

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SPLAT-R-BALL, LLC, DAISY MANUFACTURING COMPANY,
AND S-BEAM PRECISION PRODUCTS LTD.,
Petitioner

v.

SPIN MASTER, INC.,
Patent Owner

Case IPR2023-00773
Patent No. 8,640,683

**JOINT REQUEST TO FILE SETTLEMENT AGREEMENT AS BUSINESS
CONFIDENTIAL INFORMATION**

LIST OF EXHIBITS

Exhibit No.	Description
1001	U.S. Patent No. 8,640,683 (the “’683 Patent”)
1002	Prosecution History of the ’683 Patent
1003	Declaration of Amanda Bligh, Ph.D.
1004	Curriculum Vitae of Amanda Bligh, Ph.D.
1005	Declaration of Robert Wanat
1006	Curriculum Vitae of Robert Wanat
1007	Publication Declaration of Nathaniel E. Frank-White and ThinkGeek Spitballs Internet Archive Webpage (“Spitballs”)
1008	Publication Declaration of Nathaniel E. Frank-White and ThinkGeek Internet Archive Webpage
1009	Japanese Patent No. JP 2006-234191 (“Nagayoshi”)
1010	U.S. Patent No. 3,521,616 (“Meggs”)
1011	Bulgarian Patent No. BG110343 (“Peev”)
1012	Translation of Bulgarian Patent Law Section 46(c)(2)
1013	U.S. Patent No. 683,431 (“Bennett”)
1014	U.S. Patent No. 408,971 (“Hamilton”)
1015	Publication Declaration of Nathaniel E. Frank-White and Spudgun Internet Archive Webpage (“Spudgun”)
1016	Korean Patent Publication No. KR 20-2010-0004855 (“Kim”)
1017	Publication Declaration of Anna Tanova-Atanasova
1018	N. Gawande, A.A. Mungray, Superabsorbent polymer (SAP) hydrogels for protein enrichment, <i>Separation and Purification Technology</i> (2015)
1019	“Not your kid brother’s toy gun,” CNET (2006), available at https://www.cnet.com/culture/not-your-bkid-brothers-toy-gun/
1020	“Airsoft Submachine Gun with Laser Sight,” Internet Archive (2006), available at https://web.archive.org/web/20061125021504/http://www.thinkgeek.com/geektoys/warfare/8932/
1021	“Tech: Desk Toys,” Wall Street Journal (2006), available at https://www.wsj.com/articles/SB116684498725258456
1022	“USB Airsoft Turret,” Inventgeek (2006), available at www.inventgeek.com/usb-airsoft-turret/

Exhibit No.	Description
1023	“R/C Missile Launcher – Unstoppable Cube Welfare,” The Green Head (2006), available at https://www.thegreenhead.com/2006/05/rc-missile-launcher-unstoppable-cube.php
1024	Prosecution History of U.S. Patent No. 8,371,282
1025	“Cube Warfare Toys,” Internet Archive (2006), available at https://web.archive.org/web/20061211065620/http://www.thinkgeek.com/geektoys/warfare/feature/desc/0/all
1026	“BB, Pellet, Paintball Guns Dangerous to Kids: Experts Say Don’t Characterize Them as Toys,” WebMD (2004), available at https://www.webmd.com/children/news/20041101/bb-pellet-paintball-guns-dangerous-to-kids
1027	“Not Your Dad’s BB Gun,” Washington Post (2004), available at https://www.washingtonpost.com/archive/lifestyle/2004/11/26/not-your-dads-bb-gun/6ccffa5e-a5bb-45e2-9a5c-a17de827267c/
1028	“Airsoft Guns: A Double-Edged Sword,” Bleacher Report (2008), available at https://bleacherreport.com/articles/46402-airsoft-guns-a-double-edged-sword
1029	“Spitballs Grow up to 200 times their original Size,” YouTube (2010), available at https://www.youtube.com/watch?v=n-Wje1G1wBA
1030	Liquid Marbles Video, YouTube (2009), available at https://www.youtube.com/watch?v=Us-LpPp9HUc&lc=UgyTGvGXd3eo8c4tyB4AaABAg
1031	Liquid Marbles Video Comments, YouTube (2009), available at https://www.youtube.com/watch?v=Us-LpPp9HUc&lc=UgyTGvGXd3eo8c4 tyB4AaABAg
1032	“Discovering the Chemistry of Infomercials,” BCA Chemistry, available at https://bcachemistry.wordpress.com/tag/orbeez/
1033	“What do you do with Orbeez?,” YouTube (2010), available at https://www.youtube.com/watch?v=Zt1QRj2pcTw
1034	“Toy-making is serious business in Southern California,” Los Angeles Times (2012), available at http://www.latimes.com/business/la-xpm-2012-dec-22-la-fi-social-enterprise-toys-20121223-story.html
1035	New Oxford American Dictionary (2001)
1036	Webster’s II New College Dictionary (2005)
1037	Patent Owner’s Notice of Patent Priority Dates and Dates of Conception
1038	10.18.2022 Joint Claim Construction Chart
1039	U.S. Patent No. 8,584,589 (“Carlson”)

Exhibit No.	Description
1040	Superabsorbent Polymers from South Korea, Investigation No. 731-TA-1574 (Final)
1041	“DuneCraft Spit Balls,” The Green Head (2009), available at https://www.thegreenhead.com/2009/11/dunecraft-spit-balls.php
1042	10.25.2022 Infringement Contentions Chart US8371282 for Splat-R-Ball Products
1043	Be Amazing Toys Meeting Information dated May 28, 2008
1044	11.23.2022 Deposition Transcript of Steve Spangler
1045	Images of Steve Spangler at Science in the Rockies (July 10, 2008)
1046	Video of Steve Spangler’s Tube Presentation at Science in the Rockies
1047	“Vanishing Jelly Marbles,” Internet Archive (2009), available at https://web.archive.org/web/20090308004638/http://www.stevespanglerscience.com/content/experiment/vanishing-jelly-marbles
1048	Photographs of Steve Spangler’s Blow Guns
1049	U.S. Patent Application Publication No. 2008/0168973 (“Levin”)
1050	U.S. Patent No. 7,134,978 (“Liu”)
1051	Daisy Outdoor Products Catalog (2006)
1052	Prosecution History of U.S. Patent No. 8,596,255
1053	Luis E. Martinez, Force-on-Force Police Training Using Airsoft, A Manual for the Law Enforcement Trainer on the use of Airsoft Non-Lethal Technology
1054	Fredric L. Buchholz and Andrew T. Graham, Modern Superabsorbent Polymer Technology, Wiley-VCH (1998)
1055	“One Team, One Product—Many Uses,” Agricultural Research (1996)
1056	“Super Slurper,” Agricultural Research (1975)
1057	U.S Patent No. 3,997,484
1058	“History of Super Absorbent Polymer Chemistry”
1059	“Superabsorbent Polymer : Materials : A Review” (2008)
1060	U.S Patent No. 2006/0069367 A1
1061	Japanese Industrial Standard JIS K 7223:1996 – Testing method for Water Absorption Capacity of Super Absorbent Polymers
1062	U.S Patent No. 5,660,935
1063	“Superabsorbent Polymers and Superabsorbent Polymer Composites” (2007)

Exhibit No.	Description
1064	11.28.2022 Deposition Transcript and Errata of Ellen Peterson
1065	“Bow and arrow,” Wikipedia (2022)
1066	“List of infantry weapons of World War I,” Wikipedia (2022)
1067	“Slingshot,” Wikipedia (2022)
1068	Video Screenshot of “Spitballs Grow up to 200 times their original Size,” YouTube (2010), available at https://www.youtube.com/watch?v=n-Wje1G1wBA
1069	Video Screenshot of “What do you do with Orbeez?,” YouTube (2010), available at https://www.youtube.com/watch?v=Zt1QRj2pcTw
1070	10.25.2022 Infringement Contentions Chart US8640683 for Splat-R-Ball Products
1071	Confidential Settlement Agreement Between Hasbro, Inc. and Petitioners Daisy Manufacturing Co. and Splat-R-Ball, LLC
1072	Confidential Settlement Agreement Between Hasbro, Inc. and S-Beam Precision Products Ltd.

Pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), Petitioners and Patent Owner (collectively, “the Parties”) jointly request to treat as business confidential information, and to keep separate from the file of the involved patent, the true and complete copy of the Settlement Agreements (Confidential Exhibits 1071 and 1072) between the parties as referenced in the concurrently-filed Joint Motion to Terminate Proceeding.

35 U.S.C. § 371(b) provides that:

At the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents, and shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause.

Likewise, 37 C.F.R. § 42.74(c) provides that:

A party to a settlement may request that the settlement be treated as business confidential information and be kept separate from the files of an involved patent or application. The request must be filed with the settlement. If a timely request is filed, the settlement shall only be available:

(1) To a Government agency on written request to the Board; or

(2) To any other person upon written request to the Board to make the settlement agreement available, along with the fee specified in § 42.15(d) and on a showing of good cause.

The present request, which is being filed contemporaneously with the Settlement Agreements, is timely and in accordance with the foregoing authority. Therefore, the Parties request that the Settlement Agreements (Confidential Exhibit 1071 and 1072) (i) be treated as business confidential information, (ii) be maintained separate from the publicly available file of the involved patent, and (iii) be made available only to Federal Government agencies on written request, or to persons showing good cause on written request, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

Dated: May 18, 2023

Respectfully submitted,

/Kenneth Wayne Darby Jr./

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that I caused to be served on May 18, 2023, a true and correct copy of the foregoing JOINT REQUEST TO FILE SETTLEMENT AGREEMENT AS BUSINESS CONFIDENTIAL INFORMATION by overnight carrier to the Patent Owner at the correspondence address of record for the Patent Owner as follows:

Stephen Ashley
Aird & McBurney LP
Brookfield Place
181 Bay Street, Suite 1800
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A courtesy copy of the foregoing was also served on the counsel of record via email at the following address:

IPR50745-0001IP2@fr.com

/s/ Gianni L. Cutri
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