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12 *Attorneys for Plaintiffs, Brother Industries, Ltd., Brother International Corporation*
13 *(U.S.A.), and Brother Industries (U.S.A.), Inc.*

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

17 BROTHER INDUSTRIES, LTD.,
18 BROTHER INTERNATIONAL
CORPORATION (U.S.A.), and
19 BROTHER INDUSTRIES (U.S.A.),
Inc.

20 Plaintiffs,

21 v.

22 LINKYO CORP.,

23 Defendant.
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Case No. 5:20-cv-2464

**COMPLAINT FOR DECLARATORY
JUDGMENT**

DEMAND FOR JURY TRIAL

1 Plaintiffs Brother Industries, Ltd., Brother International Corporation (U.S.A.),
2 and Brother Industries (U.S.A.), Inc. (collectively, “Brother”) bring this Complaint
3 for Declaratory Judgment against Defendant LINKYO Corp. (“LINKYO”) and
4 allege as follows:
5

6 **PARTIES**

7 1. Plaintiff Brother Industries, Ltd. (“BIL”), also known as Brother Kogyo
8 Kabushiki Kaisha, is a corporation duly organized and existing under the laws of
9 Japan. Its principal place of business is located at 15-1, Naeshiro-cho, Mizuho-ku
10 Nagoya-shi, Aichi-ken, Japan 467-8561.
11

12 2. Plaintiff Brother International Corporation (U.S.A.) (“BIC”) is a wholly-
13 owned subsidiary of BIL and is a corporation duly organized and existing under the
14 laws of the State of Delaware. Its principal place of business is located at 200 Crossing
15 Boulevard, Bridgewater, New Jersey 08807.
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17

18 3. Plaintiff Brother Industries (U.S.A.), Inc. (“BIUS”) is a wholly owned
19 subsidiary of BIC and is a corporation duly organized and existing under the laws of
20 the State of Delaware. Its principal place of business is located at 7819 North Brother
21 Boulevard, Bartlett, Tennessee 38133.
22

23 4. Upon information and belief, LINKYO is a corporation organized under
24 the laws of the State of California with its principal place of business located at 667
25 Brea Canyon Road, Suite 27, Walnut, California, 91789. Upon information and belief,
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1 LINKYO also has a place of business located at 1351 S. Grove Ave., Suite 110,
2 Ontario, California 91761.

3 **NATURE OF THE CASE**

4
5 5. Brother seeks a declaratory judgment that Brother does not infringe U.S.
6 Patent No. RE46,596 (the "'596 Patent").

7
8 6. This relief is necessary because LINKYO has: (A) asserted ownership of
9 the '596 Patent; (B) accused Brother and third-party sellers of infringing the '596
10 Patent by manufacturing, supplying, marketing, selling, and/or importing exemplary
11 Brother-branded toner cartridge products; (C) provided exemplary claim charts to
12 Brother and third-party sellers of Brother-branded toner cartridge products; (D)
13 demanded that Brother and third-party sellers of Brother-branded toner cartridge
14 products immediately stop all activities that violate LINKYO's purported rights under
15 the '596 Patent; and (E) initiated an Amazon Utility Patent Neutral Evaluation
16 asserting infringement of the '596 Patent by Brother-branded toner cartridge
17 products sold on Amazon.com.

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21 7. The accused Brother-branded toner cartridge products are manufactured
22 for and supplied by Brother.

23
24 8. Brother denies that it has infringed any claim of the '596 Patent.
25 Therefore, an actual controversy exists between Brother and LINKYO.

JURISDICTION AND VENUE

1
2 9. This Court has subject matter jurisdiction under 28 U.S.C. §§ 2201, 2202,
3 1331, and 1338(a), because this action arises under the laws of the United States, and
4 in particular the Patent Act of the United States, 35 U.S.C. § 100 *et seq.*, and seeks
5 relief under the Federal Declaratory Judgment Act.
6

7 10. This Court has personal jurisdiction over LINKYO at least because
8 LINKYO is incorporated under the laws of the State of California, its principal place
9 of business is in Walnut, California, within this judicial District, and it has another
10 place of business in Ontario, California, also within this judicial District. *See* Exhibit
11 C; Exhibit D. LINKYO can be served with process in this judicial District through its
12 agent for service of process, Cindy Tsai, 667 Brea Canyon Road, Suite 27, Walnut,
13 California 91789. *See* Exhibit D.
14
15

16 11. This Court also has personal jurisdiction over LINKYO at least because
17 LINKYO has purposefully directed its activities at residents of California. For
18 example, LINKYO asserted U.S. Patent No. RE46,596 in an Amazon Utility Patent
19 Neutral Evaluation against several Amazon Standard Identification Numbers (ASINs)
20 associated with third-party sellers of Brother-branded toner cartridges. *See* Exhibit C.
21 Upon information and belief, at least some of the sellers of the accused ASINs reside
22 in this District. Brother’s claims in this action for declaratory judgment of non-
23 infringement arise out of and relate to LINKYO’s activities within California and this
24 District.
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1 12. Venue is proper in this District pursuant to at least 28 U.S.C. § 1391(b)
2 and (c) at least because LINKYO resides in this District and a substantial part of the
3 events giving rise to the claims of this action occurred in this District.
4

5 13. An actual controversy exists between Brother and LINKYO at least
6 because LINKYO has asserted ownership of the '596 Patent, identified exemplary
7 accused products by model number, provided exemplary claim charts to Brother and
8 sellers of Brother-branded toner cartridge products, identified specific examples of
9 allegedly infringing activity by Brother and others with respect to Brother-branded
10 toner cartridge products, and asserted infringement of the '596 Patent by Brother-
11 branded toner cartridge products sold by several third-party sellers on Amazon.com.
12

13 **FACTUAL BACKGROUND**

14 14. On November 4, 2020, counsel for Brother received an email from
15 LINKYO's counsel alleging patent infringement of U.S. Patent No. RE46,596 by
16 Brother-branded toner cartridge products. *See* Exhibit A.
17

18 15. The subject line of LINKYO's email reads "Brother's Infringement of
19 LINKYO Corp.'s U.S. patent No. RE46,596." Exhibit A.
20

21 16. LINKYO demanded that "Brother immediately stop marketing, selling,
22 and importing the infringing products into the United States and conduct any other
23 activities that continue to violate LINKYO's rights under the '596 patent." Exhibit A.
24

25 17. LINKYO also informed Brother that LINKYO threatened a seller of
26 Brother-branded toner cartridge products, Amazon.com, with a cease and desist letter,
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1 and provided Brother with a copy of the cease and desist letter. *See* Exhibit A; Exhibit
2 B.

3 18. LINKYO's cease and desist letter alleges that LINKYO is the owner of
4 U.S. Patent No. RE46,596 (the "'596 Patent"). *See* Exhibit B.

6 19. LINKYO's cease and desist letter alleges that certain toner cartridges that
7 are manufactured and/or supplied by Brother infringe the '596 Patent, and further
8 includes an exemplary list of accused products, including "at least" Brother toner
9 cartridge model nos. TN-720, TN-750, and TN-780. Exhibit B.

11 20. LINKYO's cease and desist letter includes three claim charts that
12 allegedly show how certain exemplary Brother-branded toner cartridge products
13 infringe at least claim 1 of the '596 Patent. *See* Exhibit B.

15 21. LINKYO's cease and desist letter specifically states that the allegations
16 in the cease and desist letter and claim charts is "not exhaustive," and that LINKYO
17 reserves all rights and remedies at law or in equity without prejudice. Exhibit B.

19 22. LINKYO's cease and desist letter includes a demand for Amazon.com,
20 as a seller of Brother-branded toner cartridge products, to "immediately stop
21 marketing, selling, and importing the infringing products into the United States and
22 stop conducting other activities that continue to violate LINKYO's rights under the
23 '596 Patent." Exhibit B.

26 23. LINKYO's cease and desist letter also states that LINKYO has a pending
27 request for an Amazon Utility Patent Neutral Evaluation for the '596 Patent against
28

1 Brother-branded toner cartridge products sold under several ASINs by third-party
2 sellers. *See* Exhibit B.

3 24. A copy of LINKYO's Amazon Utility Patent Neutral Evaluation
4 Agreement relating to the '596 Patent and ASINs associated with Brother-branded
5 toner cartridge products is attached as Exhibit C.

6
7 25. By signing the Amazon Utility Patent Neutral Evaluation Agreement,
8 LINKYO has represented and warranted that it owns or has the right to enforce the
9 '596 Patent and asserts that the identified ASINs, which are all for Brother-branded
10 toner cartridge products, infringe the '596 Patent. *See* Exhibit C.
11

12
13 **COUNT 1**

14 **(DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF U.S.**
15 **PATENT NO. RE46,596)**

16 26. Brother incorporates paragraphs 1 through 25 of this Complaint as if set
17 forth fully in this section.

18 27. On information and belief, LINKYO is the alleged owner of the '596
19 Patent.

20 28. LINKYO alleges that certain exemplary Brother-branded toner cartridge
21 products and their manufacture, sale, and importation into the United States infringe
22 the '596 Patent.
23

24 29. No Brother-branded toner cartridge product, including at least Brother
25 model nos. TN-630, TN-660, TN-720, TN-750, and TN-780, directly or indirectly
26 infringes any claim of the '596 Patent, literally or under the doctrine of equivalents.
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1 For example, without limitation, Claim 1 of the '596 Patent includes limitations
2 requiring a "counting mechanism driving member," "a protrusion moving under a
3 driving action of the counting mechanism," and that the "counting mechanism drives
4 the protrusion." Similarly, Claim 11 includes limitations requiring a "rotary member"
5 with "a protrusion" "being driven by the counting mechanism driving member."
6 Brother-branded toner cartridge products do not include these, and other, required
7 claim limitations. At least for these reasons, no claim of the '596 Patent is infringed.
8
9 The allegations in this paragraph are exemplary and do not preclude Brother from
10 contending that the claims of the '596 Patent are not infringed for additional reasons.
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12

13 30. Brother, through making, using, selling, offering to sell, and/or importing
14 the Brother-branded toner cartridges into the United States, does not and has not
15 infringed, directly or indirectly, any claim of the '596 Patent.
16

17 31. There is an actual, substantial, continuing, and justiciable controversy
18 between Brother and LINKYO regarding whether Brother-branded toner cartridge
19 products and Brother infringe, directly or indirectly, literally or under the doctrine of
20 equivalents, any claim of the '596 Patent.
21

22 32. Accordingly, Brother is entitled to a declaratory judgment that Brother-
23 branded toner cartridges and Brother do not infringe, directly or indirectly, literally or
24 under the doctrine of equivalents, any claim of the '596 Patent.
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RESERVATION OF RIGHTS

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2 33. Brother hereby reserves the right to supplement with additional claims or
3 defenses as discovery proceeds in this matter.

PRAYER FOR RELIEF

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5
6 34. WHEREFORE, Brother respectfully prays for entry of judgment in its
7 favor and against LINKYO as follows:

8 a. For judgment that Brother-branded toner cartridge products and
9 Brother do not infringe and have not infringed, directly or indirectly, literally or under
10 the doctrine of equivalents, any claim of the '596 Patent;

11
12 b. For a preliminary and permanent injunction precluding LINKYO,
13 its officers, directors, employees, agents, and all other persons acting in concert or
14 participation with LINKYO from suing for infringement or otherwise asserting
15 infringement of the '596 Patent by Brother-branded toner cartridge products or against
16 Brother;

17
18 c. For costs and reasonable attorneys' fees incurred in connection
19 with this and related actions to be paid by LINKYO;

20
21 d. For a finding that this case is exceptional under 35 U.S.C. § 285;

22
23 e. An award of any and all equitable relief to which Brother may be
24 entitled; and

25
26 f. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

35. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Brother
hereby demands a jury trial on all issues so triable.

Dated: November 23, 2020

Respectfully submitted,

BAKER BOTTS L.L.P.

By: /s/ G. Hopkins Guy, III
G. Hopkins Guy, III

Attorneys for Plaintiffs,
Brother Industries, Ltd., Brother
International Corporation (U.S.A.),
and Brother Industries (U.S.A.), Inc.