

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the matter of
MAXFIELD AND OBERTON HOLDINGS, LLC
ZEN MAGNETS, LLC
STAR NETWORKS, LLC
CRAIG ZUCKER,

CPSC DOCKET NO. 12-1
CPSC DOCKET NO. 12-2
CPSC DOCKET NO. 13-1
(CONSOLIDATED)

Respondents.

**RESPONDENT ZEN MAGNETS, LLC'S AND RESPONDENT STAR NETWORKS,
LLC'S JOINT RESPONSE TO RESPONDENT CRAIG ZUCKER'S MOTION TO
LIMIT ACCESS TO DOCUMENT PRODUCTIONS AND DISCOVERY**

Respondents Zen Magnets, LLC, and Star Networks, LLC respond to Respondent Craig Zucker's Motion To Limit Access To Document Productions and Discovery served on March 8, 2014 as follows:

1. Respondent Zucker requests that this Honorable Court "to limit access to certain document productions and discovery" related to documents from the MOH Liquidating Trust (the "Trust") and Jake Bronstein.
2. Complaint Counsel has served subpoenas on the Trust and Mr. Bronstein seeking discovery documents.
3. Mr. Zucker argues that documents produced by the Trust and Mr. Bronstein "contain confidential business information of M&O, which was a competitor of Star and Zen. In addition, documents produced by the Trust and Mr. Bronstein *may* contain confidential personal

information relating to Mr. Zucker, as do the discovery responses of Mr. Zucker.”¹ [emphasis added]. Mr. Zucker also argues that because Zen and Star opposed consolidation in this matter that they should not receive documents produced from the Trust and Mr. Brownstein.

4. Mr. Zucker has not shown how he has standing to argue on behalf of the Trust or Mr. Brownstein that the documents they have been asked to produce are confidential or should be protected in some way. He does not state that he is the trustee of the Trust or that he is acting in some representative capacity on behalf of Mr. Brownstein. He makes no showing how he as an individual may be harmed by the dissemination of the documents Complaint Counsel seeks from the Trust or Mr. Brownstein. He is being sued in his individual capacity, a matter which was previously litigated in this case.

5. The plain language of 16 C.F.R. §1025.31 (c)(2) and §1025.31 (d) make clear that the burden of persuading the Court that there is a need for limited discovery to a party or for a protective order is on the party seeking such protection or limit. Here, Mr. Zucker has not met his burden because the request is too general and does not identify any particular documents that should be limited or protected.

6. Mr. Zucker does not describe with particularity which documents should be protected. Nor is there is any identification of the “kind of trade secret or other confidential research, development, or commercial information” which Mr. Zucker believes should not be disclosed or which “shall be disclosed only in a designated way or only to designated parties.” *See*, 16 C.F.R. §1025.31 (c)(2) and 1025.31 (d)(5).

¹Mr. Zucker has not objected to producing documents to Zen and Star outside of the objections interposed in his responses to Complaint Counsel’s requests for discovery.

7. Mr. Zucker's argument that Zen and Star *were* competitors of Maxfield and Oberton Holdings, LLC is unavailing. The operative word here is *were*. M&O is no longer active and is no longer a competitor of Zen and Star and it is unlikely that any trade secrets would be revealed that either Zen or Star a) do not already know or b) would matter in so far as M & O has stopped selling the magnets Complaint Counsel seeks to prohibit.

8. Further, Mr. Zucker has made no showing whatsoever that there are any such trade secrets and if there are, how they would be relevant.

9. It is true that Zen and Star opposed consolidation. Their objections were overruled and the Court made its decision. Both Respondents now have a right to prepare for trial in the consolidated cases including having access to all documents produced in discovery.

10. Mr. Zucker's argument that because Zen and Star opposed the consolidation on the grounds that the facts and issues are dissimilar is without merit and would undermine the procedural dictates in any consolidated cases. Mr. Zucker cites no case law for his proposition and his argument is illogical. Clearly, the Court found that there were reasons to consolidate and barring specific identification of materials alleged to be privileged or confidential there are no bases upon which to deny Zen and Star access to all discovery materials.

11. Mr. Zucker makes general statements and cites no statutory, regulatory or case law to support his request.

12. There is a Protection Order in place signed by all parties in this matter which would protect the dissemination of any information deemed confidential. Though Respondents Zen and Star do not concede the point, assuming Mr. Zucker has standing to argue for protection or limitation of the discovery sought, he has yet to identify any specific document he is seeking to protect or limit.

WHEREFORE, Respondents Star and Zen oppose Mr. Zucker's Motion to Limit Access to Document Production and Discovery mailed on March 8, 2014 and they request that the Honorable Court deny that motion and for any other relief the Court deems just.

Done this 18th day of March, 2014.

RESPECTFULLY SUBMITTED,

THE LAW OFFICES OF DAVID C. JAPHA, P.C.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of March, 2014 (electronic mail) and 19th day of March 2014 (US Mail), I served copies of Respondents Zen's and Star's Response to Respondent Craig Zucker's Motion to Limit Access to Document Productions and Discovery 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:

The Honorable Dean C. Metry
U.S. Coast Guard
U.S. Courthouse

601 25th Street, Suite 508A
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One copy by electronic mail (by agreement) to Complaint Counsel:

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A handwritten signature in black ink, appearing to read "David C. Japha", is written over a horizontal line.

David C. Japha