UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of	)	
ZEN MAGNETS, LLC,	)	CPSC DOCKET NO. 12-2
RESPONDENT	)	Hon. Dean C. Metry Administrative Law Judge

RESPONDENT'S MOTION TO DISMISS BASED ON VIOLATION OF DUE PROCESS

The Respondent, Zen Magnets, LLC, through counsel and pursuant to 16 C.F.R. §1025.23(d), and the fifth amendment to the United States Constitution, seeks dismissal of this matter and as grounds therefore states:

1. On October 3, 2014, the Consumer Products Safety Commission published a rule in the Federal Register banning magnet sets identified in the Second Amended Complaint as the subject products. Zen Magnets argues that in so doing, the Commissioners who voted for the rule have prejudged issues that might arise on an appeal of this matter. As such, Zen's due process rights have been infringed in so far as he could not have a fair appeal of any decision of the Presiding Judge.

2. The Commission voted for the Rule identified above 4-0-1 concluding that the subject products present an unreasonable risk of injury to the public.

3. Four Commissioners made public statements on the CPSC website regarding the vote. These are attached hereto as Exhibits 2, 3, 4 and 5 (Redacted as necessary to be consistent with the Protection Order in this matter).

4. That the Commissioner's have prejudged this matter is clear from comments made by Chairman Kaye and Commissioner Adler. Chairman Kaye stated in part:

> Most heart wrenching of all, one little girl, *[1] , was terribly hurt and lost forever. We all have fears in life. Every single one of us. For me, the biggest without any question, is something tragic happening to one of my boys. Every night, EVERY NIGHT, long after we have put them to bed, I sneak back into their rooms to kiss them one more time. As I do that, I feel tremendous gratitude they are alive and well, and that I am so blessed to have the privilege of hearing in the dark of their rooms the soothing and rhythmic sound of their breathing. I hug them tight, trying not to wake them, all the while knowing that, as long as I might hang on that particular evening, that moment is rather fleeting. And I also know each night that there is certainly no guarantee I will have even one more night to hold onto them tight. As a parent and as the Chairman of the CPSC, I hurt so much for _____'s family. I was so deeply moved that _____'s mother, brothers, grandmother, aunt, and cousin took the time to drive from _____to attend the Commission's vote. I will always think of _____ when it comes to this rule and the action the Commission has approved, and I am so deeply sorry for the_____ family's loss.
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> Also in our thoughts is *[2]from _____, who had to battle through numerous surgeries as a 2-year old, after his intestines were perforated. _____ is not alone, as many children and teenagers have suffered serious injuries after ingesting these hazardous magnets. As many families and the medical community well know.
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> ***
>
> There is, of course, another extremely important aspect to our action today. And I alluded to it earlier. I feel the weight of, and am sorry for, the likely loss of one man's dream. While there are some who we do not agree with on how to address the hazards presented by these magnets, they should know I respect their dream to innovate and to create. As many who have worked with me have heard me say, it is important from time to time to "dream big and then even bigger."
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> Some loss, tragically, is permanent and life-changing. We were witnesses to that with the presence of _____'s family. But not all loss and hurt need be. At least that is my hope for this process – that the mandatory standard the Commission approved on September 24, 2014, will prevent future loss and hurt by protecting and preserving not only the precious health of children, but will also

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[1]Chairman Kaye mentioned the name of the girl, though the Protection Order in this case prohibits that. A redacted copy of Chairman Kaye's remarks is attached hereto and filed herewith as Exhibit 2.

[2]The name of this young boy is also mentioned by Chairman Kaye in his remarks.

provide sufficient space for the entrepreneurial dreams of adults. [3]

5. In an apparent effort to avoid the issue raised herein, Chairman Kaye remarked in a footnote:

> My comments are exclusively directed to the CPSC's rulemaking efforts with respect to high-powered magnets sets. While others may raise principled concerns regarding the agency choosing to exercise multiple authorities simultaneously, the fact that Congress provided the Commission with the option to proceed in such a manner indicates that doing so is an entirely appropriate and legitimate action for the agency to take in furtherance of protecting consumers from unreasonable risk of injury. Moreover, if the Commission has detected a hazard pattern warranting action to protect consumers (as it did here), and the Commission has identified a way to address the hazard (as it has here), I believe it is morally incumbent upon the Commission to act to protect consumers as quickly as it reasonably can. To me, there is no justifiable reason to proceed otherwise. [Remarks, Chairman Kaye, Sept. 24, 2014, fn [1] in redacted Exhibit 2 attached hereto].

6. Commissioner Buerkle abstained from voting because of the issue raised herein. Her full remarks are attached hereto and incorporated by reference as Exhibit 3.

Commissioner Buerkle stated:

> I did not vote on the final rule promulgating a mandatory standard for magnet sets because I believe that it would be inappropriate at this time. Currently, the Commission staff is actively pursuing an administrative enforcement case against the only remaining seller of these magnet sets. That case is scheduled for trial before an Administrative Law Judge (ALJ) in early December 2014. After the ALJ issues his initial decision, it may be appealed to the Commission (unless of course the matter is previously settled, as both of the other recent magnet cases have been). As potential future judges in that appeal, the Commissioners are often reminded to keep an open mind on the subject of magnet sets, so that we may decide the enforcement matter impartially. Under these unusual circumstances, I believe it would have been prudent to postpone any decision on whether to adopt a mandatory standard for magnets sets until the adjudication is settled or agency proceedings are concluded.

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[3] Redactions added. The whole statement can be viewed at http://www.cpsc.gov/About-CPSC/Chairman/Kaye-Biography/Chairman-Kayes-Statments/Statements/Statement-of-Chairman-Elliot-Kaye-on-the-Passage-of-a-Federal-Safety-Standard-For-High-Powered-Magnet-Sets/

* * *

The enforcement case against Zen Magnets is an administrative adjudication subject to special trial-type procedures such as witness testimony and cross examination, which don't apply in ordinary rulemaking. The Administrative Procedure Act (APA) also establishes "separation of functions" safeguards for adjudications. The Commissioners, as possible future decisionmakers, are not allowed to receive or make contacts with either of the parties individually, including our own CPSC staff attorneys who are prosecuting the case. 5 U.S.C. § 557(d). These safeguards help prevent bias and promote fairness.

While such an adjudication is pending, Commissioners are routinely cautioned to avoid making statements, or even asking questions, that may suggest a prejudgment of the matter. To issue a final rule outlawing the very same product that is the subject of the adjudication would seem to be the ultimate prejudgment.

The situation here is particularly unusual in that the only magnet sets that are practically affected by the new standard are those already involved in the adjudication. There is a close identity between the products affected by the rule and those potentially affected by the adjudication. In the usual case, a standard would sweep more broadly, but the agency's prior enforcement efforts have left Zen Magnets as the only firm still selling magnet sets in the United States.[Footnote omitted, it is in Exhibit 4]

Some have suggested that finalizing the magnet standard poses no prejudgment problem because the standard will apply only prospectively, i.e., after the effective date, while a decision in the enforcement case—if favorable to the CPSC staff--would operate retroactively (i.e., resulting in a recall of magnet sets already in the market). This view is oversimplified, because if the enforcement case is decided against the respondent, it will also have prospective effect, prohibiting any further distribution of the only magnets sets currently being sold. See 15 U.S.C. § 2064(c)(1); Preamble at 4 (in the administrative enforcement case, CPSC staff sought "an order that the firm cease distribution and importation of the products.").

Some have suggested that issuing a final rule would not be prejudicial in this instance because the criteria for promulgating a mandatory standard are different from the criteria necessary to justify a recall. In this case, the differences are more apparent than real. To obtain an involuntary recall, the staff must prove that the magnet sets constitute a "substantial product hazard." 15 U.S.C. § 2064(d). That term is defined in the CPSA to mean a product that creates "a substantial risk of injury to the public," either because of a failure to comply with an applicable standard or because of a defect. 15 U.S.C. § 2064(a). To promulgate a mandatory standard, the Commission must make a number of specific findings, of

> which one is that the rule "is reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with such product." 15 U.S.C. § 2058(f)(3). While it may be possible to imagine an "unreasonable risk of injury" that is not also a "substantial risk of injury," there is at the least a very substantial degree of overlap between the two.[Footnote Omitted, it is in Exhibit 4]
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> To the best of my knowledge, this Commission has never before promulgated a mandatory standard addressing a hazard that is the subject of a pending adjudication. Indeed, I have not found any judicial decision that addresses any agency promulgating a mandatory standard under these circumstances. Even if such a precedent exists, the situation at hand calls for special treatment, at least to avoid the appearance of prejudgment.

7. Commissioner Adler addressed the due process issue head-on. His remarks are attached and incorporated herein as Exhibit 4.[4] Of note, is his proposition that because through Rule Making the Commission has "determined that certain high-powered magnets present an 'unreasonable risk of injury' to the public, it is protected as a potential appellate body in the future because the standard in the

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[4]In addition to the remarks identified here, Commission Adler spoke both at the proposed rule making hearing on September 10, 2014 and again at the vote on September 24, 2014. At 39:10 of the September 10, 2014 meeting Commissioner Adler spoke of a "mental firewall", by not reading pleadings or newspaper stories, in essence locking himself only to CPSC staff's side of things:
"We want you to make a preliminary determination that this product might present a substantial product hazard. Let us go and bring administrative proceeding. Then after the administrative proceeding, guess who hears the appeal? We do." And so that's always struck me as a bit anomalous but that is something if ever there an issue that's been litigated to the Supreme Court in which the Supreme Court has said, as with most other agencies, that's the way the administrative procedure operates with respect to administrative litigation. It still feels a little bit strange to me. And the way I've coped with it is once we have cast a vote to initiate a case, I don't follow it at all. I don't read newspaper stories about it. I don't read the pleadings even if they're public. I want that to be, at least in my case, a mental firewall between our initiation of the case and when the case comes to us. *See,*
http://www.cpsc.gov/en/Media/Videos/Commission-Meetings/Commission-Meeting-Decisional-Matter---Safety-Standard-for-Magnet-Sets---Final-Rule/. *See also,*
http://www.cpsc.gov/en/Media/Videos/Commission-Meetings/Commission-Meeting-Final-Rule---Safety-Standard-for-Magnet-Sets/

administrative proceeding here is whether the subject products create a substantial risk of harm, not an unreasonable risk of injury."

Commissioner Adler further states:

> Having made this determination [unreasonable risk of injury], the Commission has imposed a set of restrictions on the types of such magnets that may be sold in the United States.[footnote excluded here but in attached Exhibit 3] This determination has been made after following the due process requirements of the law, including:
> providing notice to the public of the proposed rule,
> permitting any member of the public wishing to do so to file comments and objections to the proposed rule,
> inviting any member of the public wishing to do so to provide oral comments on the proposed rule, and
> addressing and responding to the comments filed with the agency.[footnote omitted here but in the attached Exhibit 3].

According to Commissioner Adler, "[t]hese due process rights extend to, and safeguard, all interested parties, including any respondent in the enforcement action against high-powered magnets. In my judgment, the Commission and its staff meticulously followed all procedural requirements called for in the Consumer Product Safety Act in drafting the magnet standard. Accordingly, I find it hard to see any impropriety in the standards setting process. Given this, in accordance with the provisions of the CPSA, the Commission has set an effective date for implementing the standard's requirements. After that date, no one, including any respondent in the ongoing administrative case, will be able to distribute noncomplying magnets in the United States."

Commissioner Adler proceeds to explain how he would not be biased in a subsequent proceeding:

At this point, one may ask whether the Commission's determination that

> high-powered magnets present an "unreasonable risk of injury" somehow means that we have prejudged the issue of whether they also constitute a "substantial product hazard" such that we should be disqualified from hearing an appeal from an ALJ's ruling should one be brought to us.[footnote omitted] That is, does a Commissioner's vote to promulgate a mandatory standard automatically mean that the Commissioner has prejudged whether a product presents a "substantial product hazard?"[footnote omitted]
>
> I think not. Speaking as one Commissioner, I fully understand the difference between making a determination that a product presents an unreasonable risk of injury and should not be sold in the future versus a determination that a product currently being distributed presents a substantial product hazard and should be recalled from the market. The two determinations involve different facts, different policies and different law. And, in both cases, the full panoply of due process rights applies to anyone affected by Commission action.
>
> I particularly note the sharp differences in the law between the two findings: An "unreasonable risk" determination involves a careful balancing of the risk against the impact of a proposed rule on the product's price, utility, and availability. A "substantial product hazard" determination focuses almost exclusively on the risk of a product and imposes a much higher standard of proof than an "unreasonable risk" finding. This is so because a substantial product hazard determination seeks to remove an otherwise legal product from the marketplace due to its particularly hazardous nature whereas a safety standard never touches products currently in inventory or in distribution. Accordingly, it is entirely possible that a product found to present an unreasonable risk of injury might be completely exonerated as a substantial risk of injury.[footnote omitted] And, I am fully confident that every CPSC Commissioner easily understands the distinction and can vote appropriately.

Commissioner Adler's comments ignore the case law cited herein. And, his distinction between unreasonable risk of harm and substantial risk of injury is one without a difference in this case because he and his colleagues have examined all of the exact same incident reports, NEISS findings and allegations set forth in the Second Amended Complaint as argued more fully in paragraphs 9, 10 and 11 below.

8. The argument put forth by Commissioner Adler misses the point. It is not the impropriety of the rule making process that is in question. Rather, it is the trial-like adjudication process, for which procedural and substantive due process is paramount. *See, Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 569-570 (1972)("When

protected interests are implicated, the right to some kind of prior hearing is paramount."). Because the Rules that apply to this proceeding allow for an appellate process to the Commission, a meaningful hearing would include the knowledge that a fair and impartial appeal is available. No mistake can be made that the facts of this case have been prejudged by the Commission, despite some of the commissioners' protest to the contrary.

9. As noted, Commissioner Adler distinguishes between an unreasonable risk of harm and a substantial risk of injury. It is true that the statutory and regulatory language at issue here, namely, what is "unreasonable" versus "substantial," is facially different, however, the difference is one without a substantive distinction.

10. First, contrary to Commissioner Adler's assertion, the facts involved are precisely the same. The incidents giving rise to the Final Rule as well as the enforcement proceeding against Zen are identical. *See, generally* Preamble to the Proposed Rule, 77 Fed. Reg. at 53785 to 53786. Moreover, unlike the characterization by Commissioner Adler that a "substantial risk" analysis is limited, the Commission's regulations demand that "*all information* should be evaluated to determine whether it suggests the existence of . . . a defect or an unreasonable risk of serious injury or death." 16 C.F.R. § 1115.12(f) (emphasis added). Additionally, the belief that a "'substantial product hazard' determination focuses almost exclusively on the risk of a product" is belied by the regulations, which direct the Commission to consider a litany of factors,[5] some of which

[5] When making a finding that a product is defective, as the Commission has alleged, the factors for determining that the defect creates a substantial product hazard are:

The utility of the product involved; the nature of the risk of injury

the Commission must also consider in making an "unreasonable risk" determination. *See* 15 U.S.C. § 2058(f)(1).

11. Second, there is no functional, legal distinction between the Commission finding that Subject Products pose a "substantial risk," versus an "unreasonable risk" of injury. The Commission in the instant case has clearly made up its mind that the risk of harm posed by Subject Products is *both* substantial and unreasonable. In fact, in order to promulgate the Final Rule, the Commission necessarily had to make the determination that the Subject Products created an unreasonable risk of injury. *See* 15 U.S.C. § 2058(f)(3). The Commission also characterized the type of "harm" posed by Subject Products in its rulemaking as "[s]erious injury and even death." Final Rule, 79 Fed. Reg. 59,962, 59,964 (Oct. 3, 2014). The Commission has therefore adjudged in its rulemaking that Subject Products create an unreasonable risk of serious injury or death, which is a condition that the Commission asserts renders Subject Products substantial product hazards under 15 U.S.C. § 2064(a)(2). *See* Complaint Counsel's Second Amended Complaint, ¶¶ 123-126.

12. Respondent adopts Commissioner Buerkle's remarks for purposes of this motion in so far as they are well-reasoned and support a dismissal of this matter. And, as she stated, the prejudgment would appear if there were an appeal.

> which the product presents; the necessity for the product; the population exposed to the product and its risk of injury; the obviousness of such risk; the adequacy of warnings and instructions to mitigate such risk; the role of consumer misuse of the product and the foreseeability of such misuse; the Commission's own experience and expertise; the case law interpreting Federal and State public health and safety statutes; the case law in the area of products liability; and other factors relevant to the determination.

16 C.F.R. § 1115.4.

13. 16 C.F.R. Sec. 1025.53(a) provides that any party to a proceeding may appeal the administrative law judge's decision to the Commission and even the Commission itself may order an appeal (16 C.F.R. Sec. 1025.54).

14. It is clear that if after a hearing on the issues raised by the Second Amended Complaint, which is set for December 1, 2014, Zen Magnets should prevail and Complaint Counsel appeals, the Commission has already decided the matter by its rule making and comments. That there may be a different technical standard is not sufficient to overcome the prejudgment identified by Commissioner Buerkle.

15. And, even if Complaint Counsel would not appeal such a decision for whatever reason, the Commission could order an appeal to impose its predetermined decision in reversing the administrative law judge's decision.

16. Finally, of course, if the Presiding Officer rules in Complaint Counsel's favor and Zen would appeal, again, it is not difficult to know how the Commission would rule based on the record made in the Rule published in the Federal Register. See also, the Proposed Rule published in the Federal Register on September 3, 2014, attached hereto and incorporated herein.

17. Zen is entitled to have its case heard and decided by an impartial tribunal. This is a constitutional right of due process. Fifth Amendment to the United States Constitution (No person shall be deprived of property without due process of law).

18. By voting on the magnet ban rule making, four of the five Commissioners have prejudged the very factual issue in this case: whether the magnets present a substantial product hazard. This disqualifies them from considering any appeal from the presiding

judge's Initial Decision when it is rendered. *See Cinderella Career & Finishing School, Inc. v. FTC*, 425 F. 2d 583, 591 (D.C. Cir. 1970)("Thus, when governmental agencies adjudicate or make binding determinations which directly affect the legal rights of individuals, it is imperative that those agencies use the procedures which have traditionally been associated with the judicial process."). *See also, Amos Treat & Co. v. SEC*, 306 F.2d 260, 263 (D.C.Cir. 1962) ("when governmental agencies adjudicate or make binding determinations which directly affect the legal rights of individuals, it is imperative that those agencies use the procedures which have traditionally been associated with the judicial process." quoting *Hannah v. Larche*, 363 U.S. 420, 442 (1960)).

19. The legal standard for disqualification is whether "a disinterested observer may conclude that the (decision maker) has in some measure adjudged the facts as well as the law of a particular case in advance of hearing it." *Cinderella Career & Finishing School, Inc*., 425 F.2d at 591. *See also American Cyanamid Co. v. FTC*, 363 F.2d 757, 761, 763-767 (6th Cir. 1966)(Disqualifying the Chairman of the FTC from hearing an adjudication because he had worked on an investigation of the same facts in a prior job and could not be an impartial decision maker in the adjudication) ("It is fundamental that both unfairness and the appearance of unfairness should be avoided. Wherever there may be reasonable suspicion of unfairness, it is best to disqualify."

20. The law distinguishes between "general facts" that influence policymaking and rule making and "specific facts" of a specific case pending before the agency. Here, the Second Amended Complaint alleges "specific facts" as does the packet in advance of the rule making. Four Commissioners have prejudged those very facts. The comments presented above make clear that they are aware of the Zen case and knew that they were

making a decision about his very products. *See also*, the video provided by the CPSC at http://www.cpsc.gov/en/Media/Videos/Commission-Meetings/Commission-Meeting-Decisional-Matter---Safety-Standard-for-Magnet-Sets---Final-Rule/].

21. In anticipation that Complaint Counsel may argue that the "Rule of Necessity," would apply here and allow even a biased tribunal to hear a case if the tribunal is exclusive and there is no provision for substitution, Respondent argues as follows.

22. Certainly, the Commission could have waited to issue the magnet rule until after this matter was decided. The time differential is 60 days. As noted in the rule itself, the Commission began collecting data for many years and the Commission was briefed on these matters as early as August, 2012.

23. The Commission created the timing issue by scheduling the vote on the rule when they did, knowing full well that there was a hearing on its administrative complaint. See, for example, Commissioner Buerkle's and Commissioner Adler's remarks.

24. There was no urgent safety need to vote when they did; if they thought that magnets were such a drastic safety problem, they could have sought a Section 12 "imminent hazard" ban of them pending the adjudication, which the Commission never did.

25. Further, the Commission could have anticipated the need to have an appellate review of the presiding judge's decision, and could have set up an appellate division on the Commission to hear the appeal of the Zen Magnets case. Two Commissioners would have been recused from voting on the magnet rule making.

26. If the Commission would have set up an "appellate division," as suggested, the

remaining three Commissioners would have constituted a quorum, and could have voted on the rule making without violating Zen's right to due process because they would not have sat as the appellate panel for the review of the presiding judge's decision.

27. In the alternative, four commissioners are disqualified from hearing the appeal based on their comments and votes.

28. In a situation as presented in paragraph 27 above, the Presiding Officer's order will become the final agency decision with no effective opportunity for Zen Magnets to get a de novo review, as contemplated by the appeal provisions of the applicable Rules of Practice for Adjudicative Proceedings.

29. If the Presiding Officers's order becomes the final agency action, it would be reviewed by the District Court on the record under a deferential standard, not a de novo review.

30. Finally, Zen argues that Section 12 of the CPSA is not dispositive of this matter, either. While the Commission may file an action *in a U.S. district court* to seize a product it considers "imminently hazardous" (15 U.S.C. § 2061(a)(1)), and *concurrently* promulgate a rule regarding said imminently hazardous product, *id*. at § 2061(c), the same people are not both adjudicating the action and writing the rule.

31. Such is not the case here: The Commissioners promulgating the rule are the same Commissioners who would render a judgment against Zen on appeal. There is, unlike in Section 12, no due process safeguard in place to ensure that those responsible for judging Zen have not prejudged the matter entirely.

32. "Agencies have discretion to *choose between* adjudication and rulemaking as a means of setting policy." *American Airlines, Inc. v. Department of Transp.*, 202 F. 3d 788, 797 (5th Cir. 2000) (citing *NLRB v. Bell Aerospace Co. Div. of Textron, Inc.,* 416

U.S. 267, 294 (1974); *Mobil Exploration and Producing North America, Inc. v. FERC,* 881 F.2d 193, 198 (5th Cir.1989) (emphasis added)). But, having made the choice to make a rule in this case, the Commission has prejudged any outcome of the administrative proceeding.

33. Zen Magnets is entitled to have any adjudication heard by an impartial tribunal. If there is doubt about a fair appeal, there is doubt about the whole process. *Withrow v. Larkin*, 421 U.S. 35, 46-47 (1975) (a "fair trial in a fair tribunal is a basic requirement of due process." *In re Murchison*, 349 U.S. 133, 136 (1955). This applies to administrative agencies which adjudicate as well as to courts. *Gibson v. Berryhill*, 421 U.S. 47 411 U.S. 564, 579 (1973). "[O]ur system of law has always endeavored to prevent even the probability of unfairness." *In re Murchison*, 349 U.S. at 136.

34. Four of the five commissioners have prejudged the specific facts of Zen's case, by name, depriving Zen of its constitutional right to due process. The case should be dismissed because Zen Magnets has no effective means of obtaining a fair and impartial review of the case as contemplated by 16 C.F.R. §1025. 53 and 54.

WHEREFORE, believing good cause having been shown, Respondent seeks an Order dismissing this matter and identifying Zen Magnets as a prevailing party pursuant to 16 C.F.R. Sec. 1025.70 (EAJA).

DATED THIS 20th day of October, 2014

Respectfully submitted,

David Japha

Digitally signed by David Japha
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Attorney for Respondent Zen Magnets

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of October, 2014, I served copies of **THE RESPONDENT'S MOTION TO DISMISS FOR VIOLATION OF DUE PROCESS** by the service method indicated:

Original and three copies by U.S. mail, and one copy by electronic mail, to the Secretary of the U.S. Consumer Product Safety Commission:
Todd A. Stevenson, Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
tstevenson@cpsc.gov

One copy by U.S. mail and one copy by electronic mail to the Presiding Officer for *In the Matter of Maxfield and Oberton Holdings, LLC,* CPSC Docket No. 12-1; *In the Matter of Zen Magnets, LLC*, CPSC Docket No. 12-2, and *In the Matter Of Star Networks UA, LLC,* CPSC Docket No. 13-2:

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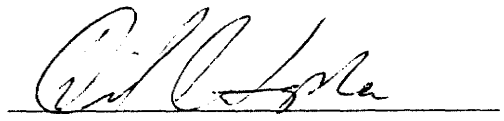

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