

# Toys

**In the serious business of play, Fross Zelnick is the leader in protecting the rights of IP owners. Our lawyers search, register, manage and protect trademarks and copyrights and devise strategies for brand and other IP protection in the U.S. and internationally.**

The firm has long managed the U.S. trademark portfolio of LEGO and has represented LEGO in applications for trademarks and copyrights, in protecting those rights in trademark opposition proceedings, and in recording those rights with U.S. Customs and Border Protection. For clients Sega and Square Enix, in the video game field, our client searches and registers marks in a field crowded with video game titles. This requires fine judgement as to how consumers perceive partially similar game title marks and knowledgeable arguments to remove blocking citations in applications.

For toys, creative representation also involves protecting product configurations, usually by marshalling evidence of fame of the configurations to protect them as marks. This also requires advice on when and whether to use alternate IP rights, including copyrights and design patents.

In the growing field of video slot machines, we have long represented a major Japanese producer of video slot machines with search advice for new slot machine names (difficult in a very crowded field) and by obtaining appropriate trademark registrations.

In these fields, where some marks are used for decades, while others are used only briefly, we have also counselled clients on when they can forego full searching and registration and reasonably rely on database searching and common law rights for cost-effective protection.

In the video game field, where old games never die, but simply become available in different formats, we have counselled clients on the tricky issue of what kind of use is sufficient to maintain marks for games no longer produced and sold in disc form, but that are still used for games available for streaming, as downloads or as part of the title of sequels to the original game.

## **Strengths that Matter to our Clients:**

- Deep understanding of the intersection of trademarks, copyrights, design patents, and personal name and image rights

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- Familiarity with marketing and naming practices for video games, and their sequels, lines of toys, and slot machines
  - Understanding of product life cycles and the costs, benefits and risks of lesser IP protection for short-lived products
  - Understanding which types of entertainment titles are valuable, and can be licensed and protected, across multiple types of content and when a prior title precludes use or registration of a new title in crowded fields
  - Creativity to succeed in applications for unusual types of marks, such as sound marks and configurations

## Decisions

DC Comics v. Towle

Troll Co. A/S v. Unedda Doll Co.

Warner Bros., Inc. v. Gay Toys, Inc.

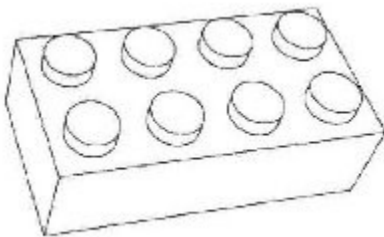
Kenner Parker Toys Inc. v. Rose Art Indus., Inc.

## Representative Experience

- For client Edgar Rice Burroughs, Inc., Fross Zelnick registered the famous TARZAN Yell as a sound trademark for toy action figures and for licensed slot machines. We believe that these were the first registrations for sound marks in those two product categories.
- For client LEGO, Fross Zelnick registered the famous configuration of the LEGO MiniFigure:



as both a trademark for toy figures and a copyright and recorded both registrations with U.S. Customs and Border Protection, resulting in many Customs seizures of copycat products. Fross Zelnick also registered, as a mark, the configuration of the famous rectangular LEGO brick with 8 studs as a mark for many products and services:



- Through a series of enforcement actions, the firm stopped numerous sellers of copies and recovered hundreds of thousands of dollars for the copyright owner and enhanced the owner's bottom line by incentivizing formally unauthorized sellers to take licenses.