

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

INTERACTIVE TOYBOX, LLC,

Plaintiff,

v.

THE WALT DISNEY COMPANY;  
DISNEY INTERACTIVE STUDIOS, INC;  
and DISNEY CONSUMER PRODUCTS  
AND INTERACTIVE MEDIA, INC.

Defendants.

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CIVIL ACTION NO. 1:17-cv-1137

**JURY TRIAL DEMANDED**

**ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Interactive ToyBox, LLC (“Interactive ToyBox” or “Plaintiff”), by and through its attorneys, files this Complaint for Patent Infringement against Defendants: The Walt Disney Company; Disney Interactive Studios, Inc.; and Disney Consumer Products and Interactive Media, Inc. (collectively “Disney” or “Defendants”) and alleges:

**NATURE OF THE ACTION**

1. This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, et seq., including §§ 271, 281, 284, and 285.

**THE PARTIES**

2. Interactive ToyBox is a limited liability corporation organized and existing under the laws of Texas, with its principal place of business at 2802 Flintrock Trace, Suite 352, Austin, TX 78738.

3. Upon information and belief, Defendant The Walt Disney Company. is a Delaware corporation having a place of business at 500 S. Buena Vista Street, Burbank, CA.

4. Upon information and belief, Defendant Disney Interactive Studios, Inc. is a California corporation having a place of business at 500 S. Buena Vista Street, Burbank, CA.

5. Upon information and belief, Defendant Disney Consumer Products and Interactive Media, Inc. is a California corporation having a place of business at 500 S. Buena Vista Street, Burbank, CA.

**JURISDICTION AND VENUE**


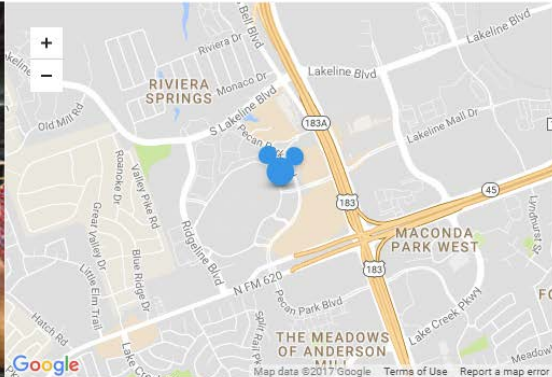
6. This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§271, 281, 284, and 285.

7. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has specific and general personal jurisdiction over Disney pursuant to due process and/or the Texas Long Arm Statute, because it has committed acts giving rise to this action within Texas and within this judicial district. The Court's exercise of jurisdiction over Disney would not offend traditional notions of fair play and substantial justice because Disney has established minimum contacts with the forum. For example, Disney has committed acts of infringement in this judicial district, by among other things, selling and offering for sale products that infringed the asserted patent as alleged herein, including products sold via the Disney Store at Lakeline Mall located at 11200 Lakestop Boulevard, Austin, TX 78613 and via online sellers operating in and shipping to this judicial district.

## Austin, Texas (TX)

[Select a Location](#) > [Texas \(TX\)](#) > [Austin](#)

**f** **t** **p**

**The widest selection of authentic Disney Merchandise**

Disney Store's Austin, TX location offers the latest in official Disney merchandise, including Disney toys, clothes and Disney collectibles featuring everyone's favorite characters including Mickey Mouse, the Disney Princesses, Fairies, Buzz Lightyear, Pooh and so Many More!

**Address:**

**Disney Store**  
Lakeline Mall  
11200 Lakestop Boulevard  
Austin, TX 78613  
Phone: (512) 219-7117  
Send address to: [E-mail](#) | [Mobile](#)

**Hours of Operation:**

Monday	10:00 AM - 9:00 PM
<b>Tuesday</b>	<b>10:00 AM - 9:00 PM</b>
Wednesday	10:00 AM - 9:00 PM
Thursday	10:00 AM - 9:00 PM
Friday	10:00 AM - 9:00 PM
Saturday	10:00 AM - 9:00 PM
Sunday	12:00 PM - 6:00 PM

Source: <https://stores.shopdisney.com/tx/austin/626/>

9. Disney also has multiple other “brick and mortar” stores in this District in at least San Antonio, San Marcos, Round Rock, and Canutillo.

[Continue Shopping](#) • [Guest Services](#) **SHOP DISNEY**

## Disney Store Locations in San Antonio, Texas (TX)

[Select a Location](#) > [Texas \(TX\)](#) > [San Antonio](#)

**San Antonio**


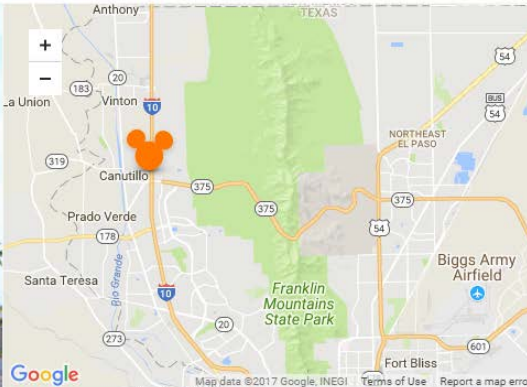
6301 Northwest Loop 410, San Antonio, Tx, 78238  
7400 San Pedro Avenue, San Antonio, Tx, 78216  
849 East Commerce Street, San Antonio, Tx, 78205

At your local San Antonio, TX Disney Store, apart from toys, clothes, and games, you'll also find DVDs and entertainment, art and Disney collectibles, and Disney themed home & decor products. Shop for popular favorites like Disney Jewelry, Princess Dolls, Watches, and Backpacks. With products from Tinker Bell, Pooh and Pals, Alice in Wonderland, and many others, you'll always find the perfect Disney gift!

Source: <https://stores.shopdisney.com/tx/san-antonio/>

## Canutillo, Texas (TX)

[Select a Location](#) > [Texas \(TX\)](#) > [Canutillo](#)

**f t p**

**The widest selection of authentic Disney Merchandise**

Disney Outlet's Canutillo, TX location offers the latest in official Disney merchandise, including Disney toys, clothes and Disney collectibles featuring everyone's favorite characters including Mickey Mouse, the Disney Princesses, Fairies, Buzz Lightyear, Pooh and so Many More!

**Address:**

**Disney Outlet**  
 Outlet Shoppes at El Paso  
 7051 South Desert Boulevard  
 Canutillo, TX 79835  
 Phone: (915) 877-3839  
 Send address to: [E-mail](#) | [Mobile](#)

**Hours of Operation:**

Monday	10:00 AM - 9:00 PM
Tuesday	10:00 AM - 9:00 PM
<b>Wednesday</b>	<b>10:00 AM - 9:00 PM</b>
Thursday	10:00 AM - 9:00 PM
Friday	10:00 AM - 9:00 PM
Saturday	10:00 AM - 9:00 PM
Sunday	10:00 AM - 7:00 PM

**Source:** <https://stores.shopdisney.com/tx/canutillo/951/>

## Disney Store Locations in El Paso, Texas (TX)

[Select a Location](#) > [Texas \(TX\)](#) > [El Paso](#)

**El Paso**

8401 Gateway Boulevard West, El Paso, Tx, 79925

At your local El Paso, TX Disney Store, apart from toys, clothes, and games, you'll also find DVDs and entertainment, art and Disney collectibles, and Disney themed home & decor products. Shop for popular favorites like Disney Jewelry, Princess Dolls, Watches, and Backpacks. With products from Tinker Bell, Pooh and Pals, Alice in Wonderland, and many others, you'll always find the perfect Disney gift!

**Source:** <https://stores.shopdisney.com/tx/el-paso/>

## Disney Store Locations in San Marcos, Texas (TX)

[Select a Location](#) > [Texas \(TX\)](#) > [San Marcos](#)

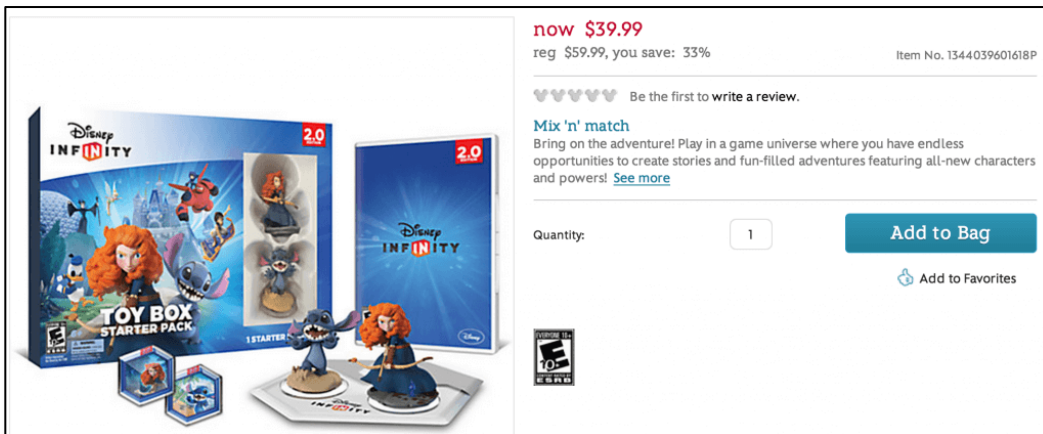
**San Marcos**

4015 I-35 South, San Marcos, Tx, 78666

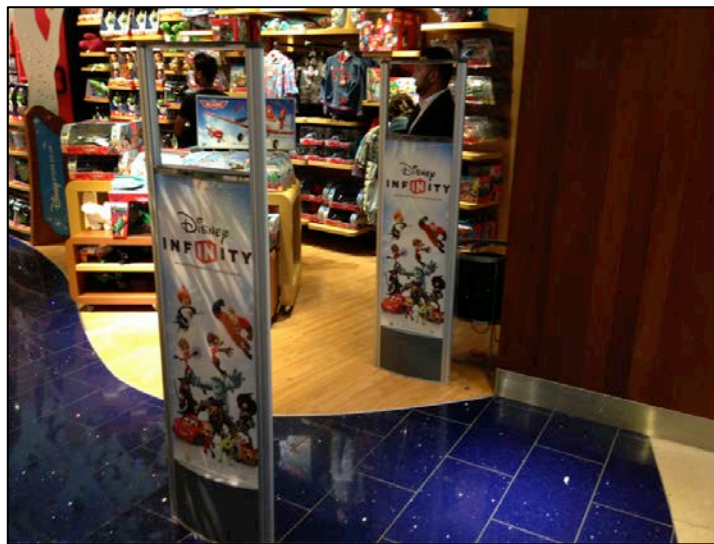
At your local San Marcos, TX Disney Store, apart from toys, clothes, and games, you'll also find DVDs and entertainment, art and Disney collectibles, and Disney themed home & decor products. Shop for popular favorites like Disney Jewelry, Princess Dolls, Watches, and Backpacks. With products from Tinker Bell, Pooh and Pals, Alice in Wonderland, and many others, you'll always find the perfect Disney gift!

Source: <https://stores.shopdisney.com/tx/san-marcos/>

10. Upon information and belief, Disney has used its Disney branded stores (including the ones identified in the preceding paragraphs) to sell the products accused herein of infringement:



Source: <http://infinityinquirer.com/wp-content/uploads/2014/11/Screen-Shot-2014-11-26-at-9.10.28-PM-1024x419.png>



Source: <http://kernelmag.dailydot.com/wp-content/uploads/2013/09/2.png>



Source: <http://kernelmag.dailydot.com/wp-content/uploads/2013/09/3.png>

11. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§ 1391 (d) and 1400(b) because Disney is deemed to reside in this judicial district, has committed acts of infringement in this judicial district, and/or has purposely transacted business involving the Accused Products (as defined herein) in Texas and this judicial district. As non-limiting examples, Disney has sold or offered to sale the Accused Products in this judicial district, including selling products via the stores identified in the preceding paragraphs. Disney also continues to sell or offer to sale the Accused Products, for example, via the Austin Walmart Supercenter located at 12900 No. I-35 Svc Rd Sb Austin, TX 78753, via the Toys R Us store located at 9333 Research Blvd, Austin, TX, and via online sellers operating in and shipping to this judicial district.

Disney INFINITY: Toy Box Starter Pack (2.0 Edition) - Xbox One

★★★★★ 8 reviews Q&A By: Disney Infinity Walmart #: 552683529 Over10 f t p

Clearance

Video



**\$9.96** Was \$19.88 Save \$9.92  
**2-DAY SHIPPING**

Sold & shipped by Walmart

**FREE 2-DAY SHIPPING** on orders \$35+  
Arrives by Friday, Nov 17  
Orders under \$35 ship for \$5.99 Shipping options

**FREE PICKUP**  
Cedar Park, 201 Walton Way  
Available Fri, Nov 17 See more stores

Quantity: 1 **Add to Cart**

Add to List Add to Registry

Disney INFINITY: Toy Box Starter Pack (2.0 Edition) - Xbox One

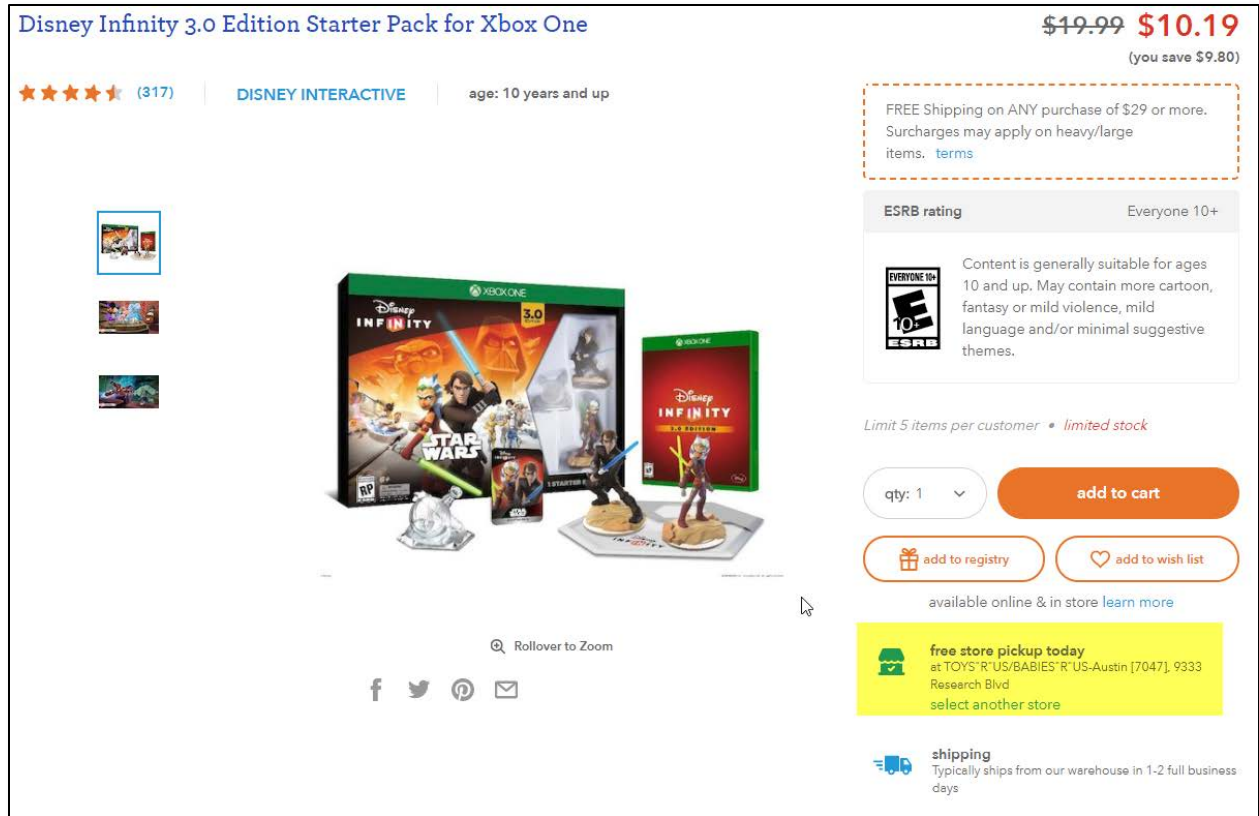
Sold & shipped by Walmart

### Item Availability

78613 **Find**

Location	Order now for pickup
<b>Cedar Park</b> - 1 mi. 201 Walton Way	Fri, Nov 17
<b>Cedar Park</b> - 2 mi. 2801 East Whitestone Boulevard	Fri, Nov 17
<b>Austin</b> - 4 mi. 13201 Ranch Road 620 N	Fri, Nov 17
<b>Round Rock</b> - 9 mi. 2701 S Interstate 35	Fri, Nov 17
<b>Austin</b> - 11 mi. 12900 No. I-35 Svc Rd Sb	Fri, Nov 17

Source: <https://www.walmart.com/ip/Disney-INFINITY-Toy-Box-Starter-Pack-2-0-Edition-Xbox-One/36754138>



**Source:**

<https://www.toysrus.com/search?q=disney%20infinity%20characters&filters=category%3A%2267248386%22%2CStore%20Pickup%3A%22Store%20Pickup%22&page=1>

**COUNT ONE - INFRINGEMENT OF U.S. PATENT NO. 6,471,565**

12. Interactive ToyBox re-alleges and incorporates by reference the preceding paragraphs of this Complaint.

13. On October 29, 2002, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 6,471,565 (“the ‘565 Patent”), entitled “Interactive Toy.” A true and correct copy of the ‘565 Patent is attached as Exhibit A to this Complaint.

14. Interactive ToyBox is the owner of all rights, title, and interest in and to the ‘565 Patent, including the right to assert all causes of action arising under the ‘565 Patent and the right to any remedies for the infringement of the ‘565 Patent.



15. Disney makes, uses, sells, offers for sale, imports, and/or distributes in the United States, including within this judicial district, products such as, but not limited to, the Disney Infinity<sup>®</sup> game. The Disney Infinity<sup>®</sup> game includes, but is not limited to, the first edition released for Xbox 360, PlayStation 3, Wii, Wii U and Nintendo 3DS; a second edition, Disney Infinity: Marvel Super Heroes; and a third edition, Disney Infinity 3.0 which introduced support for Apple TV. (collectively, the “Accused Products”). Each Disney Infinity game utilizes an “Infinity Base” and multiple “Play Set Pieces,” “Game Discs,” “Power Discs,” and/or “Character Figures” that can be placed on or near the Infinity Base to activate various functions in an accompanying game and/or at the Infinity Base/Figures. The Disney Infinity game includes various play sets such as Pirates of the Caribbean, The Incredibles, Cars, and Toy Story.

16. The Accused Products include the Disney Infinity 2.0 Edition Starter Pack.

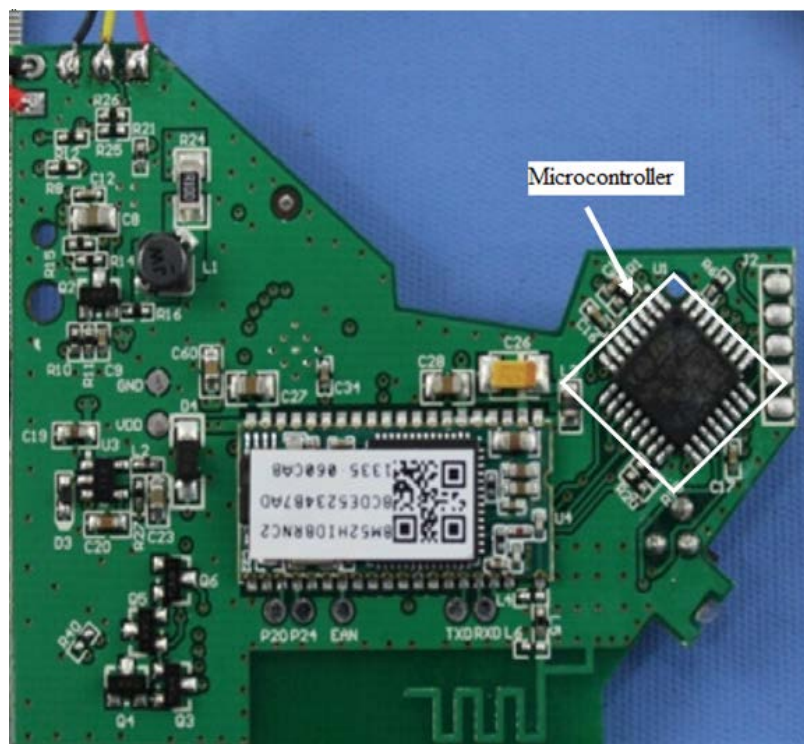
17. The Disney Infinity 2.0 Edition Starter Pack is offered for sale at multiple retailers in this judicial district, including at the GameStop store located at 2525 West Anderson Lane, Austin, TX 78757, and from online sellers operating in and shipping to this judicial district.

18. The following shows the front of the packaging for the Disney Infinity 2.0 Starter Pack. Also shown are the contents of the Starter Pack which includes an Infinity Base, a Character Figure (Black Spider-Man on the left of the Infinity Base), a Play Set Piece (on the right of the Infinity Base), and 2 Game Discs (on the right):



Source: Product testing

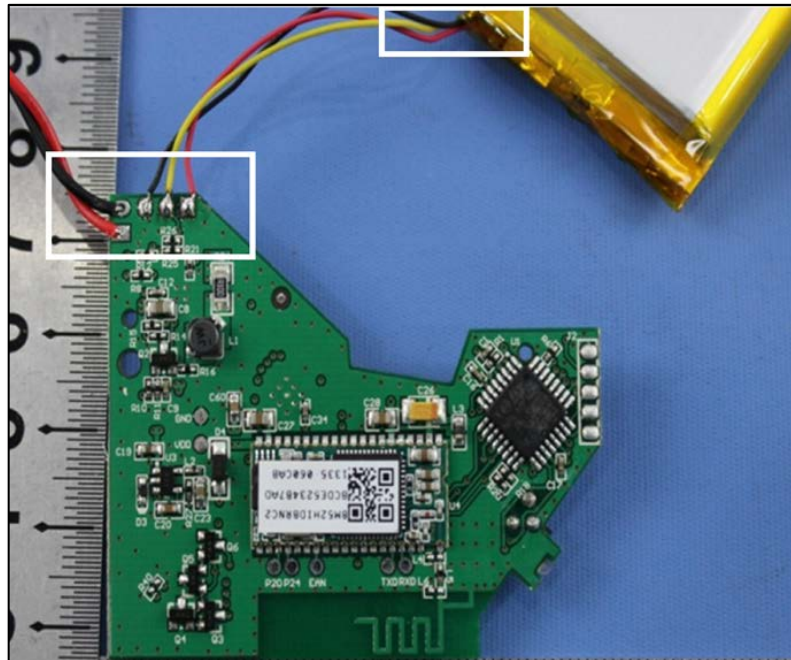
19. The Infinity Base includes several circuit boards. At least one of the circuit boards (“processor board”) includes a processor.



Source: <https://fccid.io/QOF-8039228/Internal-Photos/Internal-photos-2517779.pdf>

20. In view of the preceding paragraph, at least one processing unit is incorporated into the Infinity Base.

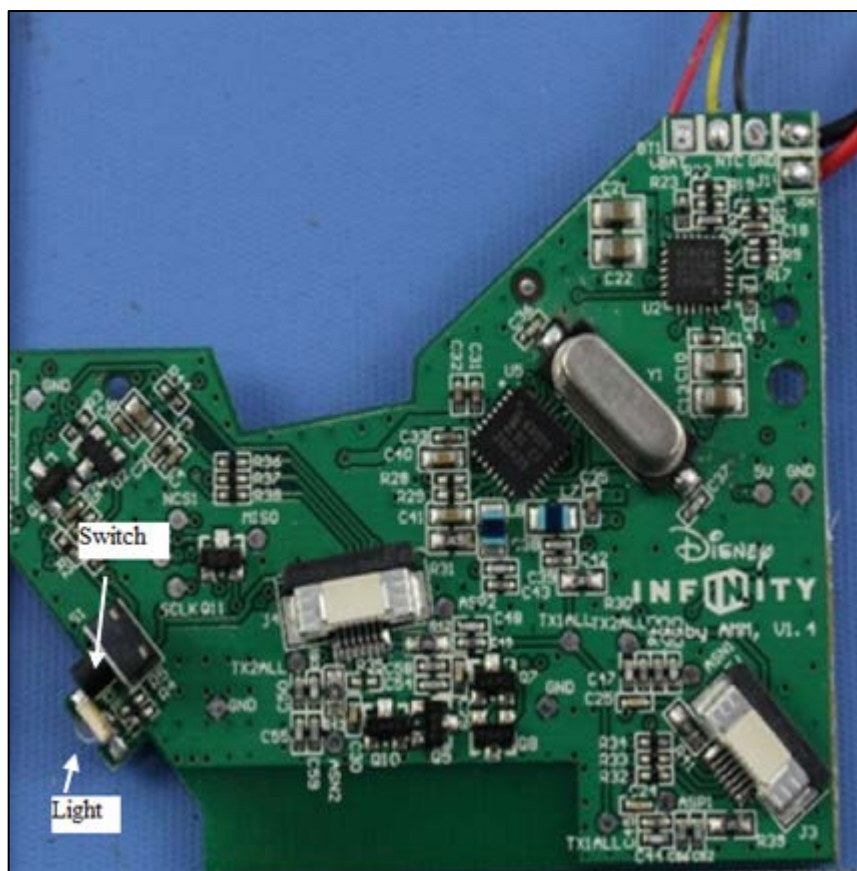
21. The Infinity Base includes a battery compartment and circuitry connected to the processor board.



Source: <https://fccid.io/QOF-8039228/Internal-Photos/Internal-photos-2517779.pdf>

22. In view of the preceding paragraph, the Infinity Base includes an autonomous electrical supply that supplies at least one processing unit with electrical energy.

23. The Infinity Base includes a button and an electrical switch to carry out on, off, and Bluetooth pairing functions.





Source: <https://fccid.io/QOF-8039228/Internal-Photos/Internal-photos-2517779.pdf>

25. The Infinity Base includes a “circular spot” to carry out functions including detecting cCharacter Figures.

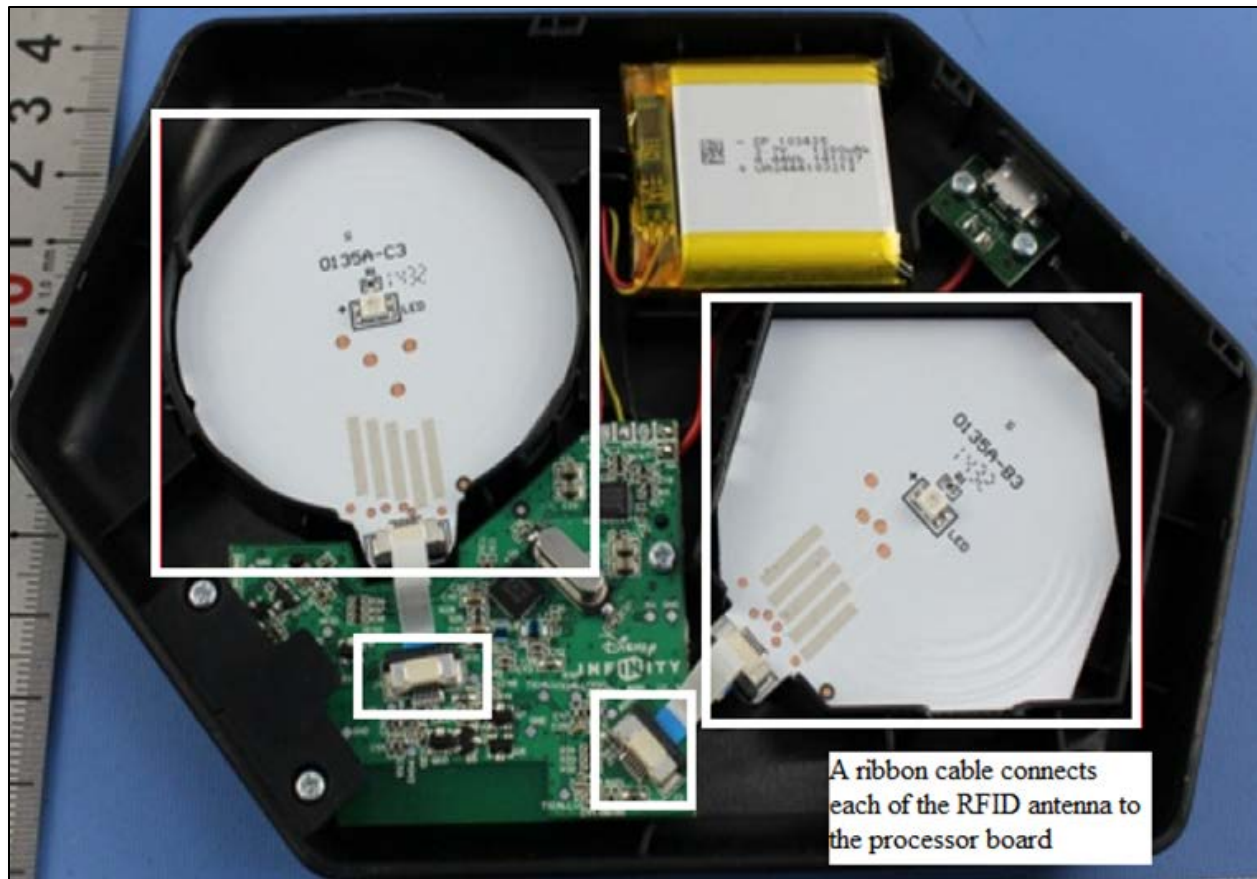


**Source:** <https://www.youtube.com/watch?v=2jCpun8Ikds>

26. In view of the preceding paragraphs, the Infinity Base includes an assembly of at least one of a sensor and an actuator that is connected to the at least one processing unit to carry out at least one type of function.

27. The Infinity Base includes a wire loop that inductively couples with the RFID tag included in an accessory, such as a cCharacter Figure, when the accessory is placed on the top surface of the Infinity Base.

28. The wire loop described in preceding paragraphs is connected to the processor board.

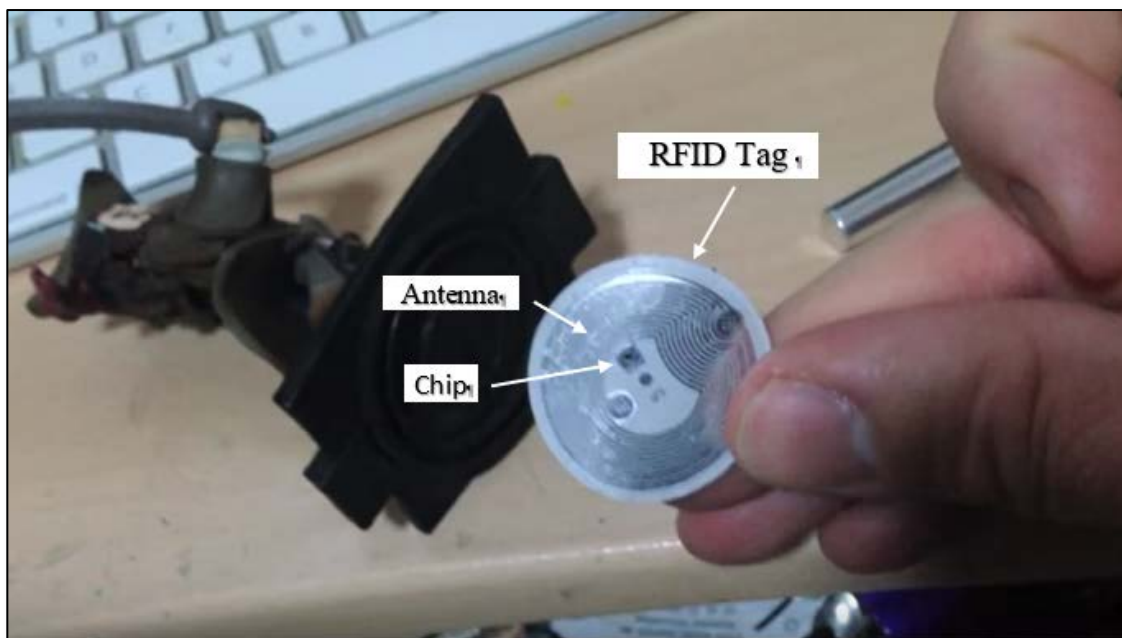


Source: <https://fccid.io/QOF-8039228/Internal-Photos/Internal-photos-2517779.pdf>

29. An antenna loop for the circular spot (“circular spot loop”) surrounds the circular spot and inductively couples with an RFID tag included in a cCharacter Figure placed onto the circular spot.



Source: <http://disneyinfinitycodes.com/light-fx-figure-tear-down-comparison-anakin/>



Source: <https://www.youtube.com/watch?v=2jCpun8Ikds>



30. The Infinity Base is capable of reading data from and/or writing data to Character Figures placed onto the circular spot.

Yes that's right "taking ownership" simply writes your unique owner ID to the figure as well as what level it has for it in your game data, overwriting the previous owner and level. If the character isn't listed in your game data yet, ie you've not used that character before, it sets it to level 0. Your figures levels are saved/synced in your game data, this is why a family can share one set of figures, they keep retaking ownership which "reloads" the figures with their data each time.

**Source:**

<http://www.disneyinfinityfans.com/viewtopic.php?t=3591#sthash.0OVeyYQJ.8zyuKuNo.dpbs>

31. In view of preceding paragraphs, the Infinity Base includes at least one inductive coupler connected to the at least one processing unit.

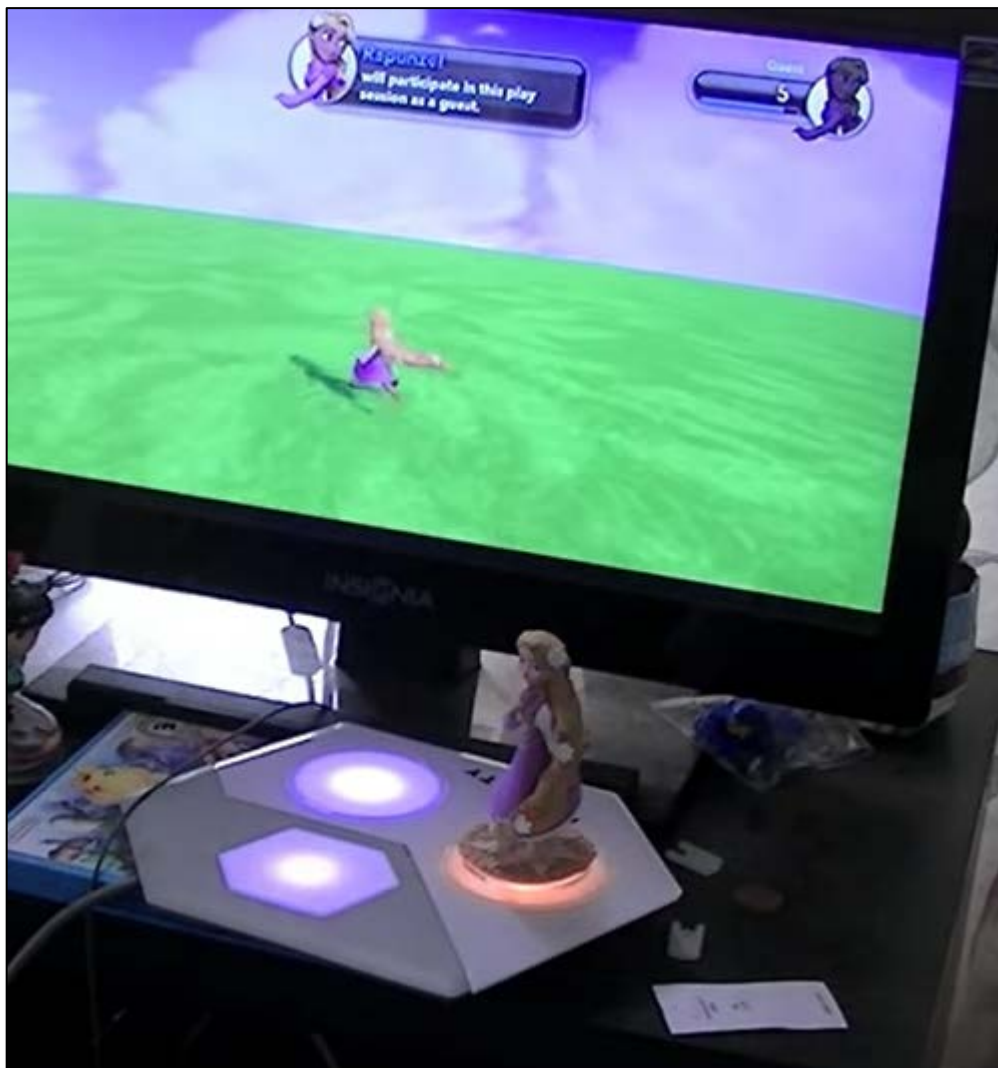
32. Accessories for use with the Infinity Base, such as the Character Figures, Game Disc, and Play Set piece included in the Disney Infinity 2.0 Starter Pack, each include a passive RFID tag.

33. The passive RFID tag described in the preceding paragraphs is powered via an electromagnetic field when near the wire loop, such as when a Character Figure is placed on the circular spot of the Infinity Base.

34. In view of preceding paragraphs, the Disney Infinity 2.0 Starter Pack includes a plurality of accessories that comprises at least one inductive label for interacting electromagnetically with the at least one inductive coupler.

35. The Infinity Base is capable of reading data from and/or writing data to accessories placed on the circular spot of the Infinity Base.

36. Upon information and belief, when an accessory is placed on the circular spot of the Infinity Base, the RFID tag in the accessory and the RFID reader in the Infinity Base communicate using inductive coupling.



**Source:** Product testing

37. Upon information and belief, during operation of the Infinity Base, current flows through the wire loop and/or the antenna loop and produces a magnetic field that causes, when an accessory is placed within the magnetic field, a current to flow in the coil of the RFID tag in the

accessory, forming a parallel resonant circuit corresponding to a transmission frequency of the RFID reader.

38. The Infinity Base has a label that indicates Federal Communications Commission (FCC) ID QOF-8039228.



**Source:** Product testing

39. Publicly available documents for FCC ID QOF-8039228 available at <http://fccid.io/QOF-8039228> (“FCC Documents”) indicate that the device operates using a transmission frequency of 13.56 MHz.

Product Name:	Disney Infinity Base INF-8039228
Model No.:	INF-8039228
Trade Mark:	Disney Infinity
Operation Frequency:	13.56MHz
Power Supply:	Input: 5V 500mA
Battery:	DC 3.7V 1200mAh
USB Cable:	180cm (Shielded with two ferrite core)

Source: <https://fccid.io/QOF-8039228/Test-Report/SZEM141200676902-rev3-2518607.pdf>

40. Upon information and belief, when an accessory is placed on or near the Infinity Base, an RFID tag in the accessory stores data that varies the current in an antenna of the RFID tag.

41. Upon information and belief, the data described in the preceding paragraph includes at least an identifier of the character that a figurine corresponds to.

42. The FCC Documents indicate the use of Binary Phase-shift keying (BPSK) modulation for communication.

<b>Measurement Data</b>			
<b>Intentional emission</b>			
<b>Test Frequency (MHz)</b>	<b>Level (dB<math>\mu</math>V/m)</b>	<b>Limits (dB<math>\mu</math>V/m)</b>	<b>Margin (dB)</b>
13.56	54.73	124	-69.27

Remark: 1. The EUT was tested at 3m in field chamber.  
2. The EUT modulation type is BPSK modulation, and duty is 100%.  
3. Since the field strength of fundamental is lower than the spurious emission limit, so the emission mask was not shown in this report.

Source: <https://fccid.io/QOF-8039228/Test-Report/SZEM141200676902-rev3-2518607.pdf>

43. In view of the preceding paragraphs, the Disney Infinity 2.0 Starter Pack includes a plurality of accessories comprising at least one inductive label for interacting electromagnetically with the at least one inductive coupler so that a current of defined frequency flows through the at

least one inductive coupler and the inductive coupler exchanges with the at least one inductive label binary data corresponding to at least one of a phase and an amplitude state of modulation.

44. In view of preceding paragraphs, each and every element of at least claim 1 of the '565 Patent is found in the Disney Infinity 2.0 Starter Pack.

45. Disney has and continues to directly infringe at least one claim of the '565 Patent, literally or under the doctrine of equivalents, by making, using, selling, offering for sale, importing, and/or distributing the Accused Products in the United States, including within this judicial district, without the authority of Interactive ToyBox.

46. Disney has received notice and actual or constructive knowledge of the '565 Patent since at least the date of service of this Complaint.

47. Since at least the date of service of this Complaint, through its actions, Disney has actively induced product makers, distributors, retailers, and/or end users of the Accused Products to infringe the '565 Patent throughout the United States, including within this judicial district, by, among other things, advertising and promoting the use of the Accused Products in various websites, including providing and disseminating instructions on how to play and use the Accused Products. Examples of such advertising, promoting, and/or instructing include the documents at

- [https://help.disney.com/articles/en\\_US/FAQ/set-up-multiplayer-disney-infinity-2-0-edition-ps4?section=Disney-Infinity](https://help.disney.com/articles/en_US/FAQ/set-up-multiplayer-disney-infinity-2-0-edition-ps4?section=Disney-Infinity) and
- [https://help.disney.com/articles/en\\_US/FAQ/Power-Discs?section=Disney-Infinity](https://help.disney.com/articles/en_US/FAQ/Power-Discs?section=Disney-Infinity).

48. Since at least the date of service of this Complaint, through its actions, Disney has contributed to the infringement of the '565 Patent by having others sell, offer for sale, or use the Accused Products throughout the United States, including within this judicial district, with

knowledge that the Accused Products infringe the '565 Patent. The Accused Products are especially made or adapted for infringing the '565 Patent and have no substantial non-infringing use. For example, in view of the preceding paragraphs, the Accused Products contain functionality which is material to at least one claim of the '565 Patent.

**JURY DEMAND**

Interactive ToyBox hereby demands a jury on all issues so triable.

**REQUEST FOR RELIEF**

WHEREFORE, Interactive ToyBox respectfully requests that the Court:

- (A) Enter judgment that Disney infringes one or more claims of the '565 Patent literally and/or under the doctrine of equivalents;
- (B) Enter judgment that Disney has induced infringement and continues to induce infringement of one or more claims of the '565 Patent;
- (C) Enter judgment that Disney has contributed to and continues to contribute to the infringement of one or more claims of the '565 Patent;
- (D) Award Interactive ToyBox damages, to be paid by Disney in an amount adequate to compensate Interactive ToyBox for such damages, together with pre-judgment and post-judgment interest for the infringement by Disney of the '565 Patent through the date such judgment is entered in accordance with 35 U.S.C. §284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. §284;
- (E) Declare this case exceptional pursuant to 35 U.S.C. §285; and
- (F) Award Interactive ToyBox its costs, disbursements, attorneys' fees, and such further and additional relief as is deemed appropriate by this Court.

Dated: December 4, , 2017

Respectfully submitted,

/s/ Travis L. Richins

Travis L. Richins  
Texas State Bar No. 24061296  
James L. Etheridge  
Texas State Bar No. 24059147 (pro hac vice  
pending)  
Ryan S. Loveless  
Texas State Bar No. 24036997 (pro hac vice  
pending)  
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***Counsel for Plaintiff  
Interactive ToyBox, LLC***