UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DYNACRAFT BSC, INC.,
Petitioner,

v.

MATTEL, INC.,
Patent Owner.

Case IPR2018-00040
Patent 7,487,850

DECLARATION OF DAN DAMON

I, Dan Damon, declare as follows:

(1) I am a Principal Engineer at Fisher-Price in East Aurora, NY.

(2) I started working at Fisher-Price in 1995, and have been continuously employed there since. Much of my time during my over two-decade employment at Fisher-Price has been in support of the Power Wheels group that designs and develops Fisher-Price's line of battery-powered ride-ons for children.

(3) I graduated from State University of New York College at Buffalo in 1995 with a Bachelors of Science degree in Mechanical Engineering. In addition to my degree, I have many years working in battery-powered ride-ons. I think this is critical experience given the specific challenges that these vehicles face, and feel that a person skilled in this area should have at least one year of such experience along with an appropriate undergraduate degree.

(4) As part of my time in the Power Wheels group, I inspected the shifter mechanism of Dynacraft's 24-Volt Disney Princess Carriage. From my inspection, it appears that Dynacraft's shifter is copied from a previous Fisher-Price shifter, specifically the "Z-shifter" incorporated in many Power Wheels models and patented by Mattel. Photographs of the shifters I inspected in making this conclusion are attached as Exhibit A.

(5) Prior to preparing this declaration, I was asked to review U.S. Patent Application Publication 2005/0087033 to Chi. I understand that Dynacraft is combining Chi with one of my own patent applications, U.S. Patent Application Publication 2005/0056474 ("Battery Retainer Assembly for Children's Ride-on Vehicles"), to assert that Mattel's patent to the Z-shifter is obvious.

(6) On my examination, Chi does not appear to address the same problem as the Z-shifter. The Z-shifter is intended to make the shifting process slower and more difficult so that sudden "shifter slams" are avoided. Shifter slams from high speed to reverse present

considerable problems with respect to ride-ons because they add considerable electrical and mechanical stresses on the drive system, and can endanger the child given the fact that this change can occur almost instantaneously. The larger the battery, the bigger this problem is. I do not see any discussion in Chi of the torturous or aggravated path that was the essence of the Z-shifter, or any discussion of the need to break up the shifting process as the Z-shifter does. Chi seems prone to shifter slam because it does not effectively break up the shifting process. Chi's combination of only having a slight jog in the shift path (as opposed to the prominent middle section of the Z-shifter), the spring that centers the handle at the jog, and the considerable mechanical advantage provided by the shifter handle pivoting about a pin located all the way at the bottom all contribute to the child's ability to still slam that shifter design in my opinion. This shifter action in Chi also drives a flat switch plate straight forward or backward, which is quite different than the cylindrical, rotating actuator and associated cams that are used in the Z-shifter.

(7) On my examination of Chi, I do not believe that a designer with experience in designing battery-powered children's ride-ons would have any motivation to combine Chi with my battery retainer application to attempt to solve the shifter slam problem in the manner that the Z-shifter does. There is no reason why one working in this area would add Chi to my battery retainer patent application because they both deal with different problems than the Z-shifter. My battery retainer was aimed at easily retaining any ride-on battery, including larger 24-volt batteries. Chi is aimed at making a speed and direction shifter that is reaslistic and easy to operate. If one were trying to solve shifter slam, which is especially a potential hazard for large 24-volt batteries, one would not add Chi to the ride-on in my patent application. And if one did, they would still not solve the problem, as noted above, and would create a potentially hazardous situation for the child.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed: 1/17/18

Dan Damon

Exhibit A

DYNACRAFT

POWER WHEELS