

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)	
)	CPSC Docket No: 12-1
)	CPSC Docket No: 12-2
)	CPSC Docket No: 13-2
MAXFIELD AND OBERTON)	
HOLDINGS, LLC)	
AND)	HON. DEAN C. METRY
ZEN MAGNETS, LLC)	Administrative Law Judge
AND)	
STAR NETWORKS USA, LLC)	
)	
)	
Respondents.)	
)	

**ORDER GRANTING CRAIG ZUCKER’S MOTION FOR LEAVE TO
FILE SURREPLY IN OPPOSITION TO COMPLAINT COUNSEL’S MOTION
FOR LEAVE TO AMEND COMPLAINT IN CPSC DOCKET 12-1**

Background

On February 11, 2013, counsel for the Consumer Product Safety Commission (“CPSC” or “Agency”) filed Complaint Counsel’s Motion for Leave to File Second Amended Complaints in Docket Nos. 12-1 and 12-2 (“Motion”). In the Motion, the Agency sought to add Craig Zucker as a Respondent in Docket No. 12-1, both in his individual capacity and in his capacity as Chief Executive Officer.

On February 20, 2013, Craig Zucker filed a Request to Participate in the Proceeding as Non-Party Participant and For Leave to File an Opposition to Complaint Counsel’s Motion for Leave to Amend Complaint by February 28, 2013 (“Request”). On February 25, 2013, the undersigned issued an Order granting the Request. Thereafter, on February 28, 2013, Craig Zucker filed an Opposition to Motion for Leave to Amend Complaint in CPSC Docket 12-1.

On March 1, 2013, the Agency filed Complaint Counsel's Motion for Leave to File a Reply to Mr. Zucker's Opposition to Complaint Counsel's Motion for Leave to Amend Complaint in CPSC Docket 12-1 ("Motion for Leave"). In the Motion for Leave, CPSC requested ten (10) days to respond to Mr. Zucker's Opposition, explaining that Mr. Zucker did not oppose the Agency's Motion for Leave. On March 4, 2013, the undersigned granted the Motion for Leave. On March 15, 2013, the Agency filed a Reply.

Subsequently, on March 20, 2013, Craig Zucker filed a Motion for Leave to file Surreply in Opposition to Complaint Counsel's Motion for Leave to Amend Complaint in CPSC Docket 12-1 ("Surreply Motion"). The Surreply Motion requested Mr. Zucker be granted leave to file a reply brief in response to the Agency's March 15, 2013 Reply; the Surreply Motion contained a copy of Mr. Zucker's Surreply. To date, the Agency has not filed a response. See 16 C.F.R. § 1025.23.

Discussion

Pursuant to 16 C.F.R. § 1025.1, the Presiding Officer is granted broad discretion to alter and rule on procedural aspects of a case. Here, Craig Zucker argues that, in the March 15, 2013 Reply, the Agency relied, for the first time, on an unpublished decision and a July 10, 2012 preliminary determination letter. Mr. Zucker requested the opportunity to respond to these newly-presented legal arguments. As discussed, CPSC has not yet filed a response.

The undersigned notes that 16 C.F.R. § 1025.1 also provides "...the Presiding Officer should, whenever appropriate, expedite the proceedings...". Accordingly, while

the undersigned will admit Mr. Zucker's Surreply into the record, the undersigned will permit no further filings on the issue.

WHEREFORE,

IT IS HEREBY ORDERED THAT Craig Zucker's Motion for Leave to File Surreply in Opposition to Complaint Counsel's Motion for Leave to Amend Complaint in CPSC Docket 12-1 is **GRANTED.**

SO ORDERED.

Done and dated this 2nd day of April, 2013, at Galveston, TX



DEAN C. METRY
Administrative Law Judge