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17 Attorneys for Plaintiff Spin Master Ltd.

18 **IN THE UNITED STATES DISTRICT COURT**
19 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

20 SPIN MASTER LTD.,) Case No.: 2:18-cv-01046-RGK-E
21)
22 *Plaintiff,*) SECOND AMENDED COMPLAINT
23) FOR: PATENT INFRINGEMENT (35
24 v.) U.S.C. §271)
25)
26 ALPHA GROUP US, LLC, and) DEMAND FOR JURY TRIAL
27 AULDEY TOYS OF NORTH)
28 AMERICA, LLC,)
Defendants.)

1 Original Complaint, Alpha Group US, LLC is in the business of designing, marketing,
2 selling, and distributing toys in the United States, including in this District.

3 6. Upon information and belief, Defendant Alpha Group US, LLC is a wholly
4 owned subsidiary of Alpha Group Co. Ltd., a corporation organized and existing under the
5 laws of China, which is in the business of designing, manufacturing, distributing, and
6 selling toys.

7 7. Upon information and belief, Defendant Auldey Toys of North America, LLC
8 is a limited liability company organized and existing under the laws of the State of
9 California, with a principal place of business located at 2100 Grand Ave., 5th Floor, El
10 Segundo, CA 90245. Upon information and belief, and according to Alpha Group's Answer
11 to Spin Master's Original Complaint, Auldey Toys of North America, LLC is in the
12 business of selling and distributing toys in the United States, including in this District.

13 8. Upon information and belief, Defendant Auldey Toys of North America, LLC
14 is a wholly owned subsidiary of Alpha Group Co. Ltd., a corporation organized and existing
15 under the laws of China, which is in the business of designing, manufacturing, distributing,
16 and selling toys.

17 9. Upon information and belief, Defendants directly and/or indirectly import,
18 develop, design, manufacture, distribute, market, offer for sale, and/or sell infringing
19 products in the United States, including in the Central District of California, and otherwise
20 purposefully direct infringing activities to this district in connection with the Screechers
21 Wild! line of transformable toys.

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

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

24 10. Spin Master was founded in 1994. Since that time, Spin Master has launched
25 many notable toy products, including the Air Hogs products, launched in 1998. Between
26 2002-2007, Spin Master expanded its brand globally, allowing for the expansion of its
27 licensing capabilities and relationships with entertainment companies.

1 11. In 2007, Spin Master launched Bakugan, a series of transforming robots which
2 became a global sensation before becoming the most successful product line in Spin
3 Master’s history, eventually reaching global sales of over \$1 billion.

4 12. As a combination of the Japanese words ‘baku’ meaning ‘to explode’ and ‘gan’
5 meaning ‘sphere,’ the Bakugan name literally translates to ‘exploding sphere.’ This is an
6 apt name for the Bakugan line of toys, as the Bakugan characters “explode” from a spherical
7 form into a character form when the Bakugan character comes in contact with a magnetic
8 component:



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

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

23 15. Due to the increasing popularity of the Bakugan brand, Spin Master formally
24 announced a reboot of the Bakugan brand, including a reboot of the anime series, in late
25 2017 slated for release in the 2019-2020 time-frame.

26 16. In the wake of Bakugan’s success, a number of companies, including
27 Defendants, have released their own transforming toys in an effort to capitalize on Spin
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1 Master’s success. Defendants’ transforming toy line, called Screechers Wild!, was released
2 in the United States along with its own corresponding cartoon web series.

3 **B. The ’073 Patent and the ’058 Patent**

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

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

12 19. The ’073 Patent was issued in accordance with 35 U.S.C. § 282 and is
13 presumed to be valid.

14 20. Also relevant to this dispute, Spin Master owns all right, title, and interest in,
15 and has the right to use and recover for past, present, and future infringement of United
16 States Patent No. 9,975,058 (the “’058 Patent”), entitled “Transformable Toy.” The ’058
17 Patent was duly and legally issued by the United States Patent and Trademark Office to
18 Yamada et al. on May 22, 2018. A copy of the ’058 Patent is attached hereto as Exhibit B.

19 21. The ’058 Patent was issued in accordance with 35 U.S.C. § 282 and is
20 presumed to be valid.

21 **C. Defendants’ Infringing Screechers Wild! Toys**

22 22. Upon information and belief, Defendants launched the Screechers Wild! line
23 of transformable toys, and an associated cartoon web-series available on the YouTube
24 platform, in the United States in January of 2018.

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

3 24. Upon information and belief, at the same time that Defendants launched its
4 line of transformable toys, Defendants launched a Screechers Wild! web-series available
5 on the YouTube platform, that follows animated character versions of its transformable toys
6 in the Screechers Wild! world.

7 25. Defendants’ Screechers Wild! toy series includes Level 1, Level 2, and Level
8 3 Vehicles. The complexity of the toys increases as you move up the levels. The Level 1
9 Vehicles are the most simplistic, while the Level 3 Vehicles are the most complex.

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



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

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



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





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7 30. Additionally, each of the webpages for the future L2 Vehicles provides
8 downloadable instructions that are substantially similar to those instructions for the existing
9 vehicles. *See* Exhibit C, Comparing the Instruction Sheet for the existing MonkeyWrench
10 Vehicle, with the Instruction Sheet for the future L2 Vehicle RattleCat.

11 31. The Level 3 Screechers Wild! series of vehicles includes three unique
12 “character” vehicles: H2Octane, ScorpioDrift, and StormHorn (collectively, the “L3
13 Vehicles”).

14 32. The H2Octane Vehicle is a representative example of the L3 Vehicles:



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24 33. For the reasons set forth below, each of the L1, L2, Future L2, and L3 Vehicles
25 infringe at least Claim 1 of the ’073 Patent and Claim 1 of the ’058 Patent.

26 **The L1, L2, Future L2, and L3 Vehicles Infringe Claim 1 of the ’073 Patent**

1 34. Regarding the '073 Patent, and using the MonkeyWrench Vehicle as a
2 representative example, the Screechers Wild! toys are transformable toys, and are described
3 as such by Alpha Toys own website:



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ALL NEW SCREECHERS TOYS

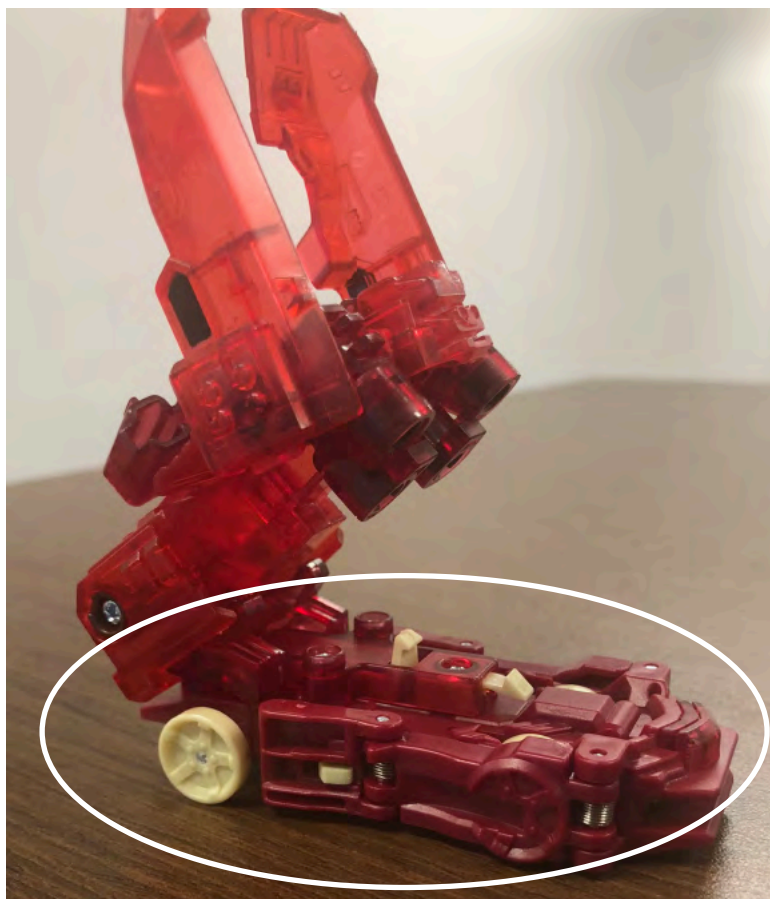
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The only vehicles that transform into creatures
with explosive, 360-degree flip morphing
action!

17 35. Each of the Screechers Wild! vehicles include a first toy component, e.g., the
18 vehicle:



1 36. The first toy component (vehicle) includes a toy body, e.g., the base of the
2 vehicle:



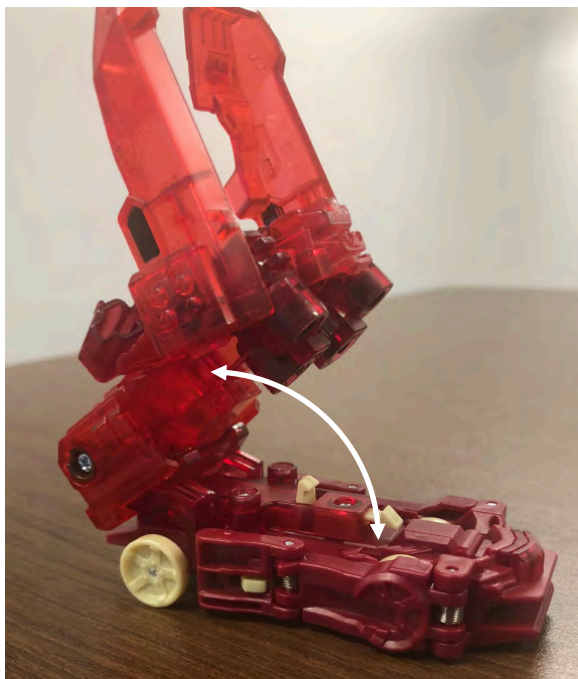
17 37. The first toy component (Vehicle) of the Screechers Wild! includes at least one
18 auxiliary component coupled with the body and rotatable towards the body to a closed
19 position and rotatable away from the body to an open position. Specifically, the character
20 body is coupled to the vehicle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

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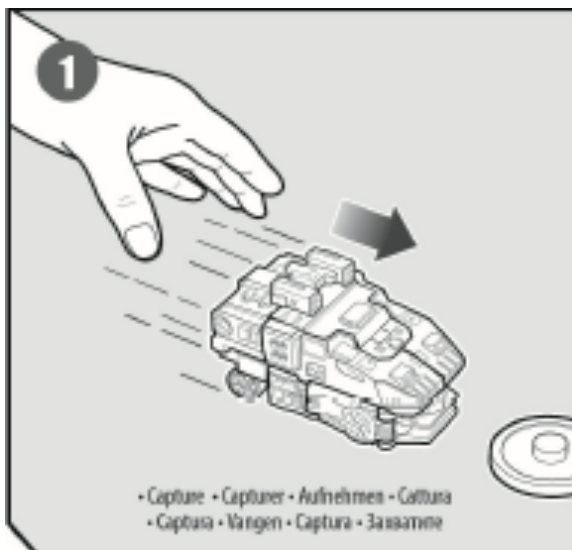


And which is rotatable away from the body to an open position (Character form):

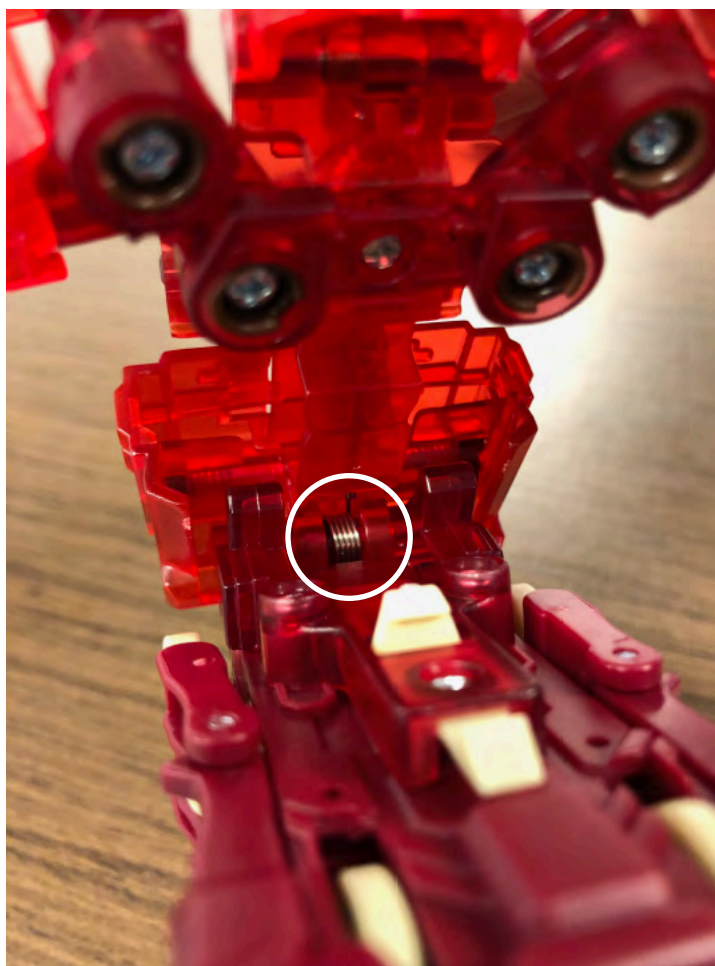


38. The first toy component is also rollable in the closed position (the Vehicle form). For example, the Instruction Sheet for the MonkeyWrench Vehicle shows the Vehicle rolling in the closed position:

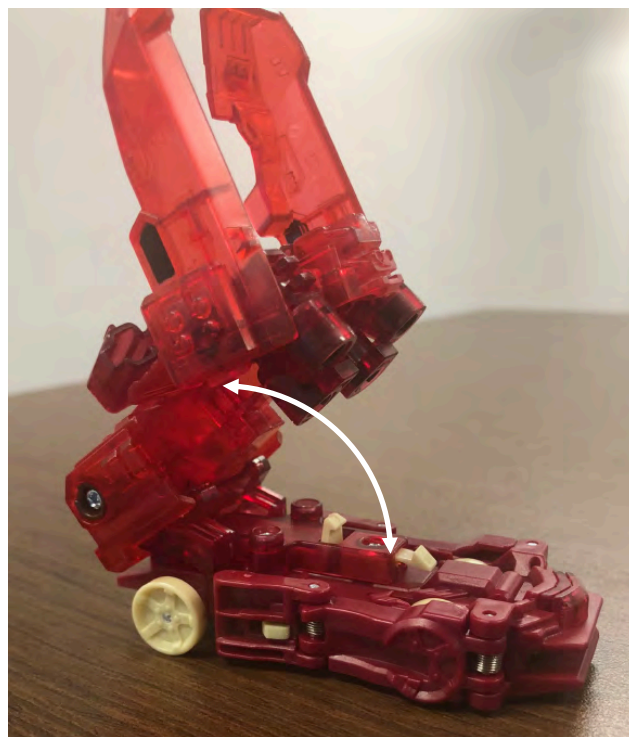
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39. The first toy component includes one auxiliary component elastic element, e.g., a spring:



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



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

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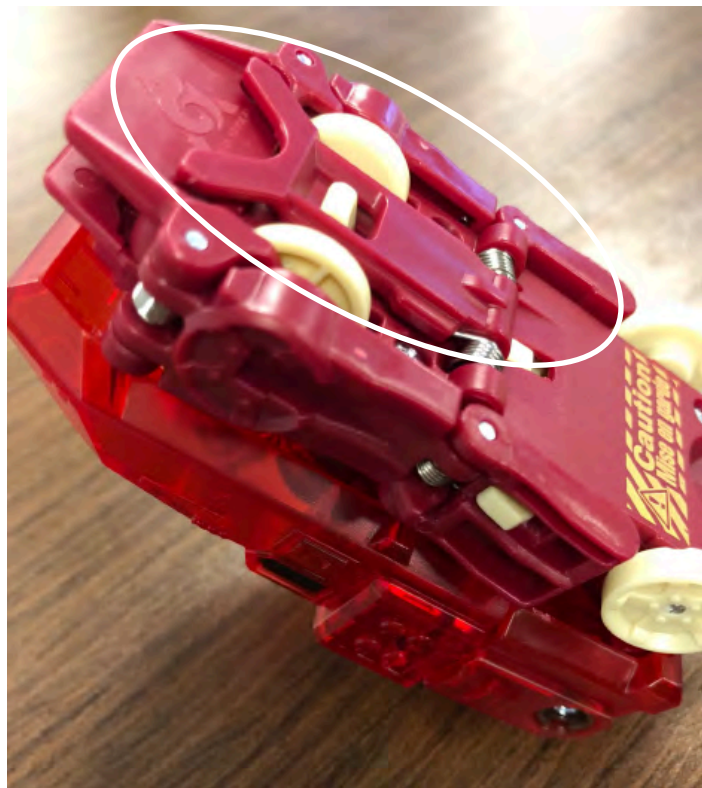
and a second, disengaged position wherein the at least one auxiliary component (character body) is released to an open position (Character Form):

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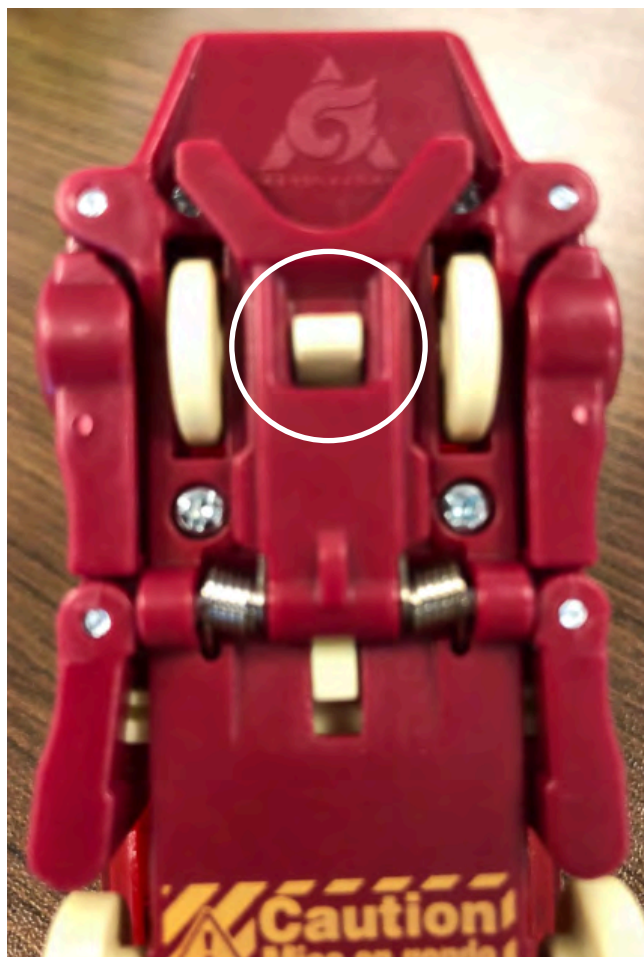


the locking mechanism including a latch:

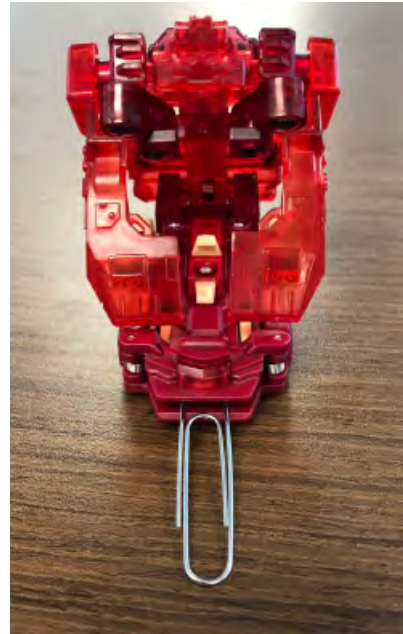
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and a keeper engaged with the latch when the locking assembly is in the first, locked position:



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



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

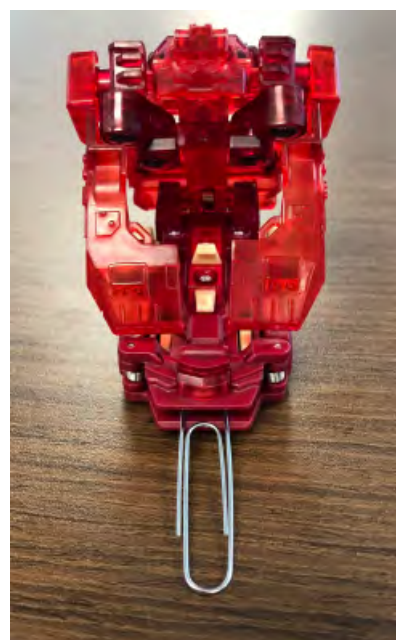
13  **WARNING:** This toy contains a small magnet. Swallowed
14 magnets can stick together across the intestines causing serious
15 infections and death. Seek medical attention if magnet(s) are
swallowed or inhaled.

16 43. The transformable toy also includes a second toy component, e.g., disk
17 accessory, separate from the first toy component and including a second magnetically-
18 responsive member. Specifically, the disc accessory includes a metal rim component:
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44. 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:



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



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

26 **The L1, L2, Future L2, and L3 Vehicles Infringe Claim 1 of the '058 Patent**

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1 47. Regarding the '058 Patent, and using the MonkeyWrench Vehicle as a
2 representative example, the Screechers Wild! toys are transformable toys, and are described
3 as such by Alpha's own website:



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ALL NEW SCREECHERS TOYS

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

19 48. Each of the Screechers Wild! toys includes a first toy component, e.g., the
20 vehicle:

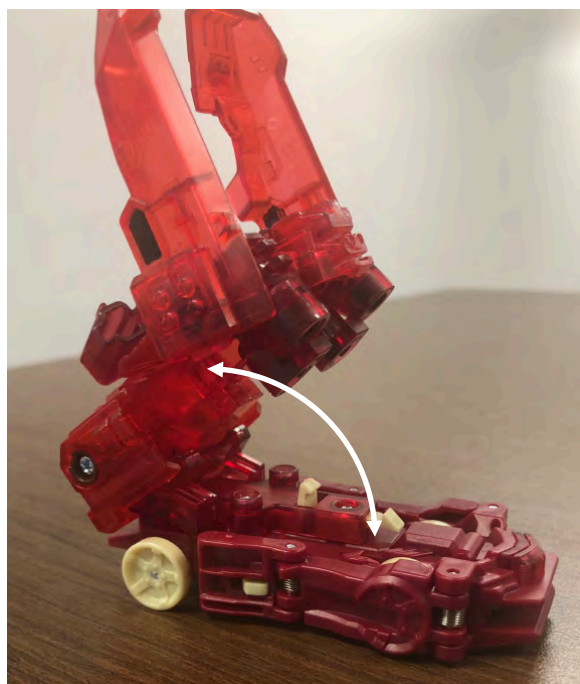


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49. The first toy component of each Screechers Wild! toy includes a body, e.g., the base of the vehicle:

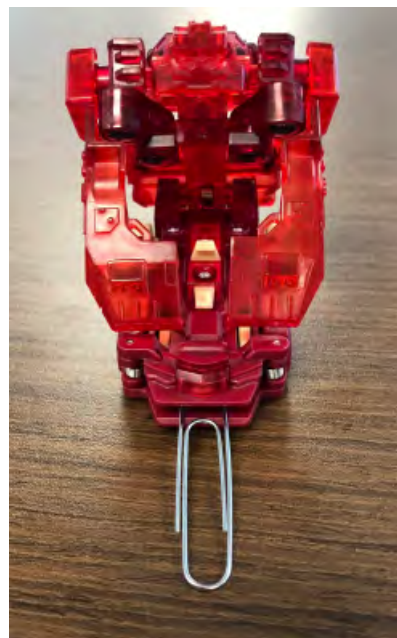
1 50. The first toy component of each Screechers Wild! toy also includes at least one
2 auxiliary component that is movable relative to the body between a rollable first position
3 and a second position:



1 51. The first toy component of each Screechers Wild! toy also includes a locking
2 assembly:

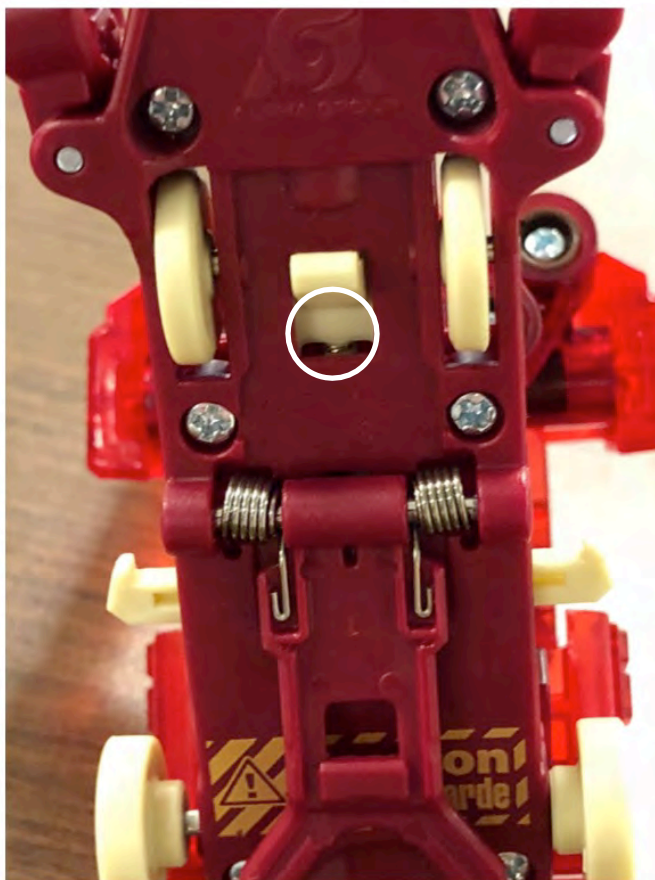


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16 52. The locking assembly includes a first magnetically-responsive member:



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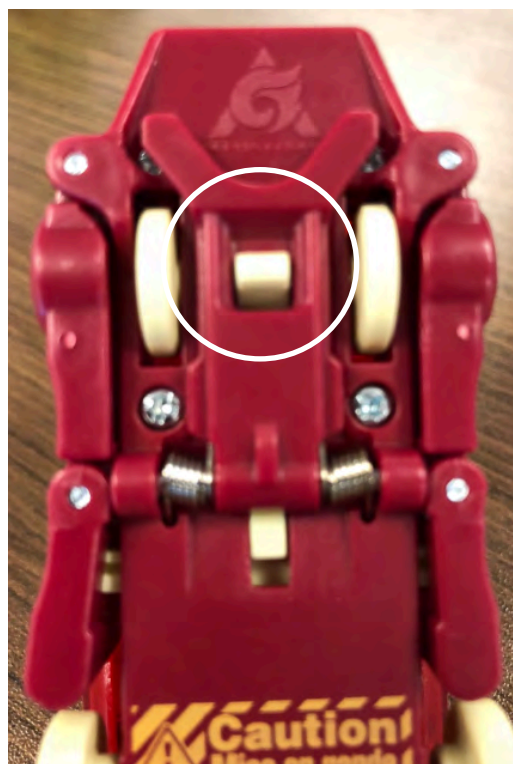
An elastic element:



1 A latch:



13 And a keeper:



1 53. For each Screechers Wild! toy, the elastic element urges the locking assembly
2 towards a locking position in which the latch and the keeper are engaged with one another
3 and at least indirectly retain the at least one auxiliary component in the first position:
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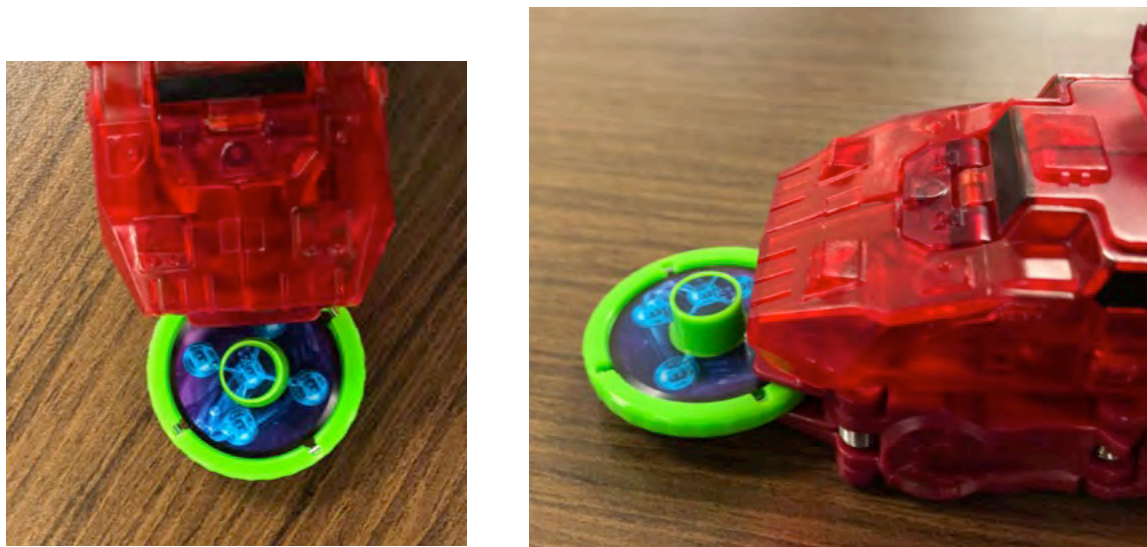


18 54. Each Screechers Wild! toy also includes a second toy component having a
19 second magnetically-responsive member:
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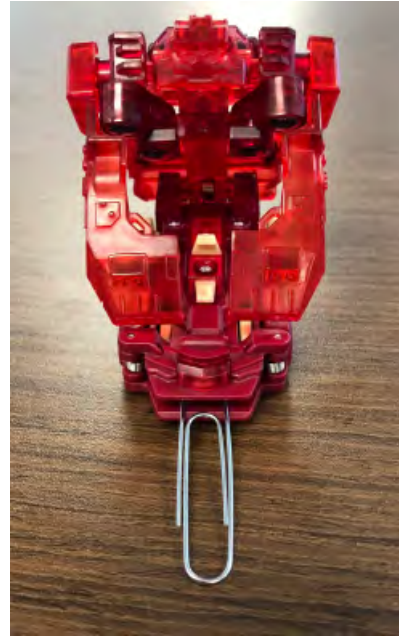
55. The second toy component is engageable with the body of the first toy component to bring the first magnetically-responsive member of the locking assembly and the second magnetically-responsive member sufficiently near one another to generate a magnetic force:



56. For each Screechers Wild!, upon generating the magnetic force, the first magnetically-responsive member responds to bring the locking assembly to a release position in which the latch and the keeper permit movement of the at least one auxiliary component from the first position to the second position:



1 57. For each Screechers Wild!, at least one of the first magnetically-responsive
2 member and the second magnetically-responsive member is a magnet. Specifically, the first
3 magnetically-responsive member is a magnet:

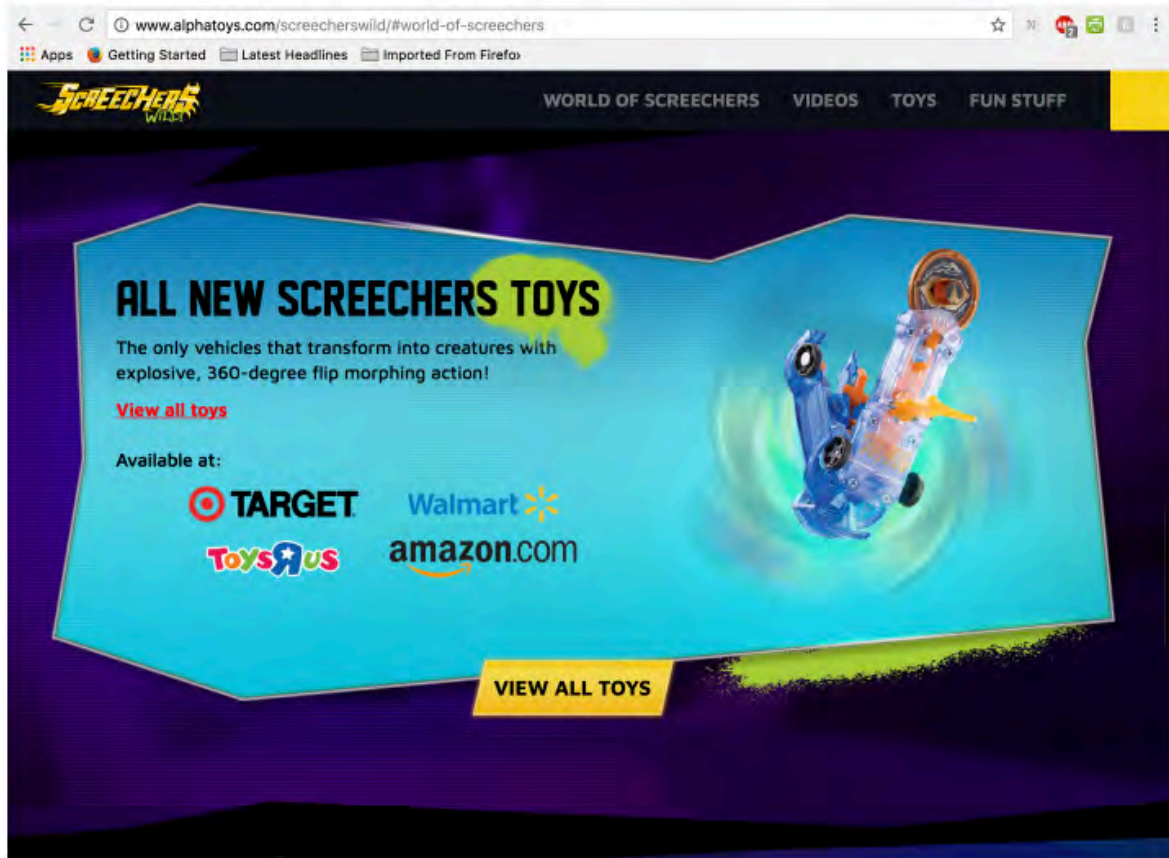


15 58. Accordingly, each of the Screechers Wild! toys infringes at least Claim 1 of
16 the '058 Patent. While the above analysis was described with reference to the
17 MonkeyWrench Vehicle, upon information and belief, each of the Infringing Products are
18 substantially the same as the MonkeyWrench Vehicle, and therefore infringe at least Claim
19 1 of the '058 Patent for the same reasons as those set forth above.

20 **D. Defendants' Infringing Conduct**

21 59. Upon information and belief, Defendants make, use, sell, offer to sell and/or
22 import products, including the Infringing Products, into the United States.

23 60. Upon information and belief, Defendants sell and offer to sell the Infringing
24 Products to third-party resellers, including at least Walmart, Target, Amazon.com, and Toys
25 R Us. Alpha Group advertises these companies as retailers of its products on its website
26 (www.alphatoys.com/screecherswild/#world-of-screechers):
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61. Upon information and belief, Defendants' 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 Products are for sale on the above-identified third-party resellers' websites, and are available for shipment in the United States, including California.

62. Upon information and belief, the Infringing Products sold through Target were distributed by Defendants through Defendants' wholesale distribution channel.

63. Spin Master has attempted to have conversations with Defendants regarding Spin Master's intellectual property and Defendants' Infringing Products.

1 64. Upon information and belief, Defendants also provide an Instruction Sheet
2 with each Infringing Product sold, explaining to the end-user in a step-by-step manner how
3 to use the Infringing Products.

4 65. Upon information and belief, Defendants have infringed and continue to
5 infringe the '073 Patent and the '058 Patent within the meaning of 35 U.S.C. § 271 at least
6 by making, using, selling, offering to sell, and/or importing the Infringing Products into the
7 United States without Spin Master's authorization.

8 **COUNT I**

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

10 66. Spin Master incorporates and references the allegations asserted in each of the
11 preceding paragraphs, as if fully set forth herein.

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

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

19 69. As set forth in this Complaint, Defendants have directly infringed and continue
20 to directly infringe the '073 Patent, including for example, at least Claim 1 of the '073
21 Patent by, among other things, using, offering for sale, selling, making, and/or importing
22 its Screechers Wild! products. Defendants are thereby liable for infringement of the '073
23 Patent pursuant to at least 35 U.S.C. § 271(a).

24 70. As a direct and proximate result of Defendants' patent infringement,
25 Defendants have derived and received gains, profits, and advantages in an amount that has
26 not been confirmed.

1 71. Defendants have induced infringement of at least Claim 1 of the '073 Patent
2 by at least providing an instruction sheet with the Infringing Products, instructing the end-
3 user customers to use the Infringing Products.

4 72. Spin Master has been harmed by this infringement and pursuant to 35 U.S.C.
5 § 284, Spin Master is entitled to damages in an amount no less than a reasonable royalty as
6 well as treble damages for Defendants' willful infringement together with interests and
7 costs as fixed by this Court.

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

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

16 **COUNT II**

17 **(Infringement of U.S. Patent No. 9,975,058)**

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

20 76. Spin Master is the assignee and owner of all U.S. Patent rights in U.S. Patent
21 No. 9,975,058 ("the '058 Patent), with ownership of all substantial rights therein, including
22 the right to exclude others from making, using, selling, offering for sale, and importing the
23 invention of the '058 Patent, and to sue and recover damages for the past, present, and future
24 infringement thereof. A true and correct copy of the '058 Patent is attached as Exhibit B.

25 77. The '058 Patent is valid, enforceable, and was duly issued in full compliance
26 with Title 35 of the United States Code.

1 85. A judgment in favor of Spin Master that the '073 Patent and the '058 Patent
2 are valid and enforceable;

3 86. A judgment that Defendants' infringement of the '073 Patent has been willful.

4 87. A preliminary and permanent injunction enjoining and restraining Defendants,
5 and their 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 and the '058 Patent, including, without
8 limitation, the Infringing Products identified herein;

9 88. An order requiring Defendants 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 Defendants have complied with
12 the injunction;

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

15 90. A judgment and order, pursuant to 35 U.S.C. § 284, requiring Defendants to
16 compensate Spin Master for all damages caused by Defendants' infringement of the '073
17 Patent and the '058 Patent (but in no event less than a reasonable royalty), treble damages
18 for willful infringement of the '073 Patent, and its costs incurred in this action;

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

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

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Dated: May 31, 2018

ERISE IP, P.A.

/s/ Megan J. Redmond
Megan J. Redmond
Phone: (913) 777-5600
Megan.redmond@eriseip.com

Attorney for Plaintiff,
SPIN MASTER LTD.

DEMAND FOR JURY TRIAL

Plaintiff Spin Master Ltd. hereby requests a jury trial on all issues so triable.

Dated: May 31, 2018

ERISE IP, P.A.

/s/ Megan J. Redmond _____

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