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SPIN MASTER, LTD., LEONARD R. CLARK
8 and H. PETER GREENE JR.

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10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 SPIN MASTER, LTD., LEONARD R.
13 CLARK and H. PETER GREENE JR.,

14 Plaintiffs,

15 v.

16 JAKKS PACIFIC, INC.,

17 Defendant.

Case No. **'15CV0188 AJB RBB**

**SPIN MASTER, LTD.'S
COMPLAINT FOR PATENT
INFRINGEMENT**

JURY DEMANDED

18 Plaintiffs SPIN MASTER, LTD.; LEONARD R. CLARK; and H. PETER
19 GREENE JR. for their Complaint against Defendant JAKKS PACIFIC, INC. alleges
20 and states as follows:

21 **THE PARTIES**

22 1. Plaintiff SPIN MASTER, LTD. ("Spin Master") is a corporation with its
23 headquarters located at 450 Front Street West, Toronto, ON M5V 1B6, Canada and a
24 place of business at 5880 W. Jefferson Blvd., Suite A, Los Angeles, CA 90016.

25 2. Plaintiff LEONARD R. CLARK ("Clark") is an individual residing in
26 Oreland, PA.

27 3. Plaintiff H. PETER GREENE JR. ("Greene") is an individual residing
28 in Boyertown, PA.

1 4. Plaintiffs' Clark and Greene own United States Patent Numbers
2 7,980,916 and 7,753,755, to which Plaintiff Spin Master is the exclusive licensee.
3 Clark, Greene, and Spin Master are referred to collectively herein as "Spin Master."

4 5. Defendant JAKKS PACIFIC, INC. ("JAKKS") is a corporation
5 organized and existing under the laws of the State of Delaware with its principal
6 place of business located at 22619 Pacific Coast Highway, Malibu, CA 90265.

7 **JURISDICTION AND VENUE**

8 6. This is a civil action for patent infringement arising under the Patent
9 Laws of the United States, 35 U.S.C. sections 1 et seq. Subject matter jurisdiction is
10 therefore proper under 28 U.S.C. sections 1331 and 1338(a).

11 7. Personal jurisdiction is proper in California because the accused
12 products were offered for sale and sold directly in California, and specifically in the
13 District, and on information and belief, Defendant has its principal place of business
14 in California. JAKKS also intentionally established distribution channels for the
15 accused products in California and in the District. On information and belief,
16 JAKKS has intentionally obtained substantial revenues from sales of the accused
17 products to California residents.

18 8. Defendant's minimum contacts with the forum are such that the exercise
19 of jurisdiction with respect to the claims herein comports with traditional notions of
20 fair play and substantial justice.

21 9. Venue is proper in this judicial district under 28 U.S.C. sections 1391(b)
22 and (c) and 1400(b) because a substantial part of the events or omissions giving rise
23 to the claims occurred in the District and the Defendant resides in this District by
24 virtue of being subject to personal jurisdiction in this judicial district by, among
25 others, their repeatedly availment and direction of their activity toward the District,
26 and engaging in acts of infringement in this judicial district.

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FIRST CLAIM FOR RELIEF

INFRINGEMENT OF U.S. PATENT NO. 7,980,916

10. Spin Master realleges and incorporates by reference the allegations of this Complaint as though fully set forth herein.

11. On July 19, 2011, United States Patent Number 7,980,916 ('916 Patent) entitled "Wall Racer Toy Vehicles," was duly and legally issued. Spin Master is the exclusive licensee to all the rights and interests in the '916 Patent in the United States. A true and correct copy of this Patent is attached hereto as **EXHIBIT 1** and incorporated herein by reference.

12. JAKKS has directly and indirectly infringed and continues to infringe (literally and under the doctrine of equivalents) the claims of the '916 Patent by making, using, selling, offering for sale, importing, and/or actively inducing others to use (for example, end users of their products by providing instructions and/or manuals) wall racer toys covered by one or more claims of the '916 Patent, and is thus liable for patent infringement pursuant to 35 U.S.C. § 271. This includes infringement of at least Claim 1 by at least Defendant's Mario Kart 8 IR Wall Climber.

13. Defendant's infringement of the '916 Patent has caused and continues to cause damage to Spin Master in an amount to be determined at trial.

14. Defendant's infringement of the '916 Patent has caused and will continue to cause immediate and irreparable harm to Spin Master for which there is no adequate remedy at law, unless this Court enjoins and restrains such activities.

15. Spin Master is informed and believes and, on that bases alleges, that JAKKS knew of the '916 Patent and that its infringement of the '916 Patent was willful and deliberate, entitling Spin Master to enhanced damages pursuant to 35 U.S.C. § 284, and costs incurred prosecuting this action. For example, as of at least November 24, 2014, JAKKS was aware of the '916 patent by way of a notification of infringement sent by Spin Master. On information and belief JAKKS has

1 continued to offer the infringing products after receiving this notice.

2 **SECOND CLAIM FOR RELIEF**

3 **INFRINGEMENT OF U.S. PATENT NO. 7,753,755**

4 16. Spin Master realleges and incorporates by reference the allegations of
5 Paragraphs 1-15 of this Complaint as though fully set forth herein.

6 17. On July 13, 2010, United States Patent Number 7,753,755 ('755 patent)
7 entitled "Wall Racer Toy Vehicles," was duly and legally issued. Spin Master is the
8 exclusive licensee to all rights and interests in the '755 Patent in the United States.
9 A true and correct copy of this Patent is attached hereto as **EXHIBIT 2** and
10 incorporated herein by reference.

11 18. JAKKS has directly and indirectly infringed and continues to infringe
12 (literally and under the doctrine of equivalents) the claims of the '755 Patent by
13 making, using, selling, offering for sale, importing, and/or actively inducing others to
14 use (for example, end users of their products by providing instructions and/or
15 manuals) wall racer toys covered by one or more claims of the '755 Patent, and is
16 thus liable for patent infringement pursuant to 35 U.S.C. § 271. This includes
17 infringement of at least Claim 1 by at least Defendant's Mario Kart 8 IR Wall
18 Climber.

19 19. Defendant's infringement of the '755 Patent has caused and continues to
20 cause damage to Spin Master in an amount to be determined at trial.

21 20. Defendant's infringement of the '755 Patent has caused and will
22 continue to cause immediate and irreparable harm to Spin Master for which there is
23 no adequate remedy at law, unless this Court enjoins and restrains such activities.

24 21. Spin Master is informed and believes and, on that bases alleges, that
25 JAKKS knew of the '755 Patent and that its infringement of the '755 Patent was
26 willful and deliberate, entitling Spin Master to enhanced damages pursuant to 35
27 U.S.C. § 284, and costs incurred prosecuting this action. For example, as of at least
28 November 24, 2014, JAKKS was aware of the '755 patent by way of a notification

1 of infringement sent by Spin Master. On information and belief it has continued to
2 offer the infringing products after receiving this notice.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Spin Master prays for relief as follows:

5 1. For judgment entered in favor of Spin Master that one or more claims of
6 the '916 Patent and/or the '755 Patent are infringed by JAKKS;

7 2. That Spin Master be granted an accounting of all damages incurred
8 from JAKKS's infringement;

9 3. That Spin Master be awarded its actual damages along with
10 prejudgment interest according to proof, and enhanced damages pursuant to 35
11 U.S.C. § 284;

12 4. For a preliminary and permanent injunction enjoining JAKKS' acts of
13 infringement and of its parents, subsidiaries, officers, directors, agents, employees,
14 licensees, and any persons acting in concert with either or both of them, along with
15 related individuals and entities, representatives, OEMs, dealers, distributors, and
16 customers;

17 5. That Spin Master be awarded its attorney's fees and costs pursuant to 35
18 U.S.C. § 285 or as otherwise provided by law, whether by statute, common law or
19 the Court's inherent power; and

20 6. For all other and further relief deemed just and proper by the Court.

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DEMAND FOR JURY

Spin Master demands trial by jury on all issues triable as a matter of right at law.

Dated: January 28, 2015

MINTZ LEVIN COHN FERRIS GLOVSKY &
POPEO

Bv: s/Andrew D. Skale
Andrew D. Skale, Esq.
Ben L. Wagner, Esq.
Thomas Jackman, Esq.

Attorneys for Plaintiffs
SPIN MASTER, LTD., LEONARD R.
CLARK and H. PETER GREENE JR.