COUNT I – [ALLEGED] INFRINGEMENT OF THE '181 PATENT

61. Defendant incorporates by reference its responses to the allegations contained in Paragraphs 1-60 of the Complaint.

62. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

63. Defendant admits that Exhibit 4 is attached to the Complaint and purports to be a claim chart related to the Patents-in-Suit. Defendant denies that it has committed any acts of patent infringement of the asserted patents and therefore denies the remaining allegations of this paragraph of the Complaint, as well as any allegations contained in Exhibit 4.

64. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

65. Denied.

66. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies that the Patents-in-Suit are valid or enforceable and denies the remaining allegations of this paragraph of the Complaint.

67. Denied.

68. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

69. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

COUNT II – [ALLEGED] INFRINGEMENT OF THE '071 PATENT

70. Defendant incorporates by reference its responses to the allegations contained in Paragraphs 1-69 of the Complaint.

71. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

72. Defendant admits that Exhibit 5 is attached to the Complaint and purports to be a claim chart related to the Patents-in-Suit. Defendant denies that it has committed any acts of patent infringement of the asserted patents and therefore denies the remaining allegations of this paragraph of the Complaint, as well as any allegations contained in Exhibit 5.

73. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

74. Denied.

75. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies that the Patents-in-Suit are valid or enforceable and denies the remaining allegations of this paragraph of the Complaint.

76. Denied.

77. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

78. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

COUNT III – [ALLEGED] INFRINGEMENT OF THE '856 PATENT

79. Defendant incorporates by reference its responses to the allegations contained in Paragraphs 1-78 of the Complaint.

80. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

81. Defendant admits that Exhibit 6 is attached to the Complaint and purports to be a claim chart related to the Patents-in-Suit. Defendant denies that it has committed any acts of patent infringement of the asserted patents and therefore denies the remaining allegations of this paragraph of the Complaint, as well as any allegations contained in Exhibit 7.

82. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

83. Denied.

84. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the remaining allegations of this paragraph of the Complaint.

85. Denied.

86. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the remaining allegations of this paragraph of the Complaint.

87. This paragraph of the Complaint alleges legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations of this paragraph of the Complaint.

[PLAINTIFF'S] DEMAND FOR A JURY TRIAL

Plaintiff's demand for a jury trial does not contain any allegations and therefore does not require a response.

[PLAINTIFF'S] PRAYER FOR RELIEF

To the extent a response is required to Plaintiff's prayer for relief, Defendant denies that Plaintiff is entitled to any judgment against Defendant and/or an order granting relief in any of the forms requested in paragraphs (a)-(f) of Plaintiff's Prayer for Relief.

DEFENSES

In addition to answering the Complaint, without assuming any burden Defendant would not otherwise have, Defendant asserts the following affirmative defenses. Defendant reserves its right to amend its answer to assert additional defenses.

FIRST DEFENSE
(Failure to State a Claim)

Plaintiff's Complaint fails to state any claim against Defendant upon which relief can be granted.

SECOND DEFENSE
(Lack of Standing)

Plaintiff is not the owner or assignee of all rights, title, and interest in one or more of the

Patents-in-Suit and, therefore, lacks standing to assert one or more of the Patents-in-Suit.

THIRD DEFENSE
(No infringement)

Defendant has not infringed and does not infringe any valid, enforceable claim of the Patents-in-Suit under any theory of infringement, either literally or under the doctrine of equivalents, including direct infringement (whether individually or jointly) or indirect infringement (whether contributorily or by inducement).

FOURTH DEFENSE
(Invalidity)

Each asserted claim of the Patents-in-Suit is invalid for failure to comply with one or more of the requirements of the United States Code, Title 35, including 35 U.S.C. §§ 101, 102, 103, and 112, and all rules and regulations pertaining thereto.

FIFTH DEFENSE
(Limitation on Damages)

Plaintiff's claims for damages are barred or limited by the provisions of at least 35 U.S.C. § 287. To the extent that Plaintiff or any predecessors in interest or licensees to the Patents-in-Suit failed to properly mark any of their relevant products or materials as required by § 287, or otherwise give actual notice that Plaintiff's actions allegedly infringe the Patents-in-Suit, Defendant is not liable to Plaintiff for any acts alleged to have been performed prior to Defendant receiving actual notice that it was allegedly infringing the Patents-in-Suit. Plaintiff's claim for damages is also limited by the provisions of 35 U.S.C. § 286.

SIXTH DEFENSE
(No Liability for Pre-Knowledge Indirect Infringement)

To the extent Plaintiff alleges that Defendant indirectly infringes the Patents-in-Suit, Defendant is not liable to Plaintiff for any alleged actions that occurred prior to Defendant's knowledge of the Patents-in-Suit and knowledge of the alleged patent infringement.

SEVENTH DEFENSE
(Prosecution History Estoppel)

Plaintiff is estopped, based on statements, representations, admissions, concessions, arguments, and/or amendments made by and/or on behalf of the applicants to and by the U.S. Patent & Trademark Office during prosecution of the patent applications that led to the issuance of the Patents-in-Suit, from asserting any interpretation of any valid, enforceable claims of the Patents-in-Suit that would be broad enough to cover any Accused Product, either literally or under the doctrine of equivalents. The doctrine of prosecution history estoppel and/or disclaimer bars Plaintiff's claims of infringement, in whole or in part.

EIGHTH DEFENSE
(No Costs)

One or more claims of the Patents-in-Suit are invalid under 35 U.S.C. §§ 101, 102, 103, and 112. Upon information and belief, Plaintiff has not disclaimed these invalid claims before the commencement of the present litigation. As such, Plaintiff may not recover costs under 35 U.S.C. § 288.

NINTH DEFENSE
(Not an Exceptional Case)

Plaintiff cannot prove that this is an exceptional case justifying an award of attorney fees against Defendant under 35 U.S.C. § 285.

TENTH DEFENSE
(Patent Exhaustion)

Plaintiff's claims for alleged patent infringement are precluded in whole or in part (i) to the extent that any allegedly infringing products or components thereof supplied (directly or indirectly) to Defendant are imported, sold by, offered for sale by, made by, or made for any entity or entities having express or implied licenses to the Patents-in-suit and/or (ii) under the doctrine of patent exhaustion.

ELEVENTH DEFENSE
(Equitable Defenses)

One or more of Plaintiff's claims are barred by one or more of the equitable doctrines of unclean hands, acquiescence, estoppel, and/or waiver.

TWELFTH DEFENSE
(Limitations Based on FRAND/SEP Requirements)

Upon information and belief, Flexiworld, its predecessors, its assignees, and/or its licensees were required to declare one or more the Asserted Patents essential to a standard (e.g. 802.11, Mopria Alliance) but failed to do so. Upon information or belief, to the extent there is damages here, it is limited to what would be fair, reasonable, and non-discriminatory in the context of voluntary licensing commitments and applicable Intellectual Property Rights Policies.

RESERVATION OF RIGHTS

Defendant reserves its rights to amend this Answer and to amend its defenses or raise additional defenses, as further information is obtained during further investigation and discovery.

COUNTERCLAIMS

This Answer to the Second Amended Complaint does not affect the prior counterclaims asserted by Defendant and Counterclaim Plaintiff Brother International Corporation ("Counterclaimant" or "Brother") against Plaintiff and Counterclaim Defendant Flexiworld Technologies, Inc. ("Counterclaim Defendant" or "Flexiworld"), and responded to on August 10, 2022.

Dated: September 2, 2022

Respectfully submitted,

/s/ Mark Vorder-Bruegge, Jr.

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COUNSEL FOR DEFENDANT
Brother Industries (U.S.A.), Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served on September 2, 2022 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system.

/s/ Mark Vorder-Bruegge, Jr.
Mark Vorder-Bruegge, Jr.