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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, INC., a Delaware corporation; AMAZON.COM SERVICES LLC, a Delaware limited liability company; XEROX CORPORATION, a New York corporation; and LEXMARK INTERNATIONAL, INC., a Delaware corporation,

Plaintiffs,

v.

BUGRA MURAT AKTAY, an individual; BERKAN LORCU, an individual; BERKE YUSUF DEMIR, an individual; KZN GROUP LLC, a Delaware limited liability company; SMYRNA COMPANY US LLC, a Delaware limited liability company; RIVERDAY LTD, a United Kingdom limited liability company; and DOES 1-10,

Defendants.

No.

**COMPLAINT FOR DAMAGES AND
EQUITABLE RELIEF**

I. INTRODUCTION


1. This case involves Defendants’ unlawful and expressly prohibited sale of counterfeit Xerox Corporation (“Xerox”) and Lexmark International, Inc. (“Lexmark”) toner cartridges. Amazon.com, Inc., and Amazon.com Services LLC (collectively, “Amazon”), Xerox, and Lexmark (together with Amazon, “Plaintiffs”) jointly bring this lawsuit to permanently prevent and enjoin Defendants from causing future harm to Amazon’s, Xerox’s, and Lexmark’s

1 customers, reputations, and intellectual property (“IP”), and to hold Defendants accountable for
2 their illegal actions.

3 2. Amazon owns and operates the Amazon.com store (the “Amazon Store”) and
4 equivalent counterpart international stores and websites. Amazon’s stores offer products and
5 services to customers in more than 100 countries around the globe. Some of the products are sold
6 directly by Amazon, while others are sold by Amazon’s numerous third-party selling partners.
7 The Amazon brand is one of the most well-recognized, valuable, and trusted brands in the world.
8 To protect its customers and safeguard its reputation for trustworthiness, Amazon invests heavily
9 in both time and resources to prevent counterfeit and infringing goods from being sold in its
10 stores. In 2022 alone, Amazon invested over \$1.2 billion and employed more than 15,000 people
11 to protect its stores from fraud and abuse. Amazon stopped over 800,000 suspected bad-actor
12 selling accounts before they published a single listing for sale.

13 3. Founded in 1906, Xerox is a pioneer in office technology, notably being the first
14 company to manufacture dry-toner, plain-paper copies. Xerox has harnessed its leadership in
15 providing office and production print technology to expand into software and other services that
16 power today’s workforce. From the office to industrial environments, Xerox’s differentiated
17 business solutions and financial services are designed to make everyday work better for clients—
18 no matter where that work is being done. Today, Xerox is continuing its legacy of innovation
19 with disruptive technologies, spanning augmented reality to automation and 3D printing. Xerox
20 offers its products in over 160 countries, works with 90% of the Fortune 500 companies, and
21 serves more than 200,000 small and medium-sized businesses.


22 4. Xerox owns, manages, enforces, licenses, and maintains IP, including various
23 trademarks. Relevant to this Complaint, Xerox owns the following registered trademarks
24 (“Xerox Trademarks”).
25
26
27


<u>Mark</u>	<u>Registration No. (International Classes)</u>
	5,412,745 (IC 35)
XEROX	3,864,431 (IC 002, IC 009, IC 016, IC 035, IC 037, IC 042)
MADE FOR EACH OTHER	1,924,595 (IC 016)
PHASER	2,935,148 (IC 002)
PHASER	2,788,247 (IC 009)
WORKCENTRE	2,536,680 (IC 002)
WORKCENTRE	2,410,573 (IC 009)
WORKCENTRE	2,053,109 (IC 009)

True and correct copies of the registration certificates for the Xerox Trademarks are attached as **Exhibit A.**

5. Founded in 1991, Lexmark is a global leader in the print hardware, service, solutions, and security industries. Lexmark creates cloud-enabled imaging and internet-of-things technologies that help customers in more than 170 countries quickly realize business outcomes. Through a powerful combination of proven technologies and deep industry expertise, Lexmark accelerates business transformation, turning information into insights, data into decisions, and analytics into action. Lexmark serves customers in manufacturing, retail, financial services, healthcare, education, government, and more.

6. Lexmark owns, manages, enforces, licenses, and maintains IP, including various trademarks. Relevant to this Complaint, Lexmark owns the following registered trademarks (“Lexmark Trademarks”).

<u>Mark</u>	<u>Registration No. (International Classes)</u>
	2,032,389 (IC 009)
LEXMARK	1,956,895 (IC 001, IC 009, IC 016)

<u>Mark</u>	<u>Registration No. (International Classes)</u>
UNISON	4,696,348 (IC 002)
	5,341,087 (IC 002, IC 009, IC 035, IC 037, IC 042)

True and correct copies of the registration certificates for the Lexmark Trademarks are attached as **Exhibit B**.

7. From March 2022 to June 2022, Defendants advertised, marketed, offered, and sold counterfeit Xerox and Lexmark products in the Amazon Store, using Xerox's and Lexmark's Trademarks, without authorization, to deceive customers about the authenticity and origin of the products and the products' affiliation with Xerox and Lexmark.

8. As a result of their illegal actions, Defendants have infringed and misused Xerox's and Lexmark's IP; breached their contract with Amazon; willfully deceived and harmed Amazon, Xerox, Lexmark, and their customers; compromised the integrity of the Amazon Store; and undermined the trust that customers place in Amazon, Xerox, and Lexmark. Defendants' illegal actions have caused Amazon, Xerox, and Lexmark to expend significant resources to investigate and combat Defendants' wrongdoing and to bring this lawsuit to prevent Defendants from inflicting future harm to Amazon, Xerox, Lexmark, and their customers.

II. PARTIES

9. Amazon.com, Inc., is a Delaware corporation with its principal place of business in Seattle, Washington. Amazon.com Services LLC is a Delaware company with its principal place of business in Seattle, Washington.

10. Xerox is a New York corporation with its principal executive offices in Norwalk, Connecticut. Xerox's largest base of employees is in and around Rochester, New York, including its lead engineering, design and manufacturing campus in Webster, New York.

11. Lexmark is a Delaware corporation with its principal place of business in Lexington, Kentucky.

1 12. Defendants are a collection of individuals and entities, both known and unknown,
2 who conspired and operated in concert with each other to engage in the counterfeiting scheme
3 alleged in this Complaint. Defendants are the individuals and/or entities who operated, controlled
4 and/or were responsible for the selling accounts detailed in Section D of the Facts (“Defendants’
5 Selling Accounts” or “Selling Accounts”). Defendants are subject to liability for their wrongful
6 conduct both directly and under principles of secondary liability including, without limitation,
7 *respondeat superior*, vicarious liability, and/or contributory infringement.

8 13. On information and belief, Defendant Bugra Murat Aktay (“Aktay”) is an
9 individual residing in Istanbul, Turkey, who personally participated in and/or had the right and
10 ability to supervise, direct, and control the wrongful conduct alleged in this Complaint and
11 derived a direct financial benefit from that wrongful conduct. Aktay is registered as the
12 individual who operated the “River Day” Amazon selling account (the “River Day Selling
13 Account”). Aktay is also identified on inbound shipment labels as the return addressee for the
14 River Day Selling Account. Finally, Aktay is listed as an officer and/or director of Riverday
15 LTD.

16 14. On information and belief, Defendant Berkan Lorcu (“Lorcu”) is an individual
17 residing in Istanbul, Turkey, who personally participated in and/or had the right and ability to
18 supervise, direct, and control the wrongful conduct alleged in this Complaint and derived a direct
19 financial benefit from that wrongful conduct. Lorcu is registered as the individual who operated
20 the “River Day Toner Cartridge/Smyrna US LLC” Amazon selling account (the “River Day
21 Toner Cartridge Selling Account”). Lorcu is also identified on inbound shipment labels as the
22 return addressee for the River Day Toner Cartridge Selling Account.

23 15. On information and belief, Defendant Berke Yusuf Demir (“Demir”) is an
24 individual residing in Istanbul, Turkey, who personally participated in and/or had the right and
25 ability to supervise, direct, and control the wrongful conduct alleged in this Complaint and
26 derived a direct financial benefit from that wrongful conduct. Demir is identified on inbound
27

1 shipment labels as the return addressee for the Selling Accounts. Finally, Demir, like Aktay, is
2 listed as an officer and/or director of Riverday LTD.

3 16. On information and belief, Defendant KZN Group LLC (“KZN Group”) is a
4 limited liability company incorporated in Delaware. On further information and belief,
5 Defendant KZN Group personally participated in and/or had the right and ability to supervise,
6 direct, and control the wrongful conduct alleged in this Complaint and derived a direct financial
7 benefit as a result of that wrongful conduct. KZN Group is registered as the legal entity that
8 operated the River Day Selling Account.

9 17. On information and belief, Defendant Smyrna Company US LLC (“Smyrna
10 Company”) is a limited liability company incorporated in Delaware. On further information and
11 belief, Defendant Smyrna Company personally participated in and/or had the right and ability to
12 supervise, direct, and control the wrongful conduct alleged in this Complaint and derived a direct
13 financial benefit as a result of that wrongful conduct. Smyrna Company is registered as the legal
14 entity that operated the River Day Toner Cartridge Selling Account.

15 18. On information and belief, Defendant Riverday LTD is a limited liability
16 company incorporated in the United Kingdom. On further information and belief, Defendant
17 Riverday LTD personally participated in and/or had the right and ability to supervise, direct, and
18 control the wrongful conduct alleged in this Complaint and derived a direct financial benefit as a
19 result of that wrongful conduct.

20 19. On information and belief, Defendants Does 1-10 (the “Doe Defendants”) are
21 individuals and/or entities working in active concert with each other and the named Defendants
22 to knowingly and willfully manufacture, import, advertise, market, offer, and sell counterfeit
23 Xerox and Lexmark products. The identities of the Doe Defendants are presently unknown to
24 Plaintiffs.

25 III. JURISDICTION AND VENUE

26 20. The Court has subject matter jurisdiction over Xerox’s and Lexmark’s Lanham
27 Act claims for trademark infringement, and Amazon’s, Xerox’s, and Lexmark’s Lanham Act

1 claims for false designation of origin and false advertising, pursuant to 15 U.S.C. § 1121 and 28
2 U.S.C. §§ 1331 and 1338(a). The Court has subject matter jurisdiction over Amazon’s breach of
3 contract claim, and Amazon’s, Xerox’s, and Lexmark’s claims for violation of the Washington
4 Consumer Protection Act, pursuant to 28 U.S.C. §§ 1332 and 1367.

5 21. The Court has personal jurisdiction over Defendants because they transacted
6 business and committed tortious acts within and directed to the State of Washington, and
7 Amazon’s, Xerox’s, and Lexmark’s claims arise from those activities. Defendants affirmatively
8 undertook to do business with Amazon, a corporation with its principal place of business in
9 Washington State, and sold in the Amazon Store products bearing counterfeit versions of the
10 Xerox Trademarks and Lexmark Trademarks and which otherwise infringed Xerox’s and
11 Lexmark’s IP. Additionally, Defendants shipped products bearing counterfeit versions of the
12 Xerox Trademarks and Lexmark Trademarks to consumers in Washington. Each Defendant
13 committed, or facilitated the commission of, tortious acts in Washington and has wrongfully
14 caused Amazon, Xerox, and Lexmark substantial injury in Washington.

15 22. Further, the named Defendants have consented to the jurisdiction of this Court by
16 agreeing to the Amazon Services Business Solutions Agreement (“BSA”), which provides that
17 the “Governing Courts” for claims to enjoin infringement or misuse of IP rights and claims
18 related to the sale of counterfeit products in the Amazon Store are the state or federal courts
19 located in King County, Washington.

20 23. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because a
21 substantial part of the events giving rise to the claims occurred in the Western District of
22 Washington. Venue is also proper in this Court because Defendants consented to it under the
23 BSA.

24 24. Pursuant to Local Civil Rule 3(c), intra-district assignment to the Seattle Division
25 is proper because the claims arose in this Division, where (a) Amazon resides, (b) injuries giving
26 rise to suit occurred, and (c) Defendants directed their unlawful conduct.

1 IV. FACTS

2 A. Amazon’s Efforts to Prevent the Sale of Counterfeit Goods

3 25. Amazon works hard to build and protect the reputation of its stores as a place
4 where customers can conveniently select from a wide array of authentic goods and services at
5 competitive prices. Amazon invests vast resources to ensure that when customers make
6 purchases in Amazon’s stores—either directly from Amazon or from one of its millions of third-
7 party sellers—customers receive authentic products made by the true manufacturer of those
8 products.

9 26. A small number of bad actors seek to take advantage of the trust customers place
10 in Amazon by attempting to create Amazon selling accounts to advertise, market, offer, and sell
11 counterfeit products. These bad actors seek to misuse and infringe the trademarks and other IP of
12 the true manufacturers of those products to deceive Amazon and its customers. This unlawful
13 and expressly prohibited conduct undermines the trust that customers, sellers, and manufacturers
14 place in Amazon, and tarnishes Amazon’s brand and reputation, thereby causing irreparable
15 harm to Amazon.

16 27. Amazon continues to innovate to stay ahead of bad actors, and now requires live
17 verification, connecting prospective selling partners with Amazon employees through video
18 chats or in-person appointments to verify their identity and documentation. Amazon reviews the
19 seller-provided identity documents to determine whether those documents are both valid and
20 legitimate, such as confirming that the seller has provided a full legible copy of the document,
21 verifying that the document matches the information the seller provided to Amazon with respect
22 to their identity, and analyzing whether the document shows any signs of alteration, tampering,
23 or fabrication. These measures have made it more difficult for bad actors to hide. Amazon’s
24 seller verification, coupled with continued advancements in Amazon’s machine learning-based
25 detection, are deterring bad actors from even attempting to create new Amazon selling accounts.
26 The number of bad actor attempts to create new selling accounts decreased from 6 million
27 attempts in 2020, to 2.5 million attempts in 2021, to 800,000 attempts in 2022.

1 28. Amazon prohibits the sale of inauthentic and fraudulent products and is constantly
2 innovating on behalf of its customers and working with brands, manufacturers, rights owners,
3 and others to improve the detection and prevention of counterfeit products from ever being
4 offered to customers in Amazon's stores. Amazon employs dedicated teams of software
5 engineers, research scientists, program managers, and investigators to prevent counterfeits from
6 being offered in Amazon's stores. Amazon's systems automatically and continuously scan
7 thousands of data points to detect and remove counterfeits from its stores and to terminate the
8 selling accounts of bad actors before they can offer counterfeit products. When Amazon
9 identifies issues based on this feedback, it takes action to address them. Amazon also uses this
10 intelligence to improve its proactive prevention controls.

11 29. In 2017, Amazon launched Brand Registry, a free service that offers rights owners
12 an enhanced suite of tools for monitoring and reporting potential instances of infringement,
13 regardless of their relationship with Amazon. Brand Registry delivers automated brand
14 protections that use machine learning to predict infringement and proactively protect brands' IP.
15 Brand Registry also provides a powerful Report a Violation Tool that allows brands to search for
16 and report potentially infringing products using state-of-the-art image search technology. In
17 2022, through continued improvements in Amazon's automated protections, brands found fewer
18 infringing products in Amazon's stores, with the number of valid notices of infringement
19 submitted by brands in Brand Registry decreasing by more than 35% from 2021.

20 30. In 2018, Amazon launched Transparency, a product serialization service that
21 effectively eliminates counterfeits for enrolled products. Brands enrolled in Transparency can
22 apply a unique 2D code to every unit they manufacture, which allows Amazon, other retailers,
23 law enforcement, and customers to determine the authenticity of any Transparency-enabled
24 product, regardless of where the product was purchased. In 2022, over 33,000 brands were using
25 Transparency, an increase of 40% from 2021, enabling the protection of more than 900 million
26 product units across the supply chain.

1 31. In 2019, Amazon launched Project Zero, a program to empower brands to help
2 Amazon drive counterfeits to zero. Amazon’s Project Zero introduced a novel self-service
3 counterfeit removal tool that enables brands to remove counterfeit listings directly from
4 Amazon’s stores. This enables brands to take down counterfeit product offerings on their own
5 within minutes. In 2022, there were more than 22,000 brands enrolled in Project Zero. For every
6 listing removed by a brand, Amazon’s automated protections removed more than 1,000 listings
7 through scaled technology and machine learning, stopping those listings from appearing in
8 Amazon’s stores.

9 32. Once a seller begins selling in Amazon’s stores, Amazon continues to monitor the
10 selling account’s activities for risks. If Amazon identifies a bad actor, it closes that actor’s selling
11 account, withholds funds disbursement, and investigates whether other accounts are involved in
12 unlawful activities.

13 33. In addition to the measures discussed above, Amazon actively cooperates with
14 rights owners and law enforcement to identify and prosecute bad actors suspected of engaging in
15 illegal activity. Lawsuits, like this one, as well as criminal referrals, are integral components of
16 Amazon’s efforts to combat counterfeits, and other inauthentic products.

17 **B. Xerox and Lexmark and Their Anti-Counterfeiting Efforts**

18 34. Xerox goes to great lengths to protect consumers from counterfeits of its products,
19 and is committed to leading efforts to combat counterfeit products. Xerox utilizes both internal
20 and external resources to combat counterfeit and infringing products. These enforcement efforts
21 include employing trained staff who monitor for bad actors selling counterfeits and
22 commissioning external services to protect Xerox’s IP rights and customer trust.

23 35. Xerox is currently enrolled in Amazon Brand Registry. It has been actively using
24 the tools and protections provided by this program, and used them to identify the counterfeiting
25 activity described in this Complaint.

26 36. Lexmark also goes to great lengths to protect consumers from counterfeits of its
27 products, and is committed to leading efforts to combat counterfeit products. Lexmark utilizes

1 both internal and external resources to combat counterfeit and infringing products. These
2 enforcement efforts include employing trained staff who monitor for bad actors selling
3 counterfeits and commissioning external services to protect Lexmark’s IP rights and customer
4 trust.

5 37. Lexmark is currently enrolled in Amazon Brand Registry. It has been actively
6 using the tools and protections provided by this program, and used them to identify the
7 counterfeiting activity described in this Complaint.

8 **C. Defendants Created the Selling Accounts and Agreed Not to Sell Counterfeit**
9 **Goods**

10 38. Between March 2022 and June 2022, Defendants established, controlled, and
11 operated the River Day Selling Account and the River Day Toner Cartridge Selling Account,
12 detailed in Section D below, through which they sought to advertise, market, sell, and distribute
13 counterfeit Xerox and Lexmark products. In connection with these Selling Accounts, Defendants
14 provided Amazon with names, email addresses, and banking information.

15 39. The two Selling Accounts have various common characteristics that make it
16 probable that the accounts are being operated by one or more Defendants acting in concert.
17 Significantly, Defendants sent packages that contained counterfeit Xerox and Lexmark products
18 to Amazon fulfillment centers for both Selling Accounts and identified one common individual,
19 Demir, as the sender on the shipping labels. Defendant Demir is an officer and/or director of
20 Riverday LTD, through which, on information and belief, Defendants directed their counterfeit
21 scheme. In fact, both Selling Accounts adopted some version of the “River Day” name for their
22 Amazon storefronts (i.e., “River Day” and “River Day Toner Cartridge”), signaling their
23 connection to Riverday LTD. Aktay, who registered as the individual behind the River Day
24 Selling Account, is also listed as an officer and/or director of Riverday LTD.

25 40. To become a third-party seller in the Amazon Store, sellers are required to agree
26 to the BSA, which governs the applicant’s access to and use of Amazon’s services and states
27 Amazon’s rules for selling in the Amazon Store. By entering into the BSA, each seller represents

1 and warrants that it “will comply with all applicable Laws in [the] performance of its obligations
2 and exercise of its rights” under the BSA. A true and correct copy of the applicable version of
3 the BSA, namely, the version Defendants last agreed to when using Amazon’s services, is
4 attached as **Exhibit C**.

5 41. Under the terms of the BSA, Amazon specifically identifies the sale of counterfeit
6 goods as “deceptive, fraudulent, or illegal activity” in violation of Amazon’s policies, reserving
7 the right to withhold payments and terminate the selling account of any bad actor who engages in
8 such conduct. Ex. C, ¶¶ 2-3. The BSA requires the seller to defend, indemnify and hold harmless
9 Amazon against any claims or losses arising from the seller’s “actual or alleged infringement of
10 any Intellectual Property Rights.” *Id.* ¶ 6.1.

11 42. Additionally, the BSA incorporates, and sellers therefore agree to be bound by,
12 Amazon’s Anti-Counterfeiting Policy, the applicable version of which is attached as **Exhibit D**.
13 The Anti-Counterfeiting Policy expressly prohibits the sale of counterfeit goods in the Amazon
14 Store:

- 15 • The sale of counterfeit products is strictly prohibited.
- 16 • You may not sell any products that are not legal for sale, such as products that
17 have been illegally replicated, reproduced, or manufactured[.]
- 18 • You must provide records about the authenticity of your products if Amazon
19 requests that documentation[.]
- 20 • Failure to abide by this policy may result in loss of selling privileges, funds
21 being withheld, destruction of inventory in our fulfillment centers, and other
22 legal consequences.

21 *Id.*

22 43. Amazon’s Anti-Counterfeiting Policy further describes Amazon’s commitment to
23 preventing the sale and distribution of counterfeit goods in the Amazon Store together with the
24 consequences of doing so:

- 25 • **Sell Only Authentic and Legal Products.** It is your responsibility to source,
26 sell, and fulfill only authentic products that are legal for sale. Examples of
27 prohibited products include:
 - Bootlegs, fakes, or pirated copies of products or content

- Products that have been illegally replicated, reproduced, or manufactured
- Products that infringe another party’s intellectual property rights
- Maintain and Provide Inventory Records. Amazon may request that you provide documentation (such as invoices) showing the authenticity of your products or your authorization to list them for sale. You may remove pricing information from these documents, but providing documents that have been edited in any other way or that are misleading is a violation of this policy and will lead to enforcement against your account.
- Consequences of Selling Inauthentic Products. If you sell inauthentic products, we may immediately suspend or terminate your Amazon selling account (and any related accounts), destroy any inauthentic products in our fulfillment centers at your expense, and/or withhold payments to you.
- Amazon Takes Action to Protect Customers and Rights Owners. Amazon also works with manufacturers, rights holders, content owners, vendors, and sellers to improve the ways we detect and prevent inauthentic products from reaching our customers. As a result of our detection and enforcement activities, Amazon may:
 - Remove suspect listings.
 - Take legal action against parties who knowingly violate this policy and harm our customers. In addition to criminal fines and imprisonment, sellers and suppliers of inauthentic products may face civil penalties including the loss of any amounts received from the sale of inauthentic products, the damage or harm sustained by the rights holders, statutory and other damages, and attorney’s fees.
- Reporting Inauthentic Products. We stand behind the products sold on our site with our A-to-z Guarantee, and we encourage rights owners who have product authenticity concerns to notify us. We will promptly investigate and take all appropriate actions to protect customers, sellers, and rights holders. You may view counterfeit complaints on the Account Health page in Seller Central.

Id.

44. When they registered as third-party sellers in the Amazon Store, and established their Selling Accounts, Defendants agreed not to advertise, market, offer, sell or distribute counterfeit products.

D. Defendants’ Sale of Counterfeit Xerox and Lexmark Products

45. Defendants advertised, marketed, offered, and sold Xerox-branded and Lexmark-branded products in the Amazon Store. Xerox and Lexmark have conducted multiple test

1 purchases from Defendants' Selling Accounts, and determined that the products are counterfeit
2 and each bears counterfeit Xerox registered trademarks or Lexmark registered trademarks.

3 **Selling Account #1 – River Day Selling Account**

4 46. On information and belief, at all times described herein, the River Day Selling
5 Account was controlled and operated by Defendants Aktay, Demir, KZN Group, Lorcu, Smyrna
6 Company, Riverday LTD, and other parties, known and unknown.

7 47. On June 10, 2022, Lexmark conducted a test purchase from the River Day Selling
8 Account of a product advertised as an authentic version of a Lexmark-branded "Lexmark
9 76C00Y0 Yellow Toner Cartridge for CS92x CX92x Toner." Defendants shipped to Lexmark a
10 product that bears the Lexmark Trademarks and other indications of its brand. Lexmark has
11 examined the product and determined that it is counterfeit based on indicators such as improper
12 serial numbers and incorrect packaging.

13 48. On June 10, 2022, Lexmark conducted a test purchase from the River Day Selling
14 Account for a product advertised as an authentic version of a Lexmark-branded "Original
15 Lexmark T650H11A 25000 Yield Black Toner Cartridge – Retail." Defendants shipped to
16 Lexmark a product that bears the Lexmark Trademarks and other indications of its brand.
17 Lexmark has examined the product and determined that it is counterfeit based on indicators such
18 as improper serial numbers and incorrect packaging.

19 **Selling Account # 2 – River Day Toner Cartridge Selling Account**

20 49. On information and belief, at all times described herein, the River Day Toner
21 Cartridge Selling Account was controlled and operated by Defendants Lorcu, Demir, Smyrna
22 Company, Aktay, KZN Group, Riverday LTD, and other parties, known and unknown.

23 50. On or about April 4, 2022, Xerox conducted a test purchase from the River Day
24 Toner Cartridge Selling Account for a product advertised as an authentic version of a Xerox-
25 branded "Xerox VersaLink B600/B610 Black High Capacity Toner Cartridge (25,900 Pages) -
26 106R03942." Defendants shipped to Xerox a product that bears the Xerox Trademarks and other
27 indications of its brand. Xerox has examined the product and determined that it is counterfeit

1 based on indicators such as a counterfeit holographic security label, incorrect serial numbers, and
2 improper packaging.

3 51. On or about April 21, 2022, Xerox conducted a test purchase from the River Day
4 Toner Cartridge Selling Account for a product advertised as an authentic version of a Xerox-
5 branded “Xerox Phaser 3610/ WorkCentre 3615 Black Extra High Capacity Toner Cartridge
6 (25,300 Pages) - 106R02731.” Defendants shipped to Xerox a product that bears the Xerox
7 Trademarks and other indications of its brand. Xerox has examined the product and determined
8 that it is counterfeit based on indicators such as a counterfeit holographic security label, incorrect
9 serial numbers, and improper packaging.

10 52. On or about April 21, 2022, Xerox conducted a test purchase from the River Day
11 Toner Cartridge Selling Account for a product advertised as an authentic version of a Xerox-
12 branded “Xerox VersaLink C400/C405 Cyan, Magenta, Yellow, and Black High Capacity Toner
13 Cartridge Multi-Pack (5,000 Pages) - 106R03512, 106R03513.” Defendants shipped to Xerox a
14 product that bears the Xerox Trademarks and other indications of its brand. Xerox has examined
15 the product and determined that it is counterfeit based on indicators such as counterfeit
16 holographic security label, incorrect serial numbers, and improper packaging.

17 **E. Amazon Shut Down Defendants’ Selling Accounts**

18 53. By selling counterfeit and infringing Xerox and Lexmark products, Defendants
19 falsely represented to Amazon and its customers that the products Defendants sold were genuine
20 products made by Xerox and Lexmark. Defendants also knowingly and willfully used Xerox’s
21 and Lexmark’s IP in connection with the advertisement, marketing, distribution, offering for
22 sale, and sale of counterfeit and infringing Xerox and Lexmark products.

23 54. At all times, Defendants knew they were prohibited from violating third-party IP
24 rights or any applicable laws while selling products in the Amazon Store. Defendants have
25 breached the terms of their agreement with Amazon, deceived Amazon’s customers and
26 Amazon, infringed and misused the IP rights of Xerox and Lexmark, caused Amazon to issue
27 refunds to customers based on Xerox’s and Lexmark’s confirmations that the products were

1 inauthentic, harmed the integrity of and customer trust in the Amazon Store, and tarnished
2 Amazon's, Xerox's, and Lexmark's brands.

3 55. After receiving notice from Xerox and Lexmark of Defendants' activities,
4 Amazon verified Defendants' unlawful sale of counterfeit Xerox and Lexmark products and
5 blocked Defendants' Selling Accounts. In doing so, Amazon exercised its rights under the BSA
6 to protect its customers and the reputations of Amazon, Xerox, and Lexmark.

7 56. Pursuant to Amazon's A-to-z guarantee, Amazon also proactively issued full
8 refunds to customers who purchased purported Xerox and Lexmark products from Defendants.
9 Defendants have not reimbursed Amazon.

10 **V. CLAIMS**

11 **FIRST CLAIM**

12 *(by Xerox and Lexmark against all Defendants)*
13 **Trademark Infringement – 15 U.S.C. § 1114**

14 57. Plaintiffs Xerox and Lexmark incorporate by reference the allegations of the
15 preceding paragraphs as though set forth herein.

16 58. Defendants' activities constitute infringement of the Xerox Trademarks and
17 Lexmark Trademarks as described in the paragraphs above.

18 59. Xerox owns the Xerox Trademarks and advertises, markets, offers, and sells its
19 products using the Xerox Trademarks described above and uses those trademarks to distinguish
20 its products from the products and related items of others in the same or related fields.

21 60. Because of Xerox's long, continuous, and exclusive use of the Xerox Trademarks
22 identified in this Complaint, the trademarks have come to mean, and are understood by
23 customers and the public to signify, products from Xerox.

24 61. Lexmark owns the Lexmark Trademarks and advertises, markets, offers, and sells
25 its products using the Lexmark Trademarks described above and uses those trademarks to
26 distinguish its products from the products and related items of others in the same or related
27 fields.

1 62. Because of Lexmark’s long, continuous, and exclusive use of the Lexmark
2 Trademarks identified in this Complaint, the trademarks have come to mean, and are understood
3 by customers and the public to signify, products from Lexmark.

4 63. Defendants unlawfully advertised, marketed, offered, and sold products bearing
5 counterfeit versions of the Xerox Trademarks and Lexmark Trademarks with the intent and
6 likelihood of causing customer confusion, mistake, and deception as to the products’ source,
7 origin, and authenticity. Specifically, Defendants intended customers to believe, incorrectly, that
8 the products originated from, were affiliated with, and/or were authorized by Xerox or Lexmark
9 and likely caused such erroneous customer beliefs.

10 64. As a result of Defendants’ wrongful conduct, Xerox and Lexmark are entitled to
11 recover actual damages, Defendants’ profits attributable to the infringement, and treble damages
12 and attorneys’ fees pursuant to 15 U.S.C. § 1117(a) and (b). Alternatively, Xerox and Lexmark
13 are entitled to statutory damages under 15 U.S.C. § 1117(c).

14 65. Xerox and Lexmark are further entitled to injunctive relief, including an order
15 impounding all infringing products and promotional materials in Defendants’ possession. Xerox
16 and Lexmark have no adequate remedy at law for Defendants’ wrongful conduct because, among
17 other things: (a) the Xerox Trademarks and Lexmark Trademarks are unique and valuable
18 properties that have no readily determinable market value; (b) Defendants’ infringement
19 constitutes harm to Xerox and Lexmark and Xerox’s and Lexmark’s reputation and goodwill
20 such that Xerox and Lexmark cannot be made whole by any monetary award; (c) if Defendants’
21 wrongful conduct is allowed to continue, the public is likely to become further confused,
22 mistaken, or deceived as to the source, origin, or authenticity of the infringing materials; and
23 (d) the resulting harm to Xerox and Lexmark, due to Defendants’ wrongful conduct is likely to
24 be continuing.

SECOND CLAIM

(by Xerox and Lexmark against all Defendants)

False Designation of Origin and False Advertising – 15 U.S.C. § 1125(a)

1
2
3 66. Plaintiffs Xerox and Lexmark incorporate by reference the allegations of the
4 preceding paragraphs as though set forth herein.

5 67. Xerox owns the Xerox Trademarks and advertises, markets, offers, and sells its
6 products using those trademarks described above and uses the trademarks to distinguish its
7 products from the products and related items of others in the same or related fields.

8 68. Because of Xerox’s long, continuous, and exclusive use of the Xerox Trademarks,
9 they have come to mean, and are understood by customers, end users, and the public, to signify
10 products from Xerox.

11 69. Lexmark owns the Lexmark Trademarks and advertises, markets, offers, and sells
12 its products using those trademarks described above and uses the trademarks to distinguish its
13 products from the products and related items of others in the same or related fields.

14 70. Because of Lexmark’s long, continuous, and exclusive use of the Lexmark
15 Trademarks, they have come to mean, and are understood by customers, end users, and the
16 public, to signify products from Lexmark.

17 71. Defendants’ wrongful conduct includes the infringement of the Xerox
18 Trademarks and Lexmark Trademarks in connection with Defendants’ commercial advertising or
19 promotion, and offering for sale and sale, of counterfeit Xerox and Lexmark products in
20 interstate commerce.

21 72. In advertising, marketing, offering, and selling products bearing counterfeit
22 versions of the Xerox Trademarks or Lexmark Trademarks, Defendants have used, and on
23 information and belief continue to use, the trademarks referenced above to compete unfairly with
24 Xerox and Lexmark and to deceive customers. Upon information and belief, Defendants’
25 wrongful conduct misleads and confuses customers and the public as to the origin and
26 authenticity of the goods and services advertised, marketed, offered, or sold in connection with
27

1 the Xerox Trademarks and Lexmark Trademarks and wrongfully trades upon Xerox's and
2 Lexmark's goodwill and business reputation.

3 73. Defendants' conduct constitutes (a) false designation of origin, (b) false or
4 misleading description, and (c) false or misleading representation that products originate from or
5 are authorized by Xerox or Lexmark, all in violation of 15 U.S.C. § 1125(a)(1)(A).

6 74. Defendants' conduct also constitutes willful false statements in connection with
7 goods and/or services distributed in interstate commerce in violation of 15 U.S.C.
8 § 1125(a)(1)(B).

9 75. Xerox and Lexmark are entitled to an injunction against Defendants, their
10 officers, agents, representatives, servants, employees, successors and assigns, and all other
11 persons in active concert or participation with them, as set forth in the Prayer for Relief below.
12 Defendants' acts have caused irreparable injury to Xerox and Lexmark. On information and
13 belief, that injury is continuing. An award of monetary damages cannot fully compensate Xerox
14 and Lexmark for their injuries, and Xerox and Lexmark lack an adequate remedy at law.

15 76. Xerox and Lexmark are further entitled to recover Defendants' profits, Xerox's
16 and Lexmark's damages for their losses, and Xerox's and Lexmark's costs to investigate and
17 remediate Defendants' conduct and bring this action, including its attorneys' fees, in an amount
18 to be determined. Xerox and Lexmark are also entitled to the trebling of any damages award as
19 allowed by law.

20 **THIRD CLAIM**

21 *(by Amazon against all Defendants)*

22 **False Designation of Origin and False Advertising – 15 U.S.C. § 1125(a)**

23 77. Plaintiff Amazon incorporates by reference the allegations of the preceding
24 paragraphs as though set forth herein.

25 78. Amazon's reputation for trustworthiness is at the heart of its relationship with
26 customers. Defendants' actions in selling counterfeits pose a threat to Amazon's reputation
27 because they undermine and jeopardize customer trust in the Amazon Store.

1 79. Specifically, Defendants deceived Amazon and its customers about the
2 authenticity of the products they were advertising, marketing, offering, and selling, in direct and
3 willful violation of the BSA and Amazon’s Anti-Counterfeiting Policies. Defendants’ deceptive
4 acts were material to Amazon’s decision to allow Defendants to sell their products in the
5 Amazon Store because Amazon would not have allowed Defendants to do so but for their
6 deceptive acts.

7 80. In advertising, marketing, offering, and selling counterfeit Xerox and Lexmark
8 products in the Amazon Store, Defendants made false and misleading statements of fact about
9 the origin, sponsorship, or approval of those products in violation of 15 U.S.C. § 1125(a)(1)(A).

10 81. Defendants’ acts also constitute willful false statements in connection with goods
11 and/or services distributed in interstate commerce in violation of 15 U.S.C. § 1125(a)(1)(B).

12 82. As described above, Defendants, through their illegal acts, have willfully
13 deceived Amazon and its customers, jeopardized the trust that customers place in the Amazon
14 Store, tarnished Amazon’s brand and reputation, and harmed Amazon and its customers.
15 Defendants’ misconduct has also caused Amazon to expend significant resources to investigate
16 and combat Defendants’ wrongdoing and to bring this lawsuit to prevent Defendants from
17 causing further harm to Amazon and its customers. Defendants’ illegal acts have caused
18 irreparable injury to Amazon and, on information and belief, that injury is ongoing at least to the
19 extent that Defendants continue to establish selling accounts under different or false identities.
20 An award of monetary damages alone cannot fully compensate Amazon for its injuries, and thus
21 Amazon lacks an adequate remedy at law.

22 83. Amazon is entitled to an injunction against Defendants, their officers, agents,
23 representatives, servants, employees, successors and assigns, and all other persons in active
24 concert or participation with them, as set forth in the Prayer for Relief below, along with its
25 attorneys’ fees and costs in investigating and bringing this lawsuit.

26 84. Amazon is also entitled to recover its damages arising from Defendants’ sale of
27 counterfeit products in the Amazon Store.

FOURTH CLAIM

(by Xerox, Lexmark, and Amazon against all Defendants)

Violation of Washington Consumer Protection Act, RCW 19.86.010, et seq.

85. Plaintiffs incorporate by reference the allegations of the preceding paragraphs as though set forth herein.

86. Defendants' advertising, marketing, offering, distribution, and sale of counterfeit Xerox and Lexmark products constitute an unfair method of competition and unfair and deceptive acts or practices in the conduct of trade or commerce, in violation of RCW 19.86.020.

87. Defendants' advertising, marketing, offering, distribution, and sale of counterfeit Xerox and Lexmark products harm the public interest by deceiving customers about the authenticity, origins, and sponsorship of the products.

88. Defendants' advertising, marketing, offering, distribution, and sale of counterfeit Xerox and Lexmark products directly and proximately cause harm to and tarnish Plaintiffs' reputations and brands, and damages their business and property interests and rights.

89. Accordingly, Plaintiffs seek to enjoin further violations of RCW 19.86.020 and recover from Defendants their attorneys' fees and costs. Xerox and Lexmark further seek to recover from Defendants their actual damages, trebled, and Amazon further seeks to recover from Defendants its actual damages, trebled, regarding Defendants activities involving the sale of counterfeit products.

FIFTH CLAIM

(by Amazon.com Services LLC¹ against all Defendants)

Breach of Contract

90. Plaintiff Amazon incorporates by reference the allegations of the preceding paragraphs as though set forth herein.

91. Defendants established the Selling Accounts and entered into Amazon's BSA, a binding and enforceable contract between Defendants and Amazon. Defendants also contractually agreed to be bound by the policies incorporated by reference into the BSA, including Amazon's Anti-Counterfeiting Policy and other policies as maintained on the Amazon

¹ For the Fifth Claim only, "Amazon" shall refer to Amazon.com Services LLC only.

1 seller website.

2 92. Amazon performed all obligations required of it under the terms of the contract
3 with Defendants or was excused from doing so.

4 93. Defendants' sale and distribution of counterfeit Xerox and Lexmark products
5 materially breached the BSA and the Anti-Counterfeiting Policy in numerous ways. Among
6 other things, Defendants' conduct constitutes infringement and misuse of the IP rights of Xerox
7 and Lexmark.

8 94. Defendants' breaches have caused significant harm to Amazon, and Amazon is
9 entitled to damages in an amount to be determined.

10 **VI. PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs respectfully pray for the following relief:

12 A. That the Court enter an order permanently enjoining Defendants, their officers,
13 agents, representatives, servants, employees, successors, and assigns, and all others in active
14 concert or participation with them, from:

- 15 (i) selling products in Amazon's stores;
- 16 (ii) selling products to Amazon or any affiliate;
- 17 (iii) opening or attempting to open any Amazon selling accounts;
- 18 (iv) importing, manufacturing, producing, distributing, circulating, offering to
19 sell, selling, advertising, promoting, or displaying any product or service
20 using any simulation, reproduction, counterfeit, copy, or colorable
21 imitation of Xerox's or Lexmark's brand or trademarks, or which
22 otherwise infringes Xerox's or Lexmark's IP, on any platform or in any
23 medium;
- 24 (v) assisting, aiding or abetting any other person or business entity in
25 engaging or performing any of the activities referred to in subparagraphs
26 (i) through (iv) above;

27 B. That the Court enter judgment in Plaintiffs' favor on all claims brought by them;

1 C. That the Court enter an order pursuant to 15 U.S.C. § 1118 impounding and
2 permitting destruction of all counterfeit and infringing products bearing the Xerox Trademarks or
3 Lexmark Trademarks or that otherwise infringe Xerox's or Lexmark's IP, and any related
4 materials, including business records and materials used to reproduce any infringing products, in
5 Defendants' possession or under their control;

6 D. That the Court enter an order requiring Defendants to provide Plaintiffs a full and
7 complete accounting of all amounts due and owing to Plaintiffs as a result of Defendants'
8 unlawful activities;

9 E. That the Court enter an order requiring Defendants to pay all general, special, and
10 actual damages which Xerox and Lexmark have sustained, or will sustain as a consequence of
11 Defendants' unlawful acts, plus Defendants' profits from the unlawful conduct described herein,
12 together with its statutory damages, and that such damages be enhanced, doubled, or trebled as
13 provided for by 15 U.S.C. § 1117, RCW 19.86.020, or otherwise allowed by law, and that
14 Amazon's damages, plus Defendants' profits, related to Defendants' activities involving the sale
15 of counterfeit products be enhanced, doubled, or trebled as provided by 15 U.S.C. § 1117, RCW
16 19.86.020, or otherwise allowed by law;

17 F. That the Court enter an order requiring Defendants to pay the maximum amount
18 of prejudgment interest authorized by law;

19 G. That the Court enter an order requiring Defendants to pay the costs of this action
20 and Plaintiffs' reasonable attorneys' fees incurred in prosecuting this action, as provided for by
21 15 U.S.C. § 1117, RCW 19.86.020, or otherwise allowed by law;

22 H. That the Court enter an order requiring that identified financial institutions
23 restrain and transfer to Plaintiffs all amounts arising from Defendants' unlawful counterfeiting
24 activities as set forth in this lawsuit, up to a total amount necessary to satisfy monetary judgment
25 in this case; and

26 I. That the Court grant Plaintiffs such other, further, and additional relief as the
27 Court deems just and equitable.

1 DATED this 14th day of April, 2023.

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