

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

| | | |
|------------------------|---|----------------------|
| In the Matter of |) | CPSC Docket No. 12-2 |
| |) | CPSC Docket No. 13-2 |
| |) | |
| ZEN MAGNETS, LLC |) | Hon. Dean C. Metry |
| STAR NETWORKS USA, LLC |) | |
| |) | |
| Respondents. |) | |
| |) | |

COMPLAINT COUNSEL’S MOTION FOR LEAVE TO TAKE DEPOSITIONS

Pursuant to 16 C.F.R. § 1025.35, and for the reasons stated in the attached Memorandum in Support, Complaint Counsel respectfully seeks leave of the Court to take the depositions upon oral examination of the following individuals in the instant matter:

1. Eric Sigurdson, Operations Manager for Respondent Zen Magnets, LLC (“Zen”). Mr. Sigurdson is responsible for day-to-day operational matters at Zen, and as such has access to customer service and complaint information, order fulfillment, and information regarding the claims and defenses in this case.

2. David Adel, co-founder and co-owner of Respondent Star Networks, LLC (“Star”). Mr. Adel has knowledge of all areas of Star’s operations, including development, manufacture, marketing and sale of the Subject Products, and provided information for Star’s discovery responses.

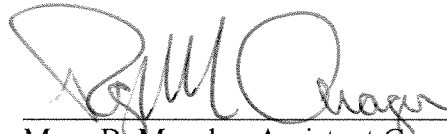
3. Dr. Boyd Edwards, Utah State University Uintah Basin, a proposed expert witness identified by Respondents Zen and Star.

4. David A. Richter, Ph.D., Western Michigan University, a proposed expert witness identified by Respondents Zen and Star.

5. Anthony J. Pelletier, Ph.D., The Bishop's School, a proposed witness identified by Respondents Zen and Star.

If the Presiding Officer grants this Motion, Complaint Counsel will serve written notice of the depositions on all parties and the Presiding Officer at least ten (10) days before the date noticed for the deposition, as required by 16 C.F.R. § 1025.35(b).

Respectfully submitted,



Mary B. Murphy, Assistant General Counsel
Jennifer C. Argabright, Trial Attorney
Daniel Vice, Trial Attorney
Ray M. Aragon, Special Counsel

Complaint Counsel for
U.S. Consumer Product Safety Commission
Bethesda, MD 20814
(301) 504-7809

DATED: June 9, 2014

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| |) | |

MEMORANDUM IN SUPPORT OF COMPLAINT
COUNSEL’S MOTION FOR LEAVE TO TAKE DEPOSITIONS

Complaint Counsel respectfully seeks leave pursuant to 16 C.F.R. § 1025.35 to take the depositions upon oral examination of one additional employee each from Respondents Zen Magnets, LLC (“Zen”) and Star Networks USA, LLC (“Star”), and three additional witnesses identified by the Respondents in response to discovery requests. For the reasons stated in this Memorandum, the Motion should be granted.

The rules permit depositions of parties, “including the agents, employees, consultants, or prospective witnesses of that party,” upon leave of the Presiding Officer. 16 C.F.R. § 1025.35(a). Here, Complaint Counsel is seeking leave to take depositions of individuals who are central to, or have important information about, the issues raised by the parties in this proceeding. Specifically, Complaint Counsel seeks leave to take the depositions of the following individuals:

Zen Employee Eric Sigurdson

Eric Sigurdson, who identifies himself on LinkedIn as the Operations Manager at Zen Magnets, is the only Zen employee other than founder Shihan Qu whose identity is known to Complaint Counsel. He is identified in Zen’s discovery responses (albeit with his last name

blanked out) as dealing not only with customer communications, but also with “day to day operational matters, such as customer service, fulfillment, and shipping logistics.” Respondent Zen Magnets, LLC’s Responses to Complaint Counsel’s First Set of Interrogatories at 2-3. Because of Mr. Sigurdson’s intimate involvement with all aspects of Zen’s business practices and customer communications, leave to take his deposition should be granted.

Star Co-Founder and Owner David Adel

Star co-founder and owner David Adel is identified as “involved with Star Networks since the company began selling [the Subject Products] in December 2011,” and as the individual along with founder Daniel Peykar who “deal[s] with most aspects of the business.” Star Networks, LLC’s Responses to Complaint Counsel’s First Set of Interrogatories at 1. Mr. Adel is also identified as knowledgeable about product design and development, age grading and packaging, and warning design. *Id.* at 4-5, 8. As co-founder and owner involved in all aspects of Star’s business, Mr. Adel’s testimony is both appropriate and necessary for a full review of the issues in this action, and therefore leave to take his deposition should be granted.

Proposed Zen and Star Witnesses

Zen and Star have identified two proposed expert witnesses: Boyd Edwards, Ph.D., Utah State University Uintah Basin and David A. Richter, Ph.D., Western Michigan University. Additionally, they have identified as a witness Anthony J. Pelletier, Ph.D., The Bishop’s School. Each of these witnesses is expected to discuss the utility, use, and safety of the Subject Products. Because the opinions of these witnesses is expected to relate to central issues in the case, leave to take their depositions should be granted.

In summary, Complaint Counsel seeks leave to take these depositions to develop evidence directly pertinent to the issues before this Court, and has identified the witnesses above

as necessary to accomplish that goal. For the reasons stated herein, Complaint Counsel respectfully requests that the motion be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ray M. Aragon". The signature is written in a cursive style with a large initial "R" and "A".

Mary B. Murphy, Assistant General Counsel
Jennifer C. Argabright, Trial Attorney
Daniel Vice, Trial Attorney
Ray M. Aragon, Special Counsel

Complaint Counsel for
U.S. Consumer Product Safety Commission
Bethesda, MD 20814
(301) 504-7809

DATED: June 9, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have provided on this date, June 9, 2014, Complaint Counsel's Motion for Leave to Take Depositions and Memorandum in Support upon the Secretary, the Presiding Officer, and all parties and participants of record in these proceedings in the following manner:

Original and three copies by hand delivery to the Secretary of the U.S. Consumer Product Safety Commission: Todd A. Stevenson.

One copy by electronic mail to the Presiding Officer for *In the Matter of Zen Magnets, LLC*, CPSC Docket No. 12-2 and *In the Matter of Star Networks USA, LLC*, CPSC Docket No. 13-2:

The Honorable Dean C. Metry
U.S. Coast Guard
U.S. Courthouse
601 25th St., Suite 508A
Galveston, TX 77550
Janice.M.Emig@uscg.mil

One copy by electronic mail to counsel for Respondents Zen Magnets, LLC and Star Networks USA, LLC:

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Complaint Counsel