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15 **UNITED STATES DISTRICT COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 UNITED STATES OF AMERICA, ) Case No.: 4:10-cv-00795-PJH  
18 Plaintiff, )  
19 vs. ) CONSENT DECREE FOR PERMANENT  
20 ) INJUNCTION AND PAYMENT OF CIVIL  
21 ) PENALTY  
22 DAISO HOLDING USA INC., )  
23 A Washington corporation )  
24 DAISO CALIFORNIA LLC, )  
25 a California limited liability company, )  
26 DAISO SEATTLE LLC, )  
27 a Washington limited liability company, and )  
28 YOSHIHIDE MURATA, )  
as an officer of Daiso Holding USA Inc., )  
Daiso California LLC, and Daiso Seattle LLC, )  
Defendants. )

WHEREAS, Plaintiff, the United States of America, by its undersigned attorneys, has filed a Complaint against Daiso Holding USA Inc., Daiso California LLC, Daiso Seattle LLC, and Yoshihide Murata (“Defendants”) to secure civil penalties and a permanent injunction for Defendants’ alleged violations of statutes and regulations enforced by the Consumer Product

1 Safety Commission (“CPSC” or “Commission”), including Section 19 of the Consumer Product  
2 Safety Act (“CPSA”), 15 U.S.C. § 2068(a), and Section 4 of the Federal Hazardous Substances  
3 Act (“FHSA”), 15 U.S.C. § 1263;

4 WHEREAS, the parties having agreed to settlement of all allegations contained in the  
5 Complaint up to the date of the parties signing this Consent Decree for Permanent Injunction and  
6 Payment of Civil Penalty (the “Decree”), consent to entry of this Decree, and;

7 WHEREAS, Defendants have waived service of the Summons and Complaint; the parties  
8 are represented by the attorneys whose names appear hereafter; and the parties want to settle this  
9 action upon the following terms and conditions, before any testimony has been taken, without  
10 adjudication of any issue of fact or law, and;

11 WHEREAS, the Plaintiff believing settlement of this case on the terms described below  
12 is in the public interest given that this is the first and only action brought by the Plaintiff against  
13 the Defendants, and Defendants representing that they have not received any reports or consumer  
14 complaints regarding injuries or death resulting from the products at issue and expressly denying  
15 each and every of the Plaintiff’s claims and allegations and believing settlement of this case is  
16 appropriate to avoid the time and expense of litigation so that Defendants may devote their  
17 resources to providing for the needs of their customers;

18 THEREFORE, on the agreement of the parties, it is hereby ORDERED, ADJUDGED  
19 AND DECREED as follows:

20 **FINDINGS**

21 1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C.  
22 §§ 1331, 1345, and 1355(a).

23 2. This Court has jurisdiction, under 15 U.S.C. §§ 2071(a) and 1267(a), to restrain any  
24 violation of the CPSA and FHSA, and jurisdiction, under 15 U.S.C. §§ 2069 and 1264(c), to  
25 assess civil penalties for knowing violations of the CPSA and FHSA. All references to the  
26 CPSA and FHSA refer to those statutes as amended by the Consumer Product Safety  
27 Improvement Act of 2008, Public Law 110-314 (“CPSIA”), and all terms used herein shall have  
28 the same meaning as defined and used in the CPSA, CPSIA and FHSA.

1 3. Venue in the Northern District of California is proper under 28 U.S.C. §§ 1391(b), (c)  
2 and 1395(a).

3 4. At all times relevant hereto, Daiso Holding USA Inc., Daiso California LLC, and Daiso  
4 Seattle LLC were “manufacturers” and “retailers” of consumer products as defined in Section 3  
5 of the CPSA, 15 U.S.C. § 2052(a).

6 5. At all times relevant hereto, Yoshihide Murata was Senior Vice-President for Daiso  
7 Holding USA Inc., Daiso California LLC, and Daiso Seattle LLC. At all times relevant, Murata  
8 knew of and had authority to control the acts and practices of Daiso Holding USA Inc., Daiso  
9 California LLC, and Daiso Seattle LLC regarding the importation and distribution of consumer  
10 products.

11 6. The Complaint states claims upon which relief may be granted against Defendants under  
12 Section 19 of the CPSA, 15 U.S.C. § 2068(a), and Section 4 of the FHSA, 15 U.S.C. § 1263.

13 7. The Complaint alleges that Defendants violate the CPSA, 15 U.S.C. § 2068(a)(1), by  
14 selling, offering for sale, manufacturing for sale, distributing in commerce, and importing into  
15 the United States consumer products, or other products or substances that are regulated under the  
16 CPSA or other Acts enforced by the Commission, that are not in conformity with an applicable  
17 consumer product safety rule under the CPSA, or any similar rule, regulation, standard or ban  
18 under any other Act enforced by the Commission. The Complaint alleges Defendants have  
19 violated the CPSA by distributing toys and other articles intended for use by children that bear  
20 lead-containing paint, prohibited under 16 C.F.R. § 1303.4(b); offering for sale and distributing  
21 in commerce children’s toys or child care articles, as defined by 15 U.S.C. §§ 2057c(e)(1)(B)  
22 and (C), that contain phthalate concentrations exceeding the allowable amount; and by selling,  
23 offering for sale, and distributing in commerce products which are subject to consumer product  
24 safety rules and lack the conformity certificate required by 15 U.S.C. § 2063.

25 8. The Complaint alleges that Defendants violate the CPSA, 15 U.S.C. § 2068(a)(2)(D),  
26 and the FHSA, 15 U.S.C. §§ 1263(a) and (c), by introducing or causing the introduction and/or  
27 delivery for introduction into interstate commerce of banned hazardous substances, and/or the  
28 receipt in interstate commerce of banned hazardous substances and the delivery or proffered

1 delivery thereof for pay or otherwise, consisting of toys and other articles intended for use by  
2 children under 3 years of age which present a choking, aspiration, or ingestion hazard because of  
3 small parts, banned under 16 C.F.R. § 1500.18(a)(9); and children's products containing lead,  
4 banned under 15 U.S.C. § 1278a.

5 9. The Complaint alleges that Defendants violate the CPSA, 15 U.S.C. § 2068 (a)(4), by  
6 failing to furnish to the CPSC the information required by 15 U.S.C. § 2064(b).

7 10. The Complaint alleges that Defendants violate the FHSA, 15 U.S.C. §§ 1263(a) and (c),  
8 by introducing or causing the introduction and/or delivery for introduction into interstate  
9 commerce of misbranded hazardous substances, and/or the receipt in interstate commerce of  
10 misbranded hazardous substances and the delivery or proffered delivery thereof for pay or  
11 otherwise, consisting of toys or games intended for children at least three but not older than six  
12 years old that include a small part, which do not bear the cautionary statement specified under 15  
13 U.S.C. § 1278(a)(2); latex balloons, or toys or games that contain a latex balloon, intended for  
14 children three years of age or older, which do not bear the cautionary statement specified under  
15 15 U.S.C. § 1278(b)(2)(A); marbles, or toys or games that contain marbles, intended for children  
16 over three years of age or older, which do not bear the cautionary statements specified at  
17 1278(b)(2)(C); and art materials or art material products which may have the potential to produce  
18 chronic adverse health effects, as defined under 16 C.F.R. § 1500.14(b)(8)(i)(B)(3), which do not  
19 meet the labeling requirements under 16 C.F.R. § 1500.14(b)(8)(i)(E).

20 11. Defendants deny the allegations of the Complaint and deny any other wrongdoing or  
21 violation of law, and have entered into this Decree freely and without coercion, in compromise  
22 of disputed claims, believing that settlement of this case is appropriate in order to avoid the time  
23 and expense of litigation.

24 12. Defendants hereby waive all rights to appeal or otherwise challenge or contest the  
25 validity of this Decree.

26 13. Entry of this Decree is in the public interest.

27 **ORDER**

28 IT IS THEREFORE ORDERED AS FOLLOWS:

1 1. IT IS THEREFORE ORDERED that Defendants, and each and all of their directors,  
2 officers, agents, brokers, employees, successors, assigns, and all persons or entities in active  
3 concert or participation with any of them who receive actual notice of this Decree by personal  
4 service or otherwise, are permanently enjoined from importing into the United States, directly or  
5 indirectly, introducing or causing the introduction into interstate commerce of any toy or other  
6 consumer product intended primarily for children 12 years of age or younger unless and until:

7 A. Defendants retain, at Defendants' expense, an independent person (the "Product  
8 Safety Coordinator" or "Coordinator"), who is without any personal or financial ties  
9 (other than the retention agreement) to Defendants and their families, and who, by  
10 reason of background, training, education, or experience, is qualified to help  
11 Defendants:

- 12 i. Create a comprehensive product safety program;
- 13 ii. Conduct a product audit to determine which of Defendants' merchandise  
14 requires testing and certification of compliance with the FHSA, the CPSA, and  
15 any other Act enforced by the CPSC;
- 16 iii. Establish and implement an effective and reasonable product safety testing  
17 program in compliance with the FHSA, the CPSA, and any other Act enforced  
18 by the CPSC;
- 19 iv. Retain, for art materials, a toxicologist listed on the CPSC website and/or an  
20 accredited testing laboratory provided on the CPSC website;
- 21 v. Retain for children's products a third party conformity assessment body or  
22 bodies listed on the CPSC's website to perform third party testing on children's  
23 products as required;
- 24 vi. Create guidance manuals for managers and employees on how to comply with  
25 product safety requirements;
- 26 vii. Advise Defendants on product labeling requirements;
- 27 viii. Establish procedures to conduct product recalls;
- 28

- 1 ix. Develop procedures for adhering to CPSC reporting requirements in 15 U.S.C.  
2 § 2064(b); and  
3 x. Monitor Defendants' compliance with all applicable federal statutes, rules, and  
4 regulations enforced by the CPSC, during a monitoring period after Defendants  
5 resume importing and selling children's products.

6 B. Defendants submit the name and credentials of its Product Safety Coordinator to the  
7 CPSC's Office of Compliance and Field Operations ("Office of Compliance") via  
8 overnight delivery and facsimile, prior to using the Coordinator. If CPSC staff  
9 objects to the Coordinator selected by Defendants, the staff must so notify Defendants  
10 within thirty (30) calendar days of Defendants submitting the Coordinator's name and  
11 credentials, at which point Defendants shall select a replacement, the name and  
12 credentials of whom shall be submitted to the Office of Compliance. If CPSC staff  
13 does not respond to Defendants' submission of a Coordinator's credentials within 30  
14 days, Defendants may use that Coordinator.

15 C. The Coordinator reviews Defendants' product inventory for safety violations and  
16 assesses Defendants' current regulatory compliance practices.

17 D. The Coordinator assists Defendants in establishing a comprehensive product safety  
18 program with written standard operating procedures ("SOPs") designed to ensure  
19 continuous compliance with applicable federal laws, standards, and regulations  
20 enforced by the CPSC. The product safety program shall:

- 21 i. Include the development of a reasonable testing program, pursuant to 15 U.S.C.  
22 § 2063 and applicable regulations, of all products that are subject to a children's  
23 product safety rule, or any other consumer product safety rule or similar ban,  
24 standard, or regulation under the CPSA, the FHSA, any other Act enforced by  
25 the CPSC, or any regulations passed thereunder;  
26 ii. To the extent required by law, ensure that Defendants issue, after satisfactory  
27 testing, certificates of conformity for every consumer product that is subject to  
28 a consumer product safety rule, children's product safety rule, or similar ban,

1 standard, or regulation under the CPSA, the FHSA, any other Act enforced by  
2 the CPSC, or any regulations passed thereunder;

- 3 iii. Establish procedures to ensure Defendants apply all cautionary labeling  
4 required by the CPSA, the FHSA, any other Act enforced by the CPSA, and  
5 any applicable regulations;
- 6 iv. Establish systems to ensure that the product safety program's SOPs are  
7 consistently followed;
- 8 v. Include procedures to ensure that the Defendants adequately correct any  
9 product violation cited by a CPSC inspection and respond to CPSC letters of  
10 advice in the time specified in each letter of advice; and
- 11 vi. Establish systems to investigate all reports of consumer incidents, property  
12 damage, injuries, warranty claims, insurance claims and court complaints  
13 regarding products under the jurisdiction of the CPSC that Defendants imported  
14 into the United States.

15 E. The Defendants issue general conformity certificates for each consumer product that  
16 passes the applicable test, verifying that each of Defendants' consumer products  
17 complies with the applicable laws, standards and regulations to the extent required by  
18 15 U.S.C. § 2063(a)(1), 16 C.F.R. Part 1110, and other applicable rules.

19 F. The Coordinator hires a qualified assessor to test children's products for compliance  
20 with children's product safety rules. A "qualified assessor" means any person or  
21 entity qualified to test the relevant product and for children's products it must be an  
22 accredited third party conformity assessment body that is listed on the CPSC's  
23 website for third party testing to the extent required by law. The Coordinator shall  
24 hire or supervise the hiring of a qualified assessor to test representative samples of  
25 each children's product subject to any children's product safety rule including, but  
26 not limited to, the following:

- 27 i. Small Parts: For each children's product that is intended for children under  
28 three years of age, as determined by age grading analysis that includes the

1 factors listed at 16 C.F.R. § 1501.2(b), and the CPSC’s “Age Determination  
2 Guidelines: Relating Children’s Ages to Toy Characteristics and Play  
3 Behavior,” dated September 2002, and any updates, located on the CPSC’s  
4 website, a qualified assessor shall review a model of each product to determine  
5 whether small parts exist and test each model of toy in accordance with the  
6 requirements of 16 C.F.R. §§ 1500.51, 1500.52 and 16 C.F.R. Part 1501. The  
7 children’s product tested to the small parts requirement must meet the  
8 certification requirements at 73 FR § 67838-01;

9 ii. Lead Paint and Lead Content: To the extent required by law, a qualified  
10 assessor shall test each model of children’s product that bears a surface coating  
11 for compliance with the lead paint requirements of 16 C.F.R. Part 1303, and test  
12 accessible substrates, when applicable, for lead content requirements of 15  
13 U.S.C. § 1278a(b)(2). In addition, each model of toy designed or intended  
14 primarily for children 12 years of age or younger shall be tested in accordance  
15 with the applicable requirements of the effective version of American Society  
16 for Testing and Materials standard F963-08. The qualified assessor must be  
17 accredited to certify to the requirements for lead paint testing, 16 C.F.R. Part  
18 1303, which appear at 73 FR § 54564-6 or such later-adopted requirements as  
19 are then applicable, and the certification requirement for testing children’s  
20 products for lead content, 15 U.S.C. § 1278a, which appear at 73 FR § 78331-  
21 06 or such later-adopted requirements as are then applicable; and

22 iii. Phthalates: A qualified assessor shall test each model of children’s toy or child  
23 care article for compliance with the phthalate content requirements of 15 U.S.C.  
24 § 2057c. The qualified assessor shall test the toys/articles in accordance with  
25 the “Standard Operating Procedure for Determination of Phthalates” dated  
26 March 3, 2009, CPSC-CH-C1001-09.1, located on the CPSC website, or in  
27 accordance with one of the alternative methods described therein or such later-  
28 adopted requirements as are then applicable.

1 G. The Defendants issue certificates of compliance for each children's product that is  
2 subject to any children's product safety rule, verifying that each of the Defendants'  
3 children's products complies with such children's product safety rule, to the extent  
4 required by 15 U.S.C. § 2063(a)(2), 16 C.F.R. Part 1110, and other applicable rules or  
5 stays of enforcement, based on testing by a third party accredited laboratory.

6 H. The Coordinator inspects a random selection of a representative sample of all  
7 consumer products in Defendants' inventory for compliance with all labeling  
8 requirements imposed by the CPSA, the FHSA, any other Act enforced by the CPSC,  
9 and all applicable regulations, including but not limited to the following:

10 i. Small Parts: For each children's toy that is intended for children over three  
11 years of age and under six years of age, Defendants shall apply cautionary  
12 labeling to each such item consistent with the requirements of 15 U.S.C.  
13 §§ 1278(a) and (b); and

14 ii. Art Materials: In determining whether an art material or art material product  
15 has the potential for producing chronic adverse health effects, Defendants shall  
16 have a qualified assessor analyze the formulation of the art materials, taking  
17 into account opinions of the relevant regulatory agencies and scientific  
18 institutions, as required under 15 U.S.C. § 1277(b)(8), and also the factors listed  
19 in 16 C.F.R. § 1500.14(b)(8)(i)(D)(2). The qualified assessor for this  
20 subsection shall be a toxicologist listed on the CPSC website. For each art  
21 material or art material product Defendants shall apply labeling to each such  
22 item consistent with the requirements in 16 C.F.R. § 1500.14(b)(8)(i)(C).

23 I. Defendants recall, at least to the retail level, all defective and non-complying products  
24 they have distributed or received in commerce on or after January 1, 2010, under the  
25 direction and supervision of the Office of Compliance. For consumer level recalls  
26 Defendants shall at least: post recall notices when warranted; send signs to all  
27 retailers and instruct them to post them in a prominent place for 120 days; if known  
28 directly contact the consumers who purchased the recalled products; and destroy the

1 recalled items in accordance with local and/or state environmental regulations under  
2 the supervision of the Office of Compliance.

3 J. The Coordinator certifies in writing, to the Office of Compliance, that:

4 i. Defendants have established a comprehensive product safety program,  
5 including a reasonable testing program, and internal policies for implementing  
6 that program;

7 ii. Defendants have corrected the safety violations brought to Defendants'  
8 attention by the CPSC, the Coordinator, and any other source;

9 iii. Defendants have recalled all defective, potentially hazardous and non-  
10 complying consumer products as instructed by the Office of Compliance;

11 iv. The Coordinator has identified each product in Defendants' product inventory  
12 that is subject to a consumer product safety rule or similar rule, ban, standard,  
13 or regulation under the CPSA, the FHSA, or any other Act enforced by the  
14 CPSC;

15 v. All identified products have been tested for compliance with all applicable  
16 rules, bans, standards, or regulations as required by 15 U.S.C. § 2063(a)(1) and  
17 (a)(2);

18 vi. All art material formulations shall be submitted to a toxicologist listed on the  
19 CPSC website for review and the toxicologist's criteria sent to the Office of  
20 Compliance staff, as required by 16 C.F.R. §1500.14(b)(8)(i)(C);

21 vii. To the extent required by law, and subject to any applicable stay of enforcement  
22 now existing or adopted in the future, for each such product that passes the  
23 required testing, Defendants have issued a certificate that certifies that such  
24 consumer product complies with all rules, bans, standards, or regulations  
25 applicable to the product under the CPSA, the FHSA, and any other Act  
26 enforced by the Commission;

27 viii. The Coordinator has identified and provided a list of each product in  
28 Defendants' inventory or that Defendants intend to import for consumption,

1           warehousing, or distribution in the United States that is a children’s product  
2           subject to a children’s product safety rule;

3           ix. Defendants have submitted samples of each such children’s product to a  
4           qualified assessor for compliance testing;

5           x. For each such product that meets the requirements of applicable standards,  
6           regulations, or bans through the third party testing, Defendants have issued a  
7           certificate for each applicable children’s product safety rule, certifying that such  
8           children’s product complies with each children’s product safety rule based on  
9           testing by a third party conformity assessment body accredited to conduct such  
10          testing;

11          xi. Defendants have reconditioned or destroyed with CPSC staff guidance and  
12          supervision all consumer products, including children’s products, in its  
13          inventory, that failed to meet any applicable consumer product safety rule, ban,  
14          standard, or regulation; and

15          xii. Defendants have applied cautionary labeling to all products for which such  
16          labeling is required under the CPSA, the FHSA, any other Act enforced by the  
17          CPSC, and all applicable regulations.

18          K. CPSC representatives inspect Defendants’ facilities to determine whether the  
19          requirements of this Decree have been met. This inspection shall occur as soon as  
20          practicable after the CPSC’s receipt of the Coordinator’s report under  
21          subparagraph (J).

22          L. The CPSC notifies Defendants in writing that Defendants appear to be in compliance  
23          with the requirements set forth in subparagraphs (A) – (J) of this Decree. CPSC’s  
24          silence shall not be construed as a substitute for written notification unless the CPSC  
25          fails to respond to a written request from Defendants for a notice under this paragraph  
26          within thirty (30) days of the request.

27          2. For a period of at least one year from the date the CPSC notifies Defendants in writing  
28          pursuant to subparagraph (1)(L) (the “monitoring period”), Defendants shall retain the Product

1 Safety Coordinator to monitor Defendants' implementation of the comprehensive product safety  
2 program and compliance with the requirements of this Decree and all relevant statutes and  
3 regulations. At the end of the first year of the monitoring period and at the end of any 180-day  
4 extension of the monitoring period under this paragraph, the Coordinator shall provide a written  
5 report to the Office of Compliance. If the Coordinator certifies Defendants are in compliance as  
6 described in this paragraph, the monitoring period will end. If the Coordinator cannot certify  
7 that Defendants meet each of the compliance requirements listed below, the monitoring period  
8 shall continue for an additional 180 days, at the end of which the Coordinator shall provide an  
9 updated written report to the Office of Compliance. To meet the requirements of this paragraph  
10 and terminate the monitoring period, the Coordinator must certify, in writing, to the Office of  
11 Compliance, the following:

- 12 A. Defendants are in compliance with the comprehensive product safety program  
13 established under paragraph (1)(A), including the reasonable testing program required  
14 by 15 U.S.C. § 2063.
- 15 B. Subsequent to the Coordinator's most recent written report under this paragraph or  
16 paragraph (1)(J), Defendants have:
- 17 i. Issued conformity certificates, after appropriate testing, for each consumer  
18 product or model that is subject to a consumer product safety rule and is  
19 imported for consumption, warehousing or distribution in commerce, to the  
20 extent required by then-applicable law;
- 21 ii. Before importing for consumption, warehousing or distributing in commerce,  
22 any children's product or model of any children's product that is subject to any  
23 children's product safety rule, submitted samples of that product to a qualified  
24 assessor to be tested for compliance with any applicable children's product  
25 safety rule; and
- 26 iii. Based on such third party testing, issued conformity certificates for each such  
27 children's product to the extent required by then-applicable law.
- 28

1 C. Defendants have complied with all labeling requirements imposed by the CPSA, the  
2 FHSA, any other Act enforced by the CPSC, and all regulations imposed thereunder.

3 D. Defendants have complied with all reporting requirements imposed by the CPSA, the  
4 FHSA, any other Act enforced by the CPSC, and all regulations imposed thereunder.

5 E. Defendants have not violated any provision of this Decree, the CPSA, the FHSA, any  
6 other Act enforced by the CPSC, and all regulations imposed thereunder.

7 3. To facilitate the monitoring required by paragraph 2:

8 A. Defendants shall provide to the Coordinator, copies of the following items, within  
9 fourteen (14) days of Defendants obtaining or issuing any of the following:

- 10 i. Results of any test conducted as part of the Defendants' reasonable testing  
11 program to determine compliance with any consumer product safety rule,  
12 regulation, ban, or standard under any Act enforced by the CPSC;
- 13 ii. Results of any third party testing conducted before importation, of any  
14 children's product that is subject to a children's product safety rule; and
- 15 iii. Any certificates of conformity issued by Defendants for any consumer product  
16 or children's product.

17 B. Defendants shall report to the Coordinator:

- 18 i. A list of all children's products, including descriptions, model numbers, and  
19 UPC codes, which Defendants import into the United States, within five (5)  
20 days of such importation; and
- 21 ii. Any report of an incident that involved injury or the potential for injury caused  
22 by any product imported or sold by Defendants, within five (5) days of  
23 Defendants' receipt of such report. This requirement shall be separate from,  
24 and in addition to, any reporting requirement imposed on Defendants by the  
25 CPSA, the FHSA, any other Act enforced by the CPSC, and all regulations  
26 imposed thereunder.

27 4. Defendants, and each and all of their directors, officers, agents, brokers, employees,  
28 successors, assigns, and all persons or entities in active concert or participation with any of them

1 who receive actual notice of this Decree by personal service or otherwise, are hereby  
2 permanently restrained and enjoined from directly or indirectly doing or causing to be done any  
3 of the following acts:

4 **Violating the CPSA**

5 A. Violating Section 19(a) of the CPSA, 15 U.S.C. § 2068(a), by selling, offering for  
6 sale, manufacturing for sale, distributing in commerce, or importing into the United  
7 States any consumer product, or other product or substance that is regulated under the  
8 CPSA or any other Act enforced by the Commission, that is not in conformity with an  
9 applicable consumer product safety rule under the CPSA, or any similar rule,  
10 regulation, standard, or ban under any Act enforced by the Commission, including but  
11 not limited to:

- 12 i. Any children’s toys or child care articles that contain excessive concentrations  
13 of phthalates in violation of 15 U.S.C. § 2057c;  
14 ii. Any product which is subject to any consumer product safety rule or any  
15 children’s product safety rule and lacks a conformity certificate to the extent  
16 required under 15 U.S.C. § 2063 and applicable rules, regulations and  
17 enforcement policies of the CPSC; and  
18 iii. Children’s products which have not been tested by a third party conformity  
19 assessment body to the extent required under 15 U.S.C. § 2063(a)(2) and  
20 applicable rules, regulations and enforcement policies of the CPSC;

21 B. Violating Section 19(a)(2)(D) of the CPSA, 15 U.S.C. § 2068(a)(2)(D) by selling,  
22 offering for sale, manufacturing for sale, distributing in commerce, or importing into  
23 the United States any consumer product, or other product or substance that is a  
24 banned hazardous substance within the meaning of section 2(q)(1) of the Federal  
25 Hazardous Substances Act (15 U.S.C. 1261(q)(1)), including, but not limited to the  
26 violations discussed in subparagraphs (E) – (F) below.  
27  
28

1 C. Violating Section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4), by failing to furnish  
2 to the CPSC information required by Section 15(b) of the CPSA, 15 U.S.C. §  
3 2064(b).

4 D. Engaging in any other act or practice that would violate the CPSA, 15 U.S.C. § 2051  
5 et seq., as limited by any applicable rules, regulations and enforcement policies of the  
6 CPSC.

7 **Violating the FHSA**

8 E. Introducing, or causing the introduction and/or delivery for introduction into  
9 interstate commerce, any banned hazardous substance and/or receiving in interstate  
10 commerce any banned hazardous substances or delivering or proffering to deliver  
11 thereof for pay or otherwise, in violation of Section 4 of the FHSA, 15 U.S.C.

12 §§ 1263(a) and (c), including, but not limited to:

- 13 i. Any children's product containing lead exceeding the limits established in  
14 15 U.S.C. § 1278a;
- 15 ii. Any toy or other article intended for use by children that bears lead-containing  
16 paint, as defined by 16 C.F.R. § 1303.2(b); and
- 17 iii. Any toy or other article, intended for use by children under 3 years of age that  
18 presents a choking, aspiration, or ingestion hazard because of small parts as  
19 defined by 16 C.F.R. Part 1501.

20 F. Introducing, or causing the introduction and/or delivery for introduction into  
21 interstate commerce of any misbranded hazardous substance and/or receiving in  
22 interstate commerce any misbranded hazardous substance or delivering or proffering  
23 to deliver thereof for pay or otherwise, in violation of Section 4 of the FHSA, 15  
24 U.S.C. § 1263(a) and (c), including, but not limited to:

- 25 i. Any toy or game intended for children at least three but not older than six years  
26 old that includes a small part, as defined under 16 C.F.R. Part 1501, which does  
27 not bear the cautionary statement required under 15 U.S.C. § 1278(a)(2);  
28

- 1           ii. Any latex balloon, small ball, or marble, or any toy or game containing a latex  
2           balloon, small ball, or marble, intended for children three years of age or older,  
3           which does not bear the appropriate cautionary statement, as required under  
4           15 U.S.C. § 1278(b); and
- 5           iii. Any art material or art material product which does not meet the requirements  
6           defined under 16 C.F.R. § 1500.14(b)(8)(i)(C), which does not bear at the least  
7           the statement required by 16 C.F.R. § 1500.14(b)(8)(i)(C)(7).

8           G. Engaging in any other act or practice that would violate the FHSA, 15 U.S.C. § 1261  
9           et seq.

10          5. Defendants shall file entry summary documentation with estimated duties attached on all  
11 of its entries before Defendants can obtain release of its merchandise from U.S. Customs and  
12 Border Protection custody.

13          6. Defendants shall maintain, in their United States offices, records of all analyses, testing,  
14 and certificates of conformance for any consumer product required by this Decree and all  
15 applicable laws. Such records shall include, but not be limited to, the date of the analysis and  
16 testing, the procedures used, and the results of the analysis and testing. Defendants shall also  
17 maintain, in their United States offices, records of all consumer incidents, property damage,  
18 injuries, warranty claims, insurance claims or court complaints regarding consumer products  
19 Defendants imported into the United States, regardless of where the incident occurred, to the  
20 extent reasonably available and permitted by law

21          7. Representatives of the CPSC shall be permitted, without prior notice and as and when the  
22 CPSC deems necessary, to make inspections of Defendants' place(s) of business, and take any  
23 other measures necessary to monitor and ensure continuing compliance with the terms of this  
24 Decree. During such inspections, CPSC representatives shall be permitted immediate access to  
25 Defendants' place(s) of business, including, but not limited to, all buildings, equipment,  
26 computer or electronic files, containers, labeling, and other promotional material therein; to take  
27 photographs and make video recordings; to take samples of Defendants' products, containers,  
28 labeling, and other promotional material; and to examine and copy all records, including

1 electronic records, relating to the packing, labeling, holding, and distribution of any and all toys  
2 and other articles intended for use by children in order to ensure continuing compliance with the  
3 terms of this Decree. The inspections shall be permitted upon presentation of a copy of this  
4 Decree and appropriate credentials. The inspection authority granted by this Decree is separate  
5 from, and in addition to, the authority to make inspections under the CPSA, 15 U.S.C. § 2065(a),  
6 FHSA, 15 U.S.C. § 1270, and any other Act administered by the CPSC. In addition, in order to  
7 ensure Defendants' compliance with this Decree, Plaintiff and the CPSC are authorized to  
8 monitor Defendants' compliance with this Decree by all lawful means, including but not limited  
9 to, using representatives posing as consumers to contact Defendants' websites, employees, and  
10 representatives, and/or any other person or entity managed or controlled in whole or in part by  
11 Defendants, without the necessity of identification or prior notice.

12 8. Defendants shall reimburse the CPSC for the costs of the inspection required under  
13 subparagraph (1)(K), at the standard rates charged by the Food and Drug Administration  
14 ("FDA") at the time the activities are accomplished. As of the date of entry of this Decree, these  
15 rates are: \$85.49 per hour or fraction thereof per representative for inspection and investigative  
16 work; \$102.49 per hour or fraction thereof per representative for laboratory and analytical work;  
17 \$0.55 per mile for travel expenses by automobile, government rate or the equivalent for travel by  
18 air; and the published government per diem rate for subsistence expenses where necessary. In  
19 the event that the standard rates applicable to FDA supervision of court-ordered compliance are  
20 modified, these rates shall be increased or decreased without further order of the Court. Nothing  
21 in this Decree shall limit the ability of Plaintiff or the CPSC to obtain costs from Defendants for  
22 additional supervision as provided by law. In addition, should Plaintiff bring, and prevail in, a  
23 contempt action against any Defendant(s) to enforce the terms of this Decree, such Defendant(s)  
24 shall pay all attorneys' fees and costs, travel expenses incurred by attorneys and witnesses,  
25 expert witness fees, investigational and analytical expenses, and court costs incurred by Plaintiff  
26 in bringing such an action.

27 9. Within ten (10) calendar days of the entry of this Decree, Defendants shall post a copy of  
28 this Decree on a bulletin board in a common area at its Hayward, CA corporate and warehouse

1 facilities, at its retail locations, and at any other location at which Defendants conduct business  
2 within the CPSC's jurisdiction, and shall ensure that the Decree remains posted at each location  
3 for as long as the Decree remains in effect.

4 10. Within ten (10) calendar days of the date of entry of this Decree, Defendants shall  
5 provide a copy of the Decree, by personal service or certified mail (restricted delivery, return  
6 receipt requested), to each and all of their directors, officers, and the general managers of each  
7 retail location in the United States (collectively referred to as "Associated Persons"). Within  
8 thirty (30) calendar days of the date of entry of this Decree, Defendants shall provide to the  
9 CPSC Office of the General Counsel an affidavit stating the fact and manner of their compliance  
10 with this paragraph, identifying the names, addresses, and positions of all persons who received a  
11 copy of this Decree pursuant to this paragraph.

12 11. In the event that any of the Defendants becomes associated with any additional  
13 Associated Person(s) at any time after entry of this Decree, such Defendant(s) immediately shall  
14 provide a copy of this Decree, by personal service or certified mail (restricted delivery, return  
15 receipt requested), to such Associated Person(s). Within ten (10) calendar days of each time any  
16 of the Defendants becomes associated with any such additional Associated Person, such  
17 Defendant(s) shall provide, to the CPSC Office of the General Counsel, an affidavit stating the  
18 fact and manner of their compliance with this paragraph, identifying the names, addresses, and  
19 positions of any Associated Person(s) who received a copy of this Decree pursuant to this  
20 paragraph, and attaching a copy of the executed certified mail return receipts.

21 12. Within ten (10) calendar days of receiving a request from the CPSC for any information  
22 or documentation that the CPSC deems necessary to evaluate Defendants' compliance with this  
23 paragraph, Defendants shall provide such information or documentation to the CPSC.

24 13. Defendants shall notify the CPSC Office of the General Counsel in writing at least ten  
25 (10) calendar days prior to any reorganization, dissolution, assignment, or sale resulting in the  
26 emergence of a successor corporation, the creation or dissolution of any subsidiaries, or any  
27 other changes in its corporate structure, including the addition of importer of record numbers,  
28 that may affect compliance obligations arising out of this Decree.

1 14. All notifications, correspondence, and communications to the CPSC required by the  
2 terms of this Decree shall be addressed to the CPSC, Director, Division of Regulatory  
3 Enforcement, Office of Compliance and Field Operations, 4330 East West Highway, Bethesda,  
4 MD 20814 or the CPSC, Office of the General Counsel, 4330 East West Highway, Bethesda,  
5 MD 20814, as directed.

6 15. Defendants Daiso Holding USA Inc., Daiso California LLC, and Daiso Seattle LLC shall  
7 pay two million, fifty thousand dollars (\$2,050,000) to the United States as a civil penalty,  
8 pursuant to 15 U.S.C. §§ 1264(c) and 2069. The civil penalty shall be paid within ten (10)  
9 business days after the Court's entry of this Decree. Payment shall be made by wire transfer or  
10 certified or cashier's check made payable to the Treasurer of the United States. The check or  
11 written confirmation of the wire transfer shall be delivered to: Director, Office of Consumer  
12 Litigation, U.S. Department of Justice Civil Division, P.O. Box 386, Washington, D.C. 20044.  
13 The cover letter accompanying the wire transfer or check shall include the title of this litigation  
14 and a reference to DJ # 104-11-50.

15 16. In the event of any default on the payment required in Paragraph 15, which default  
16 continues for ten (10) calendar days beyond the due date of the payment, Defendants shall pay  
17 Plaintiff interest on the amount owing at a rate compounded pursuant to 28 U.S.C. § 1961(a),  
18 except that Defendants shall not be required to pay interest on any interest due.

19 17. Provided that Defendants make the payment due under paragraph 15 hereof, and are not  
20 in default of any other obligation under this Consent Decree, the Justice Department's Office of  
21 Consumer Litigation and the CPSC agree not to file further actions of any kind or nature, or  
22 initiate any administrative proceedings, under the CPSA, FHSA, or other statutes administered  
23 by the CPSC, against any Defendant or any individual, employee, representative or agent of any  
24 Defendant or any affiliated entity for conduct relating to selling, offering for sale, manufacturing  
25 for sale, distributing in commerce, or importing into the United States consumer products that are  
26 not in conformity with an applicable consumer product safety rule or similar rule, regulation,  
27 standard or ban under a statute enforced by the Commission, or any banned, misbranded or  
28 mislabeled hazardous substance during the period from January 1, 2005, to the date that the

1 parties sign this Decree, or for any other alleged violation by Defendants of the CPSA, the FHSA  
2 or other statutes administered by the CPSC based upon information known to the CPSC during  
3 the period January 1, 2005, to the date that the parties sign this Decree. Nothing in this  
4 paragraph shall effect, revive, or extend any applicable statute of limitations with respect to any  
5 actual or alleged violations by Defendants of the CPSA, the FHSA, or other statutes administered  
6 by the CPSC.

7 18. If any Defendant fails to comply with the material provisions of this Decree, that  
8 Defendant shall pay to the United States of America liquidated damages in the sum of one  
9 thousand dollars (\$1,000.00) for each day that the Defendant fails to comply with this Decree.  
10 Defendants understand and agree that the liquidated damages specified in this paragraph are not  
11 punitive in nature and that they do not in any way limit the ability of the United States of  
12 America to seek, and the Court to impose, additional criminal or civil contempt penalties based  
13 on conduct that may also be the basis for the payment of liquidated damages.

14 19. This Consent Decree, and any act, statement or document executed pursuant to or in  
15 furtherance of it, shall not be deemed or used in any way: (i) as an admission of, or evidence of,  
16 the validity of any claim asserted in the Complaint, or of any wrongdoing or liability of any  
17 Defendant, or of any unlawful, unfair or fraudulent business practices of any Defendant, all of  
18 which are denied; (ii) as an admission of, or evidence of, any fault of omission of any Defendant  
19 in any civil, criminal or administrative proceeding of any kind in any court, administrative  
20 agency or other tribunal; or (iii) as an admission of, waiver of, or evidence relating to, any claim  
21 or defense asserted by any party.

22 20. Each party shall bear its own costs and attorney's fees.

23 21. The provisions of this Decree are separate and severable from one another. If any  
24 provision is stayed or determined to be invalid, the remaining provisions shall remain in full  
25 force and effect.

26 22. Defendants may petition this Court to rescind the provisions of this Decree, except the  
27 permanent injunction in paragraph 4, after a period of ten (10) years from the entry of this  
28 Decree. If, in the Commission staff's judgment, Defendants and their successors have

1 maintained a state of continuous compliance with this Decree, Plaintiff will not oppose such  
2 petition.

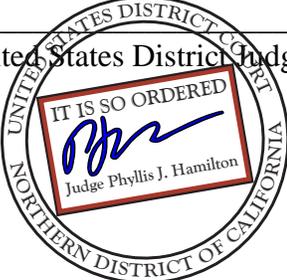
3 23. The terms used herein shall be interpreted as they are used in the CPSA, CPSIA, FHSA  
4 and other acts enforced by the Commission as may be applicable, and in any official rules,  
5 regulations and interpretations thereof.

6 24. The parties note that the CPSA, CPSIA, FHSA and other laws, standards and regulations  
7 enforced by the Commission that govern this Decree, are subject to amendment or repeal by act  
8 of Congress or by other means, as well as stays of enforcement, exemptions, determinations,  
9 Commission rulings and other acts or events that may materially modify the rights and  
10 obligations of the parties. The parties and the Court intend that this Decree shall not require any  
11 of the Defendants to obey or comply with any legal requirement stated or relied upon herein to  
12 the extent its enforcement is stayed or limited or to the extent it is amended, repealed or  
13 otherwise materially modified or rendered not enforceable as to parties in Defendants'  
14 circumstances.

15 25. This Court shall retain jurisdiction of this matter for purposes of construction,  
16 modification, and enforcement of this Decree.

17 26. The parties, by their respective counsel, hereby consent to entry of the foregoing Decree,  
18 which shall constitute a final judgment and order in this matter. The parties further stipulate and  
19 agree that the entry of the foregoing Decree shall constitute full, complete, and final settlement  
20 of this action.

21  
22  
23 SO ORDERED this 4th day of March, 2010.

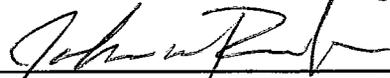
24  
25 United States District Judge  
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FOR PLAINTIFF  
UNITED STATES OF AMERICA:

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Assistant Attorney General  
Civil Division  
U.S. Department of Justice

EUGENE M. THIROLF  
Director, Office of Consumer Litigation

/s/   
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1 FOR THE DEFENDANTS:  
2

3 /s/   
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11 Counsel for Defendants DAISO HOLDING  
12 USA INC., DAISO CALIFORNIA LLC,  
13 and DAISO SEATTLE LLC  
14

15 BY: /s/   
16 DAISO HOLDING USA INC.  
17 DAISO CALIFORNIA LLC  
18 DAISO SEATTLE LLC  
19 26523 Danti Court  
20 Hayward, CA 94545  
21

22 /s/   
23 YOSHIHIDE MURATA,  
24 Vice President of Daiso Holding USA Inc.,  
25 Daiso California LLC, and Daiso Seattle  
26 LLC  
27  
28

ATTESTATION OF CONCURRENCE IN FILING

United States v. Daiso Holding USA, Inc., et al., No. 4:10-cv-00795-PJH (N.D. Cal.)

In accord with the Northern District of California's General Order No. 45, Section X.(B), I attest that concurrence in the filing of this document has been obtained from each of the other signatories who are listed on the signature pages.

Dated: March 2, 2010

/S/ John W. Burke  
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