

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

BROTHER INDUSTRIES, LTD.,

Plaintiff,

v.

SOPHIA GLOBAL, LLC, MY SUPPLY BUY,
LLC, and NEXTAG, INC.,

Defendants.

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C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Brother Industries, Ltd. (“Plaintiff” or “Brother”), for its Complaint against Defendants Sophia Global, LLC (“Sophia Global”), My Supply Buy, LLC (“My Supply Buy”), and Nextag, Inc. (“Nextag”), (the defendants are collectively referred to herein as “Defendants”), hereby alleges as follows:

The Parties

1. Brother is a corporation duly organized and existing under the laws of Japan. Its principal place of business is located at 15-1 Naeshiro-cho, Mizuho-ku Nagoya-shi, Aichi-ken, Japan 467-8561.

2. Defendant Sophia Global is a limited liability company organized and existing under the laws of the state of Kansas, with its principal place of business located at 1705 Haskell Avenue, Suite A, Lawrence, KS 66044. Sophia Global sells compatible cartridges for printing machines, including selling the accused label tape cartridges for use in Brother P-Touch printers.

3. Defendant My Supply Buy is a limited liability company organized and existing under the laws of the state of Kansas, with its principal place of business located at 1705 Haskell Avenue, Suite A, Lawrence, KS 66044. My Supply Buy is an online retailer of compatible

cartridges for printing machines, including the accused label tape cartridges for use in Brother P-Touch printers. My Supply Buy conducts business via the Internet as *www.mysupplybuy.com*. On information and belief, Sophia Global owns My Supply Buy and sells the accused label tape cartridges on the internet through My Supply Buy at *www.mysupplybuy.com*.

4. Defendant Nextag is a corporation organized and existing under the laws of the state of Delaware, with its principal place of business located at 2955 Campus Drive, Suite 300, San Mateo, CA 94403. Nextag offers for sale and sells compatible cartridges for printing machines, including selling the accused Sophia Global label tape cartridges for use in Brother P-Touch printers. It conducts business via the Internet as *www.nextag.com*.

5. Each of the defendants is accused of selling the same cartridges.

Jurisdiction and Venue

6. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over each of the Defendants in that each sells or offers to sell the accused compatible label tape cartridges throughout the United States, including this judicial district, and having sold the accused label tape cartridges in this jurisdiction has committed acts within Delaware giving rise to this action and is personally present in Delaware pursuant to the Delaware Long Arm Statute, Del. Code. Ann. Tit. 3, §3104.

8. Venue is proper under 28 U.S.C. §§ 1391(b), (c) and/or (d), and 28 U.S.C. § 1400(b).

Brother's Patents-in-Suit

9. Brother is the lawful owner of United States Patent No. 6,116,796 ("the '796 patent"), entitled "Tape Label Printing Device," duly and legally issued September 12, 2000, having Koshiro Yamaguchi and Mitsuharu Hattori as inventors. A true copy of the '796 patent is attached hereto as Exhibit 1.

10. Brother is the lawful owner of United States Patent No. 5,964,539 ("the '539 patent"), entitled "Tape-Shaped Label Printing Device," duly and legally issued October 12, 1999, having Koshiro Yamaguchi and Mitsuharu Hattori as inventors. A true copy of the '539 patent is attached hereto as Exhibit 2.

11. Brother is the lawful owner of United States Patent No. 5,653,542 ("the '542 patent"), entitled "Tape Cassete," duly and legally issued August 5, 1997, having Kiyoshi Sugimoto, Koshiro Yamaguchi, Takashi Horiuchi, and Yutaka Sugiyama as inventors. A true copy of the '542 patent is attached hereto as Exhibit 3.

Defendants' Infringing Activities

12. Each of the Defendants is engaged in the business of offering to sell and selling compatible label cartridges for use in Brother P-Touch labeling machines, which compatible label cartridges are covered by one or more claims of each of the '796 patent, the '539 patent, and the '542 patent.

First Cause of Action: Infringement of U.S. Patent No. 6,116,796

13. Each and every allegation of paragraphs 1 through 12 of this Complaint are incorporated by reference, as though set forth here in their entirety.

14. Defendant Sophia Global has and continues to directly infringe one or more claims of the '796 patent, in violation of 35 USC §271(a), by selling and/or offering to sell

compatible label cartridges including, without limitation: TA-121, TA-131, TA-133, TA-141, TA-221, TA-231, TA-233, TA-241, TA-335, TA-421, TA-431, TA-441, TA-541, TA-621, TA-631, TA-641, and TA-741. Hereafter, these compatible label cartridges are referred to as “the ‘796 Accused Label Cartridges.”

15. Defendant My Supply Buy has and is continuing to directly infringe one or more claims of the ‘796 patent, in violation of 35 USC §271(a), by selling and/or offering to sell compatible label cartridges including, without limitation, the ‘796 Accused Label Cartridges.

16. Defendant Nextag has and is continuing to directly infringe one or more claims of the ‘796 patent, in violation of 35 USC §271(a), by selling and/or offering to sell compatible label cartridges including, without limitation, the ‘796 Accused Label Cartridges.

17. By reason of Defendants’ infringing activities, Brother has suffered, and will continue to suffer, substantial damages in an amount to be proven at trial.

18. Defendants’ acts complained of herein have damaged and will continue to damage Brother irreparably. Brother has no adequate remedy at law for these wrongs and injuries. Brother, therefore, is entitled to preliminary and permanent injunctions restraining and enjoining Defendants from further infringing the claims of the ‘796 patent.

Second Cause of Action: Infringement of U.S. Patent No. 5,964,539

19. Each and every allegation of paragraphs 1 through 18 of this Complaint are incorporated by reference, as though set forth here in their entirety.

20. Defendant Sophia Global has and is continuing to directly infringe one or more claims of the ‘539 patent, in violation of 35 USC §271(a), by selling and/or offering to sell compatible label cartridges including, without limitation: TA-121, TA-131, TA-133, TA-141, TA-221, TA-231, TA-233, TA-241, TA-335, TA-421, TA-431, TA-441, TA-541, TA-621, TA-

631, TA-641, and TA-741. Hereafter, these compatible label cartridges are referred to as “the ‘539 Accused Label Cartridges.”

21. Defendant My Supply Buy has and is continuing to directly infringe one or more claims of the ‘539 patent, in violation of 35 USC §271(a), by selling and/or offering to sell compatible label cartridges including, without limitation, the ‘539 Accused Label Cartridges.

22. Defendant Nextag has and is continuing to directly infringe one or more claims of the ‘539 patent, in violation of 35 USC §271(a), by selling and/or offering to sell compatible label cartridges including, without limitation, the ‘539 Accused Label Cartridges.

23. By reason of Defendants’ infringing activities, Brother has suffered, and will continue to suffer, substantial damages in an amount to be proven at trial.

24. Defendants’ acts complained of herein have damaged and will continue to damage Brother irreparably. Brother has no adequate remedy at law for these wrongs and injuries. Brother, therefore, is entitled to preliminary and permanent injunctions restraining and enjoining Defendants from further infringing the claims of the ‘539 patent.

Third Cause of Action: Infringement of U.S. Patent No. 5,653,542

25. Each and every allegation of paragraphs 1 through 24 of this Complaint are incorporated by reference, as though set forth here in their entirety.

26. Defendant Sophia Global has and is continuing to directly infringe one or more claims of the ‘542 patent, in violation of 35 USC §271(a), by selling and/or offering to sell compatible label cartridges including, without limitation: TA-121, TA-221, TA-421, and TA-621. Hereafter, these compatible label cartridges are referred to as “the ‘542 Accused Label Cartridges.”

27. Defendant My Supply Buy has and is continuing to directly infringe one or more claims of the '542 patent, in violation of 35 USC §271(a), by selling and/or offering to sell compatible label cartridges including, without limitation, the '542 Accused Label Cartridges.

28. Defendant Nextag has and is continuing to directly infringe one or more claims of the '542 patent, in violation of 35 USC §271(a), by selling and/or offering to sell compatible label cartridges including, without limitation, the '542 Accused Label Cartridges.

29. By reason of Defendants' infringing activities, Brother has suffered, and will continue to suffer, substantial damages in an amount to be proven at trial.

30. Defendants' acts complained of herein have damaged and will continue to damage Brother irreparably. Brother has no adequate remedy at law for these wrongs and injuries. Brother, therefore, is entitled to preliminary and permanent injunctions restraining and enjoining Defendants from further infringing the claims of the '542 patent.

Prayer for Relief

WHEREFORE, Brother respectfully requests the Court to enter judgment as follows:

A. That Defendants have directly infringed each of the '796 patent, the '539 patent, and the '542 patent;

B. That Defendants be ordered to pay Brother its damages caused by their infringement of each of the '796 patent, the '539 patent, and the '542 patent, including, without limitation, lost profits and/or a reasonable royalty, and that such damages be trebled, together with interest thereon;

C. That Defendants and their subsidiaries, affiliates, officers, agents, servants, employees, attorneys, successors, and assigns, and all other persons and organizations in active concert or participation with them, be preliminarily and permanently enjoined from further acts

of direct infringement, contributory infringement, or inducement of infringement of each of the '796 patent, the '539 patent, and the '542 patent;

D. That this case be declared exceptional pursuant to 35 U.S.C. § 285 and that Brother be awarded its reasonable attorneys' fees and costs; and

E. That Brother be granted such other relief as the Court deems just and proper.

Jury Demand

Brother respectfully demands a jury trial as to all issues so triable.

Respectfully submitted,

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