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**ATTORNEYS FOR DEFENDANT AND COUNTERCLAIMANT  
LKQ CORPORATION**

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

AMERICAN HONDA MOTOR CO.,  
INC., a California Corporation,

Plaintiff,

v.

LKQ CORP.,

Defendant.

Case No. 2:21-cv-08210 ODW (SKx)

**LKQ. CORP.'S ANSWER,  
AFFIRMATIVE DEFENSES, AND  
COUNTERCLAIMS TO PLAINTIFF'S  
COMPLAINT**

**DEMAND FOR JURY TRIAL**

1 LKQ CORPORATION,

2 Counterclaimant,

3 v.

4 AMERICAN HONDA MOTOR CO.,  
5 INC., a California Corporation,

6 Counter-Defendant  
7

8 Defendant LKQ Corporation (“LKQ” or “Defendant”) files this Answer,  
9 Affirmative Defenses, and Counterclaims to Plaintiff American Honda Motor Co., Inc.  
10 (“Plaintiff” or “Honda”)’s Complaint for Patent Infringement (“Complaint”) of U.S.  
11 Patents Nos. D674,330 (“the ’330 patent”); D768,553 (“the ’553 patent”); D769,165 (“the  
12 ’165 patent”); D770,351 (“the ’351 patent”); D769,172 (“the ’172 patent”); D835,561 (“the  
13 ’561 patent”); D826,826 (“the ’826 patent”); D827,545 (“the ’545 patent”); D826,825 (“the  
14 ’825 patent”); D763,158 (“the ’158 patent”); D744,400 (“the ’400 patent”); D762,543 (“the  
15 ’543 patent”); D804,391 (“the ’391 patent”); D803,131 (“the ’131 patent”); D741,237  
16 (“the ’237 patent”); D798,216 (“the ’216 patent”); D653,597 (“the ’597 patent”); D767,467  
17 (“the ’467 patent”); D729,720 (“the ’720 patent”); D806,629 (“the ’629 patent”); D774,434  
18 (“the ’434 patent”); D705,153 (“the ’153 patent”); and D748,034 (“the ’034 patent”)  
19 (collectively, “the patents-in-suit”) and responds as follows:

20 **NATURE OF THE ACTION**

21 1. This paragraph sets forth Honda’s nature of the action, to which no response  
22 `therein.

23 **PARTIES**

24 2. LKQ is without knowledge or information sufficient to form a belief as to  
25 the truth of the allegations of Paragraph 2 and therefore denies them.

26 3. Admitted.

27 **JURISDICTION AND VENUE**

28 4. Admitted that the Court has subject matter jurisdiction over patent

1 infringement actions. LKQ denies the remaining allegations in this paragraph. However,  
2 it is unclear whether Plaintiff has standing to bring suit because they are not the listed  
3 assignee of the asserted patents. LKQ reserves its right to bring a Rule 12(b)(1) motion  
4 to dismiss if Plaintiff Honda fails to promptly establish that it was the assignee of the  
5 asserted patents prior to the filing of this case and, as such, has standing to bring this case.

6 5. LKQ does not contest this Court's exercise of personal jurisdiction over  
7 LKQ for this action. LKQ denies the remaining allegations in this paragraph.

8 6. LKQ does not contest venue before this Court for this action. LKQ denies  
9 the remaining allegations in this paragraph.

#### 10 **HONDA'S INTELLECTUAL PROPERTY**

11 7. LKQ is without knowledge or information sufficient to form a belief as to  
12 the truth of the allegations of Paragraph 7 and therefore denies them.

13 8. LKQ is without knowledge or information sufficient to form a belief as to  
14 the truth of the allegations of Paragraph 8 and therefore denies them.

15 9. Denied. None of the patents-in-suit are assigned to American Honda Motor  
16 Co., Inc.

17 10. No response is required to Paragraph 10. To the extent a response is  
18 required, LKQ admits that Honda provides some information about certain patents. LKQ  
19 denies the remaining allegations in this paragraph.

20 11. LKQ admits that U.S. Patent No. D826,825S is attributed to Kawaguchi, is  
21 entitled "Wheel for an automobile," and claims the ornamental design for a wheel of an  
22 automobile. LKQ denies the remaining allegations in this paragraph.

23 12. LKQ admits that U.S. Patent No. D674,330S is attributed to Kito, is entitled  
24 "Wheel for an automobile," and claims the ornamental design for a wheel of an  
25 automobile. LKQ denies the remaining allegations in this paragraph.

26 13. LKQ admits that U.S. Patent No. D729,720S is attributed to Chen and Liu,  
27 is entitled "Wheel," and claims the ornamental design for a wheel. LKQ denies the  
28 remaining allegations in this paragraph.

1 14. LKQ admits that U.S. Patent No. D835,561S is attributed to Hayashi, is  
2 entitled “Wheel for an automobile,” and claims the ornamental design for a wheel of an  
3 automobile. LKQ denies the remaining allegations in this paragraph.

4 15. LKQ admits that U.S. Patent No. D767,467S is attributed to Davidson and  
5 Park, is entitled “Wheel,” and claims the ornamental design for a wheel. LKQ denies the  
6 remaining allegations in this paragraph.

7 16. LKQ admits that U.S. Patent No. D762,543S is attributed to Hara, is entitled  
8 “Wheel for automobile,” and claims the ornamental design for a wheel of an automobile.  
9 LKQ denies the remaining allegations in this paragraph.

10 17. LKQ admits that U.S. Patent No. D804,391S is attributed to Ishii, is entitled  
11 “Wheel for automobile,” and claims the ornamental design for a wheel of an automobile.  
12 LKQ denies the remaining allegations in this paragraph.

13 18. LKQ is without knowledge or information sufficient to form a belief as to  
14 the truth of the allegations of Paragraph 18 and therefore denies them.

15 **DEFENDANT’S INFRINGEMENT**

16 19. LKQ denies that the “non-exhaustive” examples set forth below and the “full  
17 list” of LKQ products set forth in Exhibit 1 are infringing.

18 20. Denied.

19 21. Denied.

20 22. Denied.

21 23. Denied.

22 24. Denied.

23 25. Denied.

24 26. Denied.

25 27. Denied.

26 28. Denied.

27 29. Paragraph 29 contains conclusions of law and therefore no response is  
28 required. To the extent a response is required, LKQ denies the allegations set forth in

1 Paragraph 29.

2 30. LKQ admits that Honda sent a letter to LKQ. LKQ further admits that it  
3 responded to the letter. LKQ further admits that Honda followed-up with an additional  
4 message and that the parties participated in a teleconference. LKQ denies the remaining  
5 allegations in Paragraph 30.

6 31. Denied.

7 32. LKQ admits that LKQ sells some of its products through third-parties. LKQ  
8 denies the remaining allegations in this paragraph.

9 33. Denied. LKQ does not have or sell wheels under a part number  
10 ALY64111U45N; further, “Jante” is not an LKQ product line or brand, nor is Jante Wheel  
11 a subsidiary of or otherwise associated with LKQ.

12 34. Denied. LKQ product numbers ALY71845U30, ALY71836U20, and  
13 ALY71826U45 are for remanufactured wheels. Further, only a single sale of LKQ  
14 product number ALY71826U45 was made to Autozone (in December 2020); but that sale  
15 was cancelled shortly thereafter when the LKQ product number ALY71826U45 was  
16 returned by Autozone (in February 2021).

17 35. Denied.

18 36. Denied.

19 37. Denied.

20 **FIRST CLAIM FOR RELIEF**

21 (Infringement of the '825 Patent)

22 38. No response is required to this paragraph. To the extent a response is  
23 required, LKQ restates and incorporates by reference each of its responses to the  
24 allegations in paragraphs 1-37 as if fully set forth herein.

25 39. Denied.

26 40. Paragraph 40 contains conclusions of law and therefore no response is  
27 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
28 40.

1           41. Paragraph 41 contains conclusions of law and therefore no response is  
2 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
3 41.

4           42. Denied.

5                           **SECOND CLAIM FOR RELIEF**

6                           (Infringement of the '330 Patent)

7           43. No response is required to this paragraph. To the extent a response is  
8 required, LKQ restates and incorporates by reference each of its responses to the  
9 allegations in paragraphs 1-42 as if fully set forth herein.

10          44. Denied.

11          45. Paragraph 45 contains conclusions of law and therefore no response is  
12 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
13 45.

14          46. Paragraph 46 contains conclusions of law and therefore no response is  
15 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
16 46.

17          47. Denied.

18                           **THIRD CLAIM FOR RELIEF**

19                           (Infringement of the '720 Patent)

20          48. No response is required to this paragraph. To the extent a response is  
21 required, LKQ restates and incorporates by reference each of its responses to the  
22 allegations in paragraphs 1-47 as if fully set forth herein.

23          49. Denied.

24          50. Paragraph 50 contains conclusions of law and therefore no response is  
25 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
26 50.

27          51. Paragraph 51 contains conclusions of law and therefore no response is  
28 required. To the extent a response is required, LKQ denies the allegations in Paragraph

1 51.

2 52. Denied.

3 **FOURTH CLAIM FOR RELIEF**

4 (Infringement of the '561 Patent)

5 53. No response is required to this paragraph. To the extent a response is  
6 required, LKQ restates and incorporates by reference each of its responses to the  
7 allegations in paragraphs 1-52 as if fully set forth herein.

8 54. Denied.

9 55. Paragraph 55 contains conclusions of law and therefore no response is  
10 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
11 55.

12 56. Paragraph 56 contains conclusions of law and therefore no response is  
13 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
14 56.

15 57. Denied.

16 **FIFTH CLAIM FOR RELIEF**

17 (Infringement of the '467 Patent)

18 58. No response is required to this paragraph. To the extent a response is  
19 required, LKQ restates and incorporates by reference each of its responses to the  
20 allegations in paragraphs 1-57 as if fully set forth herein.

21 59. Denied.

22 60. Paragraph 60 contains conclusions of law and therefore no response is  
23 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
24 60.

25 61. Paragraph 61 contains conclusions of law and therefore no response is  
26 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
27 61.

28 62. Denied.

**SIXTH CLAIM FOR RELIEF**

(Infringement of the '543 Patent)

63. No response is required to this paragraph. To the extent a response is required, LKQ restates and incorporates by reference each of its responses to the allegations in paragraphs 1-62 as if fully set forth herein.

64. Denied.

65. Paragraph 65 contains conclusions of law and therefore no response is required. To the extent a response is required, LKQ is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 65.

66. Paragraph 66 contains conclusions of law and therefore no response is required. To the extent a response is required, LKQ denies the allegations in Paragraph 66.

67. Denied.

**SEVENTH CLAIM FOR RELIEF**

(Infringement of the '391 Patent)

68. No response is required to this paragraph. To the extent a response is required, LKQ restates and incorporates by reference each of its responses to the allegations in paragraphs 1-67 as if fully set forth herein.

69. Denied.

70. Paragraph 70 contains conclusions of law and therefore no response is required. To the extent a response is required, LKQ denies the allegations in Paragraph 70.

71. Paragraph 71 contains conclusions of law and therefore no response is required. To the extent a response is required, LKQ denies the allegations in Paragraph 71.

72. Denied.



**EIGHTH CLAIM FOR RELIEF**

(Infringement of U.S. Patent No. D803,131)

73. No response is required to this paragraph. To the extent a response is required, LKQ restates and incorporates by reference each of its responses to the allegations in paragraphs 1-72 as if fully set forth herein.

74. Denied. LKQ does not have or sell wheels under a part number ALY64111U45N.

75. Paragraph 75 contains conclusions of law and therefore no response is required. To the extent a response is required, LKQ is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 75. LKQ does not have or sell wheels under a part number ALY64111U45N and therefore denies the allegations of Paragraph 75.

76. Paragraph 76 contains conclusions of law and therefore no response is required. To the extent a response is required, LKQ denies the allegations in Paragraph 76. LKQ does not have or sell wheels under a part number ALY64111U45N.

77. Denied. LKQ does not have or sell wheels under a part number ALY64111U45N.

**NINTH CLAIM FOR RELIEF**

(Infringement of U.S. Patent No. D768,553)

78. No response is required to this paragraph. To the extent a response is required, LKQ restates and incorporates by reference each of its responses to the allegations in paragraphs 1-77 as if fully set forth herein.

79. Denied.

80. Paragraph 80 contains conclusions of law and therefore no response is required. To the extent a response is required, LKQ denies the allegations in Paragraph 80.

1           81. Paragraph 81 contains conclusions of law and therefore no response is  
2 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
3 81.

4           82. Denied.

5                           **TENTH CLAIM FOR RELIEF**

6                           (Infringement of U.S. Patent No. D769,165)

7           83. No response is required to this paragraph. To the extent a response is  
8 required, LKQ restates and incorporates by reference each of its responses to the  
9 allegations in paragraphs 1-82 as if fully set forth herein.

10          84. Denied.

11          85. Paragraph 85 contains conclusions of law and therefore no response is  
12 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
13 85.

14          86. Paragraph 86 contains conclusions of law and therefore no response is  
15 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
16 86.

17          87. Denied.

18                           **ELEVENTH CLAIM FOR RELIEF**

19                           (Infringement of U.S. Patent No. D770,351)

20          88. No response is required to this paragraph. To the extent a response is  
21 required, LKQ restates and incorporates by reference each of its responses to the  
22 allegations in paragraphs 1-87 as if fully set forth herein.

23          89. Denied.

24          90. Paragraph 90 contains conclusions of law and therefore no response is  
25 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
26 90.

1           91. Paragraph 91 contains conclusions of law and therefore no response is  
2 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
3 91.

4           92. Denied.

5                           **TWELFTH CLAIM FOR RELIEF**

6                           (Infringement of U.S. Patent No. D769,172)

7           93. No response is required to this paragraph. To the extent a response is  
8 required, LKQ restates and incorporates by reference each of its responses to the  
9 allegations in paragraphs 1-92 as if fully set forth herein.

10          94. Denied.

11          95. Paragraph 95 contains conclusions of law and therefore no response is  
12 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
13 95.

14          96. Paragraph 96 contains conclusions of law and therefore no response is  
15 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
16 96.

17          97. Denied.

18                           **THIRTEENTH CLAIM FOR RELIEF**

19                           (Infringement of U.S. Patent No. D826,826)

20          98. No response is required to this paragraph. To the extent a response is  
21 required, LKQ restates and incorporates by reference each of its responses to the  
22 allegations in paragraphs 1-97 as if fully set forth herein.

23          99. Denied.

24          100. Paragraph 100 contains conclusions of law and therefore no response is  
25 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
26 100.

1           101. Paragraph 101 contains conclusions of law and therefore no response is  
2 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
3 101.

4           102. Denied.

5                           **FOURTEENTH CLAIM FOR RELIEF**

6                           (Infringement of U.S. Patent No. D827,545)

7           103. No response is required to this paragraph. To the extent a response is  
8 required, LKQ restates and incorporates by reference each of its responses to the  
9 allegations in paragraphs 1-102 as if fully set forth herein.

10          104. Denied.

11          105. Paragraph 105 contains conclusions of law and therefore no response is  
12 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
13 105.

14          106. Paragraph 106 contains conclusions of law and therefore no response is  
15 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
16 106.

17          107. Denied.

18                           **FIFTEENTH CLAIM FOR RELIEF**

19                           (Infringement of U.S. Patent No. D763,158)

20          108. No response is required to this paragraph. To the extent a response is  
21 required, LKQ restates and incorporates by reference each of its responses to the  
22 allegations in paragraphs 1-107 as if fully set forth herein.

23          109. Denied.

24          110. Paragraph 110 contains conclusions of law and therefore no response is  
25 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
26 110.

1 111. Paragraph 111 contains conclusions of law and therefore no response is  
2 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
3 111.

4 112. Denied.

5 **SIXTEENTH CLAIM FOR RELIEF**

6 (Infringement of U.S. Patent No. D744,400)

7 113. No response is required to this paragraph. To the extent a response is  
8 required, LKQ restates and incorporates by reference each of its responses to the  
9 allegations in paragraphs 1-112 as if fully set forth herein.

10 114. Denied.

11 115. Paragraph 115 contains conclusions of law and therefore no response is  
12 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
13 115.

14 116. Paragraph 116 contains conclusions of law and therefore no response is  
15 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
16 116.

17 117. Denied.

18 **SEVENTEENTH CLAIM FOR RELIEF**

19 (Infringement of U.S. Patent No. D741,237)

20 118. No response is required to this paragraph. To the extent a response is  
21 required, LKQ restates and incorporates by reference each of its responses to the  
22 allegations in paragraphs 1-117 as if fully set forth herein.

23 119. Denied.

24 120. Paragraph 120 contains conclusions of law and therefore no response is  
25 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
26 120.

1 121. Paragraph 121 contains conclusions of law and therefore no response is  
2 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
3 121.

4 122. Denied.

5 **EIGHTEENTH CLAIM FOR RELIEF**

6 (Infringement of U.S. Patent No. D653,597)

7 123. No response is required to this paragraph. To the extent a response is  
8 required, LKQ restates and incorporates by reference each of its responses to the  
9 allegations in paragraphs 1-122 as if fully set forth herein.

10 124. Denied.

11 125. Paragraph 125 contains conclusions of law and therefore no response is  
12 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
13 125.

14 126. Paragraph 126 contains conclusions of law and therefore no response is  
15 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
16 126.

17 127. Denied.

18 **NINETEENTH CLAIM FOR RELIEF**

19 (Infringement of U.S. Patent No. D748,034)

20 128. No response is required to this paragraph. To the extent a response is  
21 required, LKQ restates and incorporates by reference each of its responses to the  
22 allegations in paragraphs 1-127 as if fully set forth herein.

23 129. Denied.

24 130. Paragraph 130 contains conclusions of law and therefore no response is  
25 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
26 130.

1           131. Paragraph 131 contains conclusions of law and therefore no response is  
2 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
3 131.

4           132. Denied.

## 5                           **TWENTIETH CLAIM FOR RELIEF**

6                           (Infringement of the '216 Patent)

7           133. No response is required to this paragraph. To the extent a response is  
8 required, LKQ restates and incorporates by reference each of its responses to the  
9 allegations in paragraphs 1-132 as if fully set forth herein.

10          134. Denied. Furthermore, this paragraph is ambiguous, and is thus further  
11 denied, because Honda identifies conflicting infringing LKQ part numbers in this  
12 paragraph and the presumably corresponding entry in Honda's Exhibit 1 to its complaint  
13 (i.e., ALY64119U20N vs. ALY64119U20). To the extent that Honda is asserting that  
14 LKQ products associated with LKQ part number ALY64119U20 infringe, LKQ further  
15 denies the allegations of this paragraph in light of the fact that LKQ sold and/or sells only  
16 remanufactured wheels under product number ALY64119U20.

17          135. Paragraph 135 contains conclusions of law and therefore no response is  
18 required. To the extent a response is required, LKQ is without knowledge or information  
19 sufficient to form a belief as to the truth of the allegations of Paragraph 135. LKQ has  
20 not sold wheels under product number ALY64119U20N to Summit Racing Equipment  
21 and therefore denies the allegations of Paragraph 135. Furthermore, this paragraph is  
22 ambiguous, and is thus further denied, because Honda identifies conflicting infringing  
23 LKQ part numbers in this paragraph and the presumably associated entry in Honda's  
24 Exhibit 1 to its complaint (i.e., ALY64119U20N vs. ALY64119U20). To the extent that  
25 Honda is asserting that LKQ products associated with LKQ part number ALY64119U20  
26 infringe, LKQ further denies the allegations of this paragraph in light of the fact that LKQ  
27 sold and/or sells only remanufactured wheels under product number ALY64119U20.

1           136. Paragraph 136 contains conclusions of law and therefore no response is  
2 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
3 136.

4           137. Paragraph 137 contains conclusions of law and therefore no response is  
5 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
6 137.

7           138. Denied.

8                           **TWENTY-FIRST CLAIM FOR RELIEF**

9                           (Infringement of the '629 Patent)

10           139. No response is required to this paragraph. To the extent a response is  
11 required, LKQ restates and incorporates by reference each of its responses to the  
12 allegations in paragraphs 1-138 as if fully set forth herein.

13           140. Denied. LKQ has never had a part identified by part number  
14 ALY61845U30.

15           141. Denied because, at least, LKQ has never had a part identified by part number  
16 ALY61845U30.

17           142. Paragraph 142 contains conclusions of law and therefore no response is  
18 required. To the extent a response is required, LKQ is without knowledge or information  
19 sufficient to form a belief as to the truth of the allegations of Paragraph 142. LKQ has  
20 never had a part identified by part number ALY61845U30 and therefore denies the  
21 allegations of Paragraph 142.

22           143. Paragraph 143 contains conclusions of law and therefore no response is  
23 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
24 143. LKQ has never had a part identified by part number ALY61845U30.

25           144. Denied. LKQ has never had a part identified by part number  
26 ALY61845U30.



**TWENTY-SECOND CLAIM FOR RELIEF**

(Infringement of the '434 Patent)

145. No response is required to this paragraph. To the extent a response is required, LKQ restates and incorporates by reference each of its responses to the allegations in paragraphs 1-144 as if fully set forth herein.

146. Denied. LKQ sold and/or sells only remanufactured wheels under product number ALY71836U20.

147. Denied. LKQ sold and/or sells only remanufactured wheels under product number ALY71836U20.

148. Paragraph 148 contains conclusions of law and therefore no response is required. To the extent a response is required, LKQ is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 148. LKQ sold and/or sells only remanufactured wheels under product number ALY71836U20 and therefore denies the allegations of Paragraph 148.

149. Paragraph 149 contains conclusions of law and therefore no response is required. To the extent a response is required, LKQ denies the allegations in Paragraph 149. LKQ sold and/or sells only remanufactured wheels under product number ALY71836U20.

150. Denied. LKQ sold and/or sells only remanufactured wheels under product number ALY71836U20.

**TWENTY-THIRD CLAIM FOR RELIEF**

(Infringement of the '153 Patent)

151. No response is required to this paragraph. To the extent a response is required, LKQ restates and incorporates by reference each of its responses to the allegations in paragraphs 1-150 as if fully set forth herein.

152. Denied. LKQ sold and/or sells only remanufactured wheels under product number ALY71826U45.

1           153. Denied. LKQ sold and/or sells only remanufactured wheels under product  
2 number ALY71826U45.

3           154. Paragraph 154 contains conclusions of law and therefore no response is  
4 required. To the extent a response is required, LKQ is without knowledge or information  
5 sufficient to form a belief as to the truth of the allegations of Paragraph 154. LKQ sold  
6 and/or sells only remanufactured wheels under product number ALY71826U45 and  
7 therefore denies the allegations of Paragraph 154.

8           155. Paragraph 155 contains conclusions of law and therefore no response is  
9 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
10 155. LKQ sold and/or sells only remanufactured wheels under product number  
11 ALY71826U45.

12           156. Denied. LKQ sold and/or sells only remanufactured wheels under product  
13 number ALY71826U45.

14                           **TWENTY-FOURTH CLAIM FOR RELIEF**

15                           (Violation of Cal. Bus. & Prof. Code § 17200 et seq.)

16           157. No response is required to this paragraph. To the extent a response is  
17 required, LKQ restates and incorporates by reference each of its responses to the  
18 allegations in paragraphs 1-156 as if fully set forth herein.

19           158. Paragraph 158 contains conclusions of law and therefore no response is  
20 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
21 158.

22           159. Paragraph 159 contains conclusions of law and therefore no response is  
23 required. To the extent a response is required, LKQ denies the allegations in Paragraph  
24 159.

25           160. Denied.

26           161. Denied.

27           162.

1 **PRAYER FOR RELIEF**

2 These paragraphs set forth Honda's statement of relief to which no response  
3 is required. To the extent a response is required, LKQ denies all allegations set forth therein  
4 and that Honda is entitled to relief.

5 **JURY TRIAL DEMAND**

6 No response is required.

7  
8 **LKQ's AFFIRMATIVE DEFENSES**

9 Defendant LKQ, by and through its undersigned counsel, hereby asserts the  
10 following Affirmative Defenses without prejudice to LKQ's right to plead additional  
11 defenses as discovery into the facts of the matter warrant.

12 **FIRST AFFIRMATIVE DEFENSE**

13 (35 U.S.C. § 102 Invalidity)

14 1. The patents-in-suit are invalid due to anticipation by prior art under 35 U.S.C. §  
15 102.

16 **SECOND AFFIRMATIVE DEFENSE**

17 (35 U.S.C. § 103 Invalidity)

18 2. The patents-in-suit are invalid because the alleged ornamental designs of the  
19 patents-in-suit would have been obvious to a person of ordinary skill in the art under 35  
20 U.S.C. § 103.

21 **THIRD AFFIRMATIVE DEFENSE**

22 (Invalidity Due to Functionality)

23 3. The patents-in-suit are invalid because the subject matter of the patents-in-suit is  
24 essential to the use or purpose of a vehicle wheel and/or it affects the cost or quality of a  
25 vehicle wheel, and the subject matter is therefore functional and ineligible for design  
26 patent protection.

**FOURTH AFFIRMATIVE DEFENSE**

(Non-Infringement)

4. LKQ has not and does not currently infringe the patents-in-suit.

**FIFTH AFFIRMATIVE DEFENSE**

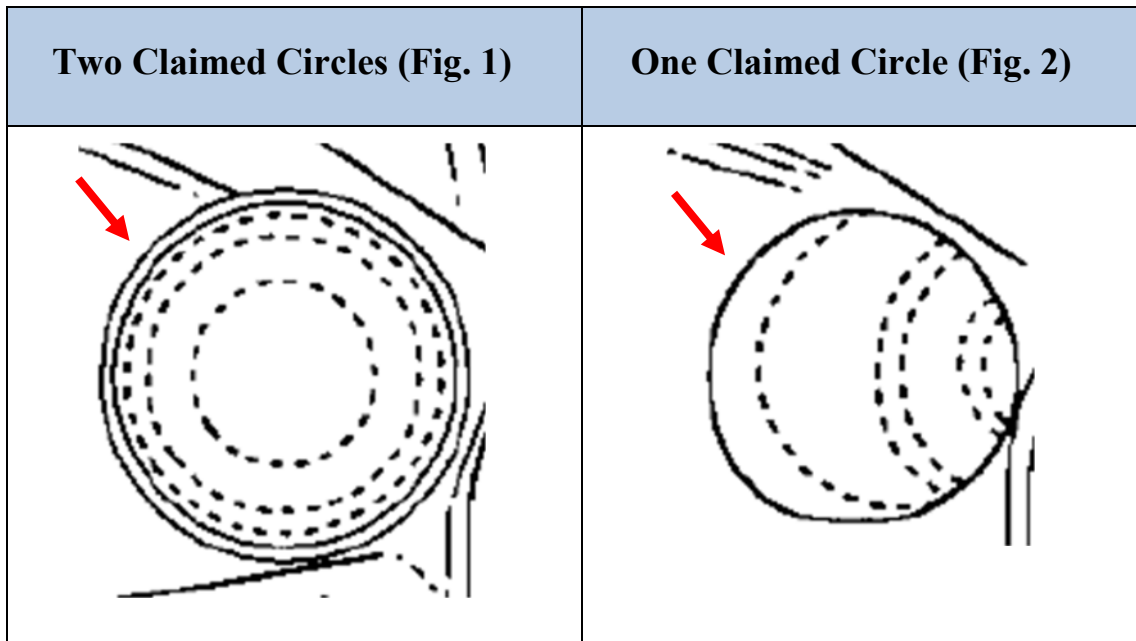
(35 U.S.C. §§ 112 and 171 Invalidity)

5. The patents-in-suit are invalid because they do not comply with 35 U.S.C. §§ 112 and 171. Under 35 U.S.C. § 171(a), only “designs” for “articles of manufacture” are eligible for design patent protection. The patents-in-suit are invalid under Section 171(a) because they do not disclose all material aspects of the design Honda “invented,” but only portions thereof; and/or because the designs claimed in the patents-in-suit are not applied to an “article of manufacture” because the components upon which the claimed design has been applied are not complete in themselves. The patents-in-suit are also invalid under Section 112 because Honda has not provided an adequate written description of what it regards as its invention for the same reasons.

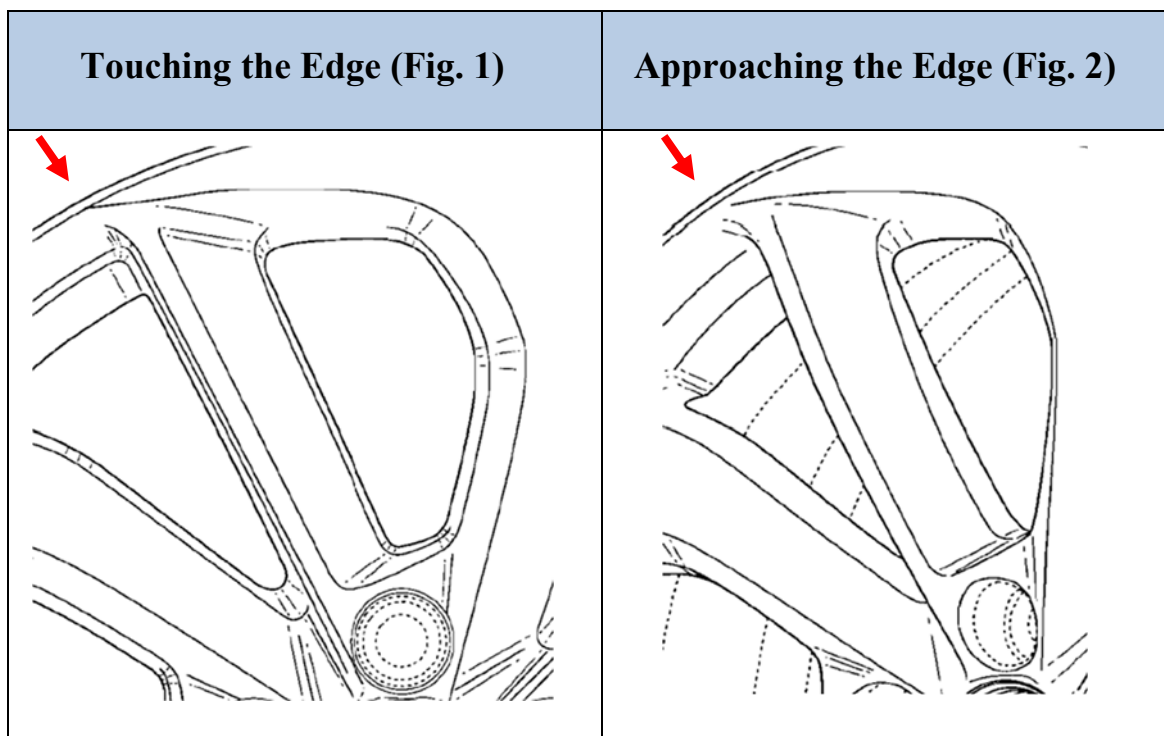
**SIXTH AFFIRMATIVE DEFENSE**

(35 U.S.C. § 112 Invalidity)

6. The patents-in-suit are invalid pursuant to 35 U.S.C. § 112 because the Figures of these patents, which comprise the claimed subject matter of these patents, are incomplete and unclear and fail to comply with the requirements for patent drawings utilized in design patents. For example, at a minimum, pertaining to the D774,434 Patent, two different Figures claim different elements. Specifically, Figure 1 claims two outer design circles surrounding the bolt housing, while Figure 2 claims only one design circle around the bolt housing, as depicted below:



7. Similarly, Figure 1 claims that a certain design line reaches, and touches, the edge of the rim, while Figure 2 claims that the same line merely approaches the edge of the rim, as depicted below:



8. These are numerous other examples in patents-in-suit wherein the drawings are incomplete, unclear, and fail to comply with the requirements for patent drawings utilized

1 in design patents.

## 2 **SEVENTH AFFIRMATIVE DEFENSE**

3 (Limitations on Damages/Failure To State A Claim)

4 9. Honda's alleged damages are limited by, without limitation, 35 U.S.C. §§ 285, 286,  
5 287, and/or 288. For example, upon information and belief, Honda has failed to properly  
6 mark any of its relevant products, and LKQ is not liable to Honda for any acts alleged to  
7 have been performed by LKQ before LKQ received actual notice of any alleged  
8 infringement of patents-in-suit. Further, Honda has failed to state a claim due to its failure  
9 to allege marking, or actual notice of infringement.

## 10 **EIGHTH AFFIRMATIVE DEFENSE**

11 (First Sale/Exhaustion)

12 10. Honda's claims for relief are limited by the doctrines of full compensation,  
13 exhaustion, and/or first sale, and Honda is not entitled to double recovery.

## 14 **NINTH AFFIRMATIVE DEFENSE**

15 (Patent Misuse, Estoppel, Acquiescence, Waiver, and Unclean Hands)

16 11. Honda's claims for relief are barred by the doctrines of patent misuse, estoppel,  
17 acquiescence, waiver, and/or unclean hands.

## 18 **TENTH AFFIRMATIVE DEFENSES**

19 (Reservation of Other Affirmative Defenses)

20 12. LKQ reserves all defenses in the Federal Rules of Civil Procedure, the patent  
21 laws of the United States, and any other defense at law or equity that exist now or that  
22 may be available in the future based on discovery, any other factual investigation, or  
23 any other development relating to this case or any other action.

## 24 **LKQ's COUNTERCLAIMS**

25 Counter-Claimant LKQ Corporation ("LKQ"), by and through its undersigned  
26 counsel, hereby asserts the following Counterclaims against Counter-Defendant American  
27  
28

1 Honda Motor Co., Inc. (“Honda”) without prejudice to LKQ’s right to plead additional  
2 Counterclaims as discovery into the facts of the matter warrant.

3 **PARTIES**

4 1. LKQ is a corporation organized under the laws of the State of Delaware,  
5 with principal place of business located at 500 W. Madison Street, Suite 2800, Chicago,  
6 IL, 60661.

7 2. Upon information and belief, Honda is a corporation organized under the  
8 laws of the State of California, with principal place of business located at 1919 Torrance  
9 Boulevard, Torrance, CA 90501.

10 **JURISDICTION AND VENUE**

11 3. The Court has subject matter jurisdiction over this action and the matters  
12 pleaded herein under 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the  
13 Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, and the Patent Act of the  
14 United States, 35 U.S.C. § 101, *et seq.*

15 4. This Court has personal jurisdiction over Honda because, on information  
16 and belief, Honda has continuous and systematic contacts with the state of California and  
17 this Judicial District and has affirmatively directed infringement accusations at LKQ in  
18 this Judicial District.

19 5. Venue against Honda is proper because a substantial part of the events or  
20 omissions giving rise to the claim occurred in this Judicial District and Honda resides and  
21 is subject to personal jurisdiction in this Judicial district. 28 U.S.C. § 1391(b)(2) and (3);  
22 28 U.S.C. Section 1400(b).

23 **COUNTERCLAIM COUNT I**

24 (35 U.S.C. § 102 Invalidity)

25 6. LKQ repeats and incorporates the foregoing paragraphs as though set forth  
26 fully herein.

27 7. U.S. Patents Nos. D674,330 (“the ’330 patent”); D768,553 (“the ’553  
28 patent”); D769,165 (“the ’165 patent”); D770,351 (“the ’351 patent”); D769,172 (“the

1 '172 patent"); D835,561 ("the '561 patent"); D826,826 ("the '826 patent"); D827,545  
 2 ("the '545 patent"); D826,825 ("the '825 patent"); D763,158 ("the '158 patent");  
 3 D744,400 ("the '400 patent"); D762,543 ("the '543 patent"); D804,391 ("the '391  
 4 patent"); D803,131 ("the '131 patent"); D741,237 ("the '237 patent"); D798,216 ("the  
 5 '216 patent"); D653,597 ("the '597 patent"); D767,467 ("the '467 patent"); D729,720  
 6 ("the '720 patent"); D806,629 ("the '629 patent"); D774,434 ("the '434 patent");  
 7 D705,153 ("the '153 patent"); and D748,034 ("the '034 patent") (collectively, "the  
 8 patents-in-suit") are invalid due to anticipation by prior art under 35 U.S.C. § 102.

## 9 COUNTERCLAIM COUNT II

10 (35 U.S.C. § 103 Invalidity)

11 8. LKQ repeats and incorporates the foregoing paragraphs as though set forth  
 12 fully herein.

13 9. The patents-in-suit are invalid because the alleged ornamental designs of the  
 14 patents-in-suit would have been obvious to a person of ordinary skill in the art under 35  
 15 U.S.C. § 103.

## 16 COUNTERCLAIM COUNT III

17 (Invalidity Due to Functionality)

18 10. LKQ repeats and incorporates the foregoing paragraphs as though set forth  
 19 fully herein.

20 11. The patents-in-suit are invalid because the subject matter of the patents-in-  
 21 suit is essential to the use or purpose of a vehicle wheel and/or it affects the cost or quality  
 22 of a vehicle wheel, and the subject matter is therefore functional and ineligible for design  
 23 patent protection.

## 24 COUNTERCLAIM COUNT IV

25 (Non-Infringement)

26 12. LKQ repeats and incorporates the foregoing paragraphs as though set forth  
 27 fully herein.

28 13. LKQ has not and does not currently infringe the patents-in-suit.



**COUNTERCLAIM COUNT V**

(35 U.S.C. §§ 112 and 171 Invalidity)

14. LKQ repeats and incorporates the foregoing paragraphs as though set forth fully herein.

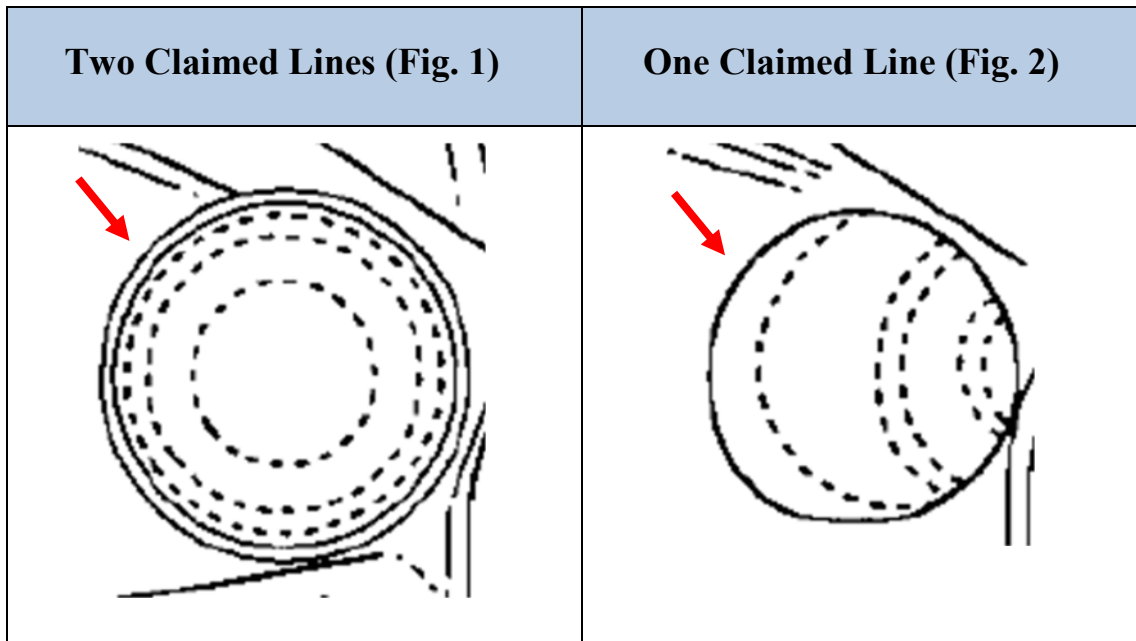
15. The patents-in-suit are invalid because they do not comply with 35 U.S.C. §§ 112 and 171. Under 35 U.S.C. § 171(a), only “designs” for “articles of manufacture” are eligible for design patent protection. The patents-in-suit are invalid under Section 171(a) because they do not disclose all material aspects of the design Honda “invented,” but only portions thereof; and/or because the designs claimed in the patents-in-suit are not applied to an “article of manufacture” because the components upon which the claimed design has been applied are not complete in themselves. The patents-in-suit are also invalid under Section 112 because Honda has not provided an adequate written description of what it regards as its invention for the same reasons.

**COUNTERCLAIM COUNT VI**

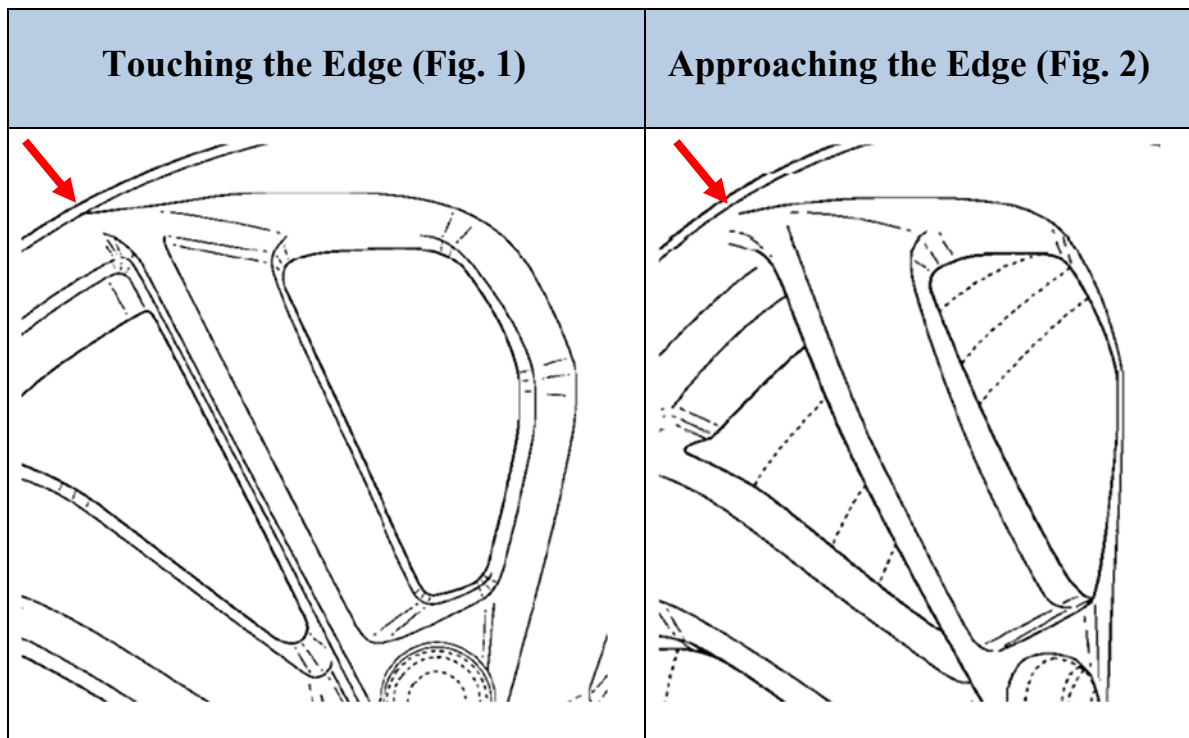
(35 U.S.C. § 112 Invalidity)

16. LKQ repeats and incorporates the foregoing paragraphs as though set forth fully herein.

17. The patents-in-suit are invalid pursuant to 35 U.S.C. § 112 because the Figures of these patents, which comprise the claimed subject matter of these patents, are incomplete and unclear and fail to comply with the requirements for patent drawings utilized in design patents. For example, at a minimum, pertaining to the '434 Patent, two different figures claim different elements. Specifically, Figure 1 claims two outer design line surrounding the bolt housing while Figure 2 displays only one design line around the bolt housing, as depicted below:



18. Similarly, Figure 1 claims that a certain design line reaches, and touches, the edge of the wheel rim, while Figure 2 claims that the same line merely approaches the edge of the rim, as depicted below:



19. The above is just two of many examples in the patents-in-suit wherein the drawings are incomplete, unclear, contradictory, and fail to comply with the requirements for patent drawings utilized in design patents.

## COUNTERCLAIM COUNT VII

(Violation of Cal. Bus. & Prof. Code § 17200 *et seq.*,  
State Law Unfair Competition)

20. LKQ repeats and incorporates the foregoing paragraphs as though set forth fully herein.

21. Honda has engaged in unfair or unlawful business practices by, among other things, asserting and pursuing purported rights and claims under the patents-in-suit in bad faith. Further, Honda's actions in attempting to enforce the patents-in-suit under the circumstances of this case are causing confusion among the relevant public and creating a false impression that LKQ's products are illegal, low-quality, and "knock-off" wheels that are inferior to Honda's goods.

22. Upon information and belief, Honda is enforcing the patents-in-suit to drive LKQ and other competitors out of the market for replacement wheels for its vehicles so that it can charge customers monopoly prices for its own products, thereby depriving the people of the State of California of reasonably priced replacement wheels.

23. Honda's actions significantly threaten or harm competition in the relevant marketplace.

24. Honda committed these acts willfully, knowingly, maliciously, and in conscious disregard of LKQ's rights.

25. The activities of Honda as described in the forgoing paragraphs, and in each claim for relief asserted in these counterclaims, constitute unfair methods of competition in or affecting commerce and/or unfair and deceptive acts or practices in or affecting commerce in California and have proximately caused and are proximately causing injury to LKQ. Thus, these activities violate the California statutory prohibition of unfair and deceptive trade practices. Cal. Bus. Prof. Code § 17200 *et seq.*

1           26. As a result of Honda's unfair competition, LKQ has suffered damages,  
2 including to its goodwill and reputation and in the form of lost sales of its products.

3           27. Pursuant to California Business and Professions Code § 17200, injunctive  
4 relief is necessary to prevent Honda from engaging in the unfair business acts and  
5 practices alleged herein. Honda is now engaging and will continue to engage in the  
6 above-described acts and practices unless enjoined by this Court. The above-described  
7 acts and practices will cause great and irreparable harm to LKQ and the general public  
8 unless Honda is restrained from committing further such unfair business acts or practices.  
9 LKQ and the general public have no other remedy at law.

10           28. Pursuant to California Business and Professions Code § 17200, the Court  
11 may, and in this case should, order Honda to restore any money or property that Honda  
12 has acquired by means of unfair business acts or practices, in an amount according to the  
13 proof at the time of trial.

#### 14                                   **COUNTERCLAIM COUNT VIII**

##### 15                                   (Common Law Unfair Competition)

16           29. LKQ repeats and incorporates the foregoing paragraphs as though set forth  
17 fully herein.

18           30. Upon information and belief, Honda has engaged in unfair or unlawful  
19 business practices by, among other things, asserting and pursuing purported rights and  
20 claims under the patents-in-suit in bad faith. Further, Honda's actions in attempting to  
21 enforce the patents-in-suit under the circumstances of this case are causing confusion  
22 among the relevant public and created a false impression that LKQ's products are illegal,  
23 low-quality, "knock-off" wheels that are inferior to Honda's goods.

24           31. Upon information and belief, Honda is enforcing the patents-in-suit to drive  
25 LKQ and other competitors out of the market for replacement wheels for its vehicles so  
26 that it can charge customers monopoly prices for its own products, thereby depriving the  
27 people of the State of California of reasonably priced replacement wheels.

28           32. Honda's actions significantly threaten or harm competition in the relevant

1 marketplace.

2 33. Honda committed these acts willfully, knowingly, maliciously, and in  
3 conscious disregard of LKQ's rights.

4 34. Therefore, Honda's activities described in the forgoing paragraphs, and in  
5 each claim for relief asserted in these counterclaims, constitute unfair competition and  
6 unfair and deceptive acts and practices in the State of California pursuant to the common  
7 law of California.

8 35. As a direct and proximate result of Honda's unfair or unlawful business  
9 practices, LKQ has suffered damages and irreparable injury, including to its goodwill and  
10 reputation and in the form of lost sales of its products, and is entitled to injunctive relief  
11 and restitution, as may be established at the time of trial.

#### 12 **PRAYER FOR RELIEF**

13 WHEREFORE, LKQ prays for:

14 a. A declaration that LKQ has not infringed and is not infringing, directly or  
15 indirectly, the claim of any of the patents-in-suit;

16 b. A declaration that the single claim of each of the patents-in-suit is invalid;

17 c. A declaration that Honda is not entitled to any pre-suit damages;

18 d. A declaration that Honda has engaged in unfair competition in violation of  
19 Cal. Bus. & Prof. Code § 17200 *et seq.* and under common law;

20 e. An order that Honda and each of its officers, employees, agents, attorneys,  
21 and any persons in active concert or participation with them are restrained and enjoined  
22 from further prosecuting or instituting any action against LKQ or the purchasers of LKQ's  
23 products claiming that the alleged patents are infringed or from representing that LKQ's  
24 products or their use on networks operated by purchasers of those products infringe the  
25 alleged patents;

26 f. A declaration that this is an exceptional case under 35 U.S.C § 285;

27 g. An award to LKQ of its costs and attorney's fees; and  
28

1           h.       Such other relief as this Court or a jury may deem proper and just under the  
2 circumstances.

3  
4                               Respectfully submitted,

5 DATED: November 9, 2021

TUCKER ELLIS LLP

7 By:           /s/ Brian K. Brookey            
8                               Brian K. Brookey

9  
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11                           Barry F. Irwin, P.C.  
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17                           (312) 667-6080

18  
19                           Attorneys for **Plaintiff and Counter-**  
20                           **Defendant, LKQ Corporation**  
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28

**JURY TRIAL DEMAND**

LKQ demands a trial by jury on all issues so triable.

Respectfully submitted,

DATED: November 9, 2021

TUCKER ELLIS LLP

By: /s/ Brian K. Brookey  
Brian K. Brookey

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