

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

_____	)	
In the Matter of	)	
	)	
ZEN MAGNETS, LLC,	)	CPSC DOCKET NO. 12-2
	)	
RESPONDENT	)	Hon. Dean C. Metry
	)	Administrative Law Judge
_____	)	

**RESPONDENT’S UNOPPOSED MOTION TO EXTEND THE TIME IN WHICH  
TO FILE A RESPONSE TO COMPLAINT COUNSEL’S MOTION FOR  
SUMMARY DECISION *IN CAMERA***

The Respondent, Zen Magnets, LLC, through counsel and pursuant to 16 C.F.R. §1025.15(c), and without objection from Complaint Counsel, requests this Honorable Court for an Order extending the time in which Respondent has to respond to Complaint Counsel’s Motion for Summary Decision filed on September 26, 2014, to and including October 27, 2014, and as grounds therefor states:

1. Respondent’s counsel has consulted with Complaint Counsel and represents to the Court that Complaint Counsel has no objection to this motion for extension.
2. On information and belief, Complaint Counsel will be filing a motion for permission to file a Reply to the Response. Respondent has no objection to any motion seeking permission to file a Reply.
3. On September 26, 2014 Complaint Counsel filed their Motion for Summary Decision asking the Court to find that the Subject Products constitute a substantial product hazard and seeking an Order that Respondent cease the sale and distribution of

the Subject Products, give public notice, and issue full refunds to consumers.

4. The Motion is 47 pages and Complaint Counsel has identified 78 facts that they argue are undisputed. In addition, Complaint Counsel has filed 3 volumes of exhibits totaling 48 exhibits.

5. Insofar as the Motion was sent to Respondent's Counsel via email and regular mail, it is likely that the Response is presently due on October 16, 2014.

6. Respondent's counsel received the Motion via email, but did not see it and begin working on it until Sunday, September 28, 2014. The exhibits were sent with the motion and other documents via overnight mail on Friday, September 26, 2014.

7. Respondent's counsel did anticipate that Complaint Counsel would file a motion for summary decision. However, counsel had not seen some the declarations filed in support of the Motion until the filing and the sheer volume of information to which Respondent needs to respond to show that there are genuine issues of material fact preclude filing a Response by October 16, 2014, or even October 20, 2014, if that were the due date based on the 16 C.F.R. §1025.15(b).

8. Respondent's counsel needs to review each of the exhibits and determine how each fits into the arguments set forth by Complaint Counsel.

9. In response, Respondent will have a sizeable number of exhibits showing what it believes to be incomplete in Complaint Counsel's presentation and showing the Court that there are disputed issues of fact precluding entry of a summary decision.

10. In addition, Respondent is considering using affidavits in response to certain

evidence used by Complaint Counsel and needs more time to gather those if they are going to be used.

11. Counsel has been diligent in preparing a response and originally thought he could file the response by October 16, 2014. However, after working on the matter for a number of days it became clear that he would need the extra time to prepare a brief with exhibits and evidence sufficient to properly brief the matter.

12. In addition, counsel is engaged in other litigation that requires his attention including two pending criminal matters in Denver District Court and Aurora Municipal Court as well as a domestic matter in the Douglas County District Court which is complicated by certain mental health issues of the opposing party. In all of these matters, counsel has sought assistance from other counsel or paralegals as the cases allowed. However, counsel has still had to oversee the work.

13. Respondent's counsel believes this request is reasonable and necessary to properly brief the matter for the Court and to adequately represent Zen Magnets, LLC before this tribunal.

WHEREFORE, believing good cause having been shown, Respondent seeks an Order granting it to and including Monday, October 27, 2014 to file a response to Complaint Counsel's Motion for Summary Decision.

DATED THIS 7<sup>th</sup> day of October, 2014

Respectfully submitted,



THE LAW OFFICES OF DAVID C. JAPHA, P.C.  
DAVID C. JAPHA, Colorado Bar #14434  
Attorney for Respondent Zen Magnets

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7<sup>th</sup> day of October, 2014, I served copies of **THE RESPONDENT'S UNOPPOSED MOTION TO EXTEND THE TIME IN WHICH TO FILE A RESPONSE TO COMPLAINT COUNSEL'S MOTION FOR SUMMARY DECISION *IN CAMERA*** 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](mailto: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  
Galveston, TX 77550  
[Janice.M.Emig@uscg.mil](mailto:Janice.M.Emig@uscg.mil)

One copy by electronic mail (by agreement) to Complaint Counsel:

Mary B. Murphy, Complaint Counsel and Assistant General Counsel  
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David C. Japha