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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FISHER-PRICE, INC. and MATTEL, INC.,
Plaintiffs,
v.
DYNACRAFT BSC, INC.,
Defendant.

Case No. 4:17-cv-03745-PJH

**JOINT CASE MANAGEMENT
STATEMENT**

1 Plaintiff Fisher-Price, Inc. and Mattel, Inc. (“Fisher-Price”) and Defendant Dynacraft
2 BSC, Inc. (“Dynacraft”) hereby submit their Joint Case Management Statement in advance of
3 this Court’s October 12, 2017 Initial Case Management Conference.
4

5 **JOINT STATEMENT**

6 **1. Jurisdiction and Service:** This Court has subject matter jurisdiction under 28 U.S.C. §§
7 1331 and 1338 (a) (federal question and patent). There are no issues as to personal jurisdiction
8 or venue. All Parties have been served.

9 **2. Facts:** This is a patent infringement action alleging infringement of United States Letters
10 Patent Nos. 7,222,684 entitled “System, Apparatus, and Method for Providing Control of a Toy
11 Vehicle” which issued on May 29, 2007 (the “‘684 patent”); 7,487,850 entitled “Children’s
12 Ride-On Vehicles Having Improved Shifter Assemblies” which issued on February 10, 2009 (the
13 “‘850 patent”); 7,621,543 entitled “Blow-Molded Wheels Having Undercut Treads, Methods for
14 Producing the Same, and Children’s Ride-On Vehicles Including the Same” which issued on
15 November 24, 2009 (the “‘543 patent”), and 7,950,978 entitled “System Apparatus and Method
16 for Providing Control of a Toy Vehicle” which issued on May 31, 2011 (“the ‘978 patent”). The
17 patents cover various safety features of ride-on vehicles for children. The ‘684 and ‘978 patents
18 generally relate to speed control for a ride-on vehicle, which allows for smoother acceleration.
19 The ‘850 patent generally relates to a shifter design, which allows for safely shifting the ride-on
20 vehicle from, for instance, forward to reverse. The ‘543 patent relates to a design and
21 manufacturing technique for the wheels of the ride-on vehicle. The Complaint was filed on
22 January 17, 2017, and alleges that certain Dynacraft ride-on vehicles, including a Disney
23 Princess Carriage ride-on vehicle, infringe these patents under 35 U.S.C. § 271.
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1 Dynacraft denies Fisher-Price's allegations and asserts several defenses, including: (a) that
2 Dynacraft does not infringe any of the patents, either literally or under the doctrine of
3 equivalents, and that the patents are invalid and/or unenforceable under 35 U.S.C. §§ 102-103
4 and 112. Specifically, the '684 patent is anticipated and rendered obvious by U.S. Patent No.
5 5,859,509 (Bienz), U.S. Patent No. 4,634,941 (Klion), and U.S. Patent No. 5,994,853 (Ribbe).
6 The '978 is anticipated and rendered obvious by U.S. Patent No. 5,859,509 (Bienz), U.S. Patent
7 No. 4,634,941 (Klion), and U.S. Patent No. 5,994,853 (Ribbe). The '543 patent is anticipated
8 and rendered obvious by U.S. Patent Pub. No. 2005/0056474 (Damon), U.S. Patent No.
9 5,924,506 (Perego), U.S. Patent No. 4,513,981 (DeGraaff), U.S. Patent No. 3,910,332 (Feller),
10 and the Plastic Blow Molding Handbook by Norman Lee. And the '850 patent is anticipated and
11 rendered obvious by U.S. Patent Pub. No. 2005/0056474 (Damon) and U.S. Patent Pub. No.
12 2005/0087033 (Chi).
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15 **3. Legal Issues:** The key legal issues concern the following subjects:

- 16 a. Whether the defendant infringes the patents-in-suit;
- 17 b. Whether the defendant willfully infringes the patents-in-suit;
- 18 c. Whether the claims of the patents-in-suit are invalid because they fail to satisfy the
19 requirements of 102 (lack of novelty), 103 (obvious over the prior art), and 112 (lack
20 of written description, lack of enablement, and/or claims fail to particularly point out
21 and distinctly claim the subject matter applicants regard as their invention);
- 22
- 23 d. If liability is found, what amount of damages is appropriate;
- 24 e. If liability is found, whether an injunction should issue preventing future
25 infringement.
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1 **4. Motions:** There are no pending motions. Dynacraft, however, anticipates filing petitions
2 for *inter-partes* review challenging the validity of all four patents-in-suit no later than the Case
3 Management Conference currently scheduled for October 12, 2017. In connection with those
4 IPR petitions, Dynacraft also plans to file a motion to stay this case pending the resolution of its
5 IPR petitions. It is Dynacraft's position that the anticipated IPR petitions may resolve all issues
6 in this case and, therefore, this Court should stay this matter pending those IPRs in order to
7 conserve the time and resources of the Court and the parties. It is Fisher-Price's position that any
8 motion to stay would be premature at least until decisions on institution in any IPRs are issued.
9 If this case proceeds during the IPR process or resumes after the IPR process is completed, it is
10 anticipated that there may be motions for summary judgment or partial summary judgment filed
11 by one or more of the Parties and a motion to amend the complaint to assert additional infringing
12 products.
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15 **5. Amendment of Pleadings:** The deadline for amending the pleadings should be March 1,
16 2018.

17 The Parties reserve the right to seek permission to amend the pleadings to add additional
18 Parties and/or claims as may be warranted upon further discovery in this action.

19 **6. Evidence Preservation:** The Parties certify that they have reviewed the Guidelines
20 Relating to the Discovery of Electronically Stored Information and confirm that they have met
21 and conferred (telephonically) pursuant to Fed. R. Civ. P. 26(f) regarding reasonable and
22 proportionate steps to preserve evidence relevant to the issues reasonably evident in this action.
23 To that end, the parties propose the Electronic Discovery Protocol attached to this Statement as
24 Exhibit A.
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