IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

UNICORN GLOBAL, INC. and HANGZHOU CHIC INTELLIGENT TECHNOLOGY CO., LTD., Plaintiffs, v. DGL GROUP, LTD., Defendant.	Case No. 1:21-cv-1443-MKB-SJB Hon. Margo K. Brodie, U.S.D.J. Hon. Sanket J. Bulsara, U.S.M.J. **Jury Trial Demanded**

DEFENDANT DGL GROUP, LTD.'S OPENING CLAIM CONSTRUCTION BRIEF

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

I. INTRODUCTION

This is a patent dispute involving two-wheeled, self-balancing vehicles. Plaintiffs Unicorn Global Inc. and Hangzhou Chic Intelligent Technology Co. Ltd. (collectively "Plaintiffs") and Defendant DGL Group, Ltd. ("DGL") dispute the construction of three terms of U.S. Patent 10,597,107 ("'107 Patent") (Ex. 1).[1]

At the time the '107 Patent was filed, hoverboards and self-balancing vehicles generally were a well-established technology. The inventors of the '107 Patent did not purport to invent self-balancing vehicles, but they instead sought to "improve the self-balance of the vehicle body," and to improve "the safety of the electric self-balancing vehicle." *Id.*, at 3:33–34 and 4:59–60. In describing their approach to implementing such improvements, the inventors used terminology that had become common in the art, like "electric self-balancing vehicle" and "electric balance vehicle."

DGL therefore proposes constructions that reflect the ordinary and customary meaning of each disputed term, as it would have been understood by a person of ordinary skill in the art at the time of the invention. This is what the law requires. Plaintiffs assert that the disputed terms do not require construction, and in some instances offer an alternative construction. Plaintiffs' approach, however, is not well founded, as it improperly asks the Court to delegate claim construction to the jury, or proffers a construction that the evidence relating to the '107 Patent does not support. Accordingly, the Court should reject the constructions proposed by Plaintiffs and adopt DGL's constructions.

[1] Each exhibit identified is attached to the Bryan J. Jaketic Declaration in Support of Defendant DGL Group, LTD.'s Opening Claim Construction Brief.

II. THE '107 PATENT

The '107 Patent is directed to an electric self-balancing vehicle. *Id*. at 1:48–49; 9:64–10:2; Abstract. As the '107 Patent notes in its Background, electric self-balancing vehicles were known in the art at the time the application was filed, and that such vehicles operate "on a basic principle called 'dynamic stabilization.'" *Id.* at 27–30. This basic principle is explained in U.S. Patent No. 6,302,230 for the invention of the "Segway" in the early 2000s ("the Segway Patent").[2]

A. Prior Self-Balancing Vehicles

Two-wheeled, self-balancing vehicles were introduced more than a decade before the priority date of the '107 Patent, when the Segway was unveiled as "the most eagerly awaited and wildly, if inadvertently, hyped high-tech product since the Apple Macintosh." John Heilemann, *Reinventing the Wheel*, TIME Magazine (Dec. 2, 2001) (Ex. 2). The *New York Times* noted, "[Steve] Jobs reportedly said the [Segway] could be as significant as the development of the personal computer." Amy Harmon, *An Inventor Unveils His Mysterious Personal Transportation Device*, The New York Times, Sec. C, p. 1 (Dec. 3, 2001) (Ex. 3). It further noted that "[the Segway's] chief novelty lies in the uncanny effect, produced by a finely tuned gyroscopic balancing mechanism, of intuiting where its rider wants to go -- and going there." *Id.*

A first time Segway user observed that "no matter which way I lean or how hard, [the Segway] refuses to let me fall over," the effect of which left him "slack-jawed, baffled." Ex. 2. Inventor Dean Kamen described the Segway as "an extension of your body" where the Segway "does the balancing for you." *Id*. Elaborating on the Segway's operation, he explained:

> When you walk, you're really in what's called a controlled fall. You off-balance yourself, putting one foot in front of the other and falling onto them over and over

[2] The Segway Patent is cited on the face of the '107 patent, and is therefore intrinsic evidence. *See Powell v. Home Depot U.S.A., Inc.*, 663 F.3d 1221, 1231 (Fed. Cir. 2011) (quoting *Kumar v. Ovonic Battery Co., Inc.*, 351 F.3d 1364, 1368 (Fed. Cir. 2003)) ("Our cases establish that 'prior art cited in a patent or cited in the prosecution history of the patent constitutes intrinsic evidence'").

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