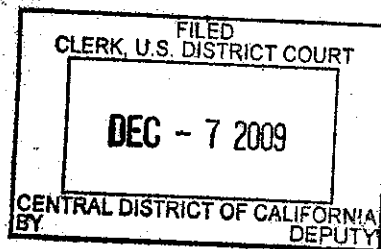


COPY

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8 Attorneys for Plaintiffs  
9 Silverlit Toys Manufactory Ltd. and Spin Master Ltd.

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12 WESTERN DIVISION

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

16 Plaintiffs,

17 vs.

18 JP COMMERCE, LLC, a California  
19 limited liability company, d/b/a  
20 www.jpcommerce.com., THINK RC  
21 form unknown, d/b/a www.thinkrc.com.

22 Defendants.

CASE NO. CV09 08959 DSF (RCx)

COMPLAINT FOR:

1. Copyright Infringement under 17 U.S.C. § 101, et seq.;
2. Contributory Copyright Infringement under 17 U.S.C. 101, et seq.; and
3. Patent Infringement under 35 U.S.C. § 271, et seq.

[DEMAND FOR JURY TRIAL]

1 Plaintiffs Silverlit Toys Manufactory Ltd. (“Silverlit”) and Spin Master Ltd. (“Spin  
2 Master”) (collectively “Plaintiffs”) for their Complaint against JP Commerce LLC (“JP  
3 Commerce”) d/b/a www.jpcommerce.com, Think RC, and www.thinkrc.com  
4 (collectively the “Defendants”) allege as follows:

5 **NATURE OF THIS ACTION**

6 1. This is an action for willful copyright infringement and contributory  
7 copyright infringement under the Copyright Act of 1976, Title 17 of the United States  
8 Code; and willful patent infringement under the Patent Laws of the United States, Title  
9 35 of the United States Code.

10 2. In particular, this action is based on Defendants’ unlawful manufacture, use,  
11 sale, offer for sale, marketing, distribution, reproduction, and/or display of remote-  
12 controlled toy products that blatantly misappropriate Plaintiffs’ intellectual property  
13 rights.

14 3. Plaintiffs distribute a line of widely popular remote-controlled toy  
15 helicopters known in North America as the “Air Hogs Havoc Heli Helicopter” (the  
16 “Havoc Heli”). The Havoc Heli is an original, copyright and patent protected remote  
17 controlled toy helicopter that is easily distinguishable from traditional remote control toy  
18 helicopters. Defendants have engaged in willful copyright and contributory copyright  
19 infringement through its manufacture, use, display, marketing, distribution, reproduction,  
20 offer for sale and/or sale of remote controlled toy products, including the “Vespid 2  
21 Super Miniature (aka “X-Type Infrared 2ch Mini RC Helicopter”) (“Vespid”), that is  
22 virtually identical to the Havoc Heli. In addition, Silverlit owns a number of patents  
23 directed to toy helicopters. Defendants’ manufacture, use, sale, offer for sale, marketing,  
24 distribution, reproduction, and/or display of remote-controlled toy helicopters, including  
25 the Vespid, the “Syma Fairy Infrared 2ch Micro RC Helicopter” (“Fairy”); “Mini 818-16  
26 Infrared Control Miniature Helicopter,” and “Syma Flexible Bird Infrared 2ch Micro RC  
27 Helicopter” (“Flexible Bird”) (collectively the “Infringing Helicopters”), infringe  
28 Silverlit’s utility patents directed to toy helicopters.

1 4. Spin Master also distributes a line of popular remote-controlled toy cars that have  
2 the ability to scale walls, windows and ceilings, known as the Zero Gravity Wall Climber  
3 and Zero Gravity Micro Wall Racer (the “Zero Gravity cars”). The Zero Gravity cars are  
4 protected by copyright and patent. Defendants have engaged in willful copyright and  
5 patent infringement by manufacturing, displaying, marketing, distributing, reproducing,  
6 offering for sale, selling and/or importing into the United States a knock-off car known as  
7 the “Space Spider Wall Climbing Mini RC Car” (the “Infringing Car”) that is virtually  
8 identical to Spin Master’s Zero Gravity car.

9 5. Accordingly, by this action, Plaintiffs seek to protect their valuable  
10 intellectual property rights by obtaining, among other things, a preliminary and  
11 permanent injunction, compensatory damages, treble damages for willful infringement,  
12 attorneys’ fees and costs.

### 13 THE PARTIES

14 6. Plaintiff Silverlit is a Hong Kong limited liability company located at 280,  
15 Gloucester Road, Causeway Bay, Hong Kong. Silverlit develops, designs, and  
16 manufactures various toy products, including RC toy helicopters.

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

21 8. On information and belief, JP Commerce is a California limited liability  
22 company with a principal place of business located at 17939 Chatsworth St., #351,  
23 Granada Hills, California, 91344.

24 9. Plaintiffs are informed and believe, and based thereon allege, that Defendant  
25 jpcommerce.com is a website registered to JP Commerce. The “Contact Us” link on the  
26 website www.jpcommerce.com provides the address 17939 Chatsworth St., #351,  
27 Granada Hills, California, 91344. Attached hereto as **Exhibit 1**, and incorporated herein  
28

1 by reference, is a true and correct copy of the domain registration information for  
2 jpcommerce.com.

3 10. On information and belief, Think RC has a principal place of business  
4 located at 17939 Chatsworth St., #351, Granada Hills, California, 91344.

5 11. Plaintiffs are informed and believe, and based thereon allege, that Defendant  
6 thinkrc.com is a website registered to JP Commerce. The "Contact Us" link on the  
7 website www.thinkrc.com provides the address 17939 Chatsworth St., #351, Granada  
8 Hills, California, 91344. Attached hereto as **Exhibit 2**, and incorporated herein by  
9 reference, is a true and correct copy of the domain registration information for  
10 thinkrc.com.

11 **JURISDICTION AND VENUE**

12 12. This action arises under the Copyright Act of 1976, Title 17 of the United  
13 States Code and the Patent Laws of the United States, Title 35 of the United States Code.

14 13. This Court has subject matter jurisdiction over the claims in this Complaint  
15 pursuant to 28 U.S.C. §§ 1331 and 1338(a).

16 14. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b) and § 1400  
17 (a).

18 15. This Court has personal jurisdiction over JP Commerce and Think RC  
19 because, on information and belief, they have their principal place of business in this  
20 judicial district and regularly engage in business and derive substantial revenue from  
21 goods sold and used in California, including goods sold and used within this judicial  
22 district. Moreover, on information and belief, JP Commerce displays, markets,  
23 distributes, offers to sell, and/or sells, products, including the Infringing Helicopters  
24 and/or the Infringing Cars via the Internet, including its websites, www.jpcommerce.com  
25 and www.thinkrc.com, and third party websites, such as cymaxstores.com and  
26 yourstoreonline.net, thereby placing the Infringing Helicopters and Infringing Cars into  
27 the stream of commerce intending that they would be purchased by consumers with  
28 access to the Internet, including California citizens residing in this judicial district.

1 Attached hereto as **Exhibit 3**, and incorporated herein by reference, are true and correct  
2 copies of invoices indicating that the “Space Spider Remote Control Mini Wall Climbing  
3 Car,” “Syma Fairy Infrared 2ch Micro RC Helicopter,” “Mini 818-16 Infrared Control  
4 Miniature Helicopter,” and “Syma Flexible Bird Infrared 2ch Micro RC Helicopter” were  
5 offered for sale and sold in Los Angeles County through the e-commerce website  
6 www.thinkrc.com. Attached hereto as **Exhibit 4**, and incorporated herein by reference,  
7 is a true and correct copy of a webpage from the jpcommerce.com website offering for  
8 sale the Vespide. Attached hereto as **Exhibit 5**, and incorporated herein by reference, is a  
9 true and correct copy of a webpage from the cymax.com website offering for sale the “JP  
10 Commerce X-Type Infrared 2ch Mini RC Helicopter” (a.k.a, the Vespide). Attached  
11 hereto as **Exhibit 6**, and incorporated herein by reference, is a true and correct copy of an  
12 invoice indicating that the Vespide was offered for sale and sold in Los Angeles County  
13 through the e-commerce website www.cymaxstores.com. Attached hereto as **Exhibit 7**,  
14 and incorporated herein by reference, is a true and correct copy of a webpage from the  
15 thinkrc.com website offering for sale the Fairy. Attached hereto as **Exhibit 8**, and  
16 incorporated herein by reference, is a true and correct copy of a webpage from the  
17 thinkrc.com website offering for sale the “Mini 818-16 Infrared Control Miniature  
18 Helicopter.” Attached hereto as **Exhibit 9**, and incorporated herein by reference, is a true  
19 and correct copy of a webpage from the thinkrc.com website offering for sale the  
20 Flexible Bird.

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

22 16. For over thirty years, Silverlit has been engaged in the business of  
23 designing, manufacturing, developing, and marketing toy products for children of all  
24 ages, including flying toys, such as remote control toy helicopters, track racing systems,  
25 robot toys, and water toys. These products have been marketed, distributed, offered for  
26 sale, and sold throughout the world, including the United States and California, and have  
27 garnered numerous awards and recognition throughout the years.  
28

1 17. Spin Master is also a recognized leader in the RC toy market. Spin Master  
2 is one of the top ten toy companies in the world and is the number one fastest growing  
3 toy company in North America. Spin Master is the exclusive North American distributor  
4 of certain Silverlit products including its popular remote controlled toy helicopters. Spin  
5 Master distributes Silverlit's toy helicopters under its well known and federally registered  
6 Air Hogs brand.

7 18. One of Plaintiffs' most successful product lines is the Havoc Heli. The  
8 Havoc Heli has received numerous awards, including being named the 2007 RC Toy of  
9 the Year. In addition, the Havoc Heli has been featured on popular television programs  
10 such as Good Morning America and Live with Regis and Kelly. The Havoc Heli, sold  
11 and marketed as the "PicooZ" in other parts of the world such as Europe and Asia, also  
12 received recognition in the Guinness Book of World Records as the smallest radio  
13 controlled model helicopter.

14 **PLAINTIFFS' COPYRIGHTS RELATING TO THE HAVOC HELI**

15 19. Silverlit obtained and registered a United States copyright, registration no.  
16 VAu694-351, effective January 23, 2006, for the original three-dimensional sculpture  
17 and model of a toy helicopter that was later produced and marketed as the Havoc Heli. A  
18 true and correct copy of Silverlit's certificate of registration for copyright registration no.  
19 VAu694-351 (the "Helicopter Copyright") is attached hereto and incorporated herein by  
20 reference as **Exhibit 10**.

21 20. The bottom of a genuine Havoc Heli has a proper copyright notice  
22 indicating that the toy helicopter is copyright protected. Attached hereto and  
23 incorporated herein by reference as **Exhibit 11** are true and correct copies of photographs  
24 of the Havoc Heli.

25 21. Silverlit also obtained and registered a United States copyright, registration  
26 no. VA 1-631-768, effective May 8, 2008, for the original three-dimensional sculpture  
27 and model of a toy helicopter and controller. A true and correct copy of Silverlit's  
28 certificate of registration for copyright registration no. VA 1-631-768 (the "Helicopter

1 and Controller Copyright”) is attached hereto and incorporated herein by reference as  
2 **Exhibit 12**.

3 22. The “helicopter” in the Helicopter and Controller Copyright is marketed as  
4 the Havoc Heli. The “controller” in the Helicopter and Controller Copyright is the three-  
5 dimensional sculpture and model of the original controller for the Havoc Heli (the  
6 “Havoc Heli Controller”). Attached hereto and incorporated herein by reference as  
7 **Exhibit 13** are true and correct copies of photographs of the Havoc Heli Controller.

8 23. Silverlit also obtained and registered a United States copyright, registration  
9 no. VA 1-630-182, effective April 16, 2008, for the original two-dimensional artwork on  
10 a controller (the “2D Controller”). A true and correct copy of Silverlit’s certificate of  
11 registration for copyright registration no. VA 1-630-182 (the “Controller Copyright”) is  
12 attached hereto and incorporated herein by reference as **Exhibit 14**. The Helicopter  
13 Copyright, Controller Copyright, and Helicopter and Controller Copyright are  
14 collectively referred to as the “Helicopter Copyrights-in-Suit.”

15 24. The 2D Controller appears on the packaging for the Havoc Heli. Attached  
16 hereto and incorporated herein by reference as **Exhibit 15** are true and correct copies of  
17 photographs of the packaging for the Havoc Heli.

#### 18 SILVERLIT’S PATENTS RELATING TO THE HAVOC HELI

19 25. Silverlit also owns a number of patents directed to toy helicopters including  
20 United States Patent No. 7,467,984 B2 (“’984 Patent”) and United States Patent No.  
21 7,425,168 B2 (“’168 Patent”).

22 26. The ‘984 Patent issued on December 28, 2008, to Alexander Jozef  
23 Magdalena Van de Rostyne. A copy of the ‘984 Patent, entitled “Helicopter,” is attached  
24 hereto as **Exhibit 16** and incorporated by reference herein.

25 27. Silverlit is the owner by assignment of the ‘984 Patent. The ‘984 Patent  
26 discloses and claims a toy helicopter that has a main rotor with propeller blades which is  
27 driven by a rotor shaft, and an auxiliary rotor mounted on the rotor shaft. The main rotor  
28 and the auxiliary rotor are connected to each other by a mechanical link. The ‘984 Patent

1 was duly and legally issued and is currently valid and enforceable. Silverlit has the right  
2 to sue and recover for past, present and future infringements of the '984 Patent, and to  
3 obtain the relief sought herein.

4 28. The '168 Patent issued on September 16, 2008, to Alexander Jozef  
5 Magdalena Van de Rostyne. A copy of the '168 Patent, entitled "Toy Helicopter," is  
6 attached hereto as **Exhibit 17** and incorporated by reference herein.

7 29. Silverlit is the owner by assignment of the '168 Patent. The '168 Patent  
8 discloses and claims a toy helicopter that has a main rotor with propeller blades which is  
9 driven by a rotor shaft, and an auxiliary rotor mounted on the rotor shaft. The main rotor  
10 and the auxiliary rotor are connected to each other by a mechanical link. The '168 Patent  
11 was duly and legally issued and is currently valid and enforceable. Silverlit has the right  
12 to sue and recover for past, present and future infringements of the '168 Patent, and to  
13 obtain the relief sought herein.

14 **DEFENDANTS' WRONGFUL ACTS**

15 30. Defendants are selling, offering for sale, marketing, distributing, reproducing  
16 and/or displaying Havoc Heli knock-off toy helicopters, including the Vespida.

17 31. The Vespida is a copy of, and bears a shape, style, and overall design that is  
18 substantially similar to the copyrighted design of the Havoc Heli.

19 32. The Vespida, like the Havoc Heli, is sold with a remote control. A true and  
20 correct copy of photographs of the Vespida Controller are attached hereto as **Exhibit 18**  
21 and incorporated by reference herein.

22 33. Defendants manufacture, use, sell, offer for sale, market, distribute,  
23 reproduce, and/or display remote-controls for toy helicopters, including the remote  
24 control for the Vespida, Fairy and Flexible Bird (the "Infringing Controller") that is a copy  
25 of, and bears a shape, style, and overall design that is substantially similar to the Havoc  
26 Heli Controller.

27 34. The packaging of the Vespida and Flexible Bird feature a two-dimensional  
28 picture of the Infringing Controller. The two-dimensional picture of the Infringing



1 Controller is a copy of, and bears a shape, style, and overall design that is substantially  
2 similar to the 2D Controller. A true and correct copy of photographs of the Vespida  
3 packaging and Flexible Bird packaging, showing the two dimensional picture of the  
4 Infringing Controller is attached hereto as **Exhibit 19** and incorporated by reference  
5 herein.

6 35. Defendants are aware that the Havoc Heli is protected by copyright because  
7 Spin Master sent Defendants a cease and desist letter on November 15, 2007. The cease  
8 and desist letter notified Defendants that, among other things, the Vespida (aka X-Type  
9 Infrared 2Ch Mini RC Helicopter) infringed the Helicopter Copyright. Moreover,  
10 Plaintiff's November 15, 2007 letter also advised Defendants that the Havoc Heli was  
11 protected by certain patents, and that additional patents were pending. A true and correct  
12 copy of this November 15, 2007 cease and desist letter is attached hereto as **Exhibit 20**  
13 and incorporated by reference herein. After receiving Spin Master's cease and desist  
14 letter, Defendants agreed to stop selling the Vespida.

15 36. However, contrary to Defendants' representations, they knowingly,  
16 willfully, and with conscious disregard for Plaintiffs' intellectual property rights,  
17 continued their course of blatant copyright infringement by continuing to sell and/or offer  
18 for sale Havoc Heli knock-off remote controlled toy helicopters, including the Vespida  
19 (aka X-Type Infrared 2Ch Mini RC Helicopter).

20 37. Defendants also are making, using, selling, offering for sale, and/or  
21 importing into the United States toy helicopters, including the Infringing Helicopters, that  
22 infringe one or more claims of Plaintiffs' 168 and '984 Patents.

23 38. Defendants did not receive any license, authorization, permission or consent  
24 to use the Helicopter Copyright or the Silverlit Patents, or to market, promote, display,  
25 reproduce, sell and/or offer for sale in interstate commerce, remote controlled toy  
26 helicopters that infringe Plaintiffs' intellectual property rights, including the Vespida,  
27 "Syma Fairy Infrared 2ch Micro RC Helicopter," "Mini 818-16 Infrared Control  
28 Miniature Helicopter," and "Syma Flexible Bird Infrared 2ch Micro RC Helicopter."

1 Attached hereto as **Exhibits 21-24** are true and correct copies of photographs of the  
2 Vespid, "Syma Fairy Infrared 2ch Micro RC Helicopter," "Mini 818-16 Infrared Control  
3 Miniature Helicopter," and "Syma Flexible Bird Infrared 2ch Micro RC Helicopter,"  
4 respectively.

### 5 **SPIN MASTER'S POPULAR ZERO GRAVITY CARS**

6 39. For many years, Spin Master has been engaged in the business of designing,  
7 inventing, manufacturing, developing, marketing, and selling high quality toy products  
8 for children of all ages. Spin Master's products have been marketed, distributed, offered  
9 for sale and sold throughout the world, including the United States and California. Spin  
10 Master is a recognized leader in the remote-controlled toy market.

11 40. One of the categories of toys widely associated with Spin Master is a line of  
12 remote-controlled toy vehicles that have the ability to scale walls and ceilings, known as  
13 the "Zero Gravity Wall Climber" and "Zero Gravity Micro Wall Racer." True and  
14 correct copies of photographs of the Zero Gravity Micro Wall Racer - Sports Version are  
15 attached hereto as **Exhibit 25** and incorporated by reference herein.

### 16 **SPIN MASTER'S COPYRIGHT FOR THE ZERO GRAVITY CAR**

17 41. Spin Master obtained and registered a United States copyright, Registration  
18 No. VA 1-645-947, entitled "Toy Car--Sports" (the "Car Copyright") for its original toy  
19 car design. A true and correct copy of Spin Master's certificate of registration for the Car  
20 Copyright and deposit is attached hereto as **Exhibit 26** and incorporated by reference  
21 herein.

### 22 **SPIN MASTER'S PATENT FOR THE ZERO GRAVITY CARS**

23 42. U.S. Patent No. D590,896 (the "'896 Patent"), entitled "Toy Car Base,"  
24 issued on April 21, 2009 to Leonard R. Clark, Jr. and H. Peter Greene, Jr.

25 43. The '896 Patent was duly and legally issued on April 21, 2009 and is  
26 currently valid and enforceable. The '896 Patent discloses and claims an ornamental  
27 design for a toy car base. A true and correct copy of the '896 Patent is attached hereto as  
28 **Exhibit 27** and incorporated by reference herein.

1 44. Spin Master is the exclusive licensee of the '896 Patent and has all  
2 substantial rights under the Patent, including the right to make, use and sell the invention  
3 claimed in the Patent and to sue for infringement of the Patent. Spin Master has the right  
4 to sue and recover for past, present, and future infringement of the '896 Patent, and to  
5 obtain the relief sought herein.

6 **DEFENDANTS' WRONGFUL ACTS RELATING TO**  
7 **THE ZERO GRAVITY CARS**

8 45. Upon information and belief, Defendants are selling, offering for sale,  
9 marketing, distributing, reproducing and/or displaying the Infringing Cars on the internet,  
10 including www.jpcommerce.com and www.thinkrc.com. Attached hereto as **Exhibit 28**  
11 is a true and correct copy of a webpage from the thinkrc.com website offering for sale the  
12 "Space Spider Wall Climbing Mini RC Car."

13 46. The Infringing Cars are a copy of, and bear a shape, style, and overall design  
14 that are substantially similar to the copyrighted Zero Gravity Micro Wall Racer. True and  
15 correct copies of photographs of the Infringing Car are attached hereto as **Exhibit 29** and  
16 incorporated by reference herein.

17 47. The Infringing Cars also copy the ornamental car base design claimed in the  
18 '896 Patent.

19 48. Defendants did not receive any license, authorization, permission or consent  
20 to use Spin Master's Car Copyright or design patent to make, advertise, market, promote,  
21 display, reproduce, sell and/or offer for sale in interstate commerce the Infringing Cars.

22 49. Defendants' continuing infringing conduct has inflicted, and, unless  
23 restrained by this Court, will continue to inflict great and irreparable harm upon Spin  
24 Master. Spin Master has no adequate remedy at law. Spin Master is entitled to a  
25 preliminary and permanent injunction enjoining Defendants from engaging in further acts  
26 of copyright and patent infringement.

27  
28

**FIRST CLAIM FOR RELIEF**

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

50. Plaintiffs repeat and re-allege each and every allegations contained in paragraphs 1 through 49 of this Complaint as if fully set forth herein.

51. Plaintiffs are, and at all relevant times have been, the sole entities authorized to control and administer in the United States the Helicopter Copyright.

52. Defendants have never sought, and Plaintiffs have never granted, Defendants any license to make or market unauthorized and unlicensed copies of the Havoc Heli or any helicopters covered by the Helicopter Copyright.

53. Defendants have infringed and is continuing to infringe the Helicopter Copyright by making, reproducing, importing, marketing, distributing, displaying offering to sell, and/or selling remote controlled toy helicopters, including the Vespid.

54. Defendants' unauthorized acts constitute presently, and will continue to constitute, willful infringement of Plaintiffs exclusive rights under the Helicopter Copyright. Defendants have unlawfully derived and will continue to derive, income and profits from its infringing acts and Plaintiffs have sustained and will continue to sustain substantial injury, loss and damage therefrom.

55. As a direct and proximate result of Defendants' acts of copyright infringement, Plaintiffs are entitled to a preliminary and permanent injunction, and damages and Defendants' profits pursuant to 17 U.S.C. § 504(b), or alternatively, to the maximum statutory damages in the amount of \$150,000 with respect to each infringed copyright pursuant to 17 U.S.C. § 504(c).

56. Plaintiffs are additionally entitled to their attorneys' fees pursuant to 17 U.S.C. § 505.

**SECOND CLAIM FOR RELIEF**

**(Contributory Copyright Infringement -- Helicopter Copyright)**

57. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1 through 56 of this Complaint as if fully set forth herein.

1 58. On information and belief, Defendants market and sell not only to  
2 consumers, but to retailers, wholesalers and distributors. Attached hereto as **Exhibit 30**  
3 is a true and correct copy of a webpage from the jpcommerce.com website stating that it  
4 is “open to business accounts, wholesalers, distributors and drop-shippers.” Upon  
5 information and belief, Defendants own or operate a warehouse in Chatsworth,  
6 California.

7 59. Defendants have knowingly and intentionally induced, caused and/or  
8 materially contributed to the infringement of Plaintiffs’ exclusive rights under the  
9 Helicopter Copyright by making, importing, marketing, distributing, reproducing,  
10 displaying, offering to sell and/or selling remote controlled toy helicopters, including the  
11 Vespid, that infringe the Helicopter Copyright in the manner described above.

12 60. Defendants’ acts of infringement were willful, in disregard of, and with  
13 indifference to, Plaintiffs’ rights.

14 61. By reason of their contributory copyright infringement, Defendants have  
15 unlawfully derived and will continue to derive, income and profits from their  
16 infringement and Plaintiffs have sustained and will continue to sustain substantial injury,  
17 loss and damage therefrom.

18 62. As a direct and proximate result of Defendants’ acts of contributory  
19 copyright infringement, Plaintiffs are entitled to a preliminary and permanent injunction,  
20 and damages and Defendants’ profits pursuant to 17 U.S.C. § 504(b), or alternatively, to  
21 the maximum statutory damages in the amount of \$150,000 with respect to each  
22 infringed copyright pursuant to 17 U.S.C. § 504(c).

23 63. Plaintiffs are additionally entitled to their attorneys’ fees pursuant to 17  
24 U. S. C. § 505.

25 **THIRD CLAIM FOR RELIEF**

26 **(Copyright Infringement -- Helicopter and Controller Copyright )**

27 64. Plaintiffs repeat and re-allege each and every allegations contained in  
28 paragraphs 1 through 63 of this Complaint as if fully set forth herein.

1 65. Plaintiffs are, and at all relative times have been, the sole entities authorized  
2 to control and administer in the United States the Helicopter and Controller Copyright.

3 66. Defendants have never sought, and Plaintiffs have never granted, Defendants  
4 any license to make or market unauthorized and unlicensed copies of the Havoc Heli, the  
5 Havoc Heli Controller, or any helicopters or controllers covered by the Helicopter and  
6 Controller Copyright.

7 67. Defendants have infringed and is continuing to infringe Plaintiffs' exclusive  
8 rights embodied in the Helicopter and Controller Copyright by making, reproducing  
9 importing, marketing, distributing, displaying, offering to sell, and/or selling into the  
10 United States helicopters and controllers that are substantially similar to the Helicopter  
11 and Controller Copyright, including the Vespider and the Infringing Controller.

12 68. Defendants' unauthorized acts constitute presently, and will continue to  
13 constitute, willful infringement of Plaintiffs' exclusive rights under the Helicopter and  
14 Controller Copyright. Defendants have unlawfully derived and will continue to derive,  
15 income and profits from its infringing acts and Plaintiffs have sustained and will continue  
16 to sustain substantial injury, loss and damage therefrom.

17 69. As a direct and proximate result of Defendants' acts of copyright  
18 infringement, Plaintiffs are entitled to damages and Defendants' profits pursuant to 17  
19 U.S.C. § 504(b), or alternatively, to the maximum statutory damages in the amount of  
20 \$150,000 with respect to each infringed copyright pursuant to 17 U.S.C. § 504(c).

21 70. Plaintiffs are additionally entitled to its attorneys' fees pursuant to 17 U.S.C.  
22 § 505.

23 **FOURTH CLAIM FOR RELIEF**

24 **(Contributory Copyright Infringement -- Helicopter and Controller Copyright)**

25 71. Plaintiffs repeat and re-allege each and every allegation contained in  
26 paragraphs 1 through 70 of this Complaint as if fully set forth herein.

27 72. Defendants have knowingly and intentionally induced, caused and/or  
28 materially contributed to the infringement of Plaintiffs' exclusive rights embodied in the

1 Helicopter and Controller Copyright by making, importing, marketing, distributing,  
2 reproducing, displaying, offering to sell and/or selling helicopters and controllers,  
3 including the Vespida and the Infringing Controller, that infringe the Helicopter and  
4 Controller Copyright in the manner described above.

5 73. Defendants' acts of infringement were willful, in disregard of, and with  
6 indifference to, Plaintiffs' rights.

7 74. By reason of its contributory copyright infringement, Defendants have  
8 unlawfully derived and will continue to derive, income and profits from its infringing  
9 acts and Plaintiffs have sustained and will continue to sustain substantial injury, loss  
10 and damage therefrom.

11 75. As a direct and proximate result of Defendants' acts of contributory  
12 copyright infringement, Plaintiffs are entitled to damages and Defendants' profits  
13 pursuant to 17 U.S.C. § 504(b), or alternatively, to the maximum statutory damages in  
14 the amount of \$150,000 with respect to each infringed copyright pursuant to 17 U.S.C. §  
15 504(c).

16 76. Plaintiffs are additionally entitled to its attorneys' fees pursuant to 17  
17 U. S C. § 505.

18 **FIFTH CLAIM FOR RELIEF**

19 **(Copyright Infringement -- Controller Copyright)**

20 77. Plaintiffs repeat and re-allege each and every allegations contained in  
21 paragraphs 1 through 76 of this Complaint as if fully set forth herein.

22 78. Plaintiffs are, and at all relative times have been, the sole entities authorized  
23 to control and administer in the United States the Controller Copyright.

24 79. Defendants have never sought, and Plaintiffs have never granted, Defendants  
25 any license to make or market unauthorized and unlicensed copies of the artwork  
26 protected by the Controller Copyright or any two-dimensional pictures of controllers  
27 bearing the artwork.  
28

1 80. Defendants have infringed and are continuing to infringe Plaintiffs'  
2 exclusive rights under the Controller Copyright by making, importing, marketing,  
3 distributing, reproducing, and/or displaying the Infringing Controller on the packaging of  
4 their products, including the packaging for the Vespida and Flexible Bird.

5 81. Defendants' unauthorized acts constitute presently, and will continue to  
6 constitute, willful infringement of Silverlit's exclusive rights under the Controller  
7 Copyright. Defendants have unlawfully derived and will continue to derive, income and  
8 profits from its infringing acts and Plaintiffs have sustained and will continue to sustain  
9 substantial injury, loss and damage therefrom.

10 82. As a direct and proximate result of Defendants' acts of copyright  
11 infringement, Plaintiffs are entitled to damages and Defendants' profits pursuant to 17  
12 U.S.C. § 504(b), or alternatively, to the maximum statutory damages in the amount of  
13 \$150,000 with respect to each infringed copyright pursuant to 17 U.S.C. § 504(c).

14 83. Plaintiffs are additionally entitled to its attorneys' fees pursuant to 17 U.S.C.  
15 § 505.

16 **SIXTH CLAIM FOR RELIEF**

17 **(Contributory Copyright Infringement -- Controller Copyright)**

18 84. Plaintiffs repeat and re-allege each and every allegation contained in  
19 paragraphs 1 through 83 of this Complaint as if fully set forth herein.

20 85. Defendants have knowingly and intentionally induced, caused and/or  
21 materially contributed to the infringement of Plaintiffs' exclusive rights under the  
22 Controller Copyright by making, importing, marketing, distributing, reproducing, and/or  
23 displaying the Infringing Controller on the packaging of their products, including the  
24 packaging for the Vespida and Flexible Bird that infringes the Controller Copyright in the  
25 manner described above.

26 86. Defendants' acts of infringement were willful, in disregard of, and with  
27 indifference to, Plaintiffs' rights.

28 87. By reason of its contributory copyright infringement, Defendants have



1 unlawfully derived and will continue to derive, income and profits from its infringing  
2 acts and Plaintiffs have sustained and will continue to sustain substantial injury, loss  
3 and damage therefrom.

4 88. As a direct and proximate result of Defendants' acts of contributory  
5 copyright infringement, Plaintiffs are entitled to damages and Defendants' profits  
6 pursuant to 17 U.S.C. § 504(b), or alternatively, to the maximum statutory damages in  
7 the amount of \$150,000 with respect to each infringed copyright pursuant to 17 U.S.C. §  
8 504(c).

9 89. Plaintiffs are additionally entitled to its attorneys' fees pursuant to 17  
10 U. S C. § 505.

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12 **SEVENTH CLAIM FOR RELIEF**

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

14 90. Plaintiffs repeat and re-allege each and every allegation contained in  
15 paragraphs 1-89, of this Complaint as if fully set forth herein.

16 91. Upon information and belief, Defendants had notice of the '984 Patent.

17 92. Defendants have directly infringed, induced infringement of, and/or  
18 contributed to infringement of one or more claims of the '984 Patent, both literally and  
19 under the doctrine of equivalents, by making, using, offering to sell, selling, and/or  
20 importing into the United States remote controlled toy helicopters, including the  
21 Infringing Helicopters.

22 93. Upon information and belief, the infringement of the '984 Patent by  
23 Defendants have been deliberate and willful.

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

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**EIGHTH CLAIM FOR RELIEF**

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

95. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1-94 of this Complaint as if fully set forth herein.

96. Upon information and belief, Defendants had notice of the '168 Patent.

97. 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 remote controlled toy helicopters, including the Infringing Helicopters.

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

99. 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.

**NINTH CLAIM FOR RELIEF**

**(Copyright Infringement under 17 U.S.C. § 101, et seq. --Car Copyright)**

100. Plaintiffs repeat and reallege the allegations contained in the foregoing paragraphs 1 through 99, as if fully set forth herein.

101. Defendants have never sought, and Spin Master has never granted Defendants, any license to make or market unauthorized and unlicensed copies of the work protected by the Car Copyright. Defendants have never sought, and Spin Master has never granted Defendant, any license to display or otherwise exploit the Car Copyright.

102. Defendants have advertised, marketed, promoted, offered to sell, sold, reproduced, and displayed products that infringe the Car Copyright.

103. Defendants' unauthorized acts constitute presently, and will continue to constitute, willful infringement of Spin Master's exclusive rights in and to the Car Copyright. Defendants have unlawfully derived and will continue to derive income and

1 profits from its infringing acts and Spin Master has sustained and will continue to sustain  
2 substantial injury, loss and damage therefrom.

3 104. As a direct and proximate result of Defendants' acts of copyright  
4 infringement, Spin Master is entitled to a preliminary and permanent injunction, actual  
5 damages and Defendants' profits pursuant to 17 U.S.C. § 504(b), or alternatively, the  
6 maximum statutory damages in the amount of \$150,000 with respect to each infringed  
7 copyright pursuant to 17 U.S.C. § 504(c).

8 105. Spin Master is additionally entitled to its attorneys' fees pursuant to 17  
9 U.S.C. § 505.

10 **TENTH CLAIM FOR RELIEF**

11 **(Contributory Copyright Infringement under 17 U.S.C. § 101, *et seq.*)**

12 106. Plaintiffs repeat and reallege the allegations contained in the foregoing  
13 paragraphs 1 through 105, as if fully set forth herein.

14 107. Defendants knowingly and intentionally induced, caused and/or materially  
15 contributed to the infringement of Spin Master's exclusive rights in the Car Copyright by  
16 distributing, offering to sell, selling, marketing, promoting, advertising, reproducing,  
17 and/or displaying the Infringing Cars in the manner described above.

18 108. By reason of Defendants' contributory copyright infringement, Defendants  
19 have unlawfully derived and will continue to derive, income and profits from its  
20 infringing acts and Spin Master has sustained and will continue to sustain substantial  
21 injury, loss and damage therefrom.

22 109. As a direct and proximate result of Defendants' acts of contributory  
23 copyright infringement, Spin Master is entitled to a preliminary and permanent  
24 injunction, actual damages and Defendants' profits pursuant to 17 U.S.C. § 504(b), or  
25 alternatively, the maximum statutory damages in the amount of \$150,000 with respect to  
26 each infringed copyright pursuant to 17 U.S.C. § 504(c).

27 110. Spin Master is additionally entitled to its attorneys' fees pursuant to 17  
28 U.S.C. § 505.

**ELEVENTH CLAIM FOR RELIEF**

**(Patent Infringement - U.S. Patent No. D590,896 S)**

111. Plaintiffs repeat and reallege the allegations contained in the foregoing paragraphs 1 through 110, as if fully set forth herein.

112. Defendants have directly infringed, induced infringement of, and/or contributed to infringement of the '896 Patent, both literally and under the doctrine of equivalents, by making, using, offering to sell, selling, exposing for sale, and/or importing the Infringing Cars into the United States.

113. Upon information and belief, the infringement of the '896 Patent by the Defendants has been deliberate and willful.

114. The infringement of the '896 Patent by Defendants is ongoing and will continue unless the Defendants are enjoined from further infringement by the Court.

115. As a result of the Defendants' infringement, Spin Master is entitled to injunctive relief, damages, costs, interest and attorneys' fees pursuant to 35 U.S.C. §§ 283, 284, 285, and 289.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs pray for judgment as follows:

A. Enter judgment in favor of Plaintiffs.

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

- (i) manufacturing, producing, distributing, circulating, selling, displaying, or otherwise disposing of any product that is copy or colorable imitation of the toy helicopter and/or controller depicted in the Helicopter Copyrights-in-Suit.
- (ii) manufacturing, producing, distributing, circulating, selling, displaying, or otherwise disposing of any product which bears any copy or colorable imitation to the design of the Zero Gravity car as

1 depicted in the Car Copyright;

2 (iii) making, using, offering for sale, selling, or importing into the United  
3 States any product which infringes the '984 and/or '168 Patents;

4 (iv) making, using, offering for sale, selling, or importing into the United  
5 States any product which infringes the '896 Patent;

6 (v) assisting, aiding or abetting another person or business entity in  
7 engaging or performing any of the activities enumerated in  
8 subparagraphs (i) through (iv) above.

9 C. Find that Defendants have willfully infringed the Helicopter Copyrights-in-  
10 Suit in violation of federal law.

11 D. Find that Defendants have willfully infringed the Car Copyright in violation  
12 of federal law.

13 E. Find Defendants liable and award to Plaintiffs actual damages and  
14 Defendant's profits pursuant to 17 U.S.C. § 504(b), or alternatively, the maximum  
15 statutory damages in the amount of \$150,000 with respect to each infringed copyright  
16 pursuant to 17 U.S.C. § 504(c).

17 F. Find that Defendants have willfully infringed the '896 Patent.

18 G. Find that Defendants have willfully infringed the '984 and/or '168 Patents.

19 H. Find Defendants liable and award to Plaintiffs monetary damages in an  
20 amount to be to be determined at trial, including all of Defendant's profits or gains of any  
21 kind resulting from their willful patent infringement, Plaintiffs' lost profits, and/or a  
22 reasonable royalty, said amount to be trebled in view of the intentional nature of the acts  
23 complained of herein, pursuant to 35 U.S.C. § 284 and § 289.

24 I. Find this case exceptional pursuant to 35 U.S.C. § 285 and award Plaintiffs  
25 reasonable attorneys' fees and costs;

26 J. Award Plaintiffs pre-judgment and post-judgment interest on any monetary  
27 awards.

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

DATED: December 7, 2009

**GREENBERG TRAURIG, LLP**

By: \_\_\_\_\_  
VALÉRIE W. HO  
KAMRAN SALOUR  
Attorneys for Plaintiffs  
Silverlit Toys Manufactory Ltd. and  
Spin Master Ltd.

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs Silverlit Toys  
Manufactory Ltd. and Spin Master Ltd. demand a trial by jury of any issue triable of right  
by a jury.

DATED: December 7, 2009

**GREENBERG TRAURIG, LLP**

By: \_\_\_\_\_  
VALERIE W. HO  
KAMRAN SALOUR  
Attorneys for Plaintiffs  
Silverlit Toys Manufactory Ltd. and  
Spin Master Ltd.

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