

DECLARATION OF EILEEN VANESS IN SUPPORT  
OF DEFENDANT LEAPFROG'S MOTION TO  
TRANSFER TO THE NORTHERN DISTRICT OF  
CALIFORNIA

Exhibit 1

September 24, 2004

Via Federal Express

Mr. Sasha Pesic  
Worldwide Litigation Counsel  
Leapfrog Enterprises, Inc.  
6401 Hollis Street, Suite 150  
Emeryville, CA 94608-1070

Re: Licensing Opportunity

Dear Sasha:

Tinkers & Chance owns a substantial patent portfolio in the field of educational toys. This portfolio includes six (6) issued patents including United States Patent No. 6,739,874 (the "874 patent", a copy of which is attached behind Tab A) and United States Patent No. 6,729,881 (the "881 patent", Tab B). The portfolio also includes more than ten (10) pending patent applications. All of the patents and patent applications in the portfolio benefit from a 1995 filing date. We have enclosed with the original of this letter a CD that has copies of all of the patents, pending applications and patent prosecution in the portfolio as of June 2004 (Tab C).

Tinkers & Chance is in the business of licensing its patented technology to toy companies such as Leapfrog. For example, Tinkers & Chance has entered into licensing or similar agreements covering the practice of Tinkers & Chance's patented technology with Small World Toys, Neurosmith and Zowie Entertainment (purchased by LEGO in 2000). Tinkers & Chance has been successful licensing its patented technology because it strives to work with the individual toy companies to structure licenses that meet the business needs of the companies while ensuring that Tinkers & Chance's substantial investment of time, money and energy in its patented technology is protected.

We have compared a number of Leapfrog's products against Tinkers & Chance's patent portfolio. The claims of the '874 patent as well as the claims of a number of the pending patent applications in the portfolio read on Leapfrog's Leapster, My First LeapPad, LeapPad and LeapPad Plus Writing product lines. The claims of the '881 patent read on Leapfrog's Roll & Rhyme Melody Block product. The claims of pending applications in the portfolio also read on

Mr. Sasha Pesic  
Page 2

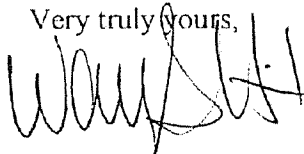
a number of other Leapfrog educational toys such as its Mind Station and Turbo product lines. A table showing the correspondence between Tinkers & Chance's patent portfolio and Leapfrog's products is included with this letter (Tab D).

We would like to start working with you to structure a license to grant Leapfrog all of the rights it needs under Tinkers & Chance's patented technology. Leapfrog's recent public announcements indicate that Leapfrog's annual covered sales could be in excess of \$500M in 2004. The standard royalty rate in the toy industry is 5%. See the Toy Industry Association's website at [www.toy-tia.org](http://www.toy-tia.org). Tinkers & Chance uses 5%-6% as its standard royalty rate. Therefore, a standard license to Leapfrog could run in excess of \$25 million for 2004 alone and \$600 million for the life of the patents (see the spreadsheet analysis at Tab E). Tinkers & Chance is willing to offer Leapfrog for a limited period of time a discounted royalty structure. To obtain the benefit of this offer, Leapfrog must negotiate in earnest and consummate through business negotiations a licensing transaction with Tinkers & Chance within a reasonable period of time.

Finally, we note that we previously contacted Leapfrog in October 2002. A copy of a letter we wrote to Leapfrog's founder, Michael Wood, is attached (Tab F). We felt then and still feel now that Leapfrog would benefit from purchasing Tinkers & Chance's portfolio rather than licensing it to obtain all of the rights of patent ownership. A copy of a presentation describing the benefits of Leapfrog owning the portfolio is also included (Tab G).

We think it would be highly beneficial to set up a meeting to discuss how best to proceed after Leapfrog has an opportunity to study this letter and the included materials.

Very truly yours,



Warren S. Heit