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7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 WORLDSLIDE, LLC,

11 Plaintiff,

12 v.

13 BRIAN DUBINSKY and
AQUAWOOD, LLC using trade name
14 TOYQUEST,
WAL-MART STORES, INC.,
15 TARGET CORPORATION, INC.
AMAZON.COM, INC.
16 TOYS'R'US-DELAWARE, INC.

17 Defendants.

CASE NO.

RE: U.S. 7, 789, 804 Patent

**COMPLAINT FOR
PATENT INFRINGEMENT**

DAMAGES AND INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

[35 USC § 271, §§ 281-285]

18
19 Plaintiff alleges:

20 **JURISDICTION AND VENUE**

21 1. This action arises under the patent laws of the United States 35 U.S.C. § 271, §§ 281-
22 285. Jurisdiction is therefore proper under 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

23 2. Venue in this judicial district is proper under 28 U.S.C. § 1391 (b) and (c) and § 1400.
24 Defendants have on a continual basis committed the acts alleged below within the Eastern
25 District of California, in business interactions purposefully elicited by Defendants with or
26 directed to residents of the District, including, inter alia, actively soliciting and causing
27 infringing, using and sales within and from the District, promotion and media advertising within

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1 and from the District, and other acts which harms plaintiff within the district.

2 **THE PARTIES**

3 3. Plaintiff WORLDSLIDE, LLC ("Worldslide") is a Delaware Limited Liability
4 Company registered with the California Secretary of State and having its principal office in
5 Napa, Napa County, California.

6 4. Defendant BRIAN DUBINSKY is an individual and controlling member of
7 AQUAWOOD, LLC, doing business as "TOYQUEST", ("AquaWood") of 2228 Barry Ave., Los
8 Angeles CA 90064-1402 which is an organization of unknown type which is manufacturing and
9 distributing the infringing products complained of herein to multiple stores throughout the
10 Eastern District.

11 5. Defendant WAL-MART STORES, INC., ("WalMart") is a corporation based in
12 Arkansas and doing business in the state of California which has multiple branch stores within
13 the Eastern District stocking and selling the infringing products complained of herein and
14 supplied to WalMart by AquaWood.

15 6. Defendant TARGET CORPORATION, INC. ("TARGET") is a Minnesota Corporation
16 unregistered with the California Secretary of State which has multiple retail stores within the
17 Eastern District stocking and selling the infringing products complained of herein and supplied
18 to Target by AquaWood.

19 7. Defendant AMAZON.COM, INC. ("Amazon") is a Delaware Corporation having its
20 principal office in the State of Washington and registered with the Washington Secretary of State
21 as entity #6017720490 which has for years shipped products into California with instructions for
22 use as appropriate and posted instructions and encouragements on internet sites accessible to
23 residents of the Eastern District without warnings as to the intellectual property issues including
24 infringement. Amazon stocks and sells to persons inside the Eastern District at their residence
25 the infringing products complained of herein supplied to Amazon by AquaWood.

26 8. Defendant TOYS 'R' US-DELAWARE, INC. ("TOYS R US") is a Delaware Limited
27 Liability Company registered with the California Secretary of State as entity # C0893073 to do

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1 and doing business in the State of California which has multiple retail stores within the Eastern
2 District stocking and selling the infringing products complained of herein supplied to Toys R Us
3 by AquaWood.

4 **CLAIM FOR RELIEF**

5 **(Infringement of U.S. Patent Number 7,789,804)**

6 9. On September 7, 2010, United States Patent 7,789,804 (the “’804 Patent”), entitled
7 “Sliding Exercise Apparatus and Recreational Device” was duly and legally issued by the United
8 States Patent and Trademark Office. Plaintiff is the assignee of the ‘804 Patent.

9 10. Defendants have been and are directly infringing, actively inducing others to infringe,
10 and /or contributing to or inducing the infringement of the ‘804 Patent in this district and
11 elsewhere.

12 11. Upon information and belief, Defendants will continue to infringe the ‘804 Patent
13 unless and until it is enjoined by this Court.

14 12. Upon information and belief, Defendants’ infringement of the ‘804 Patent is taking
15 place with knowledge of the ‘804 Patent and is willful. By continuing to commit acts of
16 infringement with full knowledge of the ‘804 patent, Defendants have failed to meet the required
17 standard of care to avoid a finding of willful infringement.

18 13. Defendants have caused and will continue to cause Plaintiff irreparable injury and
19 damage by infringing the ‘804 Patent. Plaintiff will suffer further injury, for which Plaintiff has
20 no adequate remedy at law, unless and until Defendants are enjoined from infringing the ‘804
21 Patent.

22 14. The Defendants have sold or are selling or deriving revenue from sales or has in
23 inventory the following infringing products, known at least at one time by the following names:
24 Banzai Falls Mega Racer Water Slide, Banzai Hydro Blast Inflatable Water Park, Banzai Splitter
25 Racing Water Slide, 21’ Banzai Double Drop Raceway Water Slide, Banzai Triple Slide Water
26 Park . To the extent that these products may have been sold to consumers or manufactured prior
27 to September 7, 2010 such activities would not have infringed. Such activities prior to

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1 September 7, 2010 do not shield activities after September 7, 2010. Defendants did not recall the
2 products on September 7, 2010 or thereafter from wholesalers, distributors, retailers or affiliates
3 or customers.

4 15. Defendants in failing to reasonably remove the infringing products from the market
5 place or stop infringing use after September 7, 2010 became an infringer by encouraging
6 infringing sale and use of the products.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays for judgment as hereafter set forth:

9 A. For judgment that Defendants have infringed the '804;

10 B. Order that the Defendants and its officers, agents, servants, employees, attorneys,
11 and all persons in active concert or participation with any of them cease from infringing the '804
12 Patent;

13 C. Award Plaintiff damages in amounts sufficient to compensate them for Defendants'
14 infringement of the '804 Patent, together with prejudgment and post judgment interest and costs,
15 pursuant to 35 U.S.C. §284;

16 D. Treble the damages awarded to Plaintiff against Defendants, by reason of
17 Defendants' willful infringement of the '804 Patent;

18 E. Declare this case to be "exceptional" under 35 U.S.C. §285 and award Plaintiff its
19 attorneys' fees, expenses, and costs incurred in this action;

20 F. Award Plaintiff preliminary and permanent injunctive relief, enjoining Defendants,
21 and each of them, from directly or indirectly infringing the '804 Patent; and

22 G. Award Plaintiff such other and further relief as the court may deem just and proper.

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Date: April 4, 2012

/s/ William S. Bernheim
William S. Bernheim
Attorney for Plaintiff

JURY TRIAL DEMAND

Pursuant to Fed Rule Civ. P. 38(b), 5(d) and Eastern district of California Local Rule 38-201, Plaintiff demands a jury trial of all issues triable by jury.

BERNHEIM, GUTIERREZ & McCREADY

Date: April 4, 2012

/s/ William S. Bernheim

William S. Bernheim
Attorney for Plaintiff

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