

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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DBAPK, Inc.,

Civil Case No. \_\_\_\_\_

Plaintiff,

vs.

Spin Master, Ltd., Spin Master, Inc., Spin  
Master Toys Far East Limited, Guru Toys  
Limited, Zuru Toys and Zuru-Inc.

**COMPLAINT  
(DEMAND FOR JURY TRIAL)**

Defendants.

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For its Complaint, DBAPK, Inc. ("Plaintiff") states:

**PARTIES**

1. DBAPK, Inc. is a Minnesota Corporation having its principal place of business in Minnetonka, Minnesota.
2. On information and belief, Defendant Spin Master, Ltd. is a Canadian Corporation having its principal place of business at 450 Front Street, West Toronto, Ontario M5V1B6 Canada.
3. On information and belief, Defendant Spin Master, Inc. is a Delaware Corporation having its place of business at 300 International Drive, Suite 300, Williamsville, New York.
4. On information and belief, Defendant Spin Master Toys Far East Limited is an alien business entity of unknown structure with a principal place of business at Room #1113, 11F, Chinachem Golden Plaza, 77 Mody Road, Tsimshatsui E, Kowloon, Hong Kong.
5. On information and belief, Defendant Guru Toys Limited is a New Zealand Corporation having its principal place of business in Cambridge, New Zealand.
6. On information and belief, Defendant Zuru Toys is an alien business entity of unknown structure with a principal place of business in Hong Kong.

7. On information and belief, Defendant Zuru-Inc. is an alien business entity of unknown structure with a principal place of business in Hong Kong.

**JURISDICTION AND VENUE**

8. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over defendants because defendants conduct business in this judicial district and in the State of Minnesota and have committed acts of patent infringement and/or have contributed to or induced acts of patent infringement by others in this judicial district (and elsewhere in Minnesota and in the United States).

10. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because defendants are subject to personal jurisdiction in this judicial district, have regularly conducted business in this judicial district, and certain of the acts complained of herein occurred in this judicial district.

11. This Court has personal jurisdiction over defendants because defendants conduct business in this judicial district and in the State of Minnesota and have committed acts of patent infringement and/or have contributed to or induced acts of patent infringement by others in this judicial district (and elsewhere in Minnesota and in the United States).

**CLAIM FOR PATENT INFRINGEMENT**

12. Plaintiff realleges and incorporates herein the allegations of the preceding paragraphs as if fully set forth herein.

13. Plaintiff is the owner by assignment of United States Patent No. 5,888,156 entitled "Lighted and Inflatable Device," duly and legally issued on March 30, 1999 (the "'156 Patent"). A true and correct copy of the '156 patent is attached hereto as Exhibit A.

14. The '156 patent is valid and enforceable.

15. On information and belief, in violation of 35 U.S.C. § 271, defendants make, use, offer to sell, and sell within the United States, and/or import into the United States, products that infringe the '156 patent, including, but not limited to, the "ZURU TECH-FX LIGHT-UP FOOTBALL" and "ZURU TECH FX LIGHT-UP SOCCER BALL."

16. On information and belief, in violation of 35 U.S.C. § 271, defendants also contribute to and/or induce infringement of the '156 patent.

17. On information and belief, defendants have actual knowledge of the '156 Patent, and their infringement is willful and deliberate.

18. On information and belief, defendants' acts of infringement of the '156 patent will continue after service of this complaint unless enjoined by the Court.

19. As a result of defendants' infringement, Plaintiff has suffered and will suffer damages.

20. Plaintiff is entitled to recover from defendants the damages sustained by Plaintiff as a result of defendants' wrongful acts in an amount subject to proof at trial.

21. Unless defendants are enjoined by this Court from continuing their infringement of the '156 patent, Plaintiff will suffer additional irreparable harm and impairment of the value of its patent rights. Thus, Plaintiff is entitled to an injunction against further infringement.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment and relief as follows:

- (a) That defendants have infringed the '156 patent;
- (b) That defendants' infringement of the '156 patent has been willful;
- (c) That defendants be ordered to pay damages adequate to compensate Plaintiff for defendants' infringement of the '156 patent pursuant to 35 U.S.C. § 284, including an accounting;

- (d) That defendants be ordered to pay treble damages pursuant to 35 U.S.C. § 284;
- (e) That defendants be ordered to pay Plaintiff's attorney fees pursuant to 35 U.S.C. § 285;
- (f) That defendants, their officers, agents, and employees, and those persons acting in active concert or in participation with them, and their successors and assigns, be enjoined from further infringement of the '156 patent pursuant to 35 U.S.C. § 283;
- (g) That defendants be ordered to pay prejudgment interest;
- (h) That defendants be ordered to pay all of Plaintiff's costs associated with this action; and
- (i) That Plaintiff be granted such other and additional relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury on all issues so triable.

Dated: April 10, 2008

**BRIGGS AND MORGAN, P.A.**

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INC.**