UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436

Before the Honorable Mary JoAnn McNamara
Administrative Law Judge

In the Matter of **CERTAIN SOFT PROJECTILE LAUNCHING DEVICES, COMPONENTS THEREOF, AMMUNITION, AND PRODUCTS CONTAINING SAME**	**Investigation No. 337-TA-1325**

RESPONDENTS' JOINT DISCLOSURE OF INITIAL CONTENTIONS IN RESPONSE TO COMPLAINANTS' COMMON INTERROGATORY NOS. 23 AND 24

Pursuant to the September 21, 2022, Order regarding Adopted Procedural Schedule (Order No. 6), Respondents Splat-R-Ball, LLC, Daisy Manufacturing Company, and S-Beam Precision Products Ltd. (collectively, "Splat-R-Ball Respondents"); Respondents Gel Blaster, Inc., Shenzhen Yi Jin Electronics Science and Technology Co., Ltd., Guangdong Yu Lee Technology Corporation, and Yu Lee Company Ltd. (collectively, "Gel Blaster Respondents"); and Respondents Prime Time Toys LLC, Prime Time Toys Ltd., Easebon Services Ltd. (collectively, "PTT Respondents") (all respondents collectively, "Respondents") provide their initial contentions in response to Complainants' Common Interrogatory Nos. 23 and 24. These contentions, while based on diligent inquiry and investigation by Respondents, necessarily reflect only the current state of Respondents' knowledge, understanding, and belief based upon those facts and information presently and specifically known to Respondents at this time. Discovery is ongoing, and Respondents have yet to see Complainants' infringement and domestic industry contentions, including the manner in which Complainants purport to apply any limitations to the accused products. Respondents reserve the right to amend or supplement these contentions as discovery progresses.

SPIN MASTER 2006
Prime Time Toys et al. v. Spin Master, Inc.
IPR2023-01339

Complainants identified the following Asserted Claims on October 14, 2022, and moved to terminate the investigation as to unidentified claims, which the ALJ granted. Respondents provide this response solely for the remaining Asserted Claims. It is Respondents' contention that all claims identified in the Notice of Institution are invalid; however, because Complainants have dropped claims from the Investigation, no response to these Interrogatories is required with respect to the dropped claims.

Asserted Patent	Asserted Claims
U.S. 8,371,282	3, 6, 8, 13-15, 17, 19-21
U.S. 8,640,683	1-6, 10-12, 14

The ALJ has not yet construed any claim terms present in the Asserted Claims that may be in dispute. To the extent positions are provided herein in the alternative or under multiple constructions, that should not be construed as an admission that such construction is proper.

Bates citations in these contentions to the first page of a produced document that comprises multiple pages constitutes a citation to the entire document.

A. Invalidity Pursuant to 35 U.S.C. §§ 102 and 103

Respondents incorporate their Notice of Prior Art by reference. Each of the references cited in the Notice of Prior Art, alone or in combination, anticipate and/or render obvious the Asserted Claims.

For example, Respondents attach as Appendices 1-13 to this response claim charts showing examples of how the references in the Notice of Prior Art anticipate and/or render obvious the Asserted Claims. Any of the references charted, alone or in combination, anticipate and/or render obvious the asserted claims. Below are exemplary listings of references that

anticipate or render obvious the asserted claims, and combinations that render obvious the asserted claims.

<u>References That Anticipate Claims:</u>

- **Clear Spheres Launcher:** ’282 Patent Claims 6, 8, 13-14, 17, 21; ’683 Patent Claims 1-6, 10-11, 14.
- **DuneCraft Spit Balls:** ’282 Patent Claims Claims 6, 8, 13-14, 17, 21; ’683 Patent Claims 1-6, 10-11, 14.
- **ThinkGeek:** ’282 Patent Claims 6, 8, 13-14, 17, 21; ’683 Patent Claims 1-6, 10-11, 14.
- **PTT Goo Shooters:** ’282 Patent Claims 3, 6, 8, 13, 14 and 17; ’683 Patent Claims 1, 2. 3, 4, 5, 6, 10, 11 and 14.

<u>References That Render Claims Obvious:</u> To the extent Clear Spheres Launcher, DuneCraft Spit Balls, ThinkGeek, and Goo Shooters do not anticipate a claim, they render that claim obvious standing alone, in view of the general background knowledge in the prior art. *See* Contentions §§ A.1, A.3.ii, A.3.iv, and Appendices 1-13. Nagayoshi, Meggs, Rappaport, SAP Launcher, Daisy Airstrike 470 and 240, Tapioca Shooter, Tsurumoto, and Peev render each asserted claim obvious standing alone, in view of the general background knowledge in the prior art. *See* Contentions §§ A.1, A.3.ii, A.3.iv, and Appendices 1-13.

- **Jelly Marbles Launcher:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **DuneCraft Spit Balls:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **PTT Goo Shooters:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **ThinkGeek:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Nagayoshi:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.

- **Meggs:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Rappaport:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **SAP Launcher:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Daisy Airstrike 470:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Tapioca Shooter:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Daisy Airstrike 240:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Tsurumoto:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Peev:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.

Combinations of References That Render Claims Obvious: The below combinations, in view of the general knowledge of a POSITA at the time of the alleged invention as evidenced by the prior art set forth in Respondents’ Notice of Prior Art and in the attached Appendices 1-13 with respect to specific claim limitations, disclose and render obvious each asserted claim. For example, Respondents may rely upon Modern SAP to show the state of the art of SAPs and characteristics relating to cross-linking and absorbency of SAPs, U.S. Patent Publication 2008/0168973 and/or Peev to show the state of the art of air gun ammunition characteristics and size, DuneCraft Spit Balls, ThinkGeek, Clear Spheres Launcher, Goo Shooters, and SAP Launcher to show that it was well known to launch SAPs, including in spherical form, and Nagayoshi, Peev, Tsurumoto, Daisy Airstrike 470, and Daisy Airstrike 240 to show the state of the art of air gun mechanisms, including the well-known use of launching mechanisms that store energy independent of a user, and an air compression chamber, spring, and piston that compress

the air in the air compression chamber into a smaller diameter tube to launch a projectile. For exemplary purposes only, Respondents may rely upon Modern SAP as further evidence of the obviousness of ’282 Patent Claims 13 and 21 and ’683 Patent Claim 10, and Respondents may rely upon US 2008/0168973, Peev, Daisy Airstrike 240, and/or Daisy Airstrike 470 as further evidence of the obviousness of ’282 Patent Claim 6. As set forth in Appendices 1-13, many references are indicative of the state of the art. To the extent Complainants contend that these references become part of the combination for a given claim by relying on them to show the state of the art, then such references are included in the combinations, as set forth in Appendices 1-13.

- **Nagayoshi and DuneCraft Spit Balls:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Nagayoshi and ThinkGeek:**’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Nagayoshi and Clear Spheres Launcher:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Peev and Spit Balls:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Peev and ThinkGeek:**’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Peev and Clear Spheres Launcher:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Daisy Airstrike 240 and/or 470, and Spit Balls:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Daisy Airstrike 240 and/or 470, and ThinkGeek:**’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Daisy Airstrike 240 and/or 470, and Clear Spheres Launcher:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.
- **Rappaport and Spit Balls:** ’282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; ’683 Patent Claims 1-6, 10-12, and 14.

- **Rappaport and ThinkGeek:**'282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; '683 Patent Claims 1-6, 10-12, and 14.
- **Rappaport and Clear Spheres Launcher:** '282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; '683 Patent Claims 1-6, 10-12, and 14.
- **Meggs and Spit Balls:** '282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; '683 Patent Claims 1-6, 10-12, and 14.
- **Meggs and ThinkGeek:**'282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; '683 Patent Claims 1-6, 10-12, and 14.
- **Meggs and Clear Spheres Launcher:** '282 Patent Claims 3, 6, 8, 13-15, 17, and 19-21; '683 Patent Claims 1-6, 10-12, and 14.

1. The Charted Prior Art

(i) Clear Spheres and Launching System ("Clear Spheres Launcher")

The Clear Spheres Art is prior art under at least pre-AIA 35 U.S.C. §§ 102(a), (b), and (g)(2).

Clear Spheres is a spherical SAP product that was sold in the United States under the names "Clear Spheres," "Jelly Marbles," and "Jelly Marbles – Clear Spheres." *See, e.g.*, SRB_000004581, available at https://web.archive.org/web/20080420110629/http://www.stevespanglerscience.com/product/clear-spheres-kit SRB_000002945 at 2969–2974, *available at* https://web.archive.org/web/20090308004638/http://www.stevespanglerscience.com/content/experiment/vanishing-jelly-marbles.[1],[2] As utilized herein, "Clear Spheres" and "Jelly Marbles" both refer to the aforementioned products.

[1] Respondents have obtained a declaration from the Internet Archive for many of the web.archive.org citations herein and produced them. Respondents have requested a declaration for the remaining citations and will produce the declaration upon receipt. Meanwhile, Respondents have produced PDF copies of the webpages, and the material is accessible at the URLs cited herein.