

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of:)	
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HSN, INC.)	CPSC Docket No.: 24-C0001
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SETTLEMENT AGREEMENT

1. In accordance with the Consumer Product Safety Act, 15 U.S.C. §§ 2051–2089 (“CPSA”), and 16 C.F.R. § 1118.20, HSN, Inc. and its subsidiaries, including without limitation Ingenious Designs, LLC (collectively “HSN” or “the Firm”), and the United States Consumer Product Safety Commission (“Commission” or “CPSC”), through its staff, hereby enter into this Settlement Agreement (“Agreement”). The Agreement and the incorporated attached Order resolve staff’s charges set forth below.

THE PARTIES

2. The Commission is an independent federal regulatory agency, established pursuant to, and responsible for, the enforcement of the CPSA, 15 U.S.C. §§ 2051–2089. By executing the Agreement, staff is acting on behalf of the Commission, pursuant to 16 C.F.R. § 1118.20(b). The Commission issues the Order under the provisions of the CPSA.

3. HSN is a corporation, organized and existing under the laws of the state of Delaware, with its principal place of business in St. Petersburg, Florida.

STAFF CHARGES

4. Between 2002 and 2019, HSN imported and distributed in the United States approximately 5.4 million Joy Mangano brand “My Little Steamer®,” also sold as a “Deluxe” version and “My Little Steamer® Go Mini” (collectively, the “Steamers” or “Subject Products”).

5. The Subject Products are “consumer products” that were “import[ed]” and “distribut[ed] in commerce,” as those terms are defined or used in sections 3(a)(5), (8), and (9) of the CPSA, 15 U.S.C. § 2052(a)(5), (8), and (9). HSN is a “manufacturer” and “distributor” of the Subject Products, as such terms are defined in sections 3(a)(8) and (11) of the CPSA, 15 U.S.C. § 2052(a)(8) and (11).

Violation of CPSA Section 19(a)(4)

6. The Subject Products contain a defect which could create a substantial product hazard or create an unreasonable risk of serious injury because the Subject Products expel, spray, or leak hot water during use, posing a serious burn hazard to consumers.

7. By the end of 2012 and continuing into 2019, HSN had received numerous reports that the Subject Products would spray, expel, and/or leak hot water while in use, some resulting in serious and permanent injuries, a limited number of which constituted grievous bodily injury, as defined in 16 C.F.R. § 1115.12(d).

8. During the same time, HSN made several changes to the Steamers in an attempt to address the spraying, expelling, and/or leaking of hot water; however, HSN continued to receive numerous reports of the Steamers spraying, expelling, and/or leaking hot water.

9. Despite possessing information that reasonably supported the conclusion that the Subject Products contained a defect that could create a substantial product hazard or created an unreasonable risk of serious injury, HSN did not immediately report to the Commission.

10. By the time HSN filed an initial report with the Commission under 15 U.S.C. § 2064(b) concerning the Subject Products, the Firm had received approximately 400 complaints of the Steamers spraying or expelling hot water and approximately 700 additional reports of leaks, resulting in at least 91 reports of injury, and 29 insurance claims alleging injuries, including reports of second and third-degree burns, scarring and one report of partial hearing loss. In addition, the Firm received via Online Reviews on the HSN website approximately 500 complaints of the Steamers spraying or expelling hot water and approximately 150 complaints of leaks, including 87 reports of injury.

11. The Commission and HSN jointly announced a recall of the Subject Products on May 26, 2021.

Failure to Timely Report

12. Despite having information reasonably supporting the conclusion that the Subject Products contained a defect which could create a substantial product hazard or created an unreasonable risk of serious injury or death, HSN did not notify the Commission immediately of such defect or risk, as required by sections 15(b)(3) and (4) of the CPSA, 15 U.S.C. § 2064(b)(3), (4), in violation of section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4).

13. Because the information in HSN's possession about the Subject Products constituted actual and presumed knowledge, HSN knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4), as the term "knowingly" is defined in section 20(d) of the CPSA, 15 U.S.C. § 2069(d).

14. Pursuant to section 20 of the CPSA, 15 U.S.C. § 2069, HSN is subject to civil penalties for its knowing violation of section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4).

RESPONSE OF HSN

15. This Agreement does not constitute an admission by HSN to the staff's charges as set forth in paragraphs 6 through 14 above, including, without limitation, that the Subject Products contained a defect that could create a substantial product hazard or created an unreasonable risk of serious injury or death; that HSN failed to notify the Commission in a timely matter in accordance with section 15(b) of the CPSA, 15 U.S.C. 2064(b); and that HSN knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), as the term "knowingly" is defined in section 20(d) of the CPSA, 15 U.S.C. § 2069(d).

16. At all relevant times, HSN represents that it had a product safety compliance program and took what it believed to be reasonable measures to monitor and evaluate potential product safety issues on an ongoing basis.

17. HSN notified the Commission under Section 15(b) and conducted a voluntary recall of the Subject Products despite the fact that testing by a third-party lab only documented intermittent sputtering or dripping, and could not recreate spraying or expelling water with exemplars absent operating the Subject Products in a manner contrary to the Products' warnings and instructions.

18. HSN enters into this Agreement to settle this matter and to avoid the cost, distraction, delay, uncertainty, and inconvenience of protracted litigation or other proceedings. HSN does not admit that it violated the CPSA or any other law, and HSN's willingness to enter into this Agreement and Order does not constitute, nor is it evidence of, an admission by HSN of liability, or violation of any law.

AGREEMENT OF THE PARTIES

19. Under the CPSA, the Commission has jurisdiction over the matter involving the Subject Products and over HSN.

20. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by HSN or a determination by the Commission that HSN violated the CPSA.

21. In settlement of staff's charges, HSN shall pay a civil penalty in the amount of sixteen million dollars (\$16,000,000). The \$16,000,000 Payment shall be paid within thirty (30) calendar days after receiving service of the Commission's final Order accepting the Agreement. All payments to be made under the Agreement shall constitute debts owing to the United States and shall be made by electronic wire transfer to the United States via <http://www.pay.gov>, for allocation to, and credit against, the payment obligations of HSN under this Agreement. Failure to make such payment by the date specified in the Commission's final Order shall constitute Default.

22. The Commission or the United States may seek enforcement for any breach of, or any failure to comply with, any provision of this Agreement and Order in United States District Court, to seek relief including, but not limited to, collecting amounts due.

23. All unpaid amounts, if any, due and owing under the Agreement, shall constitute a debt due and immediately owing by HSN to the United States, and interest shall accrue and be paid by HSN at the federal legal rate of interest set forth at 28 U.S.C. § 1961(a) and (b) from the date of Default, until all amounts due have been paid in full (hereinafter "Default Payment Amount" and "Default Interest Balance"). HSN shall consent to a Consent Judgment in the amount of the Default Payment Amount and Default Interest Balance, and the United States, at

its sole option, may collect the entire Default Payment Amount and Default Interest Balance, or exercise any other rights granted by law or in equity, including, but not limited to, referring such matters for private collection, and HSN agrees not to contest, and hereby waives and discharges any defenses to, any collection action undertaken by the United States, or its agents or contractors, pursuant to this paragraph. HSN shall pay the United States all reasonable costs of collection and enforcement under this paragraph, respectively, including reasonable attorney's fees and expenses.

24. After staff receives this Agreement executed on behalf of HSN, staff shall promptly submit the Agreement to the Commission for provisional acceptance. Promptly following provisional acceptance of the Agreement by the Commission, the Agreement shall be placed on the public record and published in the *Federal Register*, in accordance with the procedures set forth in 16 C.F.R. § 1118.20(e). If the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the 16th calendar day after the date the Agreement is published in the *Federal Register*, in accordance with 16 C.F.R. § 1118.20(f).

25. This Agreement is conditioned upon, and subject to, the Commission's final acceptance, as set forth above, and it is subject to the provisions of 16 C.F.R. § 1118.20(h). Upon the later of: (i) the Commission's final acceptance of this Agreement and service of the accepted Agreement upon HSN, and (ii) the date of issuance of the final Order, this Agreement shall be in full force and effect, and shall be binding upon the parties.

26. Effective upon the later of: (1) the Commission's final acceptance of the Agreement and service of the accepted Agreement upon HSN and (2) and the date of issuance of the final Order, for good and valuable consideration, HSN hereby expressly and irrevocably

waives and agrees not to assert any past, present, or future rights to the following, in connection with the matter described in this Agreement:

- (i) an administrative or judicial hearing;
- (ii) judicial review or other challenge or contest of the Commission's actions;
- (iii) a determination by the Commission of whether HSN failed to comply with the CPSA and the underlying regulations;
- (iv) a statement of findings of fact and conclusions of law; and
- (v) any claims under the Equal Access to Justice Act.

27. HSN shall implement and maintain a compliance program ("Compliance Program") designed to ensure compliance with the CPSA with respect to any consumer product imported, manufactured, distributed or sold by HSN, which shall contain the following elements:

- (i) written standards, policies, and procedures, including those designed to ensure that information that may relate to or impact CPSA compliance is conveyed effectively to personnel responsible for CPSA compliance, whether or not an injury has been reported;
- (ii) procedures and systems for tracking and reviewing claims, including warranty claims, and reports for safety concerns and for implementing corrective and preventive actions when compliance deficiencies or violations are identified;
- (iii) procedures requiring that information required to be disclosed by HSN to the Commission is recorded, processed, and reported in accordance with applicable law;

- (iv) procedures requiring that all reporting made to the Commission is timely, truthful, complete, accurate, and in accordance with applicable law;
- (v) procedures requiring that prompt disclosure is made to HSN management of any significant deficiencies or material weaknesses in the design or operation of such internal controls that are reasonably likely to affect adversely, in any material respect, HSN's ability to record, process and report to the Commission in accordance with applicable law;
- (vi) mechanisms to effectively communicate to all applicable HSN employees, through training programs or other means, compliance-related company policies and procedures to prevent violations of the CPSA;
- (vii) a mechanism for confidential employee reporting of compliance-related questions or concerns to either a compliance officer or to another senior manager with authority to act as necessary;
- (viii) HSN senior management responsibility for, and general board oversight of, CPSA compliance, including the implementation of steps to ensure that incident and injury data is reviewed and analyzed for purposes of CPSA Section 15(b) reporting;
- (ix) For at least (3) years, an annual internal audit of the effectiveness of policies, procedures, systems, and training related to CPSA compliance that evaluates opportunities for improvement, deficiencies or weaknesses, and the Firm's overall culture of compliance; and
- (x) retention of all CPSA compliance-related records for at least five (5) years, and availability of such records to CPSC staff upon request.

28. HSN shall submit a report under CPSA Section 16(b), sworn to under penalty of perjury:

- (i) describing in detail its compliance program and internal controls and the actions HSN has taken to comply with each subparagraph of paragraph 27;
- (ii) affirming that during the reporting period, HSN has reviewed its compliance program and internal controls, including the actions referenced in subparagraph (i) of this paragraph, for effectiveness, and that it complies with each subparagraph of paragraph 27, or describing in detail any non-compliance with any such subparagraph; and
- (iii) identifying the results of the annual internal audit referenced in paragraph 27(ix) and any changes or modifications made during the reporting period to HSN's compliance program or internal controls to ensure compliance with the terms of the CPSA and, in particular, the requirements of CPSA Section 15 related to timely reporting.

Such reports shall be submitted annually to the Director, Office of Compliance, Division of Enforcement and Litigation, for a period of three (3) years. The first report shall be submitted 30 days after the close of the first 12-month reporting period, which begins on the date of the Commission's Final Order of Acceptance of the Agreement, and successive reports shall be due annually on the same date thereafter. HSN is aware of the Commission's position that failure to make such timely and accurate reports, as required by this Agreement and Order, may, without limitation, constitute a violation of Section 19(a)(3) of the CPSA, 15 U.S.C. § 2068(a)(3), and may subject HSN to enforcement under Section 22 of the CPSA, 15 U.S.C. § 2071.

29. Notwithstanding and in addition to the above, during the three-year reporting period and otherwise upon request, HSN shall promptly provide written documentation of any changes or modifications to its compliance program or internal controls and procedures, including the effective dates of the changes or modifications thereto. HSN shall cooperate fully and truthfully with staff and shall make available all non-privileged information and materials and personnel deemed necessary by staff to evaluate HSN's compliance with the terms of the Agreement.

30. The parties acknowledge and agree that the Commission may publicize the terms of the Agreement and the Order.

31. HSN's represents that the Agreement:

- (i) is entered into freely and voluntarily, without any degree of duress or compulsion whatsoever;
- (ii) has been duly authorized; and
- (iii) constitutes the valid and binding obligation of HSN, enforceable against HSN in accordance with its terms. The individuals signing the Agreement on behalf of HSN represent and warrant that they are duly authorized by HSN to execute the Agreement.

32. The signatories represent that they are authorized to execute this Agreement.

33. The Agreement is governed by the laws of the United States.

34. The Agreement and the Order shall apply to, and be binding upon, HSN and each of its parents, successors, transferees, and assigns; and a violation of the Agreement or Order may subject HSN, and each of its parents, successors, transferees, and assigns, to appropriate legal action.

35. The Agreement, any attachments, and the Order constitute the complete agreement between the parties on the subject matter contained therein.

36. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. For purposes of construction, the Agreement shall be deemed to have been drafted by both of the parties and shall not, therefore, be construed against any party, for that reason, in any subsequent dispute.

37. The Agreement may not be waived, amended, modified, or otherwise altered, except as in accordance with the provisions of 16 C.F.R. § 1118.20(h). The Agreement may be executed in counterparts.

38. If any provision of the Agreement or the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and HSN agree in writing that severing the provision materially affects the purpose of the Agreement and the Order.

(Signatures on next page)

HSN, INC.

Dated: Oct 13, 2023

By: ^{Eve DelSoldo}

Eve DelSoldo
HSN, Inc.
Senior Vice President

Dated: _____

By: _____
Michelle F. Gillice
Arnold & Porter Kaye Scholer LLP
Counsel to HSN, Inc.

U.S. CONSUMER PRODUCT SAFETY
COMMISSION

Mary B. Murphy, Director
Gregory M. Reyes, Supervisory Attorney

Dated: October 17, 2023

By: ^{E. Jones}

Elizabeth L. Jones
Trial Attorney


Division of Enforcement and Litigation
Office of Compliance and Field Operations

HSN, INC.

Dated: _____

By: _____
Eve DelSoldo
HSN, Inc.
Senior Vice President

Dated: 10/13/2023

By:  _____
Michelle F. Gillice
Arnold & Porter Kaye Scholer LLP
Counsel to HSN, Inc.

U.S. CONSUMER PRODUCT SAFETY
COMMISSION

Mary B. Murphy, Director
Gregory M. Reyes, Supervisory Attorney

Dated: _____

By: _____
Elizabeth L. Jones
Trial Attorney

Division of Enforcement and Litigation
Office of Compliance and Field Operations

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

_____))
In the Matter of:))
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HSN, INC.) CPSC Docket No.: 24-C0001
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ORDER

Upon consideration of the Settlement Agreement entered into between HSN, Inc. (“HSN”) and the U.S. Consumer Product Safety Commission (“Commission” or “CPSC”), and the Commission having jurisdiction over the subject matter and over HSN, and it appearing that the Settlement Agreement is in the public interest, the Settlement Agreement is incorporated by reference and it is:

Provisionally accepted and this Order issued on the 7th day of November, 2023.

BY ORDER OF THE COMMISSION:



Alberta E. Mills, Secretary
U.S. Consumer Product Safety Commission