

WEIDE & MILLER, LTD.  
7251 WEST LAKE MEAD BLVD., SUITE 530  
LAS VEGAS, NEVADA 89128

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6 **UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8  
9 THINK TEK, INC., a Nevada corporation, )

10 Plaintiff, )

11 vs. )

12 VO-TOYS INCORPORATED, a New York )  
13 corporation, and DOES 1 thorough 200, )  
14 inclusive, )

15 Defendants. )

Case No.: 2:05-cv-01429-RLH-PAL

**AMENDED COMPLAINT**

16 Think Tek, Inc. (hereinafter "Think Tek" or "Plaintiff"), hereby alleges against defendants  
17 Vo-Toys Incorporated, a New York corporation and DOES 1 through 200 (collectively  
18 "Defendants") as follows:

19 **JURISDICTION AND VENUE**

20 1. This action arises under the patent laws of the United States, more particularly, 35  
21 U.S.C. §§ 271 and 281 (patent infringement). This Court has subject matter jurisdiction over the  
22 patent infringement claims herein under 28 U.S.C. § 1331 (federal question).

23 2. This Court has personal jurisdiction over the Defendants because Defendants have  
24 engaged in infringing activity in this Judicial District.

25 3. Venue is proper in this Judicial District under 28 U.S.C. § 1391 (b) and (c) (federal  
26 question venue in general), and 28 U.S.C. § 1400 (a) and (b) (patents and copyright venue).  
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**THE PARTIES**

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3 4. Plaintiff Think Tek, Inc. is a limited liability company organized under the laws of  
4 the State of Nevada and having a principal place of business within this Judicial District at 2217  
5 Green Mountain Court, Las Vegas, Nevada 89135.

6  
7 5. Defendant Vo-Toys Incorporated is incorporated in the State of New York, has a  
8 principal place of business at 400 S. 5<sup>th</sup> Street, Harrison, NJ 07029, and, on information and belief,  
9 has committed one or more of the acts complained of herein.

10 6. The true names and capacities of the defendants named herein as DOES 1 through  
11 200 are other parties who are currently unknown to Plaintiff which are liable to Plaintiff for the  
12 damages complained of herein. Therefore Plaintiff sues said defendants, whether individuals,  
13 corporations, or another type of entity by these fictitious names. Plaintiff will seek leave of this  
14 court to amend the complaint to include the actual names of said defendants when their identities  
15 are determined during the course of this litigation. Plaintiff incorporates by reference herein all  
16 paragraphs of this complaint against said unknown defendants.

17  
18 **ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

19 7. Plaintiff is the owner by assignment of all right, title, and interest to United States  
20 Letters Patent No. 5,765,508 (“the ‘508 Patent”), issued on June 16, 1998, entitled “Interactive  
21 Game Between Pet and Owner” including all rights to recover for any past infringements thereto.

22 8. Defendants manufacture, sell, offer for sale and/or use a product called the Techno-  
23 Mouse (“Techno-Mouse”) which infringes Plaintiff’s ‘508 Patent.

24 9. Defendants’ Techno-Mouse includes a controller and a remote controlled device.  
25 The remote controlled device has a platform and a covering, the covering causing the remote  
26 controlled device to resemble a mouse. The controller permits the user to alter the directional  
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1 movement of the remote controlled mouse.

2 10. Defendants advertise to consumers that the Techno-Mouse is for use in entertaining  
3 a cat or a dog.

4 11. Defendants' advertising instructs consumers to interact with their dog or cat with  
5 the Techno-Mouse.

6 12. Consumers use Defendants' Techno-Mouse for the purposes advertised and  
7 promoted by Defendants.

8 13. Defendants offer the Techno-Mouse nationwide, including in this Judicial District,  
9 via the internet. On information and belief, Defendants have sold one or more of the Techno-  
10 Mouse products to one or more parties in this Judicial District, and have shipped one or more of  
11 the Techno-Mouse products to one or more parties in this Judicial District.

12 14. On or about December 1, 2005, Plaintiff sent a letter to Vo-Toys notifying Vo-Toys  
13 of Plaintiff's '508 Patent.

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15  
16 **FIRST CLAIM FOR RELIEF**  
17 **(Patent Infringement)**  
18 **(35 U.S.C. § 271, et seq.)**

19 15. Plaintiff repeats and re-alleges each and every allegation set forth in this complaint  
20 as if set forth here in full.

21 16. Defendants have and continue to directly infringe the Patents, contribute to the  
22 infringement of the Patents, and/or induce the infringement of the Patents by directly or indirectly  
23 making, using, selling and/or offering for sale in this judicial district products which are covered  
24 by the Patents and practicing methods which are covered by the Patents.

25 17. Defendants' infringement has been and continues to be intentional, knowing,  
26 willful, and deliberate, without license, without justification, and with full knowledge of  
27 Plaintiff's rights.

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18. Defendants have derived, received, and will continue to derive and receive from their infringement: gains, profits, and advantages, in amounts not presently known to Plaintiff.

19. As a direct and proximate consequence of Defendants' infringement of the Patents, Plaintiff has suffered and will continue to suffer damages in an amount not yet determined.

20. Defendants will continue to directly or indirectly infringe the Patents to the great and irreparable injury of Plaintiff, unless enjoined by this Court.

21. Pursuant to 35 U.S.C. § 284, Plaintiff is entitled to damages for infringement and treble damages together with interest and costs as fixed by the court.

22. Pursuant to 35 U.S.C. § 285, Plaintiff is entitled to reasonable attorneys fees for the necessity of bringing this claim.

23. Pursuant to 35 U.S.C. § 289, Plaintiff is entitled Defendants' total profit on the sale of any and all infringing products.

**WHEREFORE**, Plaintiff prays for relief as follows:

A. That this Court declare that said United States Letters Patent No. 5,765,508 is legally valid.

B. That this Court declare and adjudge that United States Letters Patent No. 5,765,508 is enforceable.

C. That Defendants, and each of them, be adjudged to have infringed United States Letters Patent No. 5,765,508.

D. That Defendants, and each of them, be adjudged to have willfully and deliberately infringed United States Letters Patent No. 5,876,508.

E. That Defendants, and each of them, be adjudged to have contributed to the infringement of United States Letters Patent No. 5,876,508.

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1 F. That Defendants, and each of them, be adjudged to have induced the infringement  
2 of United States Letters Patent No. 5,876,508.

3 G. That Defendants, their officers, agents, servants, employees, and attorneys, and  
4 those persons in active concert or participation with them who receive actual notice of the order  
5 by personal service or otherwise, be preliminarily and permanently enjoined from directly or  
6 indirectly infringing United States Letters Patent No. 5,765,508.  
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8 H. That pursuant to 35 U.S.C. § 284, Defendants account for actual and treble  
9 damages to Plaintiff by virtue of the Defendants' infringement of United States Letters Patent No.  
10 5,765,508.

11 I. That this Court declare this case exceptional under 35 U.S.C. § 285 and award  
12 reasonable attorney fees, costs and expenses.

13 J. That this Court order an accounting with respect to sales by Defendants on all  
14 infringing products.  
15

16 K. That this Court award such other relief to Plaintiff which the Court deems just and  
17 reasonable.  
18

**JURY DEMAND**

19 A jury trial is demanded on all issues triable to a jury in this case.  
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21 DATED this 5<sup>th</sup> day of July, 2006.  
22

23 Respectfully Submitted,

24 **WEIDE & MILLER, LTD.**

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