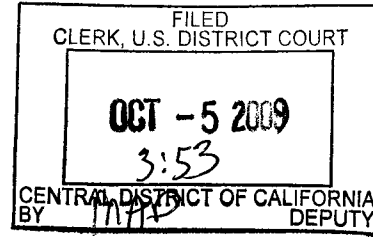


ORIGINAL

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Attorneys for Plaintiffs and Counterdefendants
Silverlit Toys Manufactory Ltd. and Spin Master Ltd.

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

SILVERLIT TOYS MANUFACTORY LTD., a Hong Kong company, and SPIN MASTER LTD., a Canadian corporation,

Plaintiffs,

vs.

DANBAR INTERNATIONAL LIMITED, a United Kingdom company, and DANBAR TOYS FAR EAST LIMITED, a Hong Kong company,

Defendant.

DANBAR INTERNATIONAL LIMITED, a United Kingdom Company,

Counterclaimant,

vs.

SILVERLIT TOYS MANUFACTORY LTD., a Hong Kong company, and SPIN MASTER LTD., a Canadian corporation,

Counterdefendants.

CASE NO: CV 09-01229-RGK (CWx)

FIRST AMENDED COMPLAINT FOR:

- 1. Patent Infringement;**
- 2. Trademark Infringement under 15 U.S.C. § 1114(1);**
- 3. Unfair Competition under 15 U.S.C. § 1125(a);**
- 4. Unfair Competition under Cal. Bus. & Prof. Code § 17200;**
- 5. Common Law Trademark Infringement; and**
- 6. Copyright Infringement under 17 U.S.C. § 101, et seq.**

[DEMAND FOR JURY TRIAL]

33

1 Plaintiffs Silverlit Toys Manufactory Ltd. (“Silverlit”) and Spin Master Ltd. (“Spin
2 Master”) (collectively “Plaintiffs”) for their Complaint against Danbar International
3 Limited (“Danbar”) and Danbar Toys Far East Limited (“Danbar Far East”) (collectively
4 the “Defendants”) allege as follows:

5 **NATURE OF THIS ACTION**

6 1. This is an action for patent infringement under the laws of the United States
7 relating to patents, including, but not limited to, 35 U.S.C. § 271; trademark infringement
8 and unfair competition under 15 U.S.C. §§ 1114(1) and 1125(a) of the Trademark Act of
9 1946 (the “Lanham Act”); trademark infringement under California law; unlawful, unfair
10 and fraudulent business practices in violation of California Business and Professions
11 Code §§17200, *et seq.*; and copyright infringement under the Copyright Act of 1976,
12 Title 17 of the United States Code.

13 2. In particular, Defendants’ make, use, sale, offer for sale, importation into the
14 United States, distribution, and/or marketing of (RC) remote controlled toy helicopters,
15 such as the “Nano Combat Ground Assault” and the “Nano Combat Air to Air” (the
16 “Infringing Products”) constitute a blatant misappropriation of Plaintiffs’ valuable
17 intellectual property rights. The Infringing Products incorporate patented elements of
18 Plaintiffs’ highly successful, widely popular, and well known RC toy helicopters sold and
19 marketed in the United States as the Air Hogs Havoc Heli. And, on information and
20 belief, Defendants’ packaging, the instruction manuals sold with the Infringing Products,
21 and Danbar’s website, also bear logos that infringe Spin Master’s well known Air Hogs
22 trademarks. Defendants’ infringing logos, which are confusingly similar to Spin
23 Master’s Air Hogs logo and trademarks are likely to deceive the purchasing public into
24 believing that Defendant or Defendant’s products are affiliated with, related to,
25 sponsored by or connected with Plaintiffs or their famous, award winning Air Hogs line
26 of remote controlled (RC) toy helicopters.

1 3. Spin Master also has a line of remote-controlled toy vehicles that
2 have the ability to scale walls and ceilings, including the "Zero Gravity Micro Wall
3 Racer" (the "Zero Gravity Car"). The Zero Gravity Car was named 2008 RC Toy of the
4 Year. It is a copyright protected original car design, sold under Spin Master's U.S.
5 registered trademarks, the "ZERO GRAVITY." Danbar manufactured, sold, offered for
6 sale, marketed, distributed, reproduced, and/or displayed remote-controlled cars,
7 including the "No Gravity" (the "Infringing Car Product"), which is virtually identical in
8 design to the Zero Gravity. Danbar's activity in this regard constituted copyright
9 infringement.

10 4. Accordingly, Plaintiffs seek a preliminary and permanent injunction,
11 compensatory damages, treble damages for willful infringement, and attorneys' fees and
12 costs.

13 THE PARTIES

14 5. Plaintiff Silverlit Toys Manufactory Ltd. is a Hong Kong limited liability
15 company located at 1701-1703 World Trade Center, Gloucester Road, Causeway Bay,
16 Hong Kong. Silverlit Toys Manufactory Ltd. develops, owns, and manufactures various
17 toy products, including RC (remote controlled) toy helicopters.

18 6. Plaintiff Spin Master Ltd. is a Canadian corporation with its principal place
19 of business at 450 Front Street West, Toronto, ON Canada. Spin Master is the exclusive
20 North American distributor of Silverlit products, which it markets under the federally
21 registered Air Hogs brand.

22 7. On information and belief, Defendant Danbar is a company established
23 under the laws of the United Kingdom and has its principal place of business located at
24 Unit 2 A1 (M) Business Centre, Dixons Hill Road, Welham Green, Hertfordshire. AL9
25 7JE.

26 8. On information and belief, Defendant Danbar Far East is a company
27 established under the laws of Hong Kong and has its principal place of business located
28 at Room 1906, 19/F., 2A Sai Yeung Choi South Street, Mongkok, Kowloon, Hong Kong.

JURISDICTION AND VENUE

1
2 9. This action arises under the Patent Laws of the United States, Title 35 of the
3 United States Code, under §§ 1114(1) and 1125(a) of the Trademark Act of July 5, 1946,
4 as amended, commonly known as the Lanham Act, 15 U.S.C. § 1051, *et seq.*; Cal. Bus.
5 & Prof. Code § 17200, *et seq.*; the common law of the State of California, and the
6 Copyright Act of 1976, Title 17 of the United States Code.

7 10. This Court has subject matter jurisdiction over the claims in this Complaint
8 pursuant to 15 U.S.C. § 1121; 28 U.S.C. §§ 1331 and 1338. This Court has supplemental
9 jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

10 11. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b) and § 1400
11 (a). In addition, the acts constituting the state law violations alleged herein occurred
12 within this judicial district.

13 12. This Court has personal jurisdiction over Danbar Far East because, on
14 information and belief, Danbar Far East regularly engages in business and derives
15 substantial revenue from goods sold and used in California. On information and belief,
16 Danbar Far East has exported, distributed, sold and marketed the Infringing Products to
17 retail stores throughout the United States, including Radio Shack retail stores located
18 within this judicial district. Attached hereto as **Exhibit A** is a true and correct copy of a
19 receipt indicating that the “Nano Combat Ground Assault” and the “Nano Combat Air to
20 Air” were offered for sale and sold in Los Angeles County.

21 13. In addition, Danbar distributes, offers to sell, sells, and markets the
22 Infringing Products via the Internet at its website, www.danbartoys.com, thereby placing
23 the Infringing Products into the stream of commerce intending that the Infringing
24 Products would be purchased by consumers with access to the Internet, including
25 California citizens residing in this judicial district. Attached hereto as **Exhibit B** is a true
26 and correct copy of a receipt indicating that the “Nano Copter” was offered for sale and
27 sold in Los Angeles County through Defendant’s website. Danbar has also sold, offered
28 for sale, marketed, reproduced, and/or displayed the Infringing Car Product via the

1 Internet at its website, www.danbartoys.com, thereby placing the Infringing Car Product
2 into the stream of commerce intending that the Infringing Car Product would be
3 purchased by consumers with access to the Internet, including California citizens residing
4 in this judicial district. Attached hereto as **Exhibit C** is a true and correct copy of a
5 website printout indicating that the “Infringing Car Product” was offered for sale through
6 Danbar’s website.

7 **PLAINTIFFS’ POPULAR AIR HOGS HAVOC HELI TOY HELICOPTER**

8 14. For over thirty years, Silverlit has been engaged in the business of
9 designing, manufacturing, developing, and marketing toy products for children of all
10 ages, including flying toys, such as remote control toy helicopters, track racing systems,
11 robot toys, and water toys. These products have been marketed, distributed, offered for
12 sale and sold throughout the world, including the United States and California, and have
13 garnered numerous awards and recognition throughout the years.

14 15. Spin Master is also a recognized leader in the RC market. Spin Master is
15 one of the top ten toy companies in the world and is the number one fastest growing toy
16 company in North America. Spin Master is the exclusive North American distributor of
17 Silverlit’s products. Spin Master distributes Silverlit’s toy helicopters under its well
18 known and federally registered Air Hogs brand.

19 16. Some of Plaintiffs’ most successful product lines include the Air Hogs
20 Havoc Heli Helicopter; Air Hogs Havoc Heli Laser Battle Helicopters; Air Hogs Apache
21 Havoc Helicopter; Air Hogs Havoc Heli Laser Battle - Havoc vs. Yellow Stinger; and
22 Air Hogs Havoc Stingers (collectively, the “Havoc Heli”). The Havoc Heli has received
23 numerous awards, including being named the 2007 RC Toy of the Year. In addition, the
24 Havoc Heli has been featured on popular television programs such as Good Morning
25 America and Live with Regis and Kelly. The Havoc Heli, sold and marketed as the
26 “PicooZ” in other parts of the world such as Europe and Asia, also received recognition
27 in the Guinness Book of World Records as the smallest radio controlled model
28 helicopter.

SPIN MASTER'S TRADEMARKS

1
2 17. Since at least as early as 1998, the Air Hogs brand has been used by Spin
3 Master in interstate commerce in the United States under the trademarks "Air Hogs" and
4 "Air Hogs" and design in connection with the sale of toy airplanes, helicopters, cars,
5 trucks, vehicles, aircraft, watercraft, and hovercraft.

6 18. Recognizing the inherent distinctiveness in these trademarks, and Spin
7 Master's exclusive rights therein, the United States Patent Office registered on its
8 Principal Register, U.S. Trademark Registration Nos. 2,723,271, 2,447,370, and
9 2,986,817. Copies of these valid and subsisting registrations are attached hereto as
10 **Exhibits D through F**. The federal registration rights, state law rights and common law
11 rights of Spin Master in the Air Hogs trademarks are collectively referred to as the "Air
12 Hogs Trademarks."

13 19. The Air Hogs logo, as depicted in U.S. Trademark Registration No.
14 2,986,817, comprises an inherently distinctive design with two words, "Air Hogs," in
15 stylized capital letters, in a slightly slanted, stacked format, with wings emerging from
16 the left and right of the first word.

17 20. The Air Hogs Trademarks are prominently displayed on the packaging of
18 Spin Master's toy products, on its website at www.spinmaster.com, on a variety of
19 advertising media, and on television commercials. The Air Hogs logo displayed on the
20 packaging for the Havoc Heli is depicted below:



1 21. As a result of substantial sales and extensive advertising and promotion over
2 the last decade, including millions of dollars spent on advertising the Air Hogs Havoc
3 Heli, the Air Hogs Trademarks have become widely and favorably known as identifying
4 toy products originating from, sponsored by or associated with Spin Master. The
5 relevant consuming public and trade have come to associate the Air Hogs Trademarks
6 with Spin Master as a source of innovative and high quality remote controlled toys.

7 22. Accordingly, the Air Hogs Trademarks are an extremely valuable asset to
8 Spin Master.

9 **SILVERLIT'S PATENTS**

10 23. United States Patent No. 7,467,984 B2 (“’984 Patent”) issued on December
11 28, 2008, to Alexander Jozef Magdalena Van de Rostyne. A copy of the ‘984 Patent,
12 entitled “Helicopter,” is attached hereto as **Exhibit G**.

13 24. Silverlit is the owner by assignment of the ‘984 Patent. The ‘984 Patent
14 discloses and claims a toy helicopter that has a main rotor with propeller blades which is
15 driven by a rotor shaft, and an auxiliary rotor mounted on the rotor shaft. The main rotor
16 and the auxiliary rotor are connected to each other by a mechanical link. The ‘984 Patent
17 was duly and legally issued and is currently valid and enforceable. Silverlit has the right
18 to sue and recover for past, present and future infringements of the ‘984 Patent, and to
19 obtain the relief sought herein.

20 25. United States Patent No. 7,425,168 B2 (“’168 Patent”) issued on September
21 16, 2008, to Alexander Jozef Magdalena Van de Rostyne. A copy of the ‘168 Patent,
22 entitled “Toy Helicopter,” is attached hereto as **Exhibit H**.

23 26. Silverlit is the owner by assignment of the ‘168 Patent. The ‘168 Patent
24 discloses and claims a toy helicopter that has a main rotor with propeller blades which is
25 driven by a rotor shaft, and an auxiliary rotor mounted on the rotor shaft. The main rotor
26 and the auxiliary rotor are connected to each other by a mechanical link. The ‘168 Patent
27 was duly and legally issued and is currently valid and enforceable. Silverlit has the right
28 to sue and recover for past, present and future infringements of the ‘168 Patent, and to

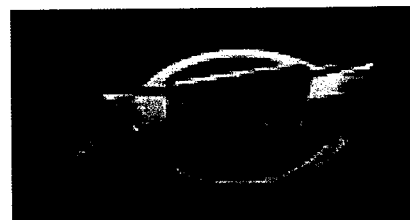
1 obtain the relief sought herein. The '984 and '168 Patents are collectively referred to as
2 the Silverlit Patents.

3 **DEFENDANTS' WRONGFUL ACTS RELATING TO THE HAVOC HELI**

4 27. Defendants are using logos in connection with their remote controlled toy
5 products that are confusingly similar to Spin Master's Trademarks.

6 28. As shown on **Exhibit I** attached hereto, Defendants are using confusingly
7 similar logos for their products, including the "Nano Copter," "Nano Copter 3D",
8 "Sprinter Copter," "Sprinter Copter 3D", "Nano Combat," and "Apache Copter"
9 (collectively, the "Infringing Logos"). The Infringing Logos each contain two words in
10 capital letters with a stylized font that is similar to the Air Hogs logo. Like the Air Hogs
11 logo, the words in the Infringing Logos are slightly slanted, with one word stacked above
12 the other, and the first word has wings emerging from its left and right. (*See, e.g.*
13 **Exhibit D**).

14 The Infringing Logos are depicted below:



27
28

1 29. On information and belief, the packaging of the Infringing Products
2 prominently features one of more of the Infringing Logos. Attached hereto as **Exhibit J**
3 is a true and correct copy of a photo of the packaging for Defendants' "Nano Copter."

4 30. The instruction manuals accompanying the Infringing Products also depict
5 one or more of the Infringing Logos. Attached hereto as **Exhibit K** is a true and correct
6 copy of the Instruction Manual that accompanies Defendants' "Nano Combat Ground
7 Assault" product. Attached hereto as **Exhibit L** is a true and correct copy of the
8 Instruction Manual that accompanies Plaintiffs' Havoc Heli.

9 31. Defendants' use of the Infringing Logos is likely to cause consumer
10 confusion or mistake, or to deceive the purchasing public and trade into believing that
11 Defendant or its products are affiliated with, related to, sponsored by or connected with
12 Plaintiffs. Consumer confusion is inevitable because Defendants are engaged in the same
13 business as Plaintiffs and sell similar RC toys, including RC toy helicopters.

14 32. On information and belief, Danbar knew about Plaintiffs' toy products and
15 the Air Hogs Trademarks. Spin Master sent two cease and desist letters to Danbar
16 in December 2008 and January 2009 demanding that Danbar immediately stop using the
17 Infringing Logos. Danbar ignored these letters and continued to use the Infringing Logos
18 in connection with its products in a deliberate and calculated ploy to trade off the
19 goodwill associated with the Spin Master Trademarks.

20 33. Defendants' use of the Infringing Logos is causing Plaintiffs irreparable
21 harm.

22 34. Defendants' Infringing Products also embody one or more of the inventions
23 protected by the Silverlit Patents described above. Attached hereto as **Exhibits M and N**
24 are true and correct copies of photographs of the "Nano Combat Ground Assault" and
25 the "Nano Combat Air to Air," respectively.

26 35. On information and belief, Defendants knowingly and willfully embarked on
27 a course of patent infringement by making, manufacturing, using, importing, selling
28

1 and/or offering for sale in interstate commerce the Infringing Products to consumers in
2 California and elsewhere.

3 **SPIN MASTER'S POPULAR ZERO GRAVITY CAR**

4 36. Another category of toys widely associated with Spin Master is a line of
5 remote-controlled toy vehicles that have the ability to scale walls and ceilings, known as
6 the "Zero Gravity." A true and correct copy of photographs of the Zero Gravity is
7 attached hereto as **Exhibit O** and incorporated by reference herein.

8 37. Spin Master obtained and registered a United States copyright, Registration
9 No. VA 1-645-947, entitled "Toy Car--Sports" (the "Car Copyright") for its original toy
10 car design. A true and correct copy of Spin Master's certificate of registration for the Car
11 Copyright and deposit is attached hereto as **Exhibit P** and incorporated by reference
12 herein.

13 **DANBAR'S WRONGFUL ACTS RELATING TO**
14 **THE ZERO GRAVITY CAR**

15 38. Danbar has sold, offered for sale, marketed, distributed
16 reproduced, and/or displayed knock-off car products including the "No Gravity" (the
17 "Infringing Car Product") that are virtually identical to Spin Master's copyright protected
18 Zero Gravity car.

19 39. In addition, Danbar used Spin Master's Zero Gravity trademark in
20 connection with the sale, and offer for sale of the Infringing Car Product.

21 40. The Infringing Car Product is a copy of, and bears a shape, style, and
22 overall design that is substantially similar to the copyrighted Zero Gravity.

23 41. Danbar did not receive any license, authorization, permission or consent
24 to use the Car Copyright, or to make, use, advertise, market, promote, display, reproduce,
25 sell and/or offer for sale in interstate commerce the Infringing Car Product.

26 42. Danbar was aware that the Zero Gravity was protected by the Car
27 Copyright because Plaintiffs sent Danbar a cease and desist letter on December 19, 2008
28 notifying Danbar of, among other things, its infringement of the Car Copyright. A true

1 and correct copy of Plaintiffs' December 19, 2008 letter, without the exhibits, is attached
2 hereto as **Exhibit Q** and incorporated by reference herein.

3 43. Despite this awareness, Danbar knowingly, willfully and with conscious
4 disregard for Spin Master's intellectual property rights, continued to sell the Infringing
5 Car Product after receiving Plaintiffs' cease and desist letter. A true and correct copy of
6 Plaintiffs' January 14, 2009 letter, is attached hereto as **Exhibit R** and incorporated by
7 reference herein.

8 **FIRST CLAIM FOR RELIEF**

9 **(Patent Infringement under 35 U.S.C. § 271, et seq. - U.S. Patent No. 7,467,984)**

10 44. Plaintiffs repeat and re-allege each and every allegation contained in
11 paragraphs 1-43 of this Complaint as if fully set forth herein.

12 45. Upon information and belief, Defendants had knowledge of the '984 Patent
13 before the filing of the Complaint.

14 46. Upon information and belief, Defendants had notice of infringement of the
15 '984 Patent before the filing of the Complaint.

16 47. Upon information and belief, Defendants have directly infringed, induced
17 infringement of, and/or contributed to infringement of one or more claims of the '984
18 Patent, both literally and under the doctrine of equivalents, by making, using, offering to
19 sell, selling, and/or importing the Infringing Products within the United States.

20 48. Upon information and belief, the infringement of the '984 Patent by
21 Defendants has been deliberate and willful.

22 49. Upon information and belief, infringement of the '984 Patent by Defendants
23 is ongoing and will continue unless Defendants are enjoined from further infringement by
24 the Court.

25 50. As a result of Defendants' infringement, Plaintiffs are entitled to injunctive
26 relief, damages, costs, interest and attorneys' fees pursuant to 35 U.S.C. §§ 283, 284 and
27 285.

SECOND CLAIM FOR RELIEF

(Patent Infringement under 35 U.S.C. § 271, et seq. - U.S. Patent No. 7,425,168)

51. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1-50 of this Complaint as if fully set forth herein.

52. Upon information and belief, Defendants had knowledge of the '168 Patent before the filing of the Complaint.

53. Upon information and belief, the Defendants had notice of infringement of the '168 Patent before the filing of the Complaint.

54. Upon information and belief, Defendants have directly infringed, induced infringement of, and/or contributed to infringement of one or more claims of the '168 Patent, both literally and under the doctrine of equivalents, by making, using, offering to sell, selling, and/or importing the Infringing Products within the United States.

55. Upon information and belief, the infringement of the '168 Patent by Defendants has been deliberate and willful.

56. Upon information and belief, infringement of the '168 Patent by Defendants is ongoing and will continue unless Defendants are enjoined from further infringement by the Court.

57. As a result of Defendants' infringement, Plaintiffs are entitled to injunctive relief, damages, costs, interest and attorneys' fees pursuant to 35 U.S.C. §§ 283, 284 and 285.

THIRD CLAIM FOR RELIEF

(Trademark Infringement under 15 U.S.C. § 1114(1))

58. Plaintiffs repeat and reallege the allegations contained in the foregoing paragraphs 1 through 57, as if fully set forth herein.

59. The Air Hogs Trademarks are inherently distinctive or otherwise have acquired distinctiveness as a result of long-time use, advertising and promotion.

FIFTH CLAIM FOR RELIEF

(Unfair Competition Under Cal. Bus. & Prof. Code § 17200, et seq.)

68. Plaintiffs repeat and reallege the allegations contained in the foregoing paragraphs 1 through 67, as if fully set forth herein.

69. Defendants' conduct as alleged herein is unlawful, unfair and fraudulent and has caused actual injury to Plaintiffs in violation of California Business and Professions Code § 17200, et seq.

70. Plaintiffs have created valuable goodwill in the Air Hogs Trademarks and Defendant's use of the Infringing Logos is likely to and will permit Defendants to trade upon the goodwill of the Air Hogs Trademarks and to confuse and deceive the public regarding a connection or affiliation between Plaintiffs and Defendants. This conduct results in damage to Plaintiffs' goodwill and reputation and unjust enrichment of Defendants.

71. Defendants' conduct has injured Plaintiffs and, unless enjoined, will continue to cause great, immediate, and irreparable injury to Plaintiffs.

72. Plaintiffs are entitled to injunctive relief and an order for restitutionary disgorgement of all of Defendants' ill-gotten gains pursuant to California Business and Professions Code § 17203.

SIXTH CLAIM FOR RELIEF

(Trademark Infringement Under California Common Law)

73. Plaintiffs repeat and reallege the allegations contained in the foregoing paragraphs 1 through 72, as if fully set forth herein.

74. Defendants' conduct as alleged herein has violated and infringed Spin Master's common law rights in the Air Hogs Trademarks.

75. Defendants' trademark infringement is intentional and willful.

76. Defendants' trademark infringement has damaged Plaintiffs, and unless enjoined, will continue to irreparably damage the reputation and goodwill associated with

1 Spin Master's family of Air Hogs Trademarks. Plaintiffs have no adequate remedy at
2 law.

3 **SEVENTH CLAIM FOR RELIEF**

4 **(Copyright Infringement -- Helicopter Copyright)**

5 77. Plaintiffs repeat and reallege the allegations contained in the foregoing
6 paragraphs 1 through 76, as if fully set forth herein.

7 78. Spin Master is, and at all relevant times has been, the sole entity authorized
8 to control and administer in the United States the Car Copyright.

9 79. Danbar has never sought, and Spin Master has never granted, Danbar
10 any license to make or market unauthorized and unlicensed copies of the Zero Gravity or
11 any toy cars covered by the Car Copyright.

12 80. Danbar infringed Spin Master's exclusive rights embodied in the Car
13 Copyright by making, importing, marketing, advertising, distributing, reproducing,
14 displaying, offering to sell and/or selling into the United States remote controlled cars
15 that infringe the Car Copyright.

16 81. Danbar's unauthorized acts constituted willful infringement of Spin
17 Master's exclusive rights under the Car Copyright.

18 82. Danbar unlawfully derived income and profits from its infringing acts and
19 Spin Master sustained injury, loss and damage therefrom.

20 83. As a direct and proximate result of Danbar's acts of copyright
21 infringement, Spin Master is entitled to damages and Danbar's profits pursuant to 17
22 U.S.C. § 504(b), or alternatively, to the maximum statutory damages in the amount of
23 \$150,000 with respect to each infringed copyright pursuant to 17 U.S.C. § 504(c).

24 84. Spin Master is additionally entitled to its attorneys' fees pursuant to 17
25 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

A. Grant a preliminary and thereafter a permanent injunction restraining and enjoining Defendants and all those in privity, concert or participation with Defendants from:

- (i) imitating, copying, duplicating or otherwise making any use of the Air Hogs Trademarks or any mark confusingly similar to the Air Hogs Trademarks;
- (ii) manufacturing, producing, distributing, circulating, selling or otherwise disposing of any printed material which bears any copy or colorable imitation of the Air Hogs Trademarks;
- (iii) using any unauthorized copy or colorable imitation of the Air Hogs Trademarks in such fashion as is likely to falsely relate or connect Defendants with Plaintiffs;
- (iv) using any false designation of origin or false description which can or is likely to lead the trade or public, or individual members thereof, to mistakenly believe that any service or product advertised, promoted, offered or sold by Defendants is sponsored, endorsed, connected with, approved or authorized by Plaintiffs;
- (v) engaging in any other activity constituting unfair competition or infringement of the Air Hogs Trademark or Plaintiffs' rights in, or to use, or to exploit the same;
- (vi) making, using, selling, offering for sale, importing into the United States, marketing, or distributing any products that embody one or more claims of the '984 or '168 Patents;
- (vii) infringing the '984 or '168 Patents;
- (viii) manufacturing, reproducing, distributing, displaying, or otherwise disposing of any product which bares any copy or colorable imitation

1 to the design of the Zero Gravity car as depicted in the Car Copyright;
2 and

3 (viii) assisting, aiding or abetting another person or business entity in
4 engaging or performing any of the activities enumerated in
5 subparagraphs (i) through (viii) above.

6 B. Find that Defendants have infringed the Air Hogs Trademarks in violation of
7 federal law and have damaged Plaintiffs' goodwill by the acts complained of herein.

8 C. Find that Defendants have unfairly competed with Plaintiffs and/or damaged
9 Plaintiffs by the acts complained of herein in violation of federal law.

10 D. Find that Defendants have unfairly competed with Plaintiffs by the acts
11 complained of herein in violation of Cal. Bus. & Prof. Code § 17200, *et seq.*

12 E. Find that Defendants have infringed the Air Hogs Trademarks in violation
13 of the common law of trademark infringement of the State of California and has damaged
14 Plaintiffs' goodwill by the acts complained of herein.

15 F. Find Defendants liable and award to Plaintiffs monetary damages in an
16 amount to be to be determined at trial, including all of Defendants' profits or gains of any
17 kind resulting from its willful infringement, said amount to be trebled, and exemplary
18 damages in view of the intentional nature of the acts complained of herein, pursuant to 15
19 U.S.C. § 1117.

20 G. Award Plaintiffs damages in the form of lost profits, or in the alternative, not
21 less than a reasonable royalty attributable to Defendants' infringement of the Silverlit
22 Patents, and that such award be increased up to three times pursuant to 35 U.S.C. § 284;

23 H. Find this case exceptional pursuant to 35 U.S.C. § 285 and awarding
24 Plaintiffs attorneys' fees incurred in this case.

25 I. Ordering Defendants to disgorge their profits pursuant to Cal. Bus. & Prof.
26 Code § 17200, *et seq.*

27 J. Find that Defendants have infringed Spin Master's Car Copyright;

28 K. Award Spin Master at its election, either (i) actual damages and the

1 profits derived by Danbar as a result of Danbar's infringement of the Car
2 Copyright or (ii) statutory damages in the maximum amount permitted under applicable
3 law with respect to the infringed Car Copyright pursuant to 17 U.S.C. § 504;

4 L. Award Spin Master its attorneys' fees pursuant to 17 U.S.C. § 505 as a result
5 of Danbar's willful copyright infringement;

6 M. Award Plaintiffs pre-judgment and post-judgment interest on any monetary
7 awards.

8 N. Award Plaintiffs such other and further relief as the Court may deem just,
9 proper and equitable under the circumstances.

10
11
12 DATED: September 22, 2009

GREENBERG TRAURIG, LLP
VALERIE W. HO
KAMRAN SALOUR

13
14 By: /s/ Valerie W. Ho
15 VALERIE W. HO
16 Attorneys for Plaintiffs and
17 Counterdefendants
18 Silverlit Toys Manufactory Ltd. and
19 Spin Master Ltd.
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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b), Fed. R. Civ. P., Plaintiffs Silverlit Toys Manufactory Ltd. and Spin Master Ltd. demand a trial by jury of any issue triable of right by a jury.

DATED: September 22, 2009

GREENBERG TRAURIG, LLP
VALERIE W. HO
KAMRAN SALOUR

By: /s/ Valerie W. Ho
VALERIE W. HO
Attorneys for Plaintiffs and
Counterdefendants
Silverlit Toys Manufactory Ltd. and
Spin Master Ltd.

EXHIBIT A

RADIO SHACK 01-3532
1128 N Labrea Avenue
Los Angeles, CA 90038-0000
(323) 464-4720

Order: **682096** 02/09/2009 02:02P Term #002

Helped By: 003 (J R)
Entered By: 003 (J R)

6000469 NANO COMBAT GROUND ASSAUL 1 19.97
6000449 NANO COMBAT AIR TO AIR 1 19.97

Subtotal 39.94
Tax 8.25% 3.30
Total 43.24

Credit Card 43.24

Change Due 0.00

Acct# xxxxxxxxxxxx1007 N
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Tran# 57212777
Auth# 640018 43.24
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EXHIBIT B

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From: **Danbar Toys Sales** (support@danbartoys.com)
 Sent: **Wed 2/11/09 12:17 PM**
 To: **Michael Secondo** (@hotmail.com)



Hello Michael Secondo,

Thank you for your order from Danbar Toys. Once your package ships we will send an email with a link to track your order. If you have any questions about your order please contact us at support@danbartoys.com or call us at +44 (0) 1 707 260 111 Monday - Friday, 8am - 5pm GMT.

Your order confirmation is below. Thank you again for your business.

Your Order #200000236 (placed on February 11, 2009)

<p>Billing Information:</p> <p style="text-align: center;">Michael Secondo</p> <p style="text-align: center;">Santa Monica, California, 90403 United States</p>	<p>Payment Method:</p> <p style="text-align: center;">Credit Card Type: VISA Credit Card Number: Expiration Date:</p>
<p>Shipping Information:</p> <p style="text-align: center;">Michael Secondo Greenberg Traurig 2450 Colorado Ave., Suite 400E Santa Monica, California, 90404 United States T: 310 586 7851</p>	<p>Shipping Method:</p> <p style="text-align: center;">Flat Rate - Fedex</p>

Item	Sku	Qty	Subtotal
Nano Combat - Replacement copter body	006002A	2	\$27.98
		Subtotal	\$27.98
		Shipping & Handling	\$6.95
		Grand Total	\$34.93

Thank you again,
Danbar Toys

EXHIBIT C



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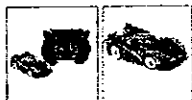


Exhibit C Page 21

Zero Gravity Car - English



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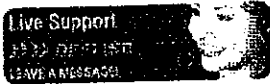
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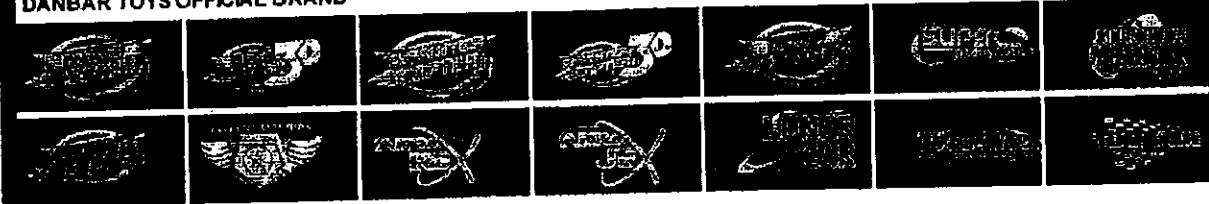


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Exhibit C Page 23

EXHIBIT D

Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38 and 50

Reg. No. 2,723,271

United States Patent and Trademark Office

Registered June 10, 2003

**TRADEMARK
PRINCIPAL REGISTER**

AIR HOGS

SPIN MASTER TOYS (PARTNERSHIP)
250 THE ESPLANADE, SUITE 400
ONTARIO M5A 1J2, CANADA

OWNER OF U.S. REG. NO. 2,447,370.

FOR: TOY AIRPLANES, CARS, TRUCKS, VEHICLES, AIRCRAFT, WATERCRAFT AND HOVERCRAFT, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "AIR", APART FROM THE MARK AS SHOWN.

SER. NO. 76-278,256, FILED 6-28-2001.

FIRST USE 4-17-1998; IN COMMERCE 4-17-1998.

GWEN STOKOLS, EXAMINING ATTORNEY

EXHIBIT E

Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38 and 50

Reg. No. 2,447,370

United States Patent and Trademark Office

Registered May 1, 2001

**TRADEMARK
PRINCIPAL REGISTER**

AIR HOGS

SPIN MASTER TOYS, LTD. (CANADA LIMITED
PARTNERSHIP)
250 THE ESPLANADE
FOURTH FLOOR
TORONTO, ONTARIO, CANADA M5A 1J2 , BY
ASSIGNMENT SEIGER MARKETING, INC. (CA-
NADA CORPORATION), DBA SPIN MASTER
TOYS TORONTO, M5A 1J2, CANADA

FIRST USE 4-15-1998; IN COMMERCE 4-15-1998.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "AIR", APART FROM THE MARK
AS SHOWN.

SER. NO. 75-635,488, FILED 2-1-1999.

FOR: MODEL AIRPLANES HAVING COMPRES-
SED AIR ENGINES, IN CLASS 28 (U.S. CLS. 22, 23, 38
AND 50).

KATHYRN WATERS-PEREZ, EXAMINING ATTOR-
NEY

EXHIBIT F

Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38 and 50

Reg. No. 2,986,817

United States Patent and Trademark Office

Registered Aug. 23, 2005

**TRADEMARK
PRINCIPAL REGISTER**



SPIN MASTER LTD. (CANADA CORPORATION)
450 FRONT STREET WEST
TORONTO, ONTARIO, CANADA M5V 1B6

OWNER OF U.S. REG. NOS. 2,447,370 AND
2,723,271.

FOR: TOY AIRPLANES, HELICOPTERS AND
MOTORCYCLES, IN CLASS 28 (U.S. CLS. 22, 23, 38
AND 50).

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "AIR", APART FROM THE MARK
AS SHOWN.

SER. NO. 76-531,521, FILED 7-18-2003.

FIRST USE 1-31-2003; IN COMMERCE 1-31-2003.

CAROLINE WEIMER, EXAMINING ATTORNEY

EXHIBIT G



US007467984B2

(12) **United States Patent**
Van de Rostyne

(10) **Patent No.:** US 7,467,984 B2
(45) **Date of Patent:** Dec. 23, 2008

(54) **HELICOPTER**

(75) **Inventor:** Alexander Jozef Magdalena Van de Rostyne, Bomem (BE)

(73) **Assignee:** Silverlit Toys Manufactory Ltd. (HK)

(*) **Notice:** Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

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(21) **Appl. No.:** 11/842,719

(22) **Filed:** Aug. 21, 2007

(65) **Prior Publication Data**

US 2007/0272794 A1 Nov. 29, 2007

Related U.S. Application Data

(60) Continuation of application No. 11/754,752, filed on Jun. 14, 2007, which is a division of application No. 11/465,781, filed on Aug. 18, 2006, which is a continuation-in-part of application No. 11/462,177, filed on Aug. 3, 2006.

(30) **Foreign Application Priority Data**

Jan. 19, 2006 (BE) 2006/0043

(51) **Int. Cl.**
A63H 27/127 (2006.01)
B64C 11/00 (2006.01)
B64C 27/54 (2006.01)

(52) **U.S. Cl.** 446/36; 244/17.13

(58) **Field of Classification Search** 446/34, 446/36, 37, 38, 230, 232, 236, 238; 244/7 A, 244/7 B, 17.11, 17.13, 17.19, 17.21, 17.23, 244/17.25, 35 R, 153 A; 416/223 R, 243, 416/DIG. 2

See application file for complete search history.

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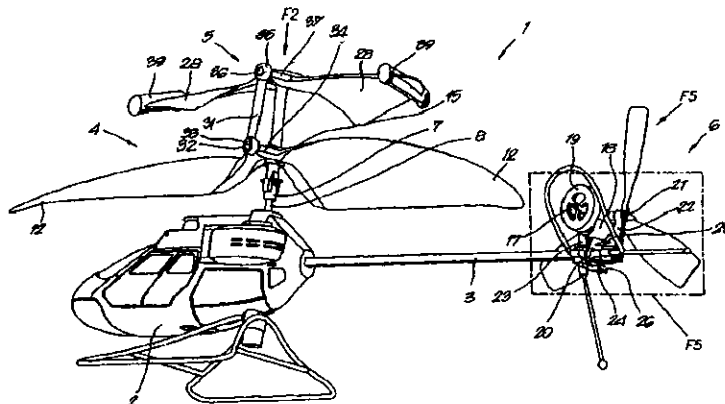
(Continued)

Primary Examiner Eugene Kim
Assistant Examiner—Alyssa M Hylinski
(74) *Attorney, Agent, or Firm*—Greenberg Traurig, LLP

(57) **ABSTRACT**

A helicopter has a main rotor with propeller blades which is driven by a rotor shaft and which is hinge-mounted to this rotor shaft. The angle between the surface of rotation of the main rotor and the rotor shaft may vary. A swinging manner on an oscillatory shaft is essentially transverse to the rotor shaft of the main rotor and is directed transversally to the longitudinal axis of the vanes. The main rotor and the auxiliary rotor are connected to each other by a mechanical link. The swinging motions of the auxiliary rotor controls the angle of incidence (A) of at least one of the propeller blades of the main rotor. There are wings from the body and a stabilizer at the tail.

20 Claims, 18 Drawing Sheets



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Exhibit

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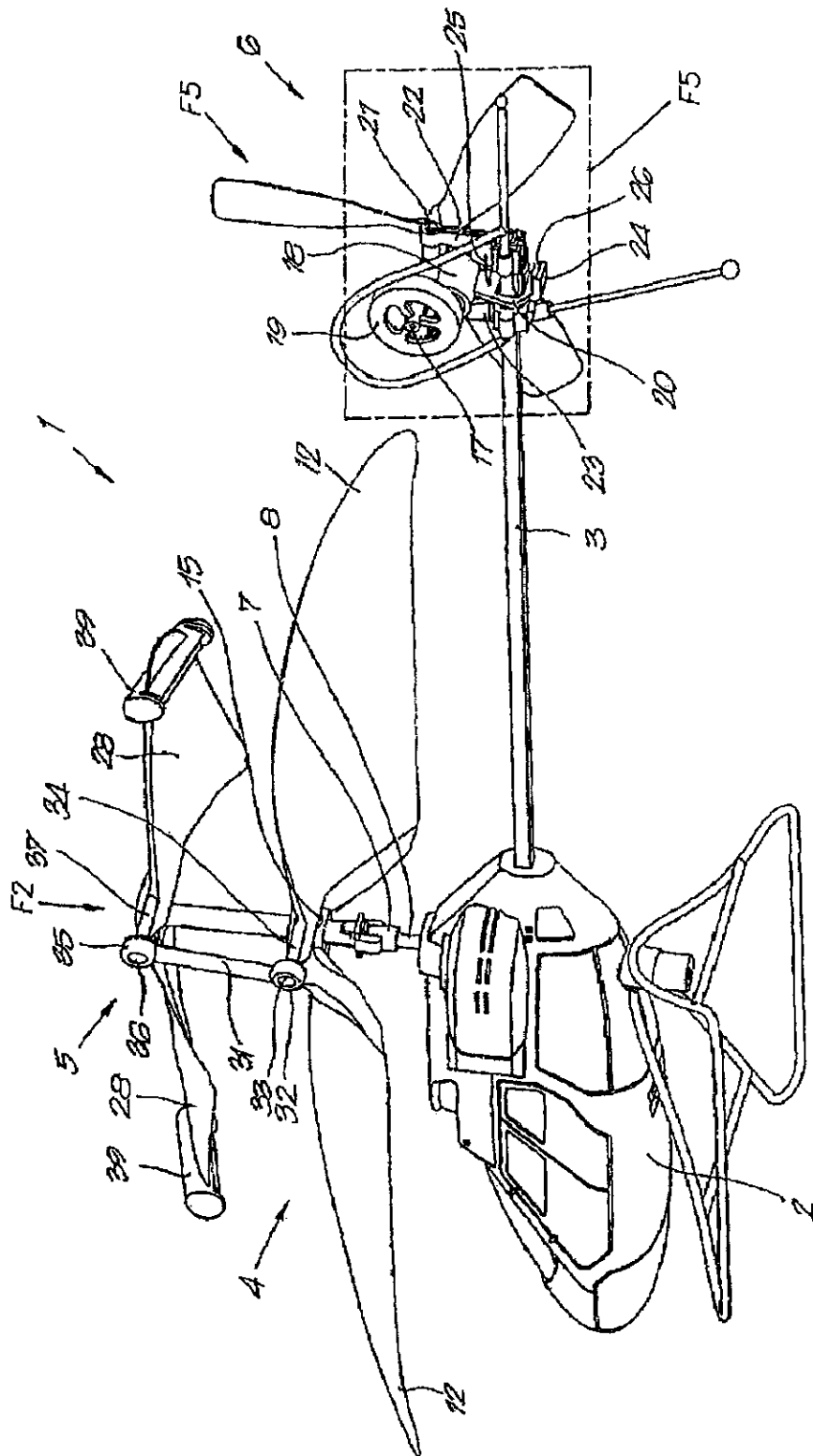


FIG. 1

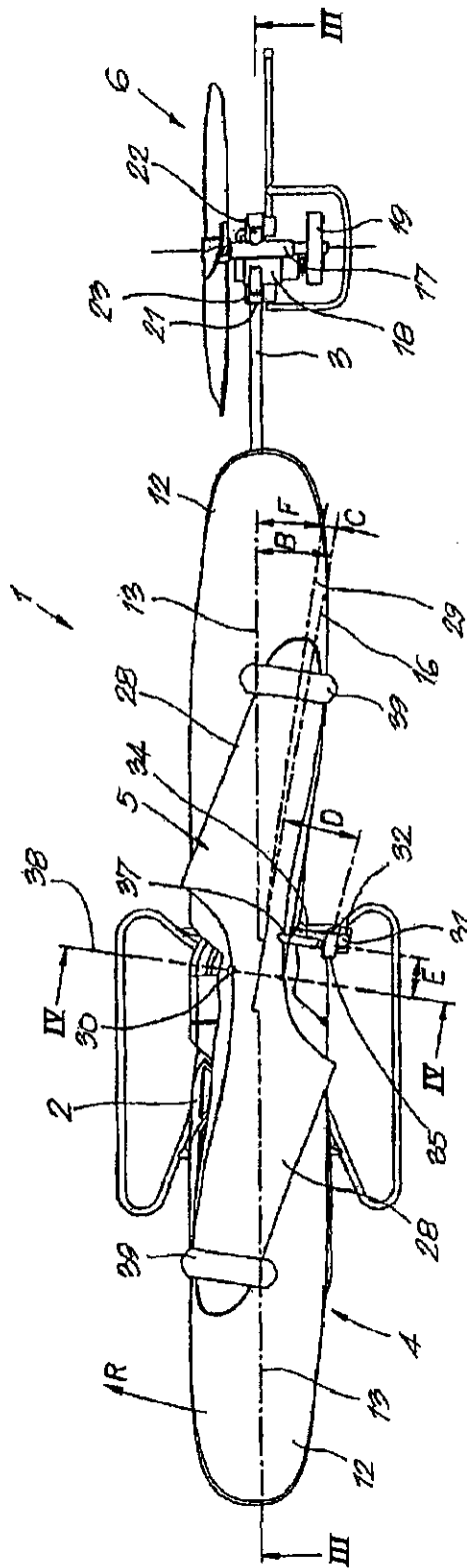


FIG. 2

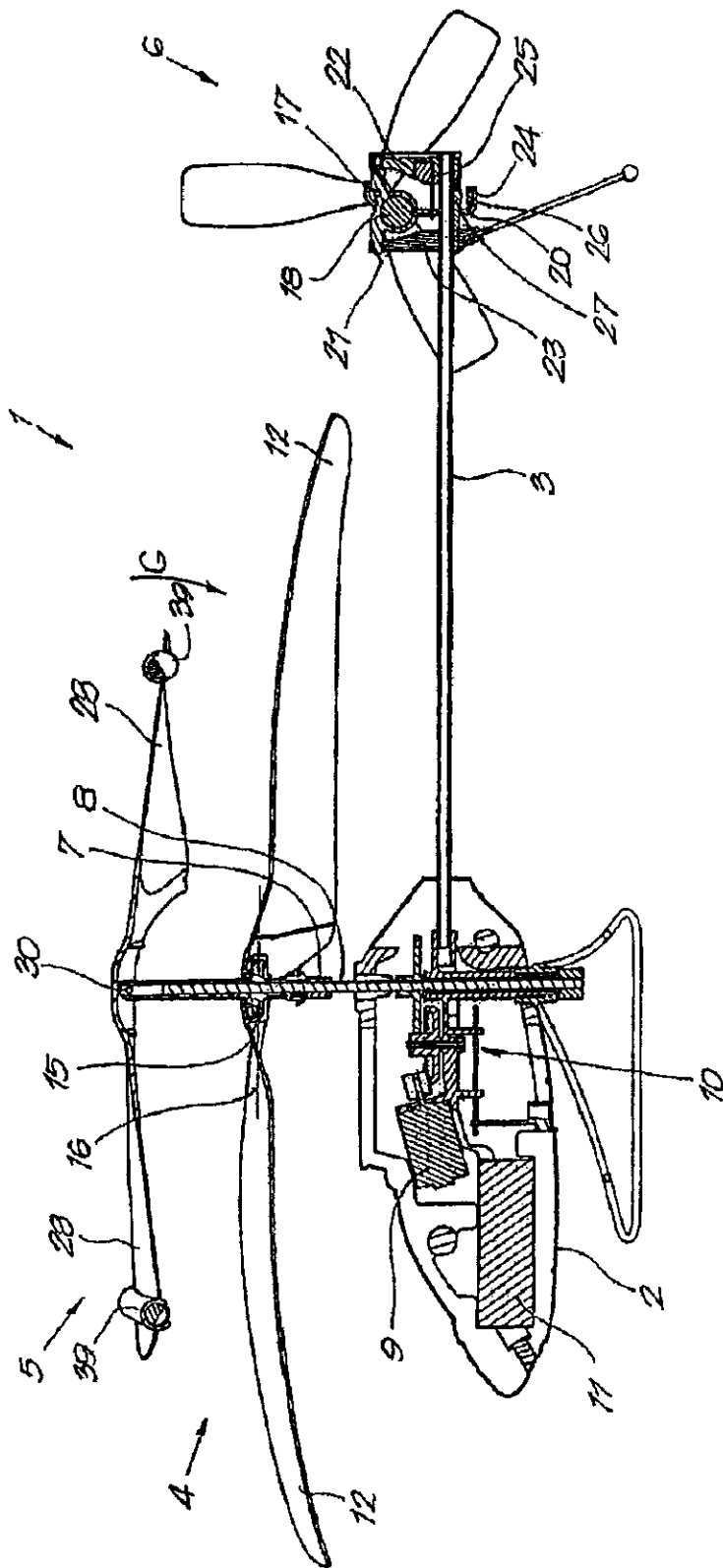


FIG. 3

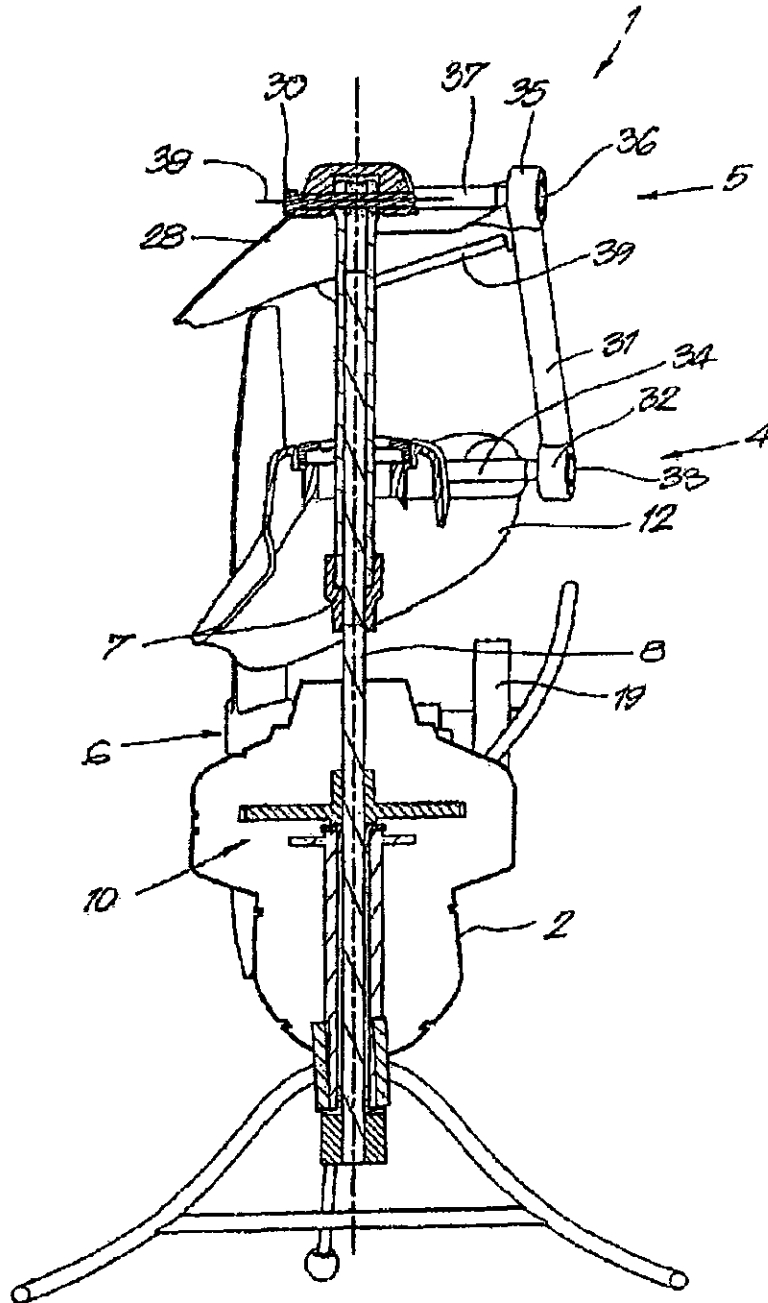


FIG. 4

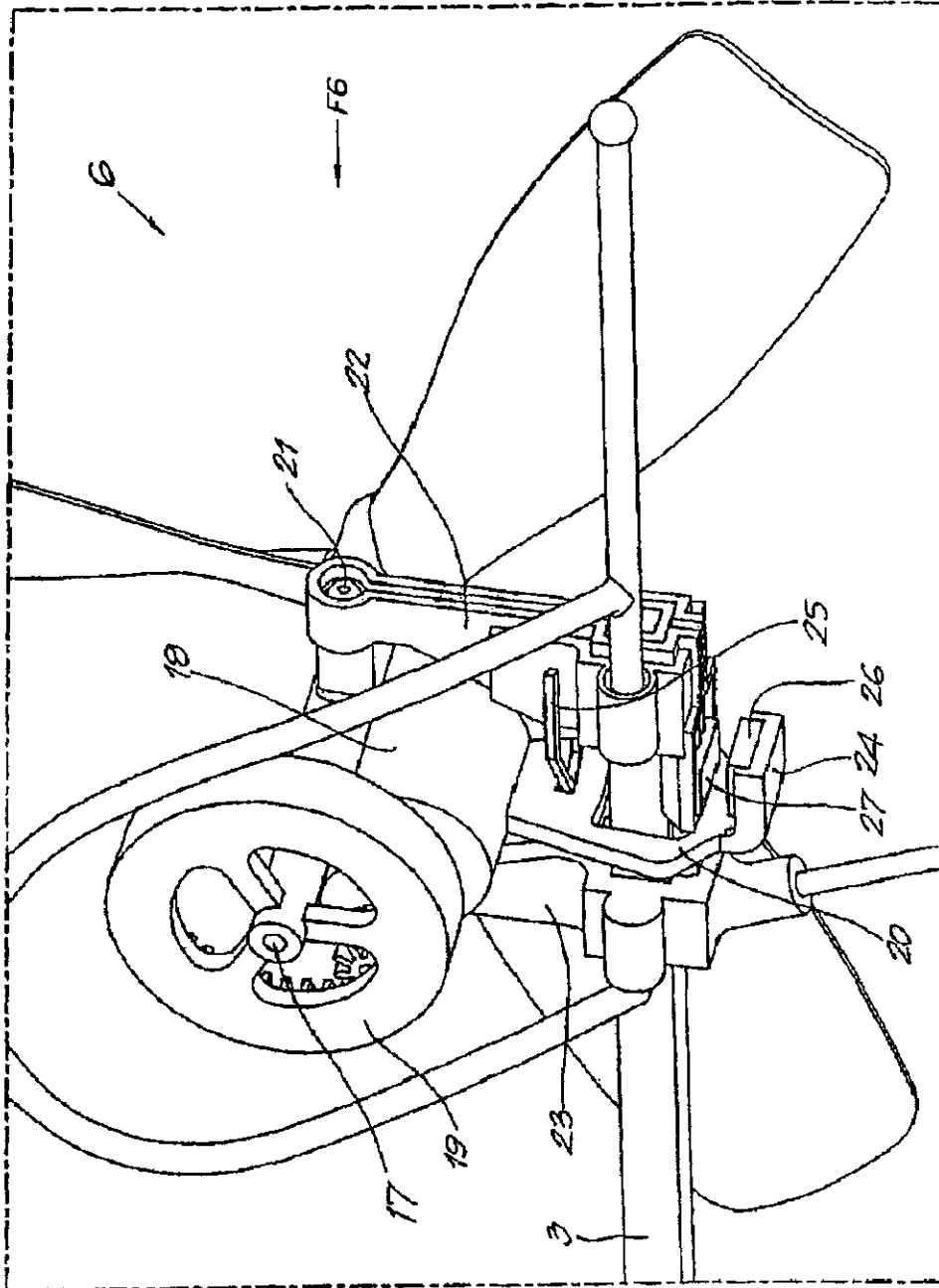


FIG. 5

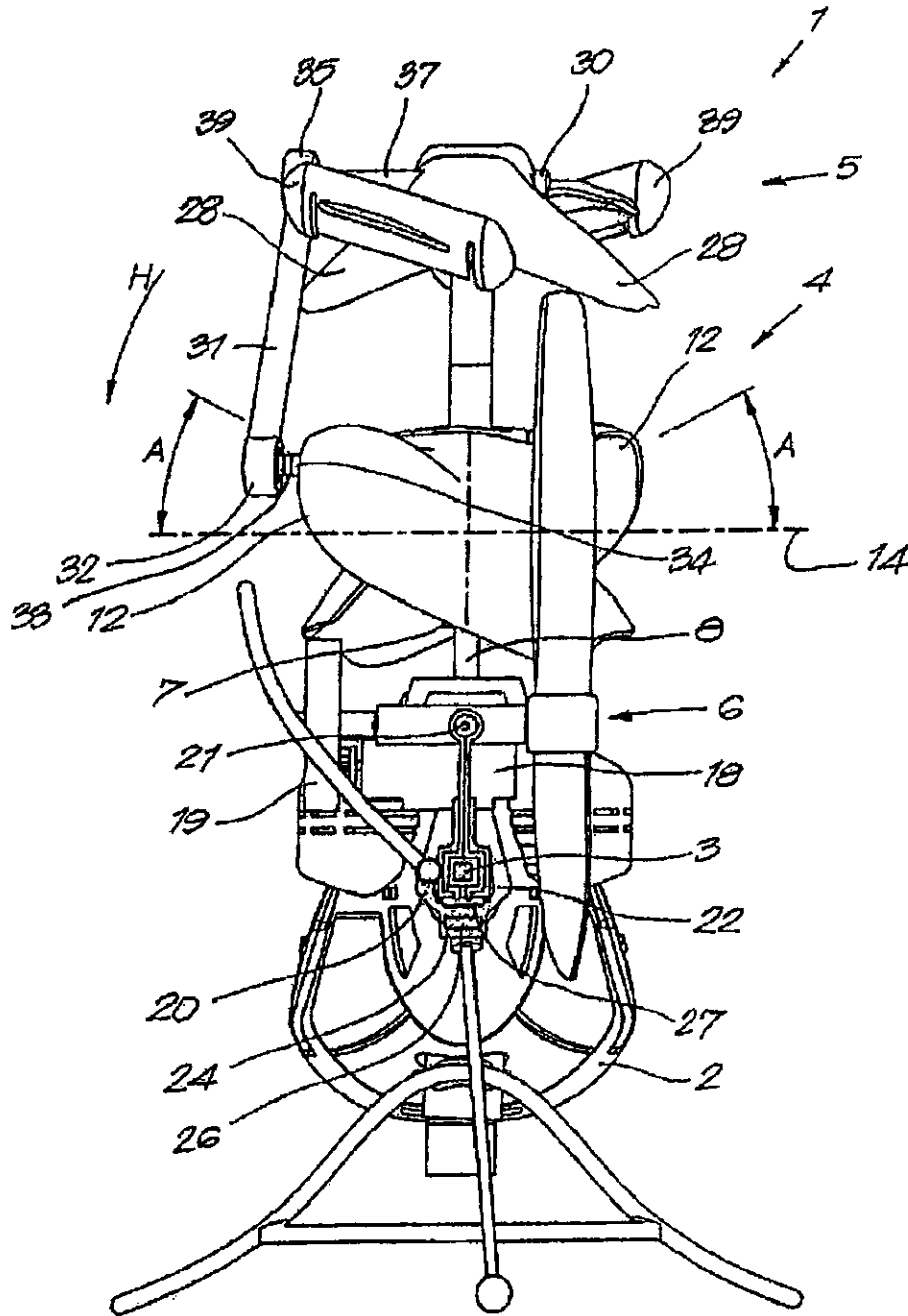


FIG. 6

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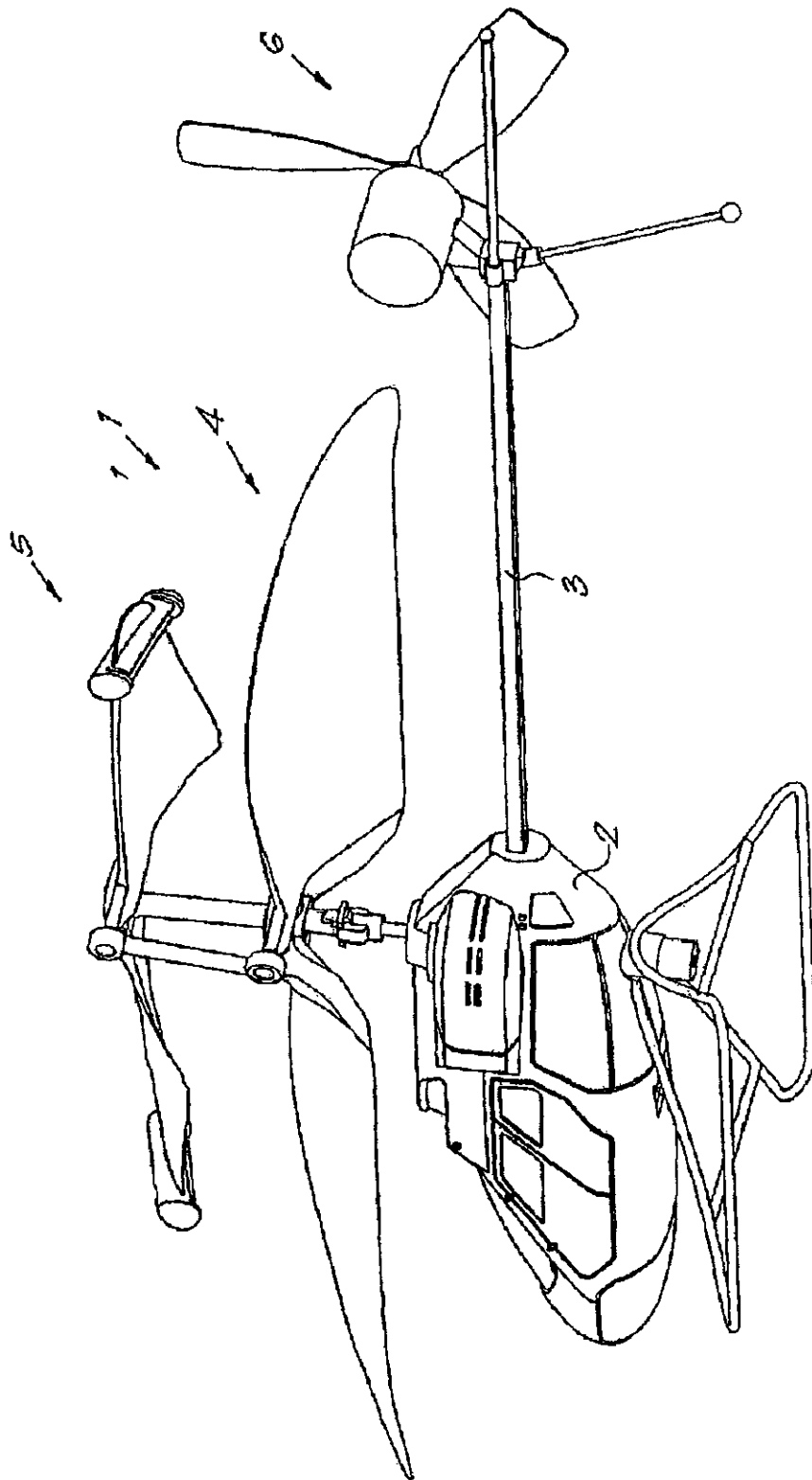


FIG. 7

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FIG. 8

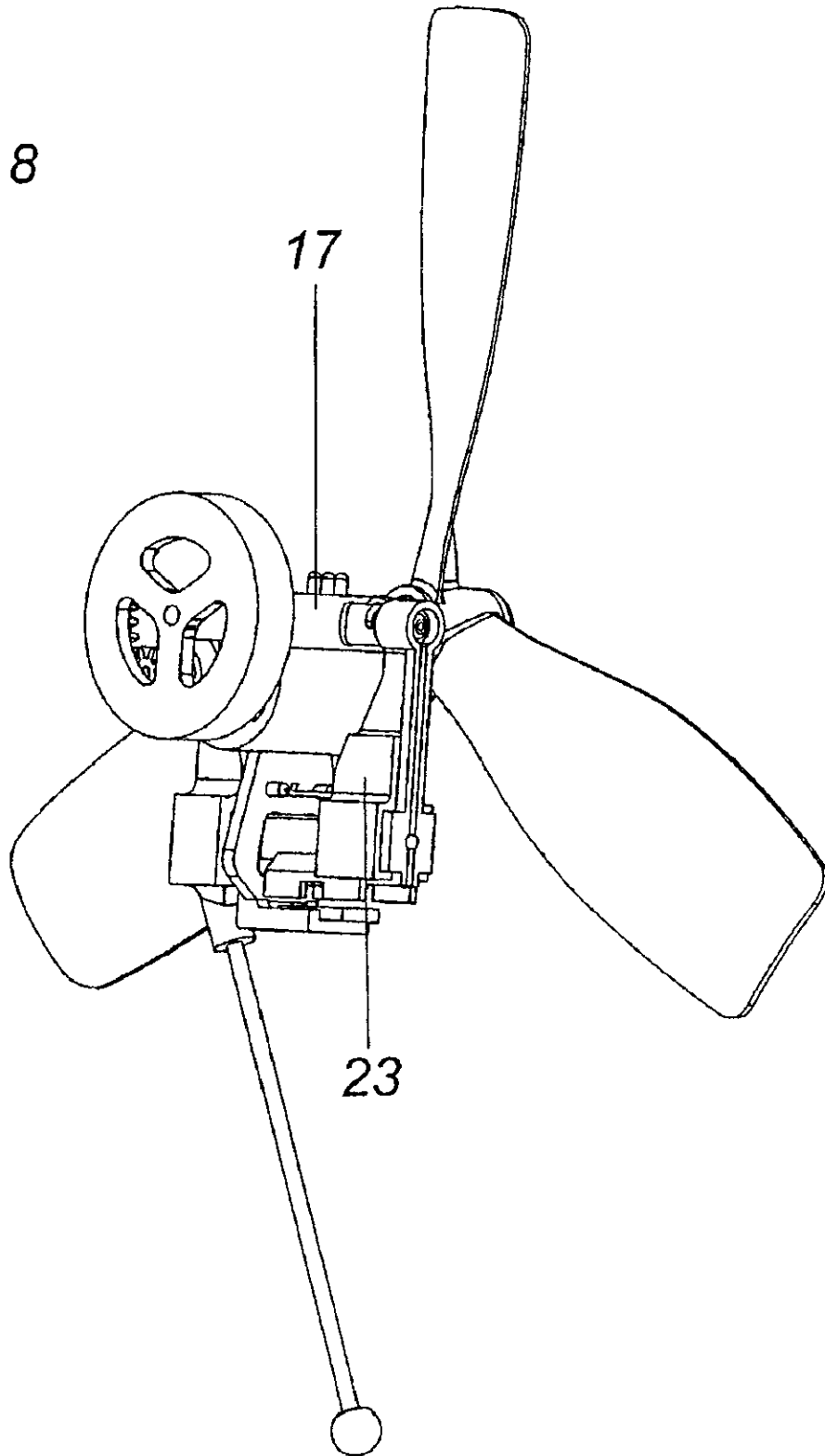
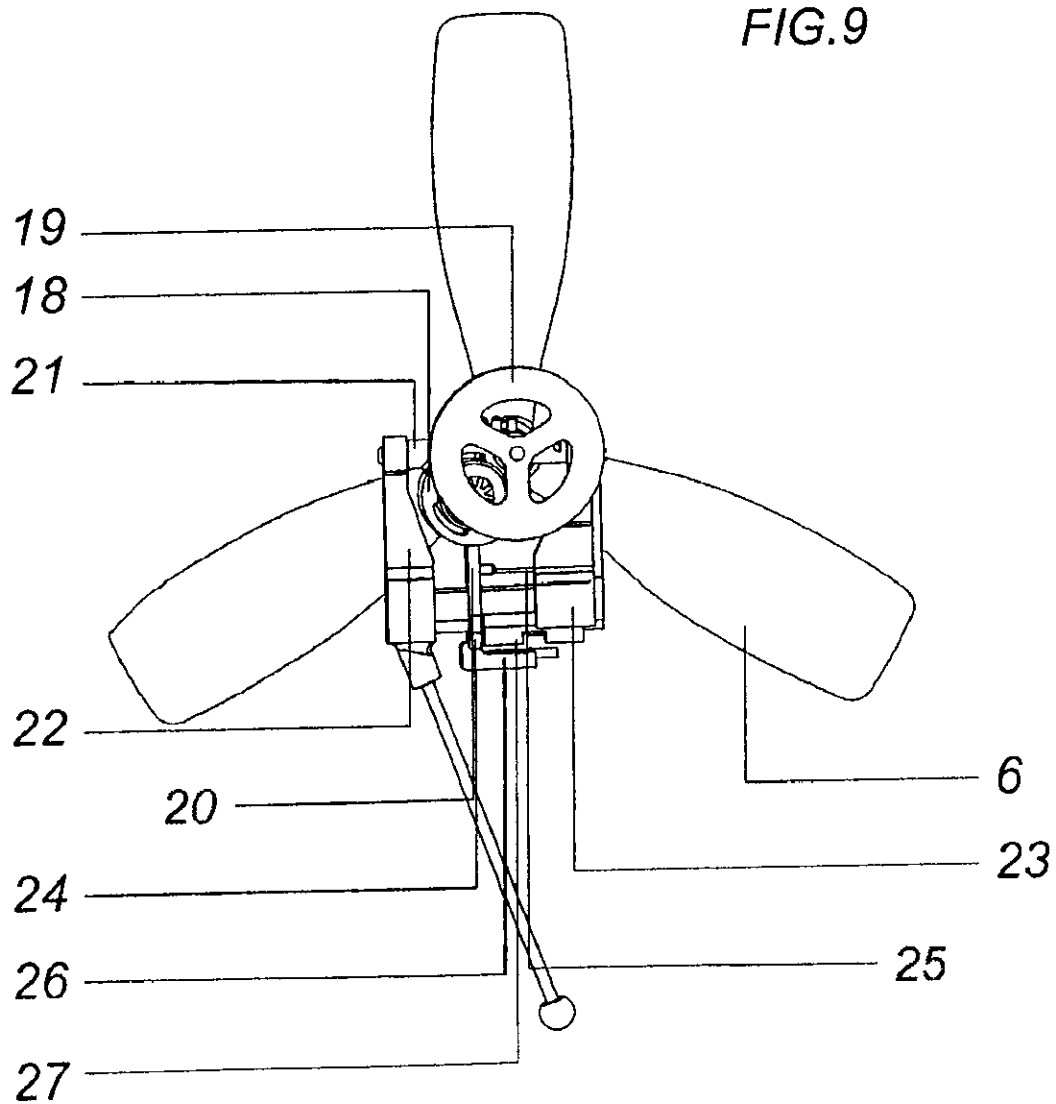


FIG. 9



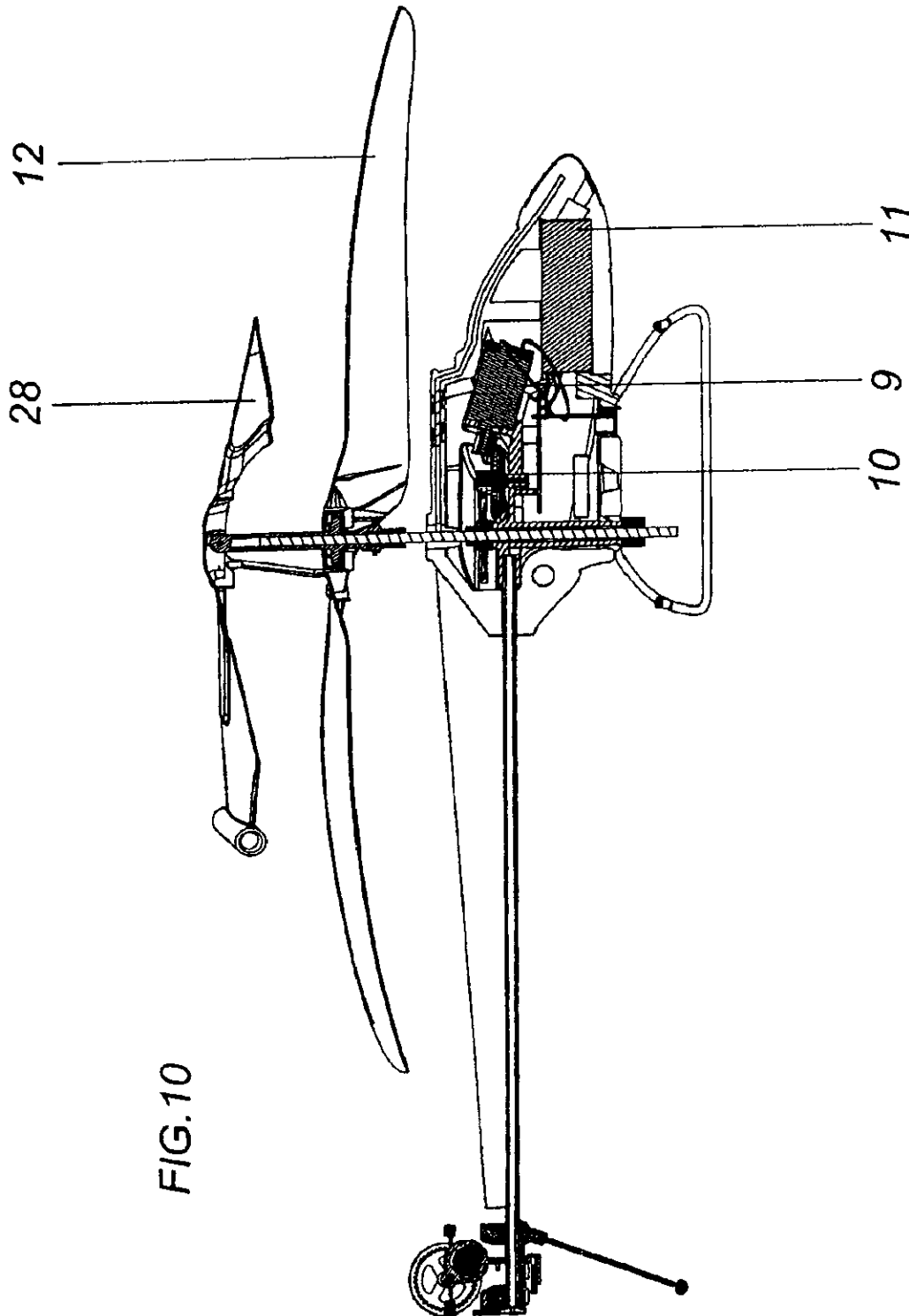


FIG. 10

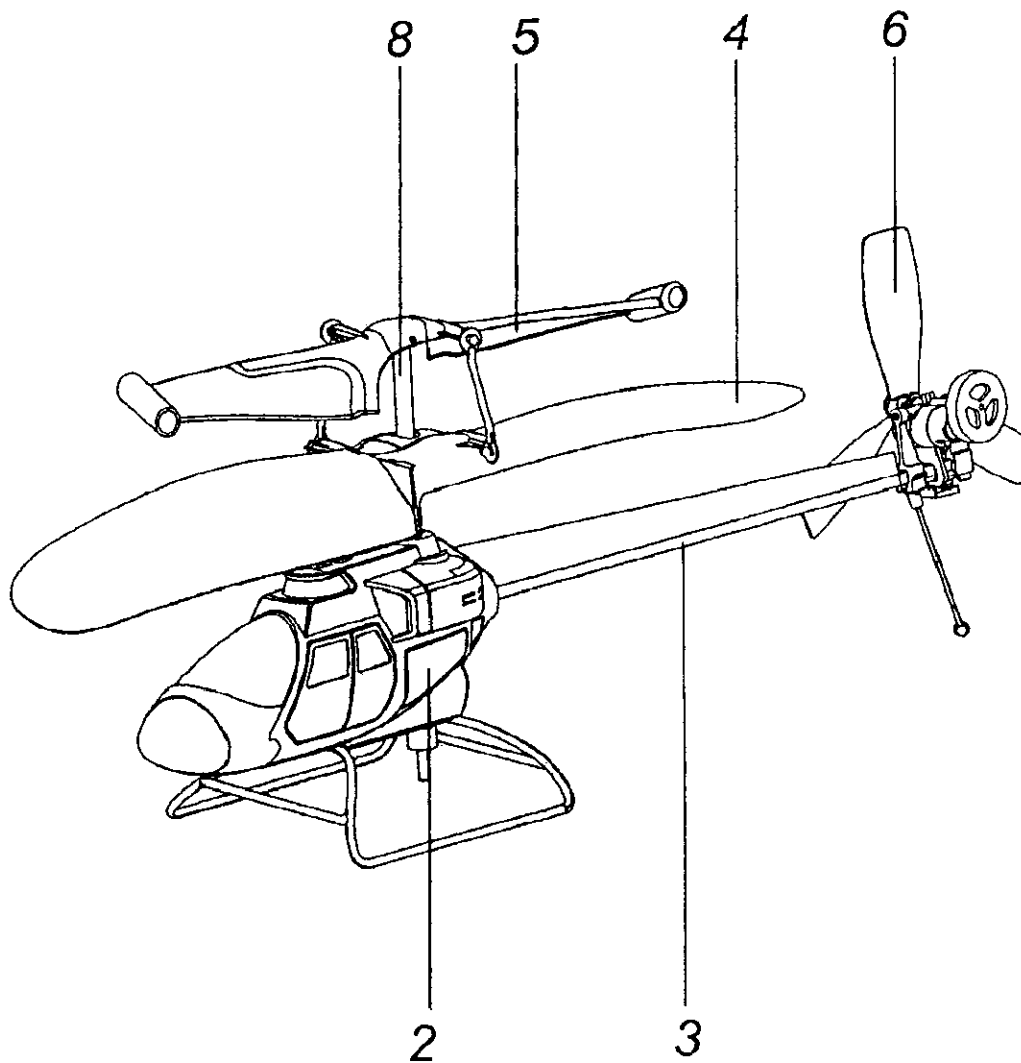


FIG. 11