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8 *Attorney for Plaintiff,*
9 SPIN MASTER LTD.

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13 SPIN MASTER LTD.,

14 Plaintiff,

15 v.

16 ALPHA GROUP US LLC,

17 Defendant.

Case No.: 2:18-cv-1046_

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff Spin Master Ltd. (“Spin Master”), for its Complaint against Defendant
2 Alpha Group US LLC (“Alpha Group”), alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This case arises under the patent laws of the United States, including 35
5 U.S.C. §§ 271 and 281 et seq. This Court has subject matter jurisdiction over the claims in
6 this action pursuant to 28 U.S.C. §§1331 (federal question) and 1338(a) (action arising
7 under the patent laws).

8 2. This Court has personal jurisdiction over Defendant Alpha Group because,
9 among other things, Defendant is doing business in the State of California and its principal
10 place of business is in this judicial district. Indeed, Defendant purposefully directs and
11 conducts business in California and the acts of infringement complained of in this action
12 took place in the State of California.

13 3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(1), § 1400(b),
14 and 1391(b)(2) as Defendant resides in the Central District of California (as specified in 28
15 U.S.C. § 1391(c)) and because a substantial part of the events that give rise to this action
16 occurred in this judicial district.

17 **THE PARTIES**

18 4. Plaintiff Spin Master is a Canadian corporation with its principal place of
19 business located at 450 Front Street West, Toronto, Ontario, Canada M5V 1B6.

20 5. Upon information and belief, Defendant Alpha Group US LLC is a limited
21 liability company organized and existing under the laws of the State of California, with a
22 principal place of business located at 2100 Grand Ave., 5th Floor, El Segundo, CA 90245.
23 Upon information and belief, Alpha Group US LLC is in the business of designing,
24 marketing, selling, and distributing toys in the United States, including in this District.

25 6. Upon information and belief, Defendant Alpha Group US LLC, formerly
26 known as Auldey Toys of North America, is a wholly-owned subsidiary of Alpha Group
27 Co. Ltd., a corporation organized and existing under the laws of China with its principal
28

1 place of business at Auldey Industrial Area, Penguin Rd., Shanghai, Shantou, Guangdong,
2 China (515800). Alpha Group Co. Ltd. is in the business of designing, manufacturing,
3 distributing, and selling toys.

4 7. Upon information and belief, Defendant directly and/or indirectly imports,
5 develops, designs, manufactures, distributes, markets, offers for sale, and/or sells
6 infringing products in the United States, including in the Central District of California, and
7 otherwise purposefully directs infringing activities to this district in connection with the
8 Screechers Wild! line of transformable toys.

9 **FACTS IN SUPPORT OF PLAINTIFF'S CLAIMS**

10 **A. Spin Master and its Bakugan Brand**

11 8. Spin Master was founded in 1994. Since that time, Spin Master has launched
12 many notable toy products, including the Air Hogs products, launched in 1998. Between
13 2002-2007, Spin Master expanded its brand globally, allowing for the expansion of its
14 licensing capabilities and relationship with entertainment companies.

15 9. In 2007, Spin Master launched Bakugan, a series of transforming robots which
16 became a global sensation before becoming the most successful product line in Spin
17 Master's history, eventually reaching global sales of over \$1 billion.

18 10. As a combination of the Japanese words 'baku' meaning 'to explode' and
19 'gan' meaning 'sphere,' the Bakugan name literally translates to 'exploding sphere.' This
20 is an apt name for the Bakugan line of toys, as the Bakugan characters "explode" from a
21 spherical form into a character form when the Bakugan character comes in contact with a
22 magnetic component:



11. The Bakugan line of transforming toys was launched in conjunction with a Japanese-Canadian anime series called Bakugan Battle Brawlers.

12. While this anime series initially ran for four seasons, a number of spin-off series were released after the initial series' end, including Bakugan Battle Brawlers: New Vestroia, Bakugan Battle Brawlers: Gundalian Invaders, Bakugan Battle Brawlers: Mechtanium Surge, Baku Tech! Bakugan, and finally Baku Tech! Bakugan Gachi.

13. Due to the increasing popularity of the Bakugan brand, Spin Master formally announced a reboot of the Bakugan brand, including a reboot of the anime series, in late 2017 slated for release in the 2019-2020 time-frame.

14. In the wake of Bakugan's success, a number of companies, including Defendant Alpha Group, have released their own transforming toys in an effort to capitalize on Spin Master's success. Defendant Alpha Group's transforming toy line, called Screechers Wild!, was released in the United States along with its own corresponding cartoon web series.

B. The '073 Patent

15. Spin Master vigorously works to protect its intellectual property, including the Bakugan brand. In particular, Spin Master owns a number of United States patents related to the Bakugan brand of toys.

1 16. Relevant to this dispute, Spin Master owns all right, title, and interest in, and
2 has the right to sue and recover for past, present, and future infringement of United States
3 Patent No. 9,868,073 (the “’073 Patent”), entitled “Transformable Toy.” The ’073 Patent
4 was duly and legally issued by the United States Patent and Trademark Office on January
5 16, 2018. A copy of the ’073 Patent is attached hereto as Exhibit A.

6 17. The ’073 Patent was issued in accordance with 35 U.S.C. § 287 and is
7 presumed to be valid.

8 **C. Alpha Group’s Infringing Screechers Wild! Toys**

9 18. Upon information and belief, Defendant Alpha Group launched the
10 Screechers Wild! line of transformable toys, and an associated cartoon web-series available
11 on the YouTube platform, in the United States in January of 2018.

12 19. The Screechers Wild! “world” includes individual characters, referred to as
13 ‘Screechers’, which are “race car/machine hybrids that harness the mysterious molecular
14 energy Animatter and transforms their sleek rides into awesome beast-powered
15 juggernauts!” (www.alphatoys.com/screecherswild/).

16 20. Upon information and belief, at the same time that Alpha Group launched its
17 line of transformable toys, Alpha Group launched a Screechers Wild! web-series available
18 on the YouTube platform, that follows animated character versions of its transformable
19 toys in the Screechers Wild! world.

20 21. Alpha Group’s Screechers Wild! toy series includes Level 1, Level 2, and
21 Level 3 Vehicles. The complexity of the toys increases as you move up the levels. The
22 Level 1 Vehicles are the most simplistic, while the Level 3 Vehicles are the most complex.

23 22. The Level 1 Screechers Wild! series of vehicles includes six unique
24 “character” vehicles: SparkBug, Nitebite, Nightweaver, StingShift, RevAdactyl, and
25 Jayhawk (collectively, the “L1 Vehicles”). The Jayhawk Vehicle is representative of the
26 L1 Vehicles:



23. The Level 2 Screechers Wild! series of vehicles includes five unique “character” vehicles: V-Bone, Smokey, Gatecreeper, MonkeyWrench, and T-Wrekker (collectively, the “L2 Vehicles”).

24. The MonkeyWrench Vehicle is a representative example of the L2 Vehicles:



25. Upon information and belief, according to Alpha Group’s website, five additional Level 2 Vehicles are “Coming Soon”: RattleCat, Pyrosaur, Spikestrip, CrocShock, and KnightVision (collectively, the “future L2 Vehicles”). Upon information and belief, each of these future L2 Vehicles are constructed and manufactured in substantially the same manner as the existing L2 Vehicles, and therefore likely infringe the ‘073 Patent for the same reasons as the existing L2 Vehicles, as set forth below. Specifically, for each of the future L2 Vehicles, Alpha Group’s website provides a GIF

1 showing the future L2 Vehicles “transforming” in substantially the same manner as the
 2 existing L2 Vehicles. For example, below are some of the underlying images of the GIF
 3 showing the transformation of the future L2 Vehicle RattleCat Vehicle:



15 26. Additionally, each of the webpages for the future L2 Vehicles provides
 16 downloadable instructions that are substantially similar to those instructions for the
 17 existing vehicles. See Exhibit B, Comparing the Instruction Sheet for the existing
 18 MonkeyWrench Vehicle, with the Instruction Sheet for the future L2 Vehicle RattleCat.

19 27. The Level 3 Screechers Wild! series of vehicles includes three unique
 20 “character” vehicles: H2Octane, ScorpioDrift, and StormHorn (collectively, the “L3
 21 Vehicles”).

22 28. The H2Octane Vehicle is a representative example of the L3 Vehicles:



29. For the reasons set forth below, each of the L1, L2, Future L2, and L3 Vehicles infringe at least Claim 1 of the '073 Patent.

30. Using the MonkeyWrench Vehicle as a representative example, the Screechers Wild! toys are transformable toys, and are described as such by Alpha Toys own website:



ALL NEW SCREECHERS TOYS

The only vehicles that transform into creatures with explosive, 360-degree flip morphing action!

1 31. Each of the Screechers Wild! vehicles include a first toy component, e.g., the
2 vehicle:



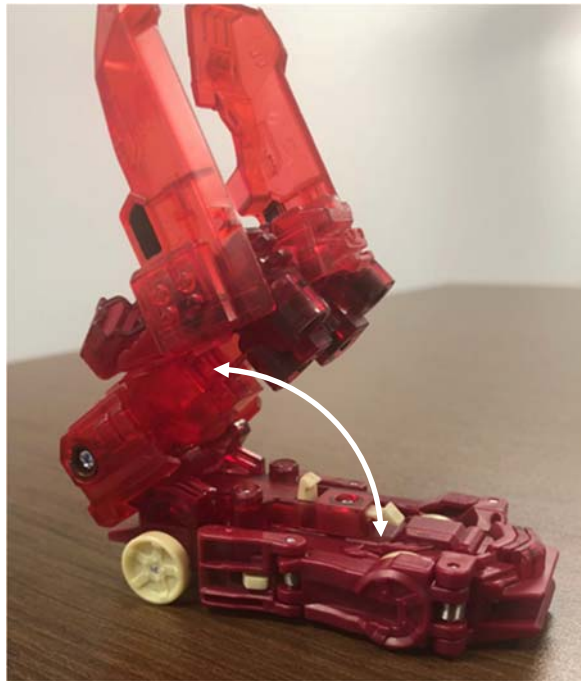
11 32. The first toy component (vehicle) includes a toy body, e.g., the base of the
12 vehicle:



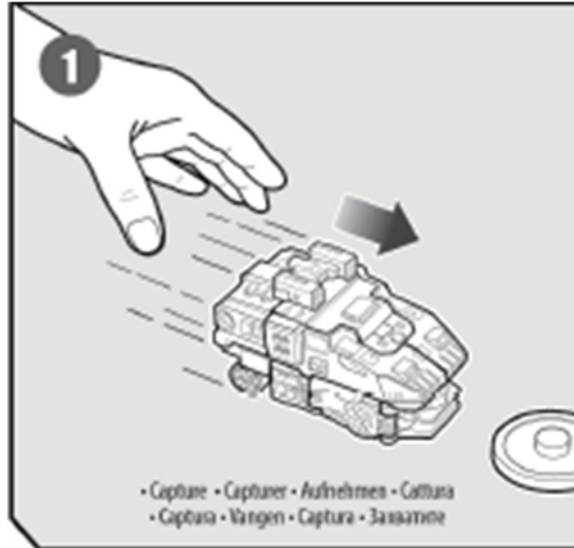
33. The first toy component (Vehicle) of the Screechers Wild! includes at least one auxiliary component coupled with the body and rotatable towards the body to a closed position and rotatable away from the body to an open position. Specifically, the character body is coupled to the vehicle base and rotatable towards the body to a closed position (Vehicle):



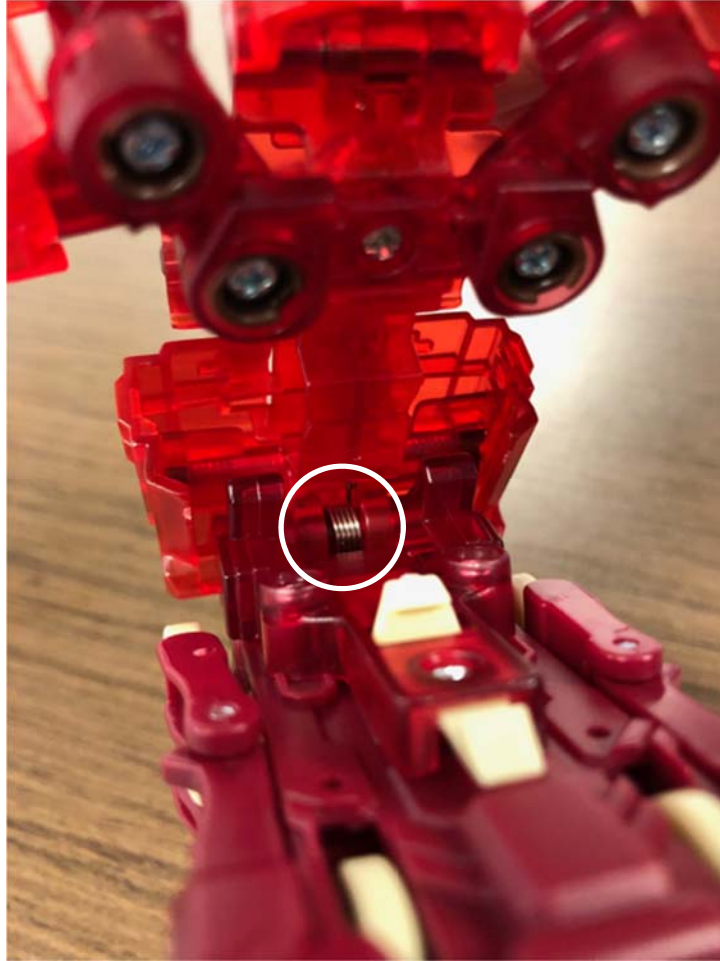
And which is rotatable away from the body to an open position (Character form):



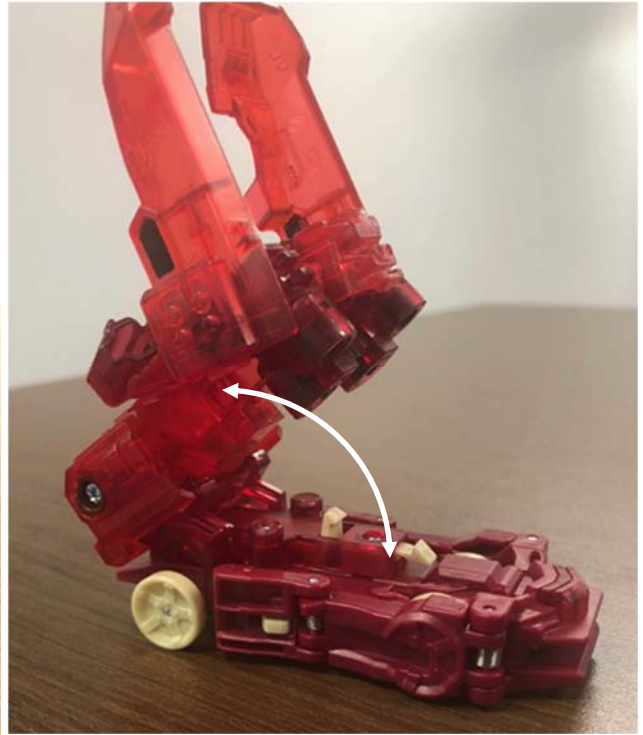
34. The first toy component is also rollable in the closed position (the Vehicle form). For example, the Instruction Sheet for the MonkeyWrench Vehicle shows the Vehicle rolling in the closed position:



35. The first toy component includes one auxiliary component elastic element, e.g., a spring:



36. The at least one auxiliary component (character body) is rotatably associated with the body (vehicle base) via the at least one auxiliary component elastic element (spring), such that the at least one auxiliary component elastic element (spring) biases the at least one auxiliary component (character body) to the open position (the Character Form) away from the body (vehicle base):



37. The first toy component includes a locking component associated with the toy body (vehicle base) and selectively positionable between a first, locked position wherein the at least one auxiliary component (character body) is retained in the closed position (Vehicle Form):



1 and a second, disengaged position wherein the at least one auxiliary component (character
2 body) is released to an open position (Character Form):



18 the locking mechanism including a latch:




and a keeper engaged with the latch when the locking assembly is in the first, locked position:



38. The first toy component also includes a first magnetically-responsive member associated with the locking component:



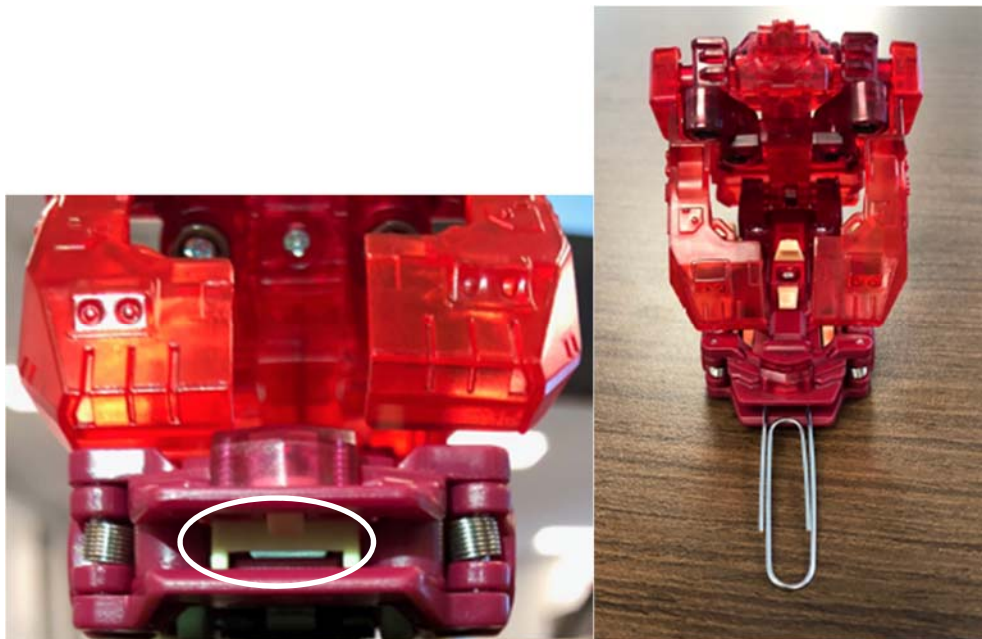
Additionally, the Instruction Sheet for the MonkeyWrench Vehicle expressly states that it contains a magnet:

 **WARNING:** This toy contains a small magnet. Swallowed magnets can stick together across the intestines causing serious infections and death. Seek medical attention if magnet(s) are swallowed or inhaled.

39. The transformable toy also includes a second toy component, e.g., disk accessory, separate from the first toy component and including a second magnetically-responsive member. Specifically, the disc accessory includes a metal rim component:



40. At least one of the first magnetically-responsive member and the second magnetically-responsive member is a magnet. Specifically, the first magnetically-responsive member is a magnet:



41. The Screechers Wild! also includes wherein upon the second magnetically-responsive member being brought into proximity of the first magnetically-responsive member (e.g., the disc accessory being brought into contact with the magnet in the Vehicle), the latch of the locking component associated with the first magnetically-responsive member moves to thereby disengage the latch from the keeper and position the locking component in the second, disengaged position:

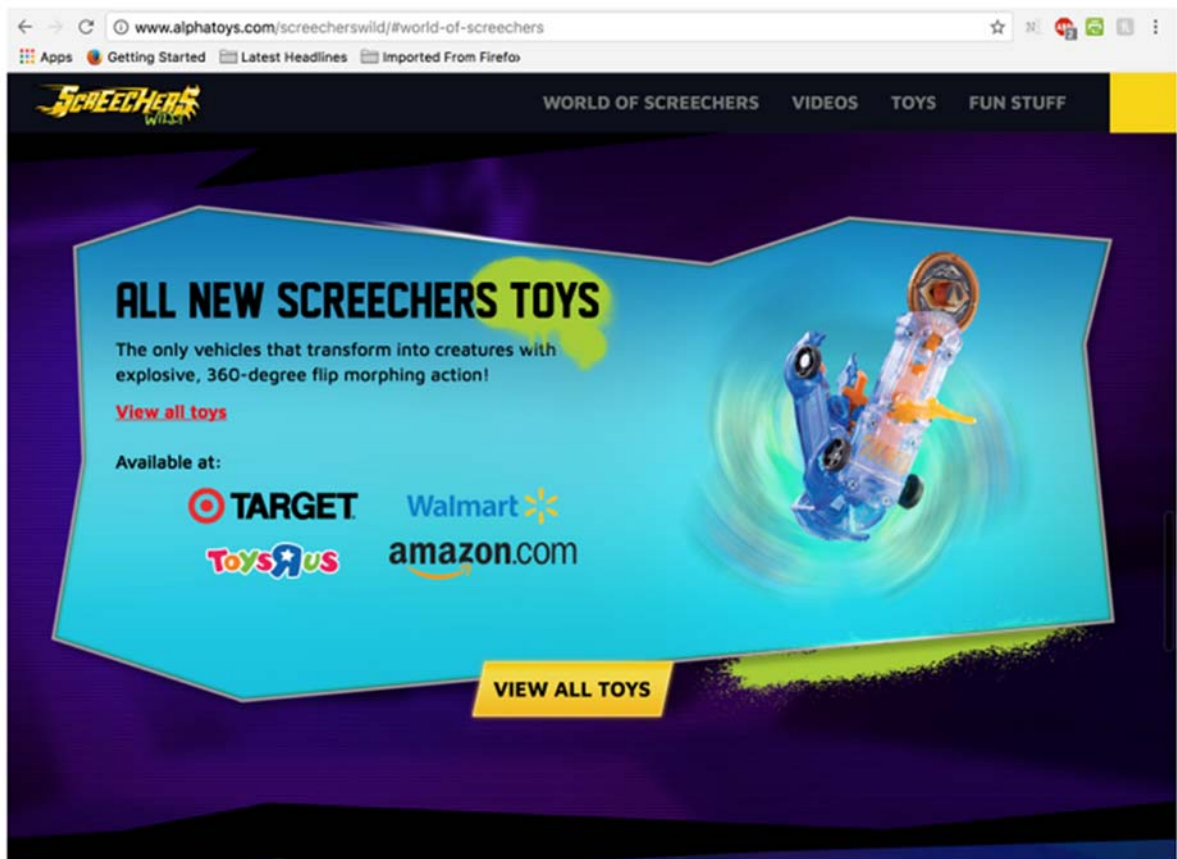


42. Accordingly, each of the Screechers Wild! Vehicles infringes at least Claim 1 of the '073 Patent. While the above analysis was described with reference to the MonkeyWrench Vehicle, upon information and belief, each of the L1, L2, Future L2, and L3 Vehicles (collectively, the "Infringing Products") are substantially the same as the MonkeyWrench Vehicle, and therefore infringe at least Claim 1 of the '073 Patent for the same reasons as those set forth above.

D. Alpha Group's Infringing Conduct

43. Upon information and belief, Defendant Alpha Group makes, uses, sells, offers to sell and/or imports products, including the Infringing Products, into the United States.

44. Upon information and belief, Alpha Group sells and offers to sell the Infringing Products to third-party resellers, including at least Walmart, Target, Amazon.com, and Toys R Us. Alpha Group advertises these companies as retailers of its products on its website (www.alphatoys.com/screecherswild/#world-of-screechers):



45. Upon information and belief, Defendant's sale and offer for sale of the Infringing Products to the above third-party resellers in the United States takes place in California. The above third-party resellers also sell and offer to sell the Infringing Products to end-user customers in the United States, including in California. And the Infringing

1 Products are for sale on above-identified third-party resellers' websites, and are available
2 for shipment in the United States, including California.

3 46. Upon information and belief, the Infringing Products sold through Target
4 were distributed by Alpha Group through Alpha Group's wholesale distribution channel.

5 47. Spin Master has attempted to have conversations with Defendant Alpha
6 Group regarding Spin Master's intellectual property and Alpha Group's Infringing
7 Products.

8 48. Upon information and belief, Defendant Alpha Group also provides an
9 Instruction Sheet with each Infringing Product sold, explaining to the end-user in a step-
10 by-step manner how to use the Infringing Products.

11 49. Upon information and belief, Defendant Alpha Group has infringed and
12 continues to infringe the '073 Patent within the meaning of 35 U.S.C. § 271 at least by
13 making, using, selling, offering to sell, and/or importing the Infringing Products into the
14 United States without Spin Master's authorization.

15 **COUNT I**

16 **(Infringement of U.S. Patent No. 9,868,073)**

17 50. Spin Master incorporates and references the allegations asserted in each of the
18 preceding paragraphs, as if fully set forth herein.

19 51. Spin Master is the assignee and owner of all U.S. Patent rights in U.S. Patent
20 No. 9,868,073 ("the '073 Patent), with ownership of all substantial rights therein, including
21 the right to exclude others from making, using, selling, offering for sale, and importing the
22 invention of the '073 Patent, and to sue and recover damages for the past, present, and
23 future infringement thereof. A true and correct copy of the '073 Patent is attached as
24 Exhibit A.

25 52. The '073 Patent is valid, enforceable, and was duly issued in full compliance
26 with Title 35 of the United States Code.

53. As set forth in this Complaint, Alpha Group has directly infringed and continues to directly infringe the '073 Patent, including for example, at least Claim 1 of the '073 Patent by, among other things, using, offering for sale, selling, making, and/or importing its Screechers Wild! products. Alpha Group is thereby liable for infringement of the '073 Patent pursuant to at least 35 U.S.C. § 271(a).

54. As a direct and proximate result of Defendant's patent infringement, Defendant has derived and received gains, profits, and advantages in an amount that has not been confirmed.

55. Defendant has induced infringement of at least Claim 1 of the '073 Patent by at least providing an instruction sheet with the Infringing Products, instructing the end-user customers to use the Infringing Products.

56. Spin Master has been harmed by this infringement and pursuant to 35 U.S.C. § 284, Spin Master is entitled to damages in an amount no less than a reasonable royalty as well as treble damages for Alpha Group's willful infringement together with interests and costs as fixed by this Court.

57. Pursuant to 35 U.S.C. § 285, Spin Master is entitled to reasonable attorneys' fees for the necessity of bringing this claim.

58. Spin Master will suffer and is suffering irreparable harm from Defendant's infringement of Spin Master's Patents due to, among other things, lost business opportunities, lost market share, and price erosion. Spin Master has no adequate remedy at law. Pursuant to 35 U.S.C. § 283, Spin Master is entitled to an injunction against Defendant's continuing infringement of the '073 Patent. Unless enjoined, Defendant will continue its infringing conduct.

PRAYER FOR RELIEF

WHEREFORE, Spin Master respectfully requests the following relief:

59. An order and judgment that Defendant has infringed the '073 Patent under 35 U.S.C. § 271;

1 60. A judgment in favor of Spin Master that the '073 Patent is valid and
2 enforceable;

3 61. A judgment that Defendant's infringement has been willful.

4 62. A preliminary and permanent injunction enjoining and restraining Defendant,
5 and its agents, affiliates, employees, and all persons in active concert or participation with
6 it, from making, using, selling, offering for sale, and/or importing any goods not authorized
7 by Spin Master which infringe the '073 Patent, including, without limitation, the Infringing
8 Products identified herein;

9 63. An order requiring Defendant to file with this Court and serve upon Spin
10 Master within fifteen (15) days after issuance of any injunction, a report in writing under
11 oath setting forth in detail the manner and form in which Defendant has complied with the
12 injunction;

13 64. A determination and judgment that this is an exceptional case under 35 U.S.C.
14 § 285;

15 65. A judgment and order, pursuant to 35 U.S.C. § 284, requiring Defendant to
16 compensate Spin Master for all damages caused by Defendant's infringement of the '073
17 Patent (but in no event less than a reasonable royalty), treble damages for willful
18 infringement, and its costs incurred in this action;

19 66. A judgment and order requiring Defendant pay Spin Master any supplemental
20 damages or profits for any continuing post-verdict infringement up until entry of the final
21 judgment, with an accounting, as needed;

22 67. A judgment and order requiring Defendant to pay Spin Master its reasonable
23 attorneys' fees pursuant to 35 U.S.C. § 285 and pre-judgment and post-judgment interest;
24 and

25 68. Such other and further and additional relief as this Court deems just and
26 proper.

1 Dated: February 7, 2018

FITCH, EVEN, TABIN & FLANNERY LLP

2 /s/ Jon A. Birmingham

3 Jon A. Birmingham (Cal. Bar No. 271034)

4 *Attorney for Plaintiff*

5 SPIN MASTER LTD.

6
7 **DEMAND FOR JURY TRIAL**

8 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Spin Master hereby
9 demands a jury trial on all issues raised by the Complaint.

10
11 Dated: February 7, 2018

FITCH, EVEN, TABIN & FLANNERY LLP

12
13 /s/ Jon A. Birmingham

14 Jon A. Birmingham (Cal. Bar No. 271034)

15 *Attorney for Plaintiff*

16 SPIN MASTER LTD.