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**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

**CERTAIN MOBILE DEVICE HOLDERS AND
COMPONENTS THEREOF**

Inv. No. 337-TA-1028

**ORDER NO. 10: INITIAL DETERMINATION GRANTING MOTION OF
COMPLAINANT TO TERMINATE INVESTIGATION AS TO
FRENTALY BASED ON CONSENT ORDER**

(April 13, 2017)

On March 28, 2017, Complainant Nite Ize, Inc. (“Nite Ize”) filed a motion seeking termination of this investigation in part as to non-active Respondent Chang Lee d/b/a Frentaly (“Frentaly”) based on a settlement agreement, consent order stipulation, and proposed consent order.¹ (Motion Docket No. 1028-002.) That same day, Nite Ize filed a Corrected Proposed Consent Order to specifically list the Asserted Claims covered by the Proposed Consent Order. (EDIS Doc. ID 606890.) The Commission Investigative Staff filed a response supporting the motion on April 3, 2017. No other responses were received.

Commission Rule 210.21(c) provides that “[a] motion for termination by consent order shall contain copies of any licensing or other settlement agreement, any supplemental agreements, and a statement that there are no other agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation.” 19 C.F.R. § 210.21(c). The pending motion includes the following exhibits: consent order stipulation (attached hereto as Exhibit A); corrected proposed consent order (attached hereto as Exhibit B); confidential settlement

¹ On March 28, 2017, Nite Ize filed confidential and public versions of the Settlement Agreement in two separate filings.

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agreement (attached hereto as Exhibit C); and public settlement agreement (attached hereto as Exhibit D).

Further, the Nite Ize states: “[t]here are no agreements other than the Settlement Agreement (Ex. C), written or oral, express or implied between the parties concerning the subject matter of the investigation.” (Mot. at 1-2.) I therefore find that the pending motion satisfies the requirements of Commission Rule 210.21(c).²

Commission Rule 210.21(c)(3) sets forth the requirements for a consent order stipulation. 19 C.F.R. § 210.21(c)(3). I have reviewed the consent order stipulation (Exhibit A) and find that it conforms with Commission Rule 210.21(c)(3).

Commission Rule 210.21(c)(4) sets forth the requirements for a consent order. 19 C.F.R. § 210.21(c)(4). I have also reviewed the amended proposed consent order (Exhibit B) and find it is consistent with Commission Rule 210.21(c)(4).

Commission Rule 210.50(b)(2) provides that, in the case of a proposed termination by settlement agreement, consent order, or arbitration agreement, the parties may file statements regarding the impact of the proposed termination on the public interest, and the administrative law judge may hear argument, although no discovery may be compelled, with respect to issues relating solely to the public interest. 19 C.F.R. § 210.50(b)(2). The administrative law judge is directed to consider and make appropriate findings “regarding the effect of the proposed settlement on the public health and welfare, competitive conditions in the U.S. economy, the production of like or

² I also find that the pending motion satisfies the requirements of Commission Rule 210.21(b), which governs motions to terminate an investigation on the basis of a licensing or other settlement agreement. *See* 19 C.F.R. § 210.21(b).

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directly competitive articles in the United States, and U.S. consumers.” *See id.*

Nite Ize states that “[e]ntry of this consent order will also not impose an undue burden on the public health and welfare, competitive conditions in the United States economy, production of like or directly competitive articles in the United States, or U.S. consumers.” (Mot. at 2.) The Commission Investigative Staff takes the position that “[it] is not aware of any information indicating that termination of the investigation as to Frentaly based upon the Settlement Agreement and/or the Corrected Proposed Consent Order would be contrary to the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers.” (Staff Resp. at 11.) I do not find any public interest concerns militating against termination of the investigation as to Frentaly based on the settlement agreement or corrected proposed consent order. I also find nothing to suggest that the agreement between Nite Ize and Frentaly would impose an undue burden on the public health and welfare, competitive conditions in the U.S. economy, the production of similar or directly competitive articles in the United States, or U.S. consumers. *See* 19 U.S.C. § 1337(d). I therefore find that termination of the investigation as to Frentaly is in the public interest, which favors settlement to avoid needless litigation and to conserve public resources. *See Certain Data Storage Systems and Components Thereof*, Inv. No. 337-TA-471, Order No. 51, at 4 (March 11, 2003).

Accordingly, it is my initial determination that Motion No. 1028-004 be GRANTED. Respondent Chang Lee d/b/a Frentaly is hereby terminated from this investigation. This initial determination, along with supporting documentation, is hereby certified to the Commission.

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Pursuant to 19 C.F.R. § 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the initial determination or certain issues herein.

SO ORDERED.

A handwritten signature in black ink, appearing to read "Thomas B. Pender", written over a horizontal line.

Thomas B. Pender
Administrative Law Judge

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EXHIBIT A

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC**

Before the Honorable Thomas B. Pender
Administrative Law Judge

In the Matter of)

**CERTAIN MOBILE DEVICE HOLDERS)
AND COMPONENTS THEREOF .)**

Investigation No. 337-TA-1028

FRENTALY CONSENT ORDER STIPULATION

Concurrent with their motion to terminate, Respondent Chang Lee d/b/a Frentaly ("Frentaly") hereby respectfully submit this Consent Order Stipulation. On October 6, 2016, Nite Ize, Inc. ("Nite Ize" or "Complainant") filed a Complaint with the United States International Trade Commission ("Commission") against Frentaly. The Complaint alleged violations of Section 337 based upon the importation into the United States, the sale for importation, or the sale within the United States after importation by Respondents of certain mobile device holders that infringe the claims 1, 11, 12 of U.S. Utility Patent Nos. 8,870,146, claims 1, 11, 12 of U.S. Utility Patent No. 8,602,376, and sole claims of U.S. Design Patent Nos. D734,746 and D719,959 (collectively, the "Asserted Patents"). The Commission instituted this Investigation on November 14, 2016. See 81 FR 79520 (2016).

Pursuant to 19 C.F.R. §210.21(c)(1) and 210.21(c)(3), Frentaly hereby stipulates that:

1. Chang Lee is an individual having a d/b/a Frentaly but is not an organized corporation, business, or partnership. Frentaly operates out of United States address 1795 Morningdale Circle Duluth, GA, 30097.

2. Frentaly stipulates to the entry of a Consent Order as outlined below and as expressed in the accompanying Proposed Consent Order.

3. Frentaly admits and acknowledges that the Commission has *in rem* jurisdiction over the articles that are the subject of the Complaint and Notice of Investigation. Frentaly admits and acknowledges that the Commission has *in personam* jurisdiction over it for the purposes of this Stipulation and the Consent Order. Frentaly admits and acknowledges that the Commission has subject matter jurisdiction in this Investigation.

4. Upon entry of the Consent Order, Frentaly will cease the importation, distribution, sale, or other transfers (other than exportation) of any mobile device holders and components thereof, as illustrated in the Complaint, that infringe the Asserted Patents (“Subject Articles”) in the United States, except under consent or license from Nite Ize, its successors, or assignees.

5. Upon entry of the Consent Order, Frentaly will re-export existing U.S. inventory outside of the United States.

6. Frentaly expressly waives all rights to seek judicial review or otherwise challenge or contest the validity of the Consent Order.

7. Frentaly will cooperate with and will not seek to impede by litigation or other means the Commission’s efforts to gather information under Subpart 1 of Part 210, Title 19 of the Code of Federal Regulations.

8. The enforcement, modification, and revocation of the Consent Order will be carried out pursuant to Subpart 1 of Part 210, Title 19 Code of Federal Regulations, incorporating by reference the Commission’s Rules of Practice and Procedure.


9. Frentaly's signing of this Stipulation is for settlement purposes only and does not constitute admission by Frentaly that an unfair act has been committed.

10. The Consent Order shall have the same force and effect and may be enforced, modified, or revoked in the same manner as is provided in section 337 of the Tariff Act of 1930 and Part 210, Title 19 Code of Federal Regulations, and the Commission's Rules of Practice and Procedure, which are hereby incorporated by reference and the Commission may require periodic compliance reports pursuant to subpart I of Part 210, Title 19 Code of Federal Regulations.

11. The Consent Order shall not apply with respect to any claim of any intellectual property right that has expired or been found or adjudicated invalid or unenforceable by the Commission or a court or agency of competent jurisdiction, provided that such finding or judgment has become final and nonreviewable.

12. Frentaly will not seek to challenge the validity of the intellectual property rights in any administrative or judicial proceeding to enforce the Consent Order.

Dated: March 21, 2017



Chang Lee
Owner
Frentaly

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EXHIBIT B

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC**

Before the Honorable Thomas B. Pender
Administrative Law Judge

In the Matter of)

**CERTAIN MOBILE DEVICE HOLDERS)
AND COMPONENTS THEREOF)**

Investigation No. 337-TA-1028

[PROPOSED] CONSENT ORDER

The United States International Trade Commission has instituted an investigation at the request of Nite Ize, Inc. ("Nite Ize") against respondents, including Chang Lee d/b/a Frentaly ("Frentaly"). The Complaint filed by Nite Ize on October 6, 2016, and as later supplemented, alleges violations of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), based upon the importation into the United States, the sale for importation, or the sale within the United States after importation by Frentaly, of certain mobile device holders and components that allegedly infringe claims 1, 11, and 12 of U.S. Utility Patent No. 8,870,146, claims 1, 11, and 12 of U.S. Utility Patent No. 8,602,376, and the sole claims of U.S. Design Patent Nos. D734,746 and D719,959 (collectively, the "Asserted Patents").

The Commission instituted this Investigation on November 14, 2016. See 81 FR 79520 (2016).

Frentaly has executed a Consent Order Stipulation ("Stipulation") in which they agree to the entry of this Consent Order and to all waivers and other provisions as required by Commission Rule of Practice and Procedure 210.21(c) (19 C.F.R. § 210.21(c)) and moved jointly with Nite Ize for an Initial Determination terminating this investigation as to Frentaly

by entry of this Consent Order. The Parties have entered into a Settlement Agreement effective February 8, 2017, a copy of which is provided as an attachment to the Parties' Joint Motion to Terminate. Pursuant to 19 C.F.R. §210.21(c), the motion is hereby GRANTED and the following SO ORDERED:

A. The Complainant in this Investigation is Nite Ize, LLC (“Nite Ize”), and the Respondent party to this Consent Order is Chang Lee d/b/a Frentaly (“Frentaly”). Nite Ize has alleged that Frentaly sells for importation, imports, or sells after importation mobile device holders and components thereof in violation of Section 337 by reason of the Asserted Patents in paragraph 3.19 of its Amended Complaint.

B. Frentaly has executed a consent order stipulation in which they agree to the entry of this Consent Order and to all waivers and other provisions as required by Commission Rule of Practice and Procedure 210.21(c) (19 C.F.R. § 210.21(c)).

C. Effective immediately upon the entry of this Consent Order, Frentaly shall not sell for importation, import, or sell after importation any mobile device holders and components thereof, as illustrated in the Complaint, that infringe the Asserted Patents (collectively, “Subject Articles”), directly or indirectly, and shall not aid, abet, encourage, participate in, or induce the sale for importation, the importation, or the sale after importation except under consent or license from Nite Ize.

D. Upon entry of the Consent Order, Frentaly will re-export existing U.S. inventory outside of the United States.

E. Effective immediately upon the entry of this Consent Order, Frentaly shall cease and desist from importing and distributing Subject Articles covered by the Asserted Patents.

F. Frentaly shall be precluded from seeking judicial review or otherwise challenging or contesting the validity of this Consent Order.

G. Frentaly shall cooperate with and shall not seek to impede by litigation or other means the Commission's efforts to gather information under subpart I of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

H. Frentaly and its officers, directors, employees, agents, and any entity or individual acting on its behalf and with its authority shall not seek to challenge the validity or enforceability of the Asserted Patents in any administrative or judicial proceeding to enforce the Consent Order.

I. Upon expiration of the terms of the Asserted Patents the Consent Order shall become null and void as to such patents.

J. If any Asserted Patent is held invalid or unenforceable by a court or agency of competent jurisdiction or as to any Subject Articles that has been found or adjudicated not to infringe the asserted right in a final decision, no longer subject to appeal, this Consent Order shall become null and void as to such invalid or unenforceable claim.

K. This Investigation is hereby terminated with respect to Frentaly, provided, however, that enforcement, modification, or revocation of the Consent Order shall be carried out pursuant to Subpart I of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

BY ORDER OF THE COMMISSION:

Lisa R. Barton
Secretary to the Commission

Issued: March ___, 2017

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EXHIBIT C
(intentionally omitted)

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EXHIBIT D

CONFIDENTIAL SETTLEMENT AGREEMENT

This *Confidential Settlement Agreement* is entered into as of February 8, 2017 (the *Settlement Date*) between Nite Ize, Inc., a Colorado corporation (“Nite Ize”), on the one hand, and CHANG LEE d/b/a FRENTALY at 1795 Morningdale Circle, Duluth, GA 30097 and any of its affiliates, assigns, parents, subsidiaries, divisions, officers and directors, partners, agents, employees, and affiliated corporations, whether past, present, or future, or those who act for or in concert with any of the foregoing a (“Respondent”), on the other hand.

RECITALS

A. WHEREAS Nite Ize and Respondent (each individually a “Party” and collectively the “Parties”) have jointly agreed to enter into this *Confidential Settlement Agreement* to resolve all disputes between them in the United States.

B. WHEREAS Respondent represents that they manufacture certain mobile device holders, which are imported into the United States and distributed in the United States;

C. WHEREAS Nite Ize has described certain mobile device holders in the complaint Nite Ize submitted on October 14, 2016 (the “*Complaint*”) to the U.S. International Trade Commission (“*ITC*”), pursuant to which the ITC instituted proceeding number 337-TA-1028 (the “*ITC Proceeding*”), wherein Nite Ize asserts that the mobile device holders sold by Respondent under the Frentaly name, as described in the Complaint infringe certain claims of U.S. Patent Nos. 8,870,146; 8,602,376; D734,746 and D719,959 (“*Accused Mobile Device Holder*” and collectively as the “*Accused Mobile Device Holders*”);



D. WHEREAS, any device that is an *Accused Mobile Device Holder*, or any device that contains or incorporates an *Accused Mobile Device Holder* without any material modification shall be referred to as "*Prohibited Mobile Device Holder*" and collectively as "*Prohibited Mobile Device Holders*".

E. WHEREAS Nite Ize owns all right, title, and interest in U.S. Patent Nos. 8,870,146; 8,602,376; D734,746 and D719,959, which relates to a mobile device holder;

F. WHEREAS Nite Ize claims that distribution or use of any mobile device holders that are, contain, or incorporate a *Prohibited Mobile Device Holder* would directly infringe, contributorily infringe, and induce infringement of patent claims of U.S. Patent Nos. 8,870,146; 8,602,376; D734,746 and D719,959;

G. WHEREAS Nite Ize submitted the *Complaint* to the *ITC*, pursuant to which the *ITC* instituted the *ITC Proceeding*, wherein Nite Ize asserts that the *Accused Mobile Device Holders* infringe certain claims of U.S. Patent Nos. 8,870,146; 8,602,376; D734,746 and D719,959;

H. AND WHEREAS Nite Ize and Respondent have agreed to resolve all disputes between them in the United States upon the terms and conditions hereafter set forth, without admission of liability or lack of liability by any Party;

I. NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, promises, and undertakings contained, set forth, and exchanged herein, and for good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows.


TERMS

1. Within one day of the *Settlement Date* of this *Confidential Settlement Agreement*, Respondent will permanently cease and desist from all use in the United States, importation into the United States, sales in the United States, offers for sale in the United States, and making in the United States of any products that are, contain, or incorporate a *Prohibited Mobile Device Holder* or *Prohibited Mobile Device Holders*, or a design substantially similar thereto. Respondent will remove any *Prohibited Mobile Device Holders* currently in the United States from any stream of commerce (e.g., websites like www.amazon.com) and withdraw any of its advertisements for *Prohibited Mobile Device Holders*.

2.



3. Respondent agrees not to challenge, cause to be challenged, or assist in any way any other person or entity in challenging, directly or indirectly, the validity or enforceability of U.S. Patent Nos. 8,870,146; 8,602,376; D734,746 and D719,959 in any court or other tribunal, including the United States Patent and Trademark Office. Respondent waives any and all invalidity and unenforceability defenses concerning the U.S. Patent Nos. 8,870,146; 8,602,376;



D734,746 and D719,959 in any future litigation, arbitration, or other proceeding. This waiver applies to any product made, used, imported, sold, or offered for sale by Respondent or any of their affiliates and their respective successors, assigns, parents, subsidiaries, divisions, and affiliated corporations, whether past, present, or future, or those who act for or in concert with any of the foregoing, at any time during the life of U.S. Patent Nos. 8,870,146; 8,602,376; D734,746 and D719,959. Respondent agrees, acknowledges, and represents that: (i) Section 3 of this agreement is part of a litigation settlement; (ii) there is a strong public interest in settlement of patent litigation; and (iii) upholding the terms of a settlement encourages patent owners to agree to settlements, thus fostering judicial economy. Respondent further forever and irrevocably waives the right to assert any argument that this Section 3 is void as against policy or to otherwise contest the enforceability of this Section 3. Respondent agrees, acknowledges, and represents that its agreement to this Section 3 is a material and necessary inducement for Nite Ize to enter into this *Confidential Settlement Agreement* and that Nite Ize would not have entered into this *Confidential Settlement Agreement* if it did not contain the provisions of this Section 3.

4. The terms and conditions of this *Confidential Settlement Agreement* are strictly confidential and are not to be disclosed by the Parties, except that said terms and conditions may be disclosed: (i) pursuant to court order or other requirement of law; (ii) if necessary, to the Parties' respective outside or in-house counsel, accountants, and insurance carriers; and (iii) as part of any due diligence inquiry. Any such disclosures must be under the condition that the information disclosed is to be maintained as confidential.

5. Notwithstanding Section 4, Nite Ize may publicly disclose that Respondent has agreed to cease and desist the importation and sale of *Prohibited Mobile Device Holders* and that Respondent is entering into a Consent Order.

6. The Parties further agree:

(a) Promptly upon full execution of this *Confidential Settlement Agreement*, the Parties will cooperate to effect the following:

(i) the Respondent, in cooperation with Nite Ize, will enter into a Consent Order in the ITC Proceeding;

(ii) the Respondent shall review and sign an affidavit concerning material details related to this matter; and

(ii) all of the Respondent's counterclaims and affirmative defenses in the ITC Proceeding will be dismissed with Prejudice;

(iii) all of the Nite Ize's complaints against the Respondent shall be dismissed with Prejudice;

(b) The United States District Court for the District of Colorado will retain jurisdiction over the Parties and the subject matter of this *Confidential Settlement Agreement* for the sole and limited purpose of enforcing the terms of this *Confidential Settlement Agreement*. Each of the Parties irrevocably consents to personal jurisdiction in the United States District Court for the District of Colorado for the sole and limited purpose of any proceeding brought by any of the Parties to enforce the terms of this *Confidential Settlement Agreement*.

7. Except as provided in Section 24 below, all Parties shall bear their own fees, costs, and expenses concerning the disputes among the Parties (including fees, costs, and expenses pertaining to the *ITC Proceeding*), subject to the mutual release of these claims as stated herein.

8. Except as to the obligations undertaken or created by this *Confidential Settlement Agreement* executed by the Parties, each Party, on behalf of itself and its affiliates and their respective successors, assigns, parents, subsidiaries, divisions, and affiliated corporations, whether past, present, or future, hereby releases from, forever discharges from, and covenants not to sue any other Party and its affiliates, and each of their respective successors, assigns, parents, subsidiaries, divisions, and affiliated companies and partnerships, directors, officers, shareholders, members, managers, employees, agents, representatives, and attorneys, whether past, present, or future, for any and all claims, demands, actions, suits, or causes of action, known or unknown, that exist or may exist as of the *Settlement Date* that relate to the *ITC Proceeding*, and these disputes among the Parties. Notwithstanding the foregoing sentence, nothing in this *Confidential Settlement Agreement* shall constitute a release, discharge, waiver of, or a covenant not to sue: (A) by Nite Ize of any claim Nite Ize may have now or in the future with respect to (i) infringement of U.S. Patent Nos. 8,870,146; 8,602,376; D734,746 and D719,959 involving products or systems other than the *Prohibited Mobile Device Holders* that accrue or arise after the *Settlement Date* or (ii) patents other than U.S. Patent Nos. 8,870,146; 8,602,376; D734,746 and D719,959. Nite Ize also releases all downstream customers of Respondent who are using, selling, and offering for sale a *Prohibited Mobile Device Holder* in the United States, including any customers who may acquire products pursuant to the terms of this *Confidential Settlement Agreement*, from any claim that a downstream customer's use, sale,

or offer for sale of a *Prohibited Mobile Device Holder* infringes U.S. Patent Nos. 8,870,146; 8,602,376; D734,746 and D719,959.

9. It is the intention of the Parties in executing this *Confidential Settlement Agreement* that it shall be effective as a full and final accord and satisfactory release of each and every matter herein specifically or generally referred to in the United States.

10. In the event relevant claims of U.S. Patent Nos. 8,870,146; 8,602,376; D734,746 and D719,959 expire, the prohibitions and limitations of Section 1 no longer apply with respect to the expired claims. Further, in the event U.S. Patent Nos. 8,870,146; 8,602,376; D734,746 and D719,959 that Nite Ize asserted to be infringed in the *Complaint* in the *ITC Proceeding* become unenforceable or invalid for any reason other than any act by Respondent, then the prohibitions and limitations in Section 1 no longer apply.

11. Each Party represents and warrants that: (a) it is a corporation or company duly organized, validly authorized, and in good standing, and that it possesses full power and authority to enter into and comply with the terms of this *Confidential Settlement Agreement*; (b) the execution and compliance with the terms of this *Confidential Settlement Agreement* has been duly and validly authorized by all requisite corporate or company acts and consents and does not contravene the terms of any other obligation to which the Party is subject; and (c) this *Confidential Settlement Agreement*, when effective, will constitute a legal, binding, and valid obligation of the Party, enforceable in accordance with its terms and conditions.

12. Each Party represents and warrants that it has the full power and authority to execute, deliver, and perform this *Confidential Settlement Agreement* and that the individuals executing

this *Confidential Settlement Agreement* on behalf of such Party have been duly authorized to do so.

13. This *Confidential Settlement Agreement* represents the entire understanding among the Parties hereto with respect to the subject matter hereof, and this *Confidential Settlement Agreement* supersedes all previous representations, understandings, or agreements, oral or written, among the Parties with respect to the subject matter. There are no other oral or written representations, warranties, agreements, arrangements, or undertakings among the Parties which are not fully expressed in this *Confidential Settlement Agreement*. Each Party acknowledges that it is not entering into this *Confidential Settlement Agreement* on the basis of any representation, warranty, or promise not expressly contained in this *Confidential Settlement Agreement*, and that no promises or inducements have been made that caused any Party to execute the *Confidential Settlement Agreement* other than those that are expressly set forth herein. Further, each Party specifically disclaims any reliance on any representation, warranty, or promise not expressly contained in this *Confidential Settlement Agreement* in deciding to enter into this *Confidential Settlement Agreement*.

14. This *Confidential Settlement Agreement* may not be amended or modified except in a writing executed by all Parties.

15. The Parties agree that each Party shall promptly take all such further action and execute all such additional documents, at the Party's own expense, as may be reasonably necessary to effectuate all of the terms of this *Confidential Settlement Agreement*.



16. If any part of this *Confidential Settlement Agreement* is held by a court of competent jurisdiction to be invalid, void, or unenforceable, all remaining parts of this *Confidential Settlement Agreement* shall continue in full force and effect without being invalidated in any way. Nothing in this *Confidential Settlement Agreement* shall be construed in a manner that violates United States, the state of Colorado, or any other applicable law.

17. This *Confidential Settlement Agreement* constitutes a settlement of disputed claims and is made solely to avoid expensive and time-consuming litigation. Neither the offer nor acceptance of the terms and conditions of the *Confidential Settlement Agreement* nor any aspect of the disputes and proceedings among and by the Parties represents an admission of liability or fault on the part of any Party, but instead represents a resolution of the Parties' claims as against each other by mutual agreement. Notwithstanding the foregoing, this *Confidential Settlement Agreement* may be used in any proceeding to enforce its terms.

18. The Parties participated jointly in the negotiation and preparation of this *Confidential Settlement Agreement*, and each Party has been represented by counsel and has had the opportunity to review, comment upon, and modify this *Confidential Settlement Agreement*. All Parties acknowledge their cooperation in drafting this *Confidential Settlement Agreement*. For purposes of construing this *Confidential Settlement Agreement*, this *Confidential Settlement Agreement* shall be deemed drafted by all Parties and shall not be construed against any of them because of any purported ambiguity. Accordingly, any rule of law that would require interpretation of any ambiguities in this *Confidential Settlement Agreement* against the Party that has drafted it is of no application and expressly waived. This *Confidential Settlement Agreement* shall be interpreted in a reasonable manner to effect the Parties' intentions.

19. This *Confidential Settlement Agreement* may be signed in counterparts, and the various counterparts shall constitute one instrument for all purposes. For convenience, the several signature pages of the counterparts may be collected and annexed to one document to form a completely executed agreement. Facsimile signatures shall be treated as original signatures.

20. This *Confidential Settlement Agreement* shall be interpreted in accordance with, and governed by, applicable federal law and the laws of the State of Colorado except for any Colorado law or federal principles regarding choice of law.

21. This *Confidential Settlement Agreement* shall be binding upon and inure to the benefit of the Parties, their affiliates, and their respective successors, assigns, parents, subsidiaries, divisions, and affiliated corporations, whether past, present, or future, and the Parties' officers, directors, principals, members, managers, executors, and administrators.

22. The Parties hereto have read the foregoing *Confidential Settlement Agreement*, have had an opportunity to discuss it with counsel, know its contents, and understand its terms and effect.

23. Respondent acknowledges that any violation of the provisions of Section 1 of this *Confidential Settlement Agreement* shall cause irreparable harm to Nite Ize, and that in the event a violation of Section 1 occurred, public policy would favor injunctive relief against Respondent. Respondent further agrees that an order of specific performance of Section 1 is warranted in the event of any breach of Section 1. Respondent acknowledges and agrees that any importation,

sale or offering for sale in breach of Section 1 would irreparably injure Nite Ize and that monetary damages would be inadequate to fully remedy such a breach.

24. In any action or lawsuit brought, in whole or in part, to enforce this *Confidential Settlement Agreement*, the prevailing party in such action or lawsuit shall be entitled to recover from the other parties in such action or lawsuit, jointly and severally, the prevailing party's reasonable attorney's fees and costs that it incurred to enforce this *Confidential Settlement Agreement*.

25. Any notice provided pursuant to the terms of this *Confidential Settlement Agreement* shall be provided as follows:

To Nite Ize:

With copies to:

Robert Ziemian
robert.ziemian@haynesboone.com
1801 Broadway Street, Suite 800
Denver, CO 80202

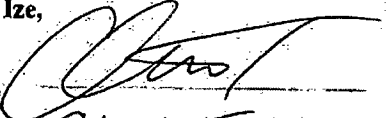
To Respondent:

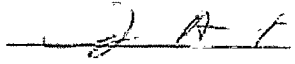
CHANG LEE d/b/a FRENTALLY
1795 Morningdale Circle
Duluth, GA 30097

With copy to:

J J LAW FIRM, LLC
Jae J. Kim, Esq.
jaekim@jaekimlawfirm.com
2550 Pleasant Hill Road, Suite 435
Duluth, GA 30096

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed
this *Confidential Settlement Agreement* on the dates set forth below:

Nite Ize,
By: 
Name: Clint Todd
Title: Chief Legal Officer
Dated: 2/10/2017

CHANG LEE d/b/a FRENTALY
By: 
Name: Ji Hoon Lee
Title: Agent
Dated: 2/10/2017

**IN THE MATTER OF CERTAIN MOBILE DEVICE
HOLDERS AND COMPONENTS THEREOF**

337-TA-1028

CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **PUBLIC INITIAL DETERMINATION ORDER NO. 10** has been served upon the **Commission Investigative Attorney, Cortney Hoecherl, Esq**, and the following parties as indicated on

 **APR 13 2017**

Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112A
Washington, DC 20436

FOR COMPLAINANTS NITE IZE, INC.:

James B. Altman, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1899 L Street, NW, Suite 1150
Washington, DC 20036

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

RESPONDENTS

Shenzhen Youtai Trade Company Limited
d/b/a NoChoice, Room 813, Gelinwangyuan
No. 96 Yannan Road, Fuitian District
Shenzhen, Guangdong, China 518000

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

REXS, LLC
16192 Coastal Highway
Lewes, DE 19958

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SPINIDO, INC.
36 South 18th Avenue, Suite A
Brighton, CO 80601

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LUO, QIBEN, d/b/a Lita International Shop
No. 10, Gaoxin South Four Road, Nanshan
Shenzhen, China 518057

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**IN THE MATTER OF CERTAIN MOBILE DEVICE
HOLDERS AND COMPONENTS THEREOF**

337-TA-1028

GUANGZHOU KUAGUOYI E-COMMERCE CO., LTD

d/b/a Kagu Culture
C102, Mingzhu Creative Park No. 66
Xiaogang Garden Rd, Yuncheng Street
Baiyun, Guangzou China, 510000

- Via Hand Delivery
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SHENZHEN NEW DREAM TECHNOLOGY CO.,

Ltd. d/b/a Newdreams
Room 307, Haotai Building Baomin Second
Road No. 1 Xixiang Street Bao'an,
Shenzhen, China 618102

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**SHENZHEN GOLD SOUTH TECHNOLOGY CO.,
LTD. D/b/a BAIDATONG,**

Room 616, West of 6/F, Bldg. 102, Pengii
Shangbu Industrial Workshop, Shangbu Industrial Zone,
North Huaqiang Road
Futian District, Shenzhen, Guangdong, China 518028

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SUNPAUTO CO., LTD.

Unit 04, 7/F, Bright Way Tower, No. 33
Mong Kok Road, Kowloon
Hong Kong

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WANG ZHI GANG d/b/a IceFox

Room 806, Ge Lin Wang Yuan YanNan Road
Futian District
Shenzhen, China 518000

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DANG YUYA d/b/a Sminiker

No. 5 Jinlongsan Rd., Longgang District
Shenzhen, China 5181000

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SHENZHEN TOPWORLD TECHNOLOGY CO.

D/b/a IdeaPro
Rm 603, 5/F Hang Pont Comm. Bldg. 31
Tonk In St., Cheung Sha Wan Kin, Hong Kong

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**IN THE MATTER OF CERTAIN MOBILE DEVICE
HOLDERS AND COMPONENTS THEREOF**

337-TA-1028

LIN ZHEN MEI d/b/a ANSON

502, B Seat, 3 Building, Guandi Garden
Xiam N7 area, Jiaan West Rd, Baoan District
Shenzhen, Guangdong, China 518128

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WU XUYING d/b/a NOVOLAND

No 2336 Nanhai Road, Nanshan District
Shenzhen, China 518054

- Via Hand Delivery
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 Other: _____

**SHENZHEN NEW DREAM SAILING ELECTRONIC
TECHNOLOGY CO.d/b/a MEGADREAM**

Room 1006, Modern International Mansion, Jintian
Road, Futian District, Shenzhen, Guangdong
China 518048

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ZHANGSHAN FEIYU HARDWARE TECHNOLOGY CO.,

LTD d/b/a YOUFO
#13 Haotong Road, Minle Community
Yongle Village DongFeng Town
ZhongShan City Guangdong
China 528400

- Via Hand Delivery
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**NINGHUAXIAN WANGFULONG CHAOJISHICHANG
YOUXIAN GONGSI, LTD**

d/b/a EasybuyUS, Rm. 101, No. 12,250 Lane
Kangshen Road
Pudong Xinqu, Shanghai
China 210315

- Via Hand Delivery
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CHANG LEE d/b/a FRENTALY

1795 Morningdale Circle
Duluth, GA 30097

- Via Hand Delivery
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 Other: _____

TRENDBOX USA LLC d/b/a TRENDBOX

16419 North 91st Street, Suite 125
Scottsdale, AZ 85260

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**IN THE MATTER OF CERTAIN MOBILE DEVICE
HOLDERS AND COMPONENTS THEREOF**

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**TONTEK d/b/a SHENZHEN HETONGTAI
ELECTRONICS CO., LTD**

B1505, Niulanqian Bldg., Minzhi Bldg.
Minzhi Street, Longhua New Area
Shenzhen, Guangdong, China, 518000

- Via Hand Delivery
 Via Express Delivery
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**SCOTABC d/b/a SHENCHUANG OPTO-ELECTRONICS
TECHNOLOGY CO. LTD**

Rm. 1203A, Zhanyuan Business Bldg. No. 912 Meilong Rd
Longhua Town, Longhua District Shenzhen, Guangdong
China, 068100

- Via Hand Delivery
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**TENSWALL d/b/a SHENZHEN TENSWALL
INTERNATIONAL TRADING CO., LTD**

14837 Proctor Avenue, Suite A
La Puente, CA 91746

- Via Hand Delivery
 Via Express Delivery
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LUO JIEQIONG d/b/a WEKIN

Room 1602, Building 20, Hua Sheng Shi Ji
Xin Cheng Yu Hua District, Chang Sha
China, 410100

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

PECHAM d/b/a BAICHEN TECHNOLOGY LTD.

Rm 20A, Kiu Fu Comm. Bldg. 300 Lockhart Rd.
Wan Chai, Hong Kong

- Via Hand Delivery
 Via Express Delivery
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**CYRIFT d/b/a GUANGZHOU SUNWAY
E-COMMERCE LLC.,**

D202 Guaangzhou Trade Business Center
Guangzhou, China 510000

- Via Hand Delivery
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FOR RESPONDENT GLOBAL BOX LLC

Ryan P. Siney, Esq.
TUCKER ARENSBERG, P.C.
1500 One PPG Place
Pittsburgh, PA. 15222

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**IN THE MATTER OF CERTAIN MOBILE DEVICE
HOLDERS AND COMPONENTS THEREOF**

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WANG GUOXIANG d/b/a MINSE

Rm. 609, Block 2, Xinghu Garden No. 9
Jinbi Rd. Luohu Dist. Shenzhen, Guangdong,
China 518028

- Via Hand Delivery
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YUAN d/b/a BESTRIX

No. 10 Group 1 Qingyuan Street, Wangying Town
Lichuan City, Hubei,
China 445400

- Via Hand Delivery
 Via Express Delivery
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 Other: _____

ZHIPING ZHOU d/b/a RUNSHION

31F, Dong C, Jinganghuating, Baoandadao
Baoanqu Shenzhenzhenshi, Guangdong
China, 518000

- Via Hand Delivery
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**HUIJUKON d/b/a SHENZHEN HUI JU KANG
TECHNOLOGY CO. LTD**

#1218 Lianhua Building No. 2008
Sherman Middle Street
Futian District., Shenzhen, China 518057

- Via Hand Delivery
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**BARSONE d/b/a SHENZHEN SENWEITE
ELECTRONIC COMMERCE LTD.**

Rm. 201 Building A, No. 1 Qianwan 1st Rd.
Qianhai SZ-HK Cooperation Zone
Shenzhen City
China 518103

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 Via Express Delivery
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**OUMEIOU d/b/a SHENOUMEIOU
TECHNOLOGY CO., LTD**

F3 Comprenensive Bldg. Of Nankeng 2nd Industrial Park
Bantian Street, Longgang, Shenzhen
China 518112

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**GRANDO d/b/a SHENZHEN DASHENTAI NETWORK
TECHNOLOGY CO., LTD.**

806 Dongbian Building No. 222 Minzhi Road
Minzhi Street Longhuaxinqu, Shenzhen
China 518109

- Via Hand Delivery
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 Via First Class Mail
 Other: _____

**IN THE MATTER OF CERTAIN MOBILE DEVICE
HOLDERS AND COMPONENTS THEREOF**

SHENZHEN YINGXUE TECHNOLOGY CO., LTD.

Room 14 H, Haojingmingyuan Phase II,
No. 28, Zhengqing Road
Buji Town, Longgang District, Shenzhen
China 518112

337-TA-1028

- Via Hand Delivery
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- Via First Class Mail
- Other: _____

**SHENZHEN LONGWANG TECHNOLOGY CO.,
LTD. D/b/a LWANG**

B21, 5/F, West of Bldg, 4, Seg Tech Park,
Huagiang North Rd., Futian Dist.,
Shenzhen, Guangdong, China, 518000

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HU PENG d/b/a ATOMBUD

Room 602, Unit 1, Dongfangqinyuan 2
Pingan Road, Longgang District, Shenzhen
China, 518112

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