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Encino, California 91436 Telephone: (818) 501-3535 Facsimile: (818) 501-4138

Attorneys for Plaintiff Manley Toys Ltd.

CLERK U.S. DISTRICT COUR
CENTRAL DISTRICT COUR
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UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

- GV09-06711 CBM FMOX

MANLEY TOYS LTD., a Hong Kong company,

Plaintiff,

VS.

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FNF ENTERPRISES, INC., d.b.a. STELLAR TOYS, a Nevada corporation,

Defendant.

CASE NO.:

COMPLAINT FOR:

(1) DECLARATORY JUDGMENT RE: INVALIDITY, UNENFORCEABILITY, AND NON-INFRINGEMENT OF PATENTS INCLUDING, WITHOUT LIMITATION, U.S. PATENT NOS. 6,599,162; 6,585,552; and 6,595,823; (2) DECLARATORY JUDGMENT RE: NON-INFRINGEMENT OF TRADEMARKS AND COPYRIGHTS; and (3) DECLARATORY JUDGMENT RE: NO UNFAIR COMPETITION OR ANY OTHER WRONGFUL OR ILLEGAL CONDUCT

DEMAND FOR JURY TRIAL

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Plaintiff Manley Toys Ltd. (hereinafter "Plaintiff Manley") hereby alleges against Defendant FNF Enterprises, d.b.a. Stellar Toys (hereinafter "Defendant Stellar") as follows:

JURISDICTION AND VENUE

- 1. The Court has subject matter jurisdiction over this civil action, which seeks a declaratory judgment as to the invalidity, unenforceability, and non-infringement of patents including, without limitation, U.S. Patent Nos. 6,599,162 (hereinafter the "162 Patent"), 6,585,552 (hereinafter the "'552 Patent"), and 6,595,823 (hereinafter the "'823 Patent"); a declaratory judgment re: non-infringement of trademarks and copyrights; and a declaratory judgment re: no unfair competition or any other wrongful or illegal conduct, pursuant to 28 U.S.C. §§ 1331, 1338, and 2201 et seq. There is a justiciable and actual controversy between the parties with respect to the invalidity, unenforceability, and non-infringement of patents including, without limitation, the '162 Patent, the '552 Patent, and the '823 Patent, and with respect to Defendant Stellar's allegations that Plaintiff Manley has committed acts of trademark and copyright infringement and has engaged in other wrongful and/or illegal conduct constituting unfair competition.
 - 2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)

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because a substantial part of the events or omissions giving rise to the claims occurred within this judicial district.

3. This Court has personal jurisdiction over Defendant Stellar because Defendant Stellar, at all relevant times hereto, was and is doing business in the State of California and this judicial district; regularly and systematically conducts or solicits business and/or derives substantial revenue from international, interstate, and infra-state commerce, including specifically from commerce conducted within and with the State of California and this judicial district; and/or reasonably expected its acts to have consequences within the State of California.

THE PARTIES

- 4. Plaintiff Manley is a company organized under the laws of Hong Kong, with its principal place of business in Kowloon, Hong Kong. Plaintiff Manley sells products to companies in the United States, including to companies within this judicial district.
- 5. Plaintiff Manley is informed and believes, and on that basis alleges, that Defendant Stellar is a Nevada corporation with a principal place of business located at 18308 Ward Street, Fountain Valley, California 92708.

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6. Included among Plaintiff Manley's toys is a hand-powered, non-mechanical tossing and flying disc toy in its Banzai line of products called "Yo-Be".

7. On or around July 3, 2009, Defendant Stellar sent Plaintiff Manley correspondence via e-mail alleging that Plaintiff Manley is infringing Defendant Stellar's patents, trademarks, and copyrights, and engaging in wrongful and/or illegal conduct that may constitute unfair competition, in connection with Defendant Stellar's Flip N Flyer gyroscopic flying disc toy product, and threatening to bring a lawsuit against Plaintiff Manley.

(Declaratory Judgment Re: Invalidity, Unenforceability, and Non-Infringement of Patents Including, Without Limitation, U.S. Patent Nos. 6,599,162, 6,585,552, and 6,595,823) (Against Defendant Stellar)

- 8. Plaintiff Manley realleges and incorporates herein by reference paragraphs 1 through 7, inclusive, of this Complaint, as though fully set forth herein.
- Plaintiff Manley seeks a declaration of the invalidity and unenforceability 9. of patents including, without limitation, the '162 Patent; the '552 Patent; and the '823 Patent, and each of the claims thereof. Upon information and belief the claims of the '162 Patent, the '552 Patent, and the '823 Patent are invalid, void,

 and unenforceable for, *inter alia*, failure to meet the requirements of 35 U.S.C. §§ 102, 103, and/or 112.

- 10. Plaintiff Manley seeks a declaration that is not infringing, directly, indirectly, contributorily, and/or by inducement, any patents of Defendant Stellar, including, without limitation, the '162 Patent, the '552 Patent, and/or the '823 Patent, or any valid or enforceable claims thereof, and that it has never done so. Plaintiff Manley denies that it has infringed or is infringing, directly, indirectly, contributorily, and/or by inducement any patents of Defendant Stellar including, without limitation, the '162 Patent, the '552 Patent, and/or the '823 Patent, or any valid and enforceable claims thereof.
- 11. An actual controversy exists between Defendant Stellar and Plaintiff
 Manley with respect to the invalidity, unenforceability, and non-infringement of
 patents including, without limitation, the '162 Patent, the '552 Patent, and the '823
 Patent.

(Declaratory Judgment Re: Non-Infringement of Trademarks and Copyrights) (Against Defendant Stellar)

- 12. Plaintiff Manley realleges and incorporates herein by reference paragraphs 1 through 7, inclusive, of this Complaint, as though fully set forth herein.
 - 13. Plaintiff Manley seeks a declaration that is not infringing any trademarks or

copyrights of Defendant Stellar in connection with Defendant Stellar's Flip N Flyer gyroscopic flying disc toy product.

14. An actual controversy exists between Defendant Stellar and Plaintiff
Manley with respect to the non-infringement of any trademarks or copyrights that
Defendant Stellar may have in or for its Flip N Flyer gyroscopic flying disc toy
product.

COUNT III

(Declaratory Judgment Re: No Unfair Competition) (Against Defendant Stellar)

- 15. Plaintiff Manley realleges and incorporates herein by reference paragraphs 1 through 7, inclusive, of this Complaint, as though fully set forth herein.
- 16. Plaintiff Manley seeks a declaration that it has not engaged in any acts or conduct that constitute unfair competition, or engaged in any other wrongful or illegal conduct, in connection with Defendant Stellar's Flip N Flyer gyroscopic flying disc toy product, in violation of the rights of Defendant Stellar.
- 17. An actual controversy exists between Defendant Stellar and Plaintiff Manley with respect to the allegations made by Defendant Stellar that Plaintiff Manley engaged in conduct that may constitute unfair competition, or other wrongful and/or illegal conduct, in connection with Defendant Stellar's Flip N Flyer gyroscopic flying disc toy product.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Manley Toys Ltd. prays for relief as follows:

- A. For entry of a judgment declaring that each and every claim of U.S. Patent Nos. 6,599,162; 6,585,552; and 6,595,823 is invalid, void, and unenforceable;
- B. For entry of a judgment declaring that no claim of U.S. Patent Nos. 6,599,162; 6,585,552; and 6,595,823, or any other patent owned by Defendant Stellar, that is valid and enforceable, if any, is infringed by Plaintiff Manley, either directly, indirectly, contributorily, or by inducement;
- C. For entry of a judgment declaring that Plaintiff Manley has not and is not infringing any trademarks or copyrights of Defendant Stellar in connection with Defendant Stellar's Flip N Flyer gyroscopic flying disc toy product, in violation of any rights of Defendant Stellar;
- D. For entry of a judgment declaring that Plaintiff Manley has not engaged in any acts or conduct constituting unfair competition, or engaged in any other wrongful or illegal conduct, in connection with Defendant Stellar's Flip N Flyer gyroscopic flying disc toy product, in violation of any rights of Defendant Stellar;
 - E. For an award of Plaintiff Manley's costs and expenses, including,

attorneys' fees, incurred in prosecuting this action, as permitted by applicable law; and

F. For an order awarding Plaintiff Manley such other and further relief as the Court may deem just and proper.

Respectfully submitted,

LEWIS ANTEN, A PROFESSIONAL CORPORATION

LEWIS ANTEN
IVY CHODERKER

Attorneys for Plaintiff Manley Toys Ltd.

DEMAND FOR JURY TRIAL

Demand for trial by jury is hereby made as provided for in Rule 38(b), Federal Rule of Civil Procedure, and Local Rule 38.1 of United States Court for the Central District of California.

Dated: 9/15/03

LEWIS ANTEN, A PROFESSIONAL CORPORATION

LEWIS ANTEN
IVY CHODERKER
Attorneys for Plaintiff Manley Toys Ltd.

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Consuelo B. Marshall and the assigned discovery Magistrate Judge is Fernando M. Olguin.

The case number on all documents filed with the Court should read as follows:

CV09- 6711 CBM (FMOx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge	
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NOTICE TO COUNSEL	
A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is	

[] Southern Division

Failure to file at the proper location will result in your documents being returned to you.

filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

[X] Western Division

312 N. Spring St., Rm. G-8

Los Angeles, CA 90012

411 West Fourth St., Rm. 1-053

Santa Ana, CA 92701-4516

[] Eastern Division

3470 Twelfth St., Rm. 134

Riverside, CA 92501

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Name & Address: LEWIS ANTEN, Esq., State Bar No. 56459 IVY CHODERKER, Esq., State Bar No. 210612 LEWIS ANTEN, A PROFESSIONAL CORP. 16830 Ventura Boulevard, Suite 236 Encino, California 91436

ORIGINAL

UNITED STATES DISTRICT COURT

CENTRAL DISTRIC	LI OF CALIFORNIA
MANLEY TOYS LTD., a Hong Kong company,	CASE NUMBER
PLAINTIFF(S) V.	GV09-06711 CBM FMOx
FNF ENTERPRISES, INC., d.b.a. STELLAR TOYS, a Nevada corporation, DEFENDANT(S).	SUMMONS
TO: DEFENDANT(S): FNF ENTERPRISES, INC.,	d.b.a. STELLAR TOYS
must serve on the plaintiff an answer to the attached ☐ counterclaim ☐ cross-claim or a motion under Rule 1 or motion must be served on the plaintiff's attorney. Le	2 of the Federal Rules of Civil Procedure. The answer wis Anten , whose address is 236, Engino, California 91436 . If you fail to do so,

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

CIVIL COVER SHEET I (a) PLAINTIFFS (Check box if you are representing yourself []) DEFENDANTS FNF ENTERPRISES, INC., d.b.a. STELLAR TOYS MANLEY TOYS LTD. (b) Attorneys (Firm Name, Address and Telephone Number. If you are representing Attorneys (If Known) yourself, provide same.) Lewis Anten, Esq. State Bar No. 56459 Tel. (818) 501-3535 Ivy Choderker, Esq., State Bar No. 210612 LEWIS ANTEN, P.C. 16830 Ventura Blvd., Suite 236, Encino, CA 91436 III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only IL BASIS OF JURISDICTION (Place an X in one box only.) (Place an X in one box for plaintiff and one for defendant.) ☐ 1 U.S. Government Plaintiff 2 3 Federal Question (U.S. PTF DEF PTF DEF Government Not a Party) Citizen of This State Incorporated or Principal Place $\square 4$ $\Box 4$ of Business in this State ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship Citizen of Another State $\Box 2 \cdot \Box 2$ Incorporated and Principal Place 5 □5 of Parties in Item III) of Business in Another State Citizen or Subject of a Foreign Country □ 3 □ 3 Foreign Nation □6 □6 IV. ORIGIN (Place an X in one box only.) 1 Original □ 2 Removed from □ 3 Remanded from □ 4 Reinstated or □ 5 Transferred from another district (specify): □ 6 Multi-□ 7 Appeal to District Proceeding State Court Appellate Court Reopened Judge from Litigation Magistrate Judge V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes \(\text{No (Check 'Yes' only if demanded in complaint.)} CLASS ACTION under F.R.C.P. 23: Yes No MONEY DEMANDED IN COMPLAINT: S Costs, including atty fees VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) DECLAR. JMT RE: INVALIDITY, UNENFORCEABILITY AND NON-INFRINGEMENT OF U.S. PATENTS, RE: NO TRADEMARK OR COPYRT INFRINGE VII. NATURE OF SUIT (Place an X in one box only.) ☐ 400 State Reapportionment ☐ 110 Insurance PERSONAL DATERY PERSONAL ☐ 710 Fair Labor Standards ☐ 410 Antitrust ☐ 120 Marine ☐ 310 Airplane PROPERTY ☐ 510 Motions to Act ☐ 130 Miller Act ☐ 430 Banks and Banking **315** Airplane Product ☐ 720 Labor/Mgmt. ☐ 370 Other Fraud Vacate Sentence Liability ☐ 450 Commerce/ICC □ 140 Negotiable Instrument ☐ 371 Truth in Lending Habeas Corpus Relations □ 320 Rates/etc. Assault, Libel & ☐ 150 Recovery of □ 380 Other Personal □ 530 General □ 730 Labor/Mgmt. Slander ☐ 460 Deportation Overpayment & Property Damage ☐ 535 Death Penalty Reporting & Fed. Employers □ 330 ☐ 470 Racketeer Influenced Enforcement of ☐ 385 Property Damage □ 540 Mandamus/ Disclosure Act Liability and Corrupt Judgment **Product Liability** Other ☐ 740 Railway Labor Act **340** Marine **Organizations** ☐ 151 Medicare Act □ 550 Civil Rights □ 790 Other Labor □ 345 Marine Product ☐ 480 Consumer Credit ☐ 152 Recovery of Defaulted ☐ 422 Appeal 28 USC ☐ 555 Prison Condition Litigation Liability ☐ 490 Cable/Sat TV Student Loan (Excl. 158 ☐ 791 Empl. Ret. Inc. □ 350 Motor Vehicle ☐ 810 Selective Service Veterans) □ 423 Withdrawal 28 □ 355 Motor Vehicle Security Act ☐ 850 Securities/Commodities/ ☐ 153 Recovery of USC 157 ☐ 610 Agriculture **Product Liability** Exchange Overpayment of ☐ 360 Other Personal ☐ 620 Other Food & ☐ 820 Copyrights □ 875 Customer Challenge 12 Veteran's Benefits ☐ 441 Voting Drug 830 Patent Injury USC 3410 ☐ 160 Stockholders' Suits ☐ 442 Employment Personal Injury-☐ 625 Drug Related □ 840 Trademark ☐ 890 Other Statutory Actions □ 190 Other Contract Med Malpractice □ 443 · Housing/Acco-Seizure of ☐ 891 Agricultural Act □ 195 Contract Product □ 365 Personal Injurymmodations Property 21 USC □ 861 HIA (1395ff) ☐ 892 Economic Stabilization Liability **Product Liability** □ 444 Welfare 881 ☐ 862 Black Lung (923) Act ☐ 196 Franchise Asbestos Personal ☐ 445 American with ☐ 630 Liquor Laws □ 863 DIWC/DIWW ☐ 893 Environmental Matters Injury Product Disabilities -☐ 640 R.R. & Truck (405(g)) ☐ 894 Energy Allocation Act ☐ 210 Land Condemnation Liability Employment ☐ 650 Airline Regs ☐ 864 SSID Title XVI ☐ 895 Freedom of Info. Act ☐ 220 Foreclosure ☐ 446 American with ☐ 660 Occupational □ 865 RSI (405(g)) ☐ 900 Appeal of Fee Determi-☐ 230 Rent Lease & Ejectment Naturalization Disabilities -Safety /Health nation Under Equal ☐ 240 Torts to Land Application Other ☐ 690 Other ☐ 870 Taxes (U.S. Plaintiff Access to Justice ☐ 245 Tort Product Liability Habeas Corpus-□ 440 Other Civil or Defendant) □ 950 Constitutionality of 290 All Other Real Property Alien Detainee Rights IRS-Third Party 26 Other Immigration State Statutes **USC 7609** Actions FOR OFFICE USE ONLY: Case Number: AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

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UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

Case 2:09-cv-06711-CBM-FMO Document 1 Filed 09/16/09 Page 13 of 13 Page ID #:13

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has If yes, list case number(s):	this action been pr	reviously filed in this court an	ad dismissed, remanded or closed? ♥No □ Yes	
VIII(b). RELATED CASES: Have If yes, list case number(s):	e any cases been pre	eviously filed in this court that	t are related to the present case?	
☐ C.☐ D. IX. VENUE: (When completing the (a) List the County in this District;	Arise from the same Call for determinating For other reasons we have been same proposed following informations and california County of the same proposed for the same call	e or closely related transaction of the same or substantial would entail substantial duplicatent, trademark or copyright, tion, use an additional sheet it outside of this District; State is	ly related or similar questions of law and fact; or ation of labor if heard by different judges; or and one of the factors identified above in a, b or c also is present.	
County in this District:*			California County outside of this District; State, if other than California; or Foreign Country	
Los Angeles		outside of this District: State i	f other than California; or Foreign Country, in which EACH named defendant resides.	
Check here if the government, it	s agencies or emplo	oyees is a named defendant. I	if this box is checked, go to item (c).	
County in this District:*			California County outside of this District; State, if other than California; or Foreign Country	
Los Angeles				
(c) List the County in this District; Note: In land condemnation concerns the County in this District:*	California County on uses, use the location	outside of this District; State i on of the tract of land invol	f other than California; or Foreign Country, in which EACH claim arose. ved. California County outside of this District; State, if other than California; or Foreign Country	
* Los Angeles, Orange, San Bernar Note: In land condemnation cases, us X. SIGNATURE OF ATTORNEY (Notice to Counsel/Parties: Th	e the location of the OR PRO PER): e CV-71 (JS-44) C	ivil Cover Sheet and the infor	Date 1105/09	
or other papers as required by lav	ourt for the purpose	of statistics, venue and initiat	e of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed ing the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)	
Nature of Suit Code	Abbreviation	Substantive Statement of	Cause of Action	
861	ΗΙΑ	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))		
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)		
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))		
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))		
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.		
865	RSI	All claims for retirement (c U.S.C. (g))	old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42	