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Tiny CCP Threatens to Derail Samsung Office MFP Business

If CCP succeeds in proving that Samsung owes a royalty on most of the MFPs and printers it has shipped in the past 2-3 years, and that it should pay damages based on the associated hardware revenue and supplies revenue — and we acknowledge those are mighty big “ifs” — CCP believes Samsung could be on the hook for as much as \$500 million in payments.

With sales of its laser MFPs booming, Samsung in the first three months of 2010 moved up a spot to become the world's number four hardcopy vendor by units, according to IDC. Unlike higher-ranked HP, Canon and Epson, Samsung does not benefit from selling any low-priced inkjet printers or AIOs. In fact, Samsung is now number one globally in laser MFP placements, with 67% growth in the first quarter.

So how could it be that a struggling German software vendor with an esoteric product line, 20 people and a few million euros in revenue might force Samsung to halt sales on many of its most lucrative MFPs and printers?

This is exactly what is at stake in an under-the-radar copyright infringement suit filed against Samsung and IBM — more on that connection later — last August 25 in US District Court in New Jersey by German software developer CCP Systems. In similar suits filed in the US and Germany, CCP accuses Samsung of willfully misusing CCP's JScribe technology, while failing to pay the prescribed royalties.

Of course, anyone one can sue anybody about anything, but CCP's lawsuit against Samsung has attracted some heavy hitters. CCP says it is receiving offers of funding for the substantial legal costs it is incurring from investors who would then share in any proceeds from the litigation. Greenwich Beteiligungen, a publicly-held German financial firm, already owns almost half of CCP. If CCP were to prevail and succeed in using a very contentious and expansive view of how damages would be calculated, there is talk that Samsung could potentially be on the hook for as much as \$500 million.

We asked Samsung to discuss its relationship with CCP. The e-mail we received stated that “Samsung does not comment on pending legal proceedings. Samsung respects the intellectual property rights of others, and Samsung will defend its own rights against unmeritorious claims in a manner consistent with all applicable laws and regulations.”

Once Upon a Time. We thought we had seen the last of CCP when we wrote in February 2010 that Samsung was no longer using CCP's JScribe software. We knew that Konica Minolta, CCP's only other MFP partner, had already stopped working on JScribe more than a year earlier.

But CCP was back in the news with a vengeance when a story broke on June 9 in *Handelsblatt*, a leading German business newspaper. The article by Sönke Iwersen was innocuously titled “Mid-sized Company Sues Samsung,” but it portrayed two companies engaged in an epic battle of good versus evil, a veritable David and Goliath. The story was picked up by Yahoo News and other sites, both in the original German and in awkwardly auto-translated English. At least, now I know why I had received an anxious e-mail from Samsung in Korea earlier this year, asking for my source on the February story in which I had mentioned JScribe.

CCP was founded in Stuttgart in 1988. It focused originally on developing graphics applications, print drivers and kernel software for a long list of hardcopy vendors, including Canon, Epson, Fujitsu, HP, Minolta, NEC, OKI, Panasonic, Ricoh and Xerox. CCP also worked with some important early PC software pioneers, such as Digital Research and Ventura.

In 1997, CCP developed an application called FormMaker that worked with Kyocera's PRESCRIBE printer language or with PCL to store electronic forms inside a printer so they could be output as needed. First in Europe and later in the US, Kyocera and then Kyocera Mita embraced and supported FormMaker as an important office printing application. A 2003 marketing piece describing FormMaker 3.0 PRO as a key printing software solution is still found on the Kyocera Mita America web site. However, Kyocera Mita stopped working with CCP in both the US and Europe a few years ago.

In 1999, CCP shifted its R&D focus to document and output management, and JScribe was the result. The JavaScript printing software was announced at the CeBIT show in Germany in March 2001. It was created to be a complete operating system for printing applications. It included components that could run on a server and be embedded in a device. From the start, CCP's goal was lofty: to make JScribe the “standard in the output market.” CCP touted a long list of possible JScribe applications, including load balancing for cluster printing; device administration; secure printing using barcodes; automated document output and archival; electronic forms; and document or data distribution.

JScribe is a really family of applications, embedded

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technologies and tools. CCP's client-server applications include the JScribe Secure Print Solution, JScribe Mobile Print Solution, and JScribe Intelligence Server Solution (JISS) for cost control. In many ways, CCP with JScribe was developing managed print tools before MPS had gained traction.

Embedded JScribe implementations also have several components. These include the JScribe Core, which encompasses the code base embodying all of the JScribe functionality. The JScribe API links the capabilities in the Core to the firmware and attributes of a specific hardcopy device. Vendors or their partners then create applications, which require both the JScribe Core and API.

And Then Came Samsung. Precisely because JScribe could be embedded inside printers and MFPs, CCP began seeking OEM opportunities. At the next CeBIT show in March 2002, CCP announced an agreement with Oak Technology. Oak was acquired by Zoran in May 2003, and its hardcopy business is today Zoran's Imaging Group.

Oak gained exclusive rights to embed JScribe in printers and MFPs. The plan was to leverage JScribe among OEM customers who were already using Oak's Intelligent Printing System, the key elements of which were emulations for PCL and PostScript. The problem for OEMs was that embedding JScribe would add new licensing costs to their devices. While lots of MFP vendors were starting to talk about the value of solutions, they tended still to be more concerned about costs. Moreover, leading MFP vendors were already beginning to work on their own MFP software development platforms, such as Canon with MEAP. As a result, Oak closed no JScribe deals, and its arrangement with CCP foundered.

Enter IBM. In 2004, CCP signed an exclusive agreement whereby IBM could use JScribe applications for its own purposes and sublicense JScribe to hardcopy vendors who wanted to embed it in printers and MFPs. CCP says IBM believed that a world filled with JScribe devices would create valuable new opportunities for IBM's services business. By 2006, IBM was already using CCP's JISS application in some of its Business Output Optimization MPS engagements.

The IBM name and rising interest in imaging applications and output management helped persuade two top hardcopy vendors to negotiate JScribe sublicenses. IBM's first deal was with Konica Minolta in November 2005. Konica Minolta proceeded to embed JScribe in several midrange color and B&W bizhubs models, but then it opted not to launch the JScribe support when those models actually shipped in 2006 and 2007. By the end of 2008, Konica Minolta had stopped all work on JScribe in favor of its own platform.

In March 2006, Samsung became the second printer/MFP vendor to sign a JScribe sublicense agreement with IBM. Samsung was also IBM's last JScribe deal. Accord-

ing to CCP, once IBM had decided in late 2006 that it wanted to unload its printing business, IBM lost all interest in promoting hardcopy solutions and in working further with JScribe. In January 2007, IBM announced a three-year joint venture by which Ricoh would eventually acquire IBM's printing business. Effective July 1, 2010 Ricoh owns 100% of what is today the InfoPrint Solutions Company.

Nonetheless, Samsung continued to work with JScribe. This coincided with a period in which Samsung was planning a major push upmarket in the MFP business, from its usual low-end laser devices to a new range of higher-speed laser models for the growing A4 MFP market. To be effective in that business, Samsung needed a software platform.

Unbeknownst to CCP, Samsung saw JScribe as an interim solution until it could develop its own MFP application platform. Samsung began work on such a platform in the fall of 2007, but it would be quite some time before CCP appreciated the tactical role Samsung saw for JScribe.

By the spring of 2007, Samsung was ready to launch its first JScribe-enabled MFP, the 45 ppm monochrome SCX-6345NJ. However, Samsung made no mention of JScribe or a software platform until it announced the 55 ppm SCX-6555N and 40 ppm color CLX-8380ND a year later.

This also ushered in an era that continues today in which Samsung has been consistently obtuse as regards nearly every aspect of its MFP software, from nomenclature, availability and packaging, to pricing, capabilities and partners.

FOR MORE INFORMATION:



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Samsung has at times described JScribe as its MFP software platform. At other times, Samsung has positioned JScribe as a component technology in its own much more comprehensive Embedded eXtensible Platform (EXP). Samsung told us in March 2009 that it had added “a huge amount of new features” for scanning and control panel integration to build upon JScribe and create EXP. CCP says these features were part of its own design for JScribe 4.0 and 4.1, which were launched in mid-2007 and early 2008 to transform JScribe from a printing platform into an MFP platform with support for scanning and complex document workflows.

At some point in 2008, Samsung posted a JScribe white paper on its web site. Readers would have inferred that JScribe was developed by Samsung; there was no mention of EXP or CCP. The document highlighted five customers that Samsung said had already deployed over 8,350 MFPs and printers specifically because of JScribe-enabled applications. Those words would come back to haunt Samsung.

Problems Galore. CCP says it was not long before problems arose. In fact, almost from the outset, neither Samsung nor IBM provided CCP with timely or accurate reports of how many devices Samsung was selling that contained JScribe. Nor did Samsung and IBM make all of the corresponding JScribe royalty payments to CCP.

What actually triggers a JScribe royalty payment is now a bone of contention. CCP says Samsung was obliged to pay a royalty for any device containing either the JScribe Core or the JScribe API. According to CCP, “Samsung has acknowledged in affidavits to the court in Munich that it is shipping devices with JScribe API but without JScribe [Core]. However, Samsung does not acknowledge that this is subject to royalty payments.” CCP’s position on the API issue is somewhat unusual, but we have no direct knowledge of the actual contract. In fact, CCP believes that for Samsung even to ship a device with the JScribe API but without the JScribe Core is a violation of the IBM sublicense agreement.

Samsung started out creating two versions of products. The initial SCX-6345NJ had the JScribe Core and API, while the SCX-6345N did not have either. CCP says Samsung began to do “field installations” of the JScribe Core on the SCX-6345N for some customers. This was a headache, so Samsung switched to having a single version of the new SCX-6555N and later models. CCP says each machine then included the JScribe Core and API but required an optional JScribe enabler in the form of a unique USB dongle to “turn on” the Core so that applications could work on that unit.

In early 2008, Samsung said the \$349 dongle would ship later in the year. It also stated that JScribe would be supported on all future “networked mid-to-high range B2B MFPs and printers.” Indeed, brochures for the SCX-6345N, SCX-6555N and CLX-8380ND all mentioned the JScribe

enabler. However, the same enabler also worked in some less expensive Samsung MFPs and printers that were never promoted as supporting JScribe. By mid-2008, the JScribe dongle was shipping in the US for a street price around \$100.

As Samsung began to land big application-driven deals like those cited in the JScribe white paper, it became too cumbersome to install JScribe on each machine with a unique dongle. CCP claims Samsung got around this by developing ways to activate the JScribe Core without any dongles.

In addition, CCP claims that during 2008 and 2009 Samsung became less rigorous in controlling so-called “field upgrades.” This was the process by which channel partners could download the JScribe Core and/or JScribe API code from Samsung web sites for use with devices in which JScribe was not enabled at the time of the original sale.

CCP now believes that Samsung gradually integrated the JScribe API into its own firmware so tightly that most new printers and MFPs that Samsung has launched in the past 2-3 years have included at least elements of JScribe. CCP says Samsung may even be “using functionality in the JScribe API for purposes independent from JScribe.”

CCP provided a list of 22 Samsung MFPs and 18 printers that it says have contained JScribe technology in every unit. The list is not limited to higher-end MFPs; it includes printers selling for as little as \$100. In addition, CCP says it believes that versions of at least some of these devices that Samsung has OEM’d to Dell, Xerox and other companies also contain elements of JScribe technology.

The situation came to a head on March 27, 2009 at a meeting in Vienna. CCP says Samsung’s Korea-based VP of solutions became enraged by the accusations CCP was making. With nothing resolved, CCP on May 25, 2009 terminated its JScribe agreement with IBM. This also meant IBM could no longer sublicense JScribe to Samsung, who acknowledged the end of the agreement on July 15, 2009.

As described by CCP, Samsung’s sublicense contained what we would consider extremely harsh consequences in the event of termination. Not only could Samsung not launch any new devices containing JScribe, all unsold inventory of existing JScribe-equipped products at Samsung or in the channel also could not be sold. Only JScribe-enabled devices already owned by customers were exempt says CCP.

Up to the Courts. In its US lawsuit, CCP contends that after the termination, Samsung continued to sell devices containing the JScribe API and/or Core and failed to control its JScribe download sites. CCP says Samsung has paid a total of only a few thousand euros in



Unbeknownst to CCP, Samsung from the start viewed JScribe as an interim solution, one to use until it could develop its own MFP software platform. And in fact, Samsung had already begun working on such a platform in the US by the fall of 2007, just as it was shipping the very first JScribe-enabled devices.

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Starting this past spring, CCP began approaching hardcopy OEMs about embedding JScribe, and CCP believes it will have some deals to announce later this year. However, with every MFP vendor having launched its own software platform by now, chances are slim that JScribe will play such a comprehensive role. Ironically, the best OEM opportunities for JScribe may well hark back to where the software actually began — as a tool for output management, cost control and MPS.

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royalties, which is less than what CCP says is owed just for the 8,350 devices Samsung mentioned in its 2008 white paper. IBM is accused of not fulfilling its role as CCP's JScribe licensing partner and for not accurately reporting or paying JScribe royalties.

In its lawsuit, CCP seeks to prevent Samsung from selling all JScribe-enabled devices and all JScribe software, along with unspecified "damages and disgorgement of profits." CCP believes such compensation should go far beyond just the unpaid royalties Samsung owes, and include revenue from both the hardware and supplies for every printer or MFP Samsung has sold that contained JScribe technology.

On October 13, 2009, the US District Court issued a preliminary injunction barring Samsung from distributing JScribe code via the web. Efforts to pursue arbitration among the parties over the web posting issue failed in December.

Pretrial discovery was expected to start in late June or early July. Meanwhile, a Munich court was expected to rule soon on a separate suit in Germany that could prevent Samsung from selling any infringing devices in that country.

Not Over Yet. As mentioned, Samsung has been working throughout nearly this entire period on another software platform. At its US dealer meeting in November 2009, Samsung for the first time mentioned its eXtensible Open Architecture (XOA) Express Application Platform. XOA Express is also mentioned on various Samsung web sites and in the collateral for some of its latest office MFPs. Samsung has not had much to say formally about XOA, other than to state that it is "based on Java and Web Services technology."

Samsung has hinted that XOA will be available in the US before the end of 2010. Other sources say that time frame is optimistic, and it could be 2011 before XOA arrives. Even then, there are questions as to what applications are being developed by software partners to bring value to XOA.

It had been our understanding that XOA was intended to supplant JScribe. However, materials on some non-US Samsung web sites clearly say "XOA Express is based on

JScribe Core." Since Samsung no longer has any rights to distributed JScribe, one has to question the future of XOA.

CCP goes so far as to claim that JScribe code is now so tightly intertwined with Samsung's firmware that even new devices developed since the termination of the IBM sublicense still contain JScribe code. And in fact, the current specs for the CLX-8540ND that was launched last fall continue to list a JScribe enabler. The way CCP describes it, the JScribe API is "so deeply mixed with the firmware that removing it would cause the entire firmware to fall in pieces."

A Future for CCP? CCP was never a big company. Sales appear to have peaked at €5.7 million back in 2006. In the heady early days of the Samsung deal, CCP thought its revenue would double in 2008 after a drop in 2007, double again in 2009 to €15 million, and then continue growing. Sales today are a fraction of that, and CCP has just 20 people. Meanwhile, Samsung is the world's largest electronics firm, with revenue of \$117 billion last year.

CCP has mostly been regrouping since terminating work with IBM and Samsung a year ago. CCP says it is committed to seeking new sales for JScribe applications and for its other software. For example, CCP on May 27 launched its first major upgrade to FormMaker in seven years. The new version 4.0 supports Kyocera's TASKalfa MFPs to keep current customers happy and attract new forms printing sales.

Starting this past spring, CCP has also begun to approach hardcopy OEMs about embedding JScribe in their devices. CCP believes it will have deals to announce later in the year. With every vendor having launched its own MFP software platform, chances are slim that JScribe will play a comprehensive role. Ironically, the best OEM opportunities for JScribe hark back to where the software actually began — as a tool for output management, cost control and MPS.

If CCP indeed prevails in its case against Samsung and IBM, it will be Greenwich, other owners, and firms who have invested in the lawsuit who are first in line to collect. But there could be enough left to give CCP a new future. ❏