

1 LISA BORODKIN, ATTORNEY AT LAW
LISA J. BORODKIN, ESQ., STATE BAR NO. 196412
2 LISA@LISABORODKIN.COM
2009 CLARK LANE B
3 REDONDO BEACH, CALIFORNIA 90278
TELEPHONE: (323) 337-7933

4 KING, HOLMES, PATERNO & SORIANO, LLP
HOWARD E. KING, ESQ., STATE BAR NO. 77012
5 KING@KHPSLAW.COM
1900 AVENUE OF THE STARS, 25TH FLOOR
6 LOS ANGELES, CALIFORNIA 90067-4506
7 TELEPHONE: (310) 282-8989
FACSIMILE: (310) 282-8903

8 Attorneys for Plaintiff
9 ELINOR SHAPIRO

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
12

13 ELINOR SHAPIRO,
14 Plaintiff,
15 vs.
16 HASBRO INC. and DOES 1 through
17 10, inclusive,
18 Defendants.

CASE NO. 2:16-cv-05750

COMPLAINT FOR:

- (1) Misappropriation of Trade Secrets Under 18 U.S.C. § 1836
- (2) Misappropriation of Trade Secrets Under Cal. Civ. Code § 3426.1 *et seq.*
- (3) Breach of Express Written Contract
- (4) Breach of the Implied Covenant of Good Faith and Fair Dealing

DEMAND FOR JURY TRIAL

22
23 Plaintiff Elinor Shapiro (“Shapiro”) alleges as follows:

24 **I.**

25 **JURISDICTION AND VENUE**

26 1. This Court has jurisdiction of the subject matter of this action under
27 federal question jurisdiction, pursuant to 28 U.S.C. § 1331 and 1338(a), because this
28 action includes a claim arising under the 18 U.S.C. § 1836, the Defend Trade

1 Secrets Act ("DTSA"), for misappropriation of trade secret information intended for
2 use in interstate and foreign commerce.

3 2. This Court has supplemental jurisdiction over Plaintiffs' state law
4 claims pursuant to 28 U.S.C. § 1367 and 28 U.S.C. §§ 1332(a)(1) because the action
5 includes claims between a citizen of the State of California and a citizen of the State
6 of Rhode Island, and the amount in controversy exceeds, exclusive of interest and
7 costs, the sum of Seventy-Five Thousand Dollars (\$75,000.00).

8 3. Venue is proper in this judicial district pursuant to 28 U.S.C. §
9 1391(b)(2) and (d) in that Defendant or its agents may be found in this district, and a
10 substantial number of the acts or omissions giving rise to Plaintiff's claim occurred
11 in this district.

12 **II.**

13 **NATURE OF THIS ACTION**

14 4. Shapiro, a proven doll inventor and marketing expert known for her
15 work on Barbie and Disney fashion dolls, was solicited by Defendant Hasbro, Inc.
16 ("Hasbro") to submit original materials for use with Hasbro's existing properties
17 under an express Agreement to Hold Confidential ("AHC").

18 5. Hasbro initiated Shapiro's submission by a November 2, 2012 email
19 that described in detail the types of information Hasbro was seeking with phrases
20 such as "excitement, low cost innovations," "never before seen mechanisms," "new
21 ways to play," and "newest and hottest girls trend" specifically in reference to
22 Hasbro's existing properties including Littlest Pet Shop and My Little Pony.

23 6. Hasbro received Shapiro's submissions in confidence at an April 25,
24 2013 meeting in Santa Monica, California that Hasbro arranged as part of its West
25 Coast Inventor Tour. Hasbro thereafter asked Shapiro to send her slideshow and
26 three-dimensional prototypes to its headquarters in Pawtucket, Rhode Island to
27 study for three months with broad distribution to its product development teams.

1 7. Hasbro thereafter took confidential information that Shapiro presented
2 under the AHC and used it without compensating Shapiro.

3 8. Despite this, Hasbro does not want to pay Shapiro for the trade secret
4 information it took under the AHC.

5 **III.**
6 **THE PARTIES**

7 9. Shapiro is a professional toy inventor, and marketing consultant with
8 28 years of experience. She has worked at Mattel, Inc. ("Mattel") and on the Disney
9 fashion dolls now known as Disney Princess. Shapiro is a citizen of the State of
10 California, with her principal place of business in Los Angeles, California.

11 10. Defendant Hasbro is a company organized and existing under the laws
12 of Rhode Island, and a citizen of the State of Rhode Island with its principal place of
13 business in Pawtucket, Rhode Island, with a registered agent for service of process
14 in California at 818 West Seventh Street, 2nd Floor, Los Angeles, California 90017.

15 11. Shapiro is informed and believes and thereupon alleges that Rhode
16 Island is where Hasbro's home office is located, where the majority of its executive
17 and administrative functions are performed, and where its high-level officers direct,
18 control, and coordinate the bulk of Hasbro's day-to-day activities.

19 12. Hasbro is subject to the general and specific jurisdiction of this Court
20 pursuant to California Code of Civil Procedure § 410.10 and Rule 4 of the Federal
21 Rules of Civil Procedure. Hasbro transacts or has transacted business within the
22 Central District of California including through a Burbank business unit.

23 13. Shapiro is informed and believes and thereupon alleges that Hasbro has
24 systematic and continuous contacts with California, including by soliciting and
25 receiving orders from stores with locations in California, including Target
26 Corporation, Toys "R" Us, Inc., and Wal-Mart Stores, Inc., and maintaining a
27 business unit in Burbank, California that employs citizens of this District.

1 14. Hasbro is subject to the specific jurisdiction of this Court, including in
2 that a substantial number of the transactions and occurrences in this action occurred
3 in California. Hasbro first received the confidential information under the AHC in
4 Santa Monica, California. Hasbro requested that Shapiro send the submission from
5 Los Angeles, California to Pawtucket, Rhode Island. Hasbro breached the AHC in
6 Los Angeles, California, including by attempting to sell toys misappropriating
7 Shapiro's trade secrets in this District.

8 **IV.**

9 **FACTS COMMON TO ALL CLAIMS**

10 15. The Doll business is a \$2 Billion worldwide annual market.

11 16. Doll lines are highly differentiated by size, price point and play value in
12 a saturated market. A key strategy for toy manufacturers is their ability to foresee
13 demand trends for certain products in order to avoid over or undersupply issues.

14 17. In turn, a key strategy is to know what has been done in the doll
15 business before and what has never been done for consumers - knowledge that is
16 possible only with decades of full immersion in the doll business.

17 18. Shapiro has worked in the toy industry since 1988. She specializes in
18 inventing toy concepts, and consulting on marketing and packaging toys for girls.

19 19. Shapiro has worked on iconic doll lines including the Cabbage Patch
20 Kids, Barbie, Polly Pocket, Disney Princess, Disney Fairies, and Tinker Bell.

21 20. Shapiro worked at Mattel as a marketing executive from 1988 to 1995
22 managing multi-million-dollar doll lines.

23 21. Shapiro worked at Walt Disney Company from 1995 to 1997,
24 optimizing video game play for girls.

25 22. Shapiro has been a consultant since 1998 on how to create, market, and
26 design toys to girls.

27 23. Shapiro's consulting clients include Mattel, The Walt Disney
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1 Company, MGA Entertainment Inc., the Jim Henson Company, Playmates Toys,
2 Inc., JAKKS Pacific, Inc., Nakajima USA, Inc., Activision Blizzard, Inc., Wild
3 Planet Toys, Inc., Diggin Active, Inc., and Shains.

4 24. Shapiro's consulting work includes focus group research, designing
5 packaging, working with product development and marketing teams, identifying
6 business opportunities, spotting trends, and consulting on how dolls should be
7 presented at retail.

8 25. Shapiro has been creating integrated toy concepts, marketing and
9 packaging proposals for license and direct manufacture since 2001.

10 26. In 2001, Shapiro entered into a benchmark invention license with
11 Mattel for an original small doll line, sold at retailers under the name "Little
12 Sparklin' Clouds."

13 27. Shapiro negotiated with Mattel for a packaging credit and packaging
14 logo on the Little Sparklin' Clouds box for her inventor group by giving up one
15 royalty point from the traditional inventor royalty. Shapiro did so, because the
16 unquantifiable fame as a successful girls' toys inventor that a packaging credit and
17 logo confirms is immeasurably more valuable than an additional royalty point.

18 28. The packaging credit Shapiro negotiated in her 2001 Mattel license was
19 printed on the toy box, and read "Product Manufactured under license from Golden
20 Kids Toys & Entertainment" with a "GK toys" logo.

21 29. Shapiro traded a 1-point royalty for a credit because of the
22 unquantifiable benefit of reputation and fame in the extremely competitive doll
23 business.

24 30. Having a package credit, with a line selling at stores, means an inventor
25 is viewed within the doll business as having insight into how girls play, with a
26 successful inventing track record, which in turn means more meetings, more fame,
27 and more personal satisfaction and fulfillment in achieving the ultimate goal of

1 being a world-famous doll inventor.

2 **V.**

3 **PLAINTIFF’S TRADE SECRETS**

4 31. Shapiro identified a unique business opportunity in girls dolls and
5 created in or around 2012 an original line of animal-shaped small dolls named
6 “Wishables” incorporating, *inter alia*, an opening price point line of \$5.99-\$7.99
7 totally clear, animal-shaped, liquid-and-uniquely-shaped-glitter filled characters
8 (“Phase 1”) and a deluxe line with totally clear, animal-shaped dolls with a light-up
9 feature for a \$9.99-\$10.99 price point with a marketing strategy showing how the
10 line could be extended and sold for years to come.

11 32. Shapiro’s information in her original slideshow presentation, sculptural
12 prototypes, and in-person demonstration, together with all information contained
13 therein, including but not limited to marketing opportunity, marketing strategy,
14 “total look and feel,” concept, design, features, focus group research, news stories,
15 trend analysis, marketing mock-ups, packaging, testimonials, proposed integration
16 with Hasbro's existing properties, Hello Kitty and Littlest Pet Shop models, and
17 proposals for line and product extensions for years to come is a compilation trade
18 secret referred to collectively as the “Wishables Submission.”

19 33. Shapiro owned a trade secret in a marketing opportunity, namely that a
20 totally clear, animal-shaped doll line with a light-up feature had never been done in
21 the \$9.99-\$10.99 price slot for girls (particularly as a Deluxe version or follow-up
22 line extension to an opening price point line of totally clear, animal-shaped dolls
23 with glitter in liquid, where the glitter was shaped to match each character's special
24 symbol at the \$5.99-\$7.99 price slot for girls).

25 34. In addition, Shapiro owned a combination trade secret in the previously
26 unknown combination of (1) a line of totally clear, animal-shaped bodies, (2) where
27 the playable or sellable feature is that the totally clear body would light up and look

1 beautiful when lit up, and (3) that it could be executed and compete successfully at
2 the \$9.99-\$10.99 price slot, particularly as a deluxe version or follow-up line
3 extension to an opening price point line of (1) totally clear, animal-shaped dolls (2)
4 filled with liquid-and-character-themed glitter where (3) each character had glitter in
5 a different collectible shape, at the \$5.99-\$7.99 price slot.

6 35. Even if one or more of the foregoing elements were previously known,
7 the elements in combination was previously unknown, and had tremendous potential
8 value from not being generally known. No doll line at that price slot had ever been
9 based around those elements, prior to Shapiro's development of the information and
10 strategy in the total Wishables Submission.

11 36. Shapiro took all reasonable precautions to keep the Wishables
12 Submission confidential, maintained materials related to the Wishables Submissions
13 in password-protected computers and secure physical locations at all times, and
14 required recipients of the information to sign non-disclosure agreements every time
15 that she presented them, beginning on or about June 11, 2012.

16 37. Shapiro's Wishables Submission was a confidential compilation of
17 trade secret information that included, but was not limited to:

18 a. A marketing road map with "Phase 1" - an opening price point of
19 \$5.99-\$7.99 of small dolls in different, collectible, animal characters where
20 the doll had (1) a totally clear body, (2) filled with liquid and glitter, and (3)
21 each character in the line would have glitter shaped in a specific symbol
22 associated with the character's personality;

23 b. Pictures and mock-ups of the packaging for the line;

24 c. Hand-made physical models modeling the effect of translucent,
25 animal-shaped characters filled with liquid in glitter, with different shaped
26 glitter representing the different symbols for Phase 1, as more fully explained
27 in the slideshow;

1 d. Hand-made physical models applying the invention to Hello
2 Kitty and Littlest Pet Shop;

3 e. Focus group research from girls in 2012 and 2013 testing the
4 hand-made models on girls, A/B testing against another brand, collecting
5 comments and impressions from the girls, a form of research recognized as
6 valid in the doll business;

7 f. Trend analysis in the form of data points from different media
8 sources indicating that snow globes were predicted as a new and hot trend in
9 later 2012, a form of research recognized as valid in the doll business;

10 g. A working model of the totally clear, light-up deluxe \$9.99-
11 \$10.99 version, complete with packaging, and working light-up mechanism
12 that could be costed and executed within the price point;

13 h. Drawings and proposals for a deluxe play set featuring a slide
14 and other elements in combination;

15 i. The marketing rationale and "reasons why" the line with the
16 unique combination of design elements had never been done before as a
17 collectible line for girls in that price slot;

18 j. Strategic information about the proper price slots, timing,
19 presentation, packaging and execution of the line, communicating that each
20 price point in the line would be cost-feasible and competitive with other
21 products at those price slots;

22 k. A slideshow showing a total "look and feel" for a girls' line with
23 colors, graphics, copy and branding showing insight into how girls play

24 l. In-person demonstration of the slideshow and models; and

25 m. the successful and valuable integration of all the foregoing
26 elements.

27 38. Shapiro developed the foregoing components completely in secret,

1 sculpting and casting different animal characters, with a translucent, colored resin,
2 decorating the eyes and applying hand-selected glitter, and using a cheap but
3 working lighting device to light the clear animal body for the \$9.99-\$10.99 deluxe
4 model.

5 39. Shapiro developed in secret a packaging mockup with graphics on all
6 sides and a windowed front to realistically simulate the item's appearance at retail.

7 40. Shapiro developed in secret a Hello Kitty model to show that Wishable
8 could be use to drive new sales of existing brands, and a Littlest Pet Shop model
9 expressly for the April 25, 3013 meeting with Hasbro, to show that Wishables could
10 be used with Hasbro's existing brands, as Littlest Pet Shop is one of Hasbro's girls
11 brands.

12 41. Shapiro developed the slideshow completely in secret, storing it and its
13 digital assets on a password-protected computer and in a password-protected
14 account.

15 42. Shapiro invested more than 650 hours of work of the type for which is
16 regularly paid by Hasbro's largest competitors to develop the information in the
17 Wishables Submission.

18 43. The information had value from not being known, and was valuable to
19 the recipient, Hasbro, as a "new way to play" using a "low-cost innovation" and the
20 "newest and hottest girls trends" as Hasbro competes with other toy manufacturers
21 and independent toy designers for ideas for making toys.

22 VI.

23 CUSTOM AND PRACTICE IN TOY INVENTION

24 44. Toy companies compete with each other and with independent toy
25 designers for ideas and concepts that can be feasibly manufactured and sold at an
26 acceptable profit margin.

27 45. Every year, Toy companies compete for the best new ideas and
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1 concepts from these independent toy designers to use with their existing brands, so
2 that they can mitigate the risk of over-supply and under-supply, meet their overall
3 financial sales projections, and expand to new markets and segments.

4 46. Toy companies will have inventor meetings only with established toy
5 inventors, and the course of dealing follows well-understood customs and rule.

6 47. Both parties expect to sign a two-way non-disclosure agreement before
7 the inventor discloses his or her ideas.

8 48. Both parties expect that the invention will be considered for a particular
9 group (Boys, Girls, Activity, Games, etc.)

10 49. Both parties expect that the toy company will use dedicated concept
11 acquisition personnel to do the initial vetting of the inventor's ideas.

12 50. Both parties expect that the concept acquisition person may prepare the
13 inventor with a "wish list" of needs the relevant group has for the upcoming seasons,
14 given that the typical toy development timeline is 15-18 months.

15 51. Both parties expect that the toy company's concept acquisition person
16 will be aware of the toy company's products in development and particular needs in
17 the relevant group (Girls, Boys, Activity, Action, Games, etc.).

18 52. Both parties expect that the toy company's acquisition person will stop
19 the inventor's presentation and put "on record" at the earliest possible time if the
20 inventor's idea overlaps with a product the toy company already is developing "in
21 house."

22 53. Both parties expect that if the toy company stops the presentation and
23 discloses that the idea is already "in house," the toy company will not hold or take in
24 the inventor's materials, and the inventor will go on to present the next idea.

25 54. Both parties expect the concept acquisition person will fill out a pre-
26 printed Inventor Review Record or the equivalent, documenting the idea the
27 inventor has shown, and the disposition - (Pass, Hold/Send in, Inventor to Do More

1 Work, or In House), and that the parties will sign the agreed statement of what ideas
2 were shown and the disposition.

3 55. Both parties expect that the toy company's concept acquisition person
4 will limit exposure of the inventor's idea to a "need to know" basis, because the toy
5 product develop process is very fluid, and both parties take steps to avoid "tainting"
6 the internal product development process with outside ideas unless the concept
7 acquisition person determines that the idea is not already "in-house."

8 56. Both parties expect that if the concept acquisition person "holds" or
9 asks to "send in" the inventor's materials, the idea is not already "in house."

10 57. Both parties expect that if the toy company holds the inventor's
11 materials for more than 2 or 3 months, the toy company will pay an option fee to
12 continue holding the inventor's materials as the toy company considers whether it
13 can manufacture the toy.

14 58. Both parties expect that if the toy company holds the inventor's
15 materials for 2 or 3 months and "passes" on the idea, a reason is usually given to the
16 inventor, which can be as general as "not the right fit."

17 59. Both parties expect that the longer a company holds an inventor's
18 materials, the more likely it is that the toy company and inventor will enter into a
19 license agreement.

20 60. Both parties expect that the license agreement consists of an advance
21 and a royalty, with five percent (5%) being the norm if no outside license is
22 required, and three percent (3%) being the norm if an outside license is required
23 (i.e., the invention will only work with a particular licensed character, such as
24 Spongebob Squarepants, Marvel).

25 61. Simultaneous "independent creation" by the same designers who have
26 seen the outside inventor's materials is not possible in the toy business. Toy
27 designers get inspiration from everything in the outer an inner world, in the present

1 and in memory, in reality and in dreams, in conscious and unconscious ways -- once
2 an idea is seen, it cannot be "unseen." There is no way to separate what came from
3 where, or to prove the product teams would have thought of it anyway

4 62. As Alfred Vuono, co-developer of the original My Little Pony and the
5 Kindle, testified:

6 "The process of taking a concept and making a product is like making a
7 solution in a lab. You can't dip a stirring rod that was used in something
8 else in it and have it come out the same."

9 63. Former Hasbro toy concept acquisition head Wayne Luther testified
10 that the situation where a toy company would settle with an outside inventor is when
11 product teams have seen an outside invention that is the same thing they are doing,
12 but do not remember that they have seen it, and they want to do the product anyway.

13 64. The value of an outside inventor's ideas can be found in any aspect of a
14 submission - a marketing opportunity, play feature, packaging device, collectability
15 premise, market research, previously unknown combination of known elements,
16 non-trivial improvement, empirical trend or focus group research, "looks like-works
17 like model" -- any information of value previously unknown to the toy company.

18 **VII.**

19 **THE PARTIES' COURSE OF DEALING**

20 65. On November 2, 2012, Phil Sage of Hasbro introduced Shapiro over
21 email to Wayne Luther, Hasbro's Senior Director of Global Acquisitions and
22 Director of Inventor Relations.

23 66. Sage's introductory email disclosed that Hasbro recognized Shapiro as
24 a proven expert in girls toys and that the areas in which Hasbro was seeking
25 inventor submission were, *inter alia*:

26 "2. LPS [Littlest Pet Shop]: Animation new on the Hub, Want excitement,
27 new surprises, low cost innovative feature[s] in pets, never been seen
28 mechanisms.

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3. Pony [My Little Pony]: Focus on hair, materials, styling innovation ..
New ways to play[.]

4. Fashion dolls in general, a line or segment of product .. Not an item.
Newest and hottest girls trends.”

67. On or about April 9, 2013, Hasbro and Shapiro signed the AHC.

68. On April 25, 2013, Shapiro met with Wayne Luther, Mike Gray and
Dougal Grimes of Hasbro at the Doubletree Hotel in Santa Monica, California and
presented the Wishables Submission and two other inventions.

69. Gray and Grimes work in Games, not Girls.

70. Luther, Gray and Grimes did not stop Shapiro's presentation of the
Wishables at the April 25, 2013 meeting to say Hasbro was developing a product "in
house" of a line of totally clear animal characters filled with liquid and themed
glitter, or a line of totally clear animal characters with a light-up feature.

71. Grimes filled out an Inventor Review Record of Shapiro's inventions on
his iPad, had Shapiro and Luther sign it, and emailed it to Shapiro using a gmail
address, "inventorfriendly@gmail.com."

72. Unknown to Shapiro, an engineer at Hasbro Far East Ltd. ("HFE"), also
at that time had the password to "inventorfriendly@gmail.com."

73. Hasbro's entire Concept Acquisition Group and interns also had the
password to "inventorfriendly@gmail.com."

74. Hasbro stored Inventor Review Records containing the ideas of Shapiro
and other inventors in "inventorfriendly@gmail.com" from 2013 to 2016.

75. At the end of the April 25, 2013 meeting, Luther asked Shapiro to send
in her physical materials on all three inventions (including Wishables) to Rhode
Island, and to upload her slideshow using Signiant Media Exchange.

76. Luther told Shapiro he was taking in her concepts for possible use with
Littlest Pet Shop and My Little Pony.

1 77. Shapiro is informed by Hasbro, and thereon alleges, that Hasbro has not
2 licensed any inventor concepts for Littlest Pet Shop in the past 10 years.

3 78. On May 1, 2013, Shapiro FedExed her sculptures (including the
4 working, light-up deluxe \$9.99-\$10.99 model and the Littlest Pet Shop model) to
5 Hasbro and uploaded her Wishables slideshow to Signiant Media Exchange.

6 79. Hasbro had exclusive possession of Shapiro's light-up Wishables
7 deluxe model, packaging mockup, Littlest Pet Shop and original character models
8 until July 25, 2013 and never claimed to have destroyed or returned the Wishables
9 slideshow.

10 80. Hasbro showed the Wishables slideshow and models to Hasbro's
11 Director of My Little Pony, the Vice President of Girls Toys, and the Vice President
12 of Girls Brands at a June 5, 2013 First Idea Review meeting.

13 81. Shapiro is informed and thereon believes that an untold number of HFE
14 engineers in Hong Kong, interns, and Concept Acquisition personnel had access to
15 the "inventorfriendly@gmail.com" account that contained SHapiro's INventor
16 Review Record.

17 82. Hasbro's Director of My Little Pony, Vice President of Girls Toys, and
18 the Vice President of Girls Brands who saw Wishables at the June 5, 2013 First Idea
19 Review direct the work of the designer who Hasbro claims is the designer of My
20 Little Pony Rainbow Shimmer, Water Cuties and Sparkle Brights.

21 83. On July 25, 2013 (3 months after first seeing Wishables), Hasbro
22 emailed Shapiro that it was declining to licences Wishables, stating "Pass: Not right
23 for current direction in pet shop." Hasbro also passed on the invention it took for My
24 Little Pony.

25 84. Hasbro did not at any time prior to 2016 disclose to Shapiro that it was
26 working on any totally clear light up doll lines.

27 85. Thereafter, in August 2014, Hasbro invited Shapiro to a recruiting
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1 event in Los Angeles, California.

2 86. In August 2014, Hasbro asked Shapiro to submit her resume and
3 portfolio of work for potential full-time employment with Hasbro.

4 **VIII.**

5 **HASBRO'S USE OF SHAPIRO'S TRADE SECRET INFORMATION**

6 87. About 17 months after first seeing Wishables, Hasbro commercially
7 released a new segment in its My Little Pony brand of totally clear, animal-shaped
8 dolls, filled with liquid and glitter shaped to match each character, at the \$5.99-
9 \$7.99 opening price point, called Rainbow Shimmer in Fall 2014 ("Rainbow
10 Shimmer"), just as recommended in the Wishables marketing roadmap.

11 88. Hasbro commercially released a follow-up segment of totally clear,
12 animal-shaped dolls, filled with liquid and glitter shaped to match each character as
13 Cutie Mark Magic Water Cuties in 2015 and Spring 2016 ("Water Cuties"), just as
14 recommended in the Wishables marketing roadmap.

15 89. Shapiro is informed and believes that Hasbro, in October 2014, had
16 made drawings proposing to release yet more Water Cuties characters in Fall 2016,
17 just as recommended in the Wishables roadmap. Hasbro abandoned its plans to
18 release more Water Cuties in Fall 2016 after Shapiro contacted Hasbro with her
19 claims of misappropriation in late 2014.

20 90. Hasbro has or will imminently release a line of deluxe, totally clear
21 animal-shaped characters with a light-up feature at the \$9.99 price slot in the My
22 Little Pony brand as Sparkle Bright ("Sparkle Bright"), just as recommended in the
23 Wishables marketing roadmap.

24 91. Hasbro's purported designer of Sparkle Bright is the same designer that
25 Hasbro claims designed Rainbow Shimmer and Water Cuties. She reports to three
26 people who saw Wishables.

27 92. Shapiro is informed and believes and thereupon alleges that Hasbro

1 took design, invention, marketing, sales, focus group and trend research information
2 from the Wishables Submission that had independent value from not being generally
3 known, and used it to release, improve or develop the Rainbow Shimmer, Water
4 Cuties, and Sparkle Bright lines.

5 93. Shapiro is informed and believes and thereupon alleges that Hasbro
6 was not aware – prior to receiving the Wishables Submission – that (1) a line of
7 dolls at the opening price point of \$5.99-\$7.99 could be established with totally
8 clear, animal-shaped dolls filled with liquid and character-themed glitter, and (2) the
9 line of totally clear animal dolls could be extended for years and seasons by doing a
10 deluxe line at the \$9.99-\$10.99 price point with totally clear bodies with a light-up
11 feature.

12 **FIRST CAUSE OF ACTION**

13 **(Misappropriation of Trade Secrets in Violation of**
14 **Defend Trade Secrets Act, 18 U.S.C. § 1836)**

15 94. Shapiro re-alleges paragraphs 1 through 93, as if fully set forth herein

16 95. Shapiro's trade secret information relates to products used in, or
17 intended for use in, interstate or foreign commerce.

18 96. Hasbro acquired, disclosed, or used Shapiro's trade secrets through
19 improper means, namely by breach of the AHC, storage and transmission through
20 "inventor friendly@gmail.com," and retaining the Wishables slideshow for years
21 after rejecting the Wishablse invention.

22 97. Shapiro owned trade secrets, namely information, including a formula,
23 pattern, compilation, program, device, method, technique, or process, that derives
24 independent economic value, actual or potential, from not being generally known to
25 the public or to other persons who can obtain economic value from its disclosure or
26 use.

27 98. In addition, the Wishables Submission as a whole was a trade secret as
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1 an effective, successful and valuable integration of public domain elements and the
2 aforesaid trade secrets that had independent economic value and was protected from
3 misappropriation (*see Altavion, Inc. v. Konica Minolta Sys. Lab. Inc.*, 226 Cal. App.
4 4th 26, 47, 171 Cal. Rptr. 3d 714, 731 (2014), *review denied* (Aug. 20, 2014)) as a
5 “road map” to the “how” and “why” to sell the toy line, and the combination of
6 elements in the Phase 1 and Deluxe doll lines.

7 99. Shapiro is informed and believes and thereupon alleges that the trade
8 secrets in and of the Wishables Submission contributed to the final design iteration,
9 packaging, positioning, sales rationale and/or marketing of My Little Pony Sparkle
10 Brights as commercially released.

11 100. Shapiro’s trade secrets were the subject of efforts that were reasonable
12 under the circumstances to maintain their secrecy, including that Shapiro required
13 recipients to sign a Nondisclosure Agreement; Shapiro developed the information in
14 secret; that Shapiro stored tangible materials in locked rooms and digital assets on
15 password-protected computers; Shapiro labeled the Wishables slideshow
16 “Confidential” on every page.

17 101. Shapiro is informed and believes and thereon alleges that Hasbro's acts
18 of misappropriation of Shapiro's confidential information on or after May 11, 2016
19 include:

20 102. Distributing Sparkle Bright Wave 1 and Wave 2 for sale in the \$9.99
21 price slot for August 1, 2016 and October 1, 2016 in interstate commerce.

22 103. Shipping Sparkle Bright toys to Singapore for sale on or about June 15,
23 2016

24 104. Shipping Sparkle Bright toys from Hasbro's factory in Asia to other
25 territories for sale after May 11, 2016.

26 105. Shapiro is informed and believes and thereon alleges that Hasbro
27 misappropriated her trade secret willfully and maliciously, entitling her to an award

1 of exemplary damages in an amount two times the amount of her actual loss or a
2 reasonable royalty, pursuant to 18 U.S.C. § 1836(b)(3)(C).

3 106. Shapiro is entitled to a temporary restraining order, preliminary and
4 permanent injunction restraining the sale of Sparkle Brights pursuant to 18 U.S.C. §
5 1836(b)(3)(A).

6 107. If sales of Sparkle Bright are not restrained, Shapiro is entitled to a
7 mandatory injunction to give her a package credit under 18 U.S.C. §
8 1836(b)(3)(A)(ii).

9 **SECOND CAUSE OF ACTION**

10 **(Misappropriation of Trade Secrets in Violation of**

11 **California Uniform Trade Secrets Act, Cal. Civ. Code § 3426 et seq.)**

12 108. Shapiro re-alleges paragraphs 1 to 107 as if fully set forth herein.

13 109. Hasbro acquired, disclosed, or used Shapiro's trade secrets through
14 improper means, namely by breach of the AHC, and transmission through "inventor
15 friendly@gmail.com," and retaining the Wishables slideshow for years after
16 rejecting it.

17 110. Shapiro owned trade secrets information, including a formula, pattern,
18 compilation, program, device, method, technique, or process, that derives
19 independent economic value, actual or potential, from not being generally known to
20 the public or to other persons who can obtain economic value from its disclosure or
21 use.

22 111. In addition, the Wishables Submission as a whole was a trade secret as
23 an effective, successful and valuable integration of public domain elements and the
24 aforesaid trade secrets that had independent economic value and was protected from
25 misappropriation (*see Altavion, Inc. v. Konica Minolta Sys. Lab. Inc.*, 226 Cal. App.
26 4th 26, 47, 171 Cal. Rptr. 3d 714, 731 (2014), *review denied* (Aug. 20, 2014)) as a
27 "road map" to the "how" and "why" to sell the toy line, and the combination of

1 elements in the Phase 1 and Deluxe doll lines.

2 112. Shapiro is informed and believes and thereupon alleges that the trade
3 secrets in and of the Wishables Submission contributed to the final design iteration,
4 packaging, positioning, sales rationale and/or marketing of My Little Pony Sparkle
5 Brights as commercially released.

6 113. Shapiro's trade secrets were the subject of efforts that were reasonable
7 under the circumstances to maintain their secrecy, including that Shapiro required
8 recipients to sign a Nondisclosure Agreement; Shapiro developed the information in
9 secret; that Shapiro stored tangible materials in locked rooms and digital assets on
10 password-protected computers; Shapiro labeled the Wishables slideshow
11 "Confidential" on every page.

12 114. Shapiro is informed and believes and thereon alleges that Hasbro
13 misappropriated her trade secret willfully and maliciously, entitling her to an award
14 of exemplary damages in an amount two times the amount of her actual loss or a
15 reasonable royalty, pursuant to Cal. Civ. Code. § 3426.3.

16 115. Shapiro is entitled to a temporary restraining order, preliminary and
17 permanent injunction restraining threatened misappropriation of her trade secrets
18 through the sale of Sparkle Brights pursuant to Cal. Civ. Code. § 3426.2(a).

19 116. If sales of Sparkle Bright are not restrained, Shapiro is entitled to a
20 mandatory injunction to give her a package credit under Cal. Civ. Code § 3426.2(c).

21 **THIRD CAUSE OF ACTION**

22 **(Breach of Express Written Contract)**

23 117. Shapiro re-alleges paragraphs 1 through 116, as if fully set forth herein.

24 118. On or about April 9, 2013, Shapiro and Hasbro entered into the written
25 AHC.

26 119. On or about April 25, 2013, Shapiro first disclosed information
27 comprising the Wishables Submission to Hasbro under the written AHC.

1 120. In reliance on and in consideration of the AHC, Shapiro shared
2 confidential and proprietary information comprising the Wishables Submission with
3 Hasbro, including by providing Hasbro exclusive access for three months to
4 Shapiro's unpublished sculptures, access to Shapiro's unpublished slideshow, and
5 Shapiro's confidential, in-person demonstration.

6 121. Shapiro fully performed all conditions and obligations required of her
7 under the AHC, including but not limited to labeling all confidential information
8 thereunder "CONFIDENTIAL."

9 122. Hasbro materially breached the AHC by the acts alleged above,
10 including, *inter alia*, using confidential information in the Wishables Submission
11 previously unknown to Hasbro in the Accused Toys.

12 123. Hasbro has not paid Shapiro for using the information acquired under
13 the AHC that was previously unknown to Hasbro, although Hasbro initiated the
14 transfer of information, Shapiro's information was directly responsive to Hasbro's
15 November 2, 2012 email, and it is Shapiro's livelihood to create such information.

16 124. Shapiro is informed and believes and thereupon alleges that she has
17 been damaged by Hasbro's material breach of the AHC, in an amount unknown but
18 exceeding at least \$75,000.00.

19 **FOURTH CAUSE OF ACTION**

20 **(Breach of Implied Covenant of Good Faith and Fair Dealing)**

21 125. Shapiro re-alleges paragraphs 1 through 124, as if fully set forth herein.

22 126. Shapiro and Hasbro entered into a contract, namely the AHC.

23 127. Shapiro fulfilled her obligations under the AHC.

24 128. Any conditions precedent to Hasbro's performance of the AHC have
25 occurred.

26 129. Hasbro unfairly interfered with Shapiro's rights to receive the benefits
27 of the AHC.

1 130. Shapiro was harmed by Hasbro's conduct in an amount unknown but
2 believed to exceed Seventy-Five Thousand Dollars (\$75,000.00).

3 WHEREFORE, Plaintiff Shapiro prays as follows:

4 A. For an award of damages in an amount to be proven at trial of at least
5 Seventy-Five Thousand Dollars (\$75,000.00);

6 B. For an award of damages in at least the amount of a reasonable toy
7 royalty;

8 C. For restitution or disgorgement of all revenue Hasbro obtained by its
9 inequitable conduct;

10 D. For an award of the amounts that Hasbro has unjustly enriched itself
11 caused by misappropriation of Shapiro's trade secrets that is not taken into account
12 in computing damages for actual loss;

13 E. For an award of exemplary damages in an additional amount not
14 exceeding two times the award under Paragraphs B, C and D above;

15 F. For an injunction prohibiting the continued sale of the Accused Toys in
16 any territory or by any party within the jurisdiction of this Court;

17 G. For a mandatory injunction under 18 U.S.C. § 1836(b)(3)(A)(ii) and
18 Cal. Civil Code 3426.2(c) requiring Defendant to sticker the Sparkle Bright toys
19 "under license from" Plaintiff and giving Plaintiff a credit on packaging;

20 H. For interest running from the date of the original complaint on non-
21 contract causes of action; and

22 I. For such other and further relief as the Court may deem proper.
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DATED: August 2, 2016

Respectfully submitted,

LISA BORODKIN, ATTORNEY AT LAW

By: /s/ Lisa J. Borodkin
 LISA J. BORODKIN

KING, HOLMES, PATERNO & SORIANO
LLP

Attorneys for Plaintiff ELINOR SHAPIRO

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

DATED: August 2, 2016 Respectfully submitted,

LISA BORODKIN, ATTORNEY AT LAW

By: /s/ Lisa J. Borodkin
 LISA J. BORODKIN

KING, HOLMES, PATERNO & SORIANO
LLP

Attorneys for Plaintiff ELINOR SHAPIRO