

NOTE: This disposition is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

CHOIROCK CONTENTS FACTORY CO., LTD.,
Appellant

v.

ALDRIC SAUCIER, SPIN MASTER, LTD.,
Appellees

2019-1335

Appeal from the United States Patent and Trademark
Office, Patent Trial and Appeal Board in No. IPR2017-
00030.

Decided: February 21, 2020

HILARY L. PRESTON, Vinson & Elkins LLP, New York,
NY, argued for appellant. Also represented by SIHO YOO,
San Francisco, CA.

JENNIFER C. BAILEY, Erise IP, P.A., Overland Park, KS,
argued for appellees. Also represented by MEGAN JOANNA
REDMOND.

Before DYK, BRYSON, and TARANTO, *Circuit Judges*.

Opinion for the court filed by *Circuit Judge* BRYSON.

Opinion dissenting in part filed by *Circuit Judge* DYK.

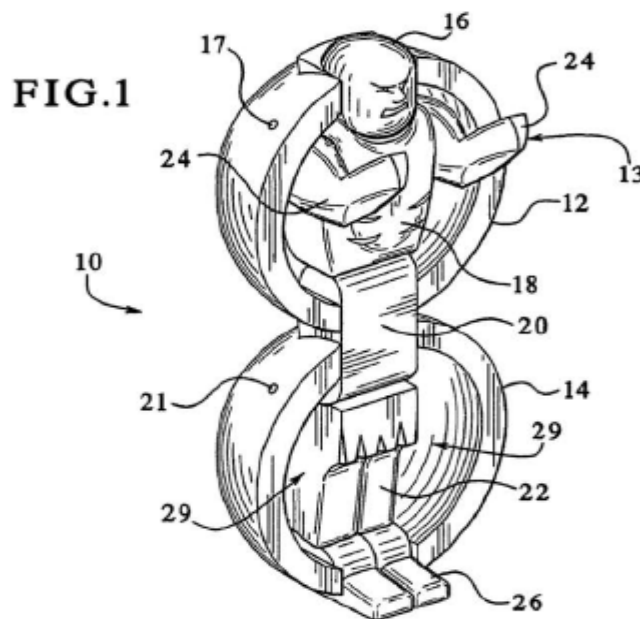
BRYSON, *Circuit Judge*.

Choirock Contents Factory Co., Ltd., appeals from the final written decision of the Patent Trial and Appeals Board in an *inter partes* review proceeding. The Board held that Choirock did not prove that claims 1–4 and 7–14 of U.S. Patent No. 7,306,504 (“the ’504 patent”) are unpatentable. We affirm.

I

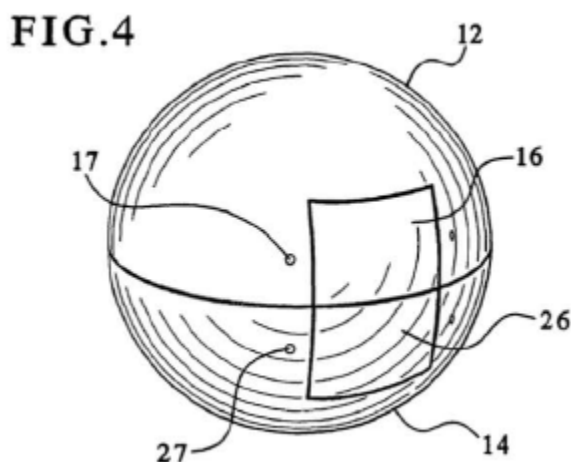
A

The ’504 patent, which is owned by appellee Spin Master, Ltd., is directed to a transformable toy adapted to open and close to reveal and conceal a figurine. ’504 patent, col. 2, ll. 44–46. Figure 1 illustrates the toy 10 in an open position according to one embodiment:



The '504 patent calls the figurine 13 a “display member,” alluding to the fact that the figurine is on display when the toy is in the open position. *Id.* at col. 3, ll. 21–30.

Figure 4 illustrates the embodiment of Figure 1 in which the toy 10 is in a closed position and the figurine or “display member” is hidden:



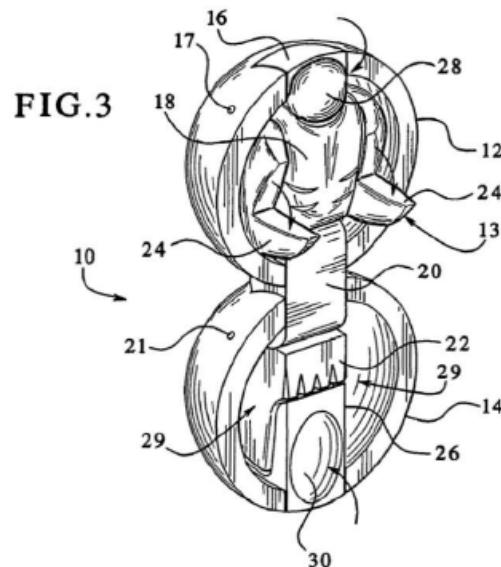
As depicted in Figures 1 and 4 and described in the specification, the display member is connected to the inside surfaces of at least one of the two hemispherical pieces 12 and 14 that form the outer shell of the toy, which is seen when the toy is in the closed position. *Id.* at col. 3, ll. 15–17. Pieces 12 and 14 are movably connected to the opposite ends of a coupler or hinge 20. *Id.* at col. 2, ll. 47–59. The '504 patent refers to pieces 12 and 14 as “movable members.” *Id.* at col. 2:47–51.

Pieces 12 and 14 are not the only parts of the toy that can move. The display member itself (figurine 13) is made up of constituent parts, several of which can move independently of any movement by the movable members 12 and 14. The '504 patent explains:

In this embodiment, the display member **13** is a figure or figurine and includes a first revealer **16**

formed as a head of the figure, a body **18** positioned adjacent to the first reveler **16**, a pair of second revealers **24** in the form of arms movably connected to opposing sides of the body **18**, a coupler **20** connected between the first and second movable members, a support **22** positioned adjacent to the coupler and a third reveler **26** positioned adjacent to the support **22** and movably connected to the second movable member.

Id. at col. 3, ll. 21–30. Figure 3 illustrates how some of the constituent pieces of the display member, referred to as the “revealers,” can be moved:



In Figure 3, the head, or first reveler **16**, has rotated around, so that the image of the face is in the “concealed position.” *Id.* at col. 3, line 57, through col. 4, line 6. The arms, or second revealers **24**, have been retracted downward from their extended position shown in Figure 1. *Id.* at col. 4, ll. 18–24. Finally, the third reveler **26**, which constitutes the feet of the figurine, has been moved up to a concealed position. *Id.* at col. 4, ll. 40–59.

Claims 1–4 and 7–14 of the '504 patent are at issue in this appeal. They are directed to transformable toys with certain characteristics. Independent claim 1, which is illustrative, reads in full as follows:

1. A toy comprising:

a first movable member;

a second movable member positioned adjacent to said first movable member, said second movable member being hingedly connected to said first movable member, wherein the first movable member and the second movable member are moved away from each other to an open position or towards each other to a closed position;

a display member connected to a surface of at least one of the first and second movable members, wherein the display member is revealed when the first and second movable members are in the open position, wherein said display member includes a plurality of revealers rotatably connected to at least one of the first and second movable members.

The other challenged claims recite similar variations of transformable toys.

B

Spin Master is a Canadian-based toy and entertainment company. In 2007, it launched Bakugan, a popular series of transforming robot toys that were sold throughout the world. Complaint at 3, *Spin Master Ltd. v. Mattel, Inc.*, No. 2:18-cv-3435 (C.D. Cal. Apr. 24, 2018). The Bakugan line of toys was launched in conjunction with an animated television series. *Id.*

In 2015, Spin Master sent a letter to SonoKong Co., Ltd., alleging that the manufacture and sale of the “Turning Mecard” line of transforming toys infringed several of Spin Master’s patents, including the '504 patent at issue in

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