

that contain new matter. Also, if a patent is granted and the patentee is successful in litigation against an infringer, provisional rights to a reasonable royalty under 35 U.S.C. 154(d) may be available only if the claims that are published in the patent application publication are substantially identical to the patented claims that are infringed, assuming timely actual notice is provided. Thus, the importance of the claims that are included in the patent application publication should not be overlooked.

Applicants are also advised that the extended missing parts period does not affect the twelve-month priority period provided by the Paris Convention for the Protection of Industrial Property (Paris Convention). Thus, any foreign filings must still be made within twelve months of the filing date of the provisional application if applicant wishes to rely on the provisional application in the foreign-filed application or if protection is desired in a country requiring filing within twelve months of the earliest application for which rights are left outstanding in order to be entitled to priority.

The current patent term adjustment (PTA) provisions apply to all original utility or plant nonprovisional applications filed on or after May 29, 2000, which will include applications under the pilot program. Therefore, any PTA accrued by an applicant based on certain administrative delays by the USPTO is offset by a reduction for failing to reply to a notice by the USPTO within three months. See 37 CFR 1.704(b). If an applicant replies to a Notice to File Missing Parts more than three months after mailing (or notification) of the notice, the additional time will be treated as an offset to any positive PTA that is accrued by applicant.

In no event will a reduction under 37 CFR 1.704(b) reduce the twenty-year patent term. The "twenty-year patent term" refers to the term of a patent (other than a design patent) that begins on the date the patent issues and ends on the date that is twenty years from the date on which the application for patent was filed in the United States or, if the application contains a specific reference to an earlier filed application or applications under 35 U.S.C. 120, 121, or 365(c), twenty years from the filing date of the earliest of such application(s). See 35 U.S.C. 154(a)(2). Domestic benefit under 35 U.S.C. 119(e) to one or more provisional applications is not considered in the calculation of the twenty-year term. For more information on patent term, see section 2701 of the Manual of Patent Examining

Procedure (MPEP) (8th ed. 2001) (Rev. 2, May 2004).

Applicants are also reminded that fees are subject to change and the fees that are due in an application are the fees in effect at the time of fee payment. Therefore, if the search fee, examination fee, excess claims fees, and/or the surcharge (or any other fees) have increased after the mailing (or notification) of a Notice to File Missing Parts that sets a time period to pay such fees, applicant will be required to pay the increased fee amounts. Applicants should consult the current fee schedule on the USPTO Web site before paying any fees that are due.

Form PTO/SB/421 will include an identification of the requirements of the Extended Missing Parts Pilot Program as well as various acknowledgments regarding the pilot program. Therefore, applicants requesting participation in the Extended Missing Parts Pilot Program should be aware of the requirements and the potential drawbacks of the pilot program.

IV. *Paperwork Reduction Act*: An applicant who wishes to participate in the pilot program must submit a certification and request to participate in the Extended Missing Parts Pilot Program, preferably by using Form PTO/SB/421. The Office of Management and Budget (OMB) has determined that, under 5 CFR 1320.3(h), Form PTO/SB/421 does not collect "information" within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, this notice does not involve information collection requirements which are subject to review by OMB.

The USPTO previously published the notice *Missing Parts Practice*, 75 FR 53631 (Sept. 1, 2010), requesting comments on the USPTO's proposal to collect information using Form PTO/SB/421. In light of OMB's determination that Form PTO/SB/421 does not collect information within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the USPTO is withdrawing the request for comments issued in the September 1, 2010 notice.

V. *Additional Information*: While the USPTO also requested comments on an optional service of having an international style search report prepared during the twelve-month extended missing parts period, the USPTO is not implementing such a service at this time.

Dated: November 19, 2010.

**David J. Kappos,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 2010-30822 Filed 12-7-10; 8:45 am]

BILLING CODE 3510-16-P

## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 11-C0002]

### Winter Bee, Inc., Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e).<sup>1</sup> Published below is a provisionally-accepted Settlement Agreement with Winter Bee, Inc., containing a civil penalty of \$200,000.00, to be suspended except for \$40,000.00, to be paid over a period of 20 months as specified in the Order.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by December 23, 2010.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 11-C0002, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 820, Bethesda, Maryland 20814-4408.

**FOR FURTHER INFORMATION CONTACT:** Seth B. Popkin, Lead Trial Attorney, Division of Enforcement and Information, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814-4408; telephone (301) 504-7612.

**SUPPLEMENTARY INFORMATION:** The text of the Agreement and Order appears below.

<sup>1</sup> The Commission voted 4-1 to publish this notice of the provisional Settlement Agreement and Order. Commissioner Nord issued a statement, and the statement can be found at <http://www.cpsc.gov/pr/statements.html>.

Dated: December 1, 2010.

**Todd A. Stevenson,**  
*Secretary.*

### Settlement Agreement

1. In accordance with 16 CFR 1118.20, Winter Bee, Inc. ("Winter Bee") and the staff ("Staff") of the United States Consumer Product Safety Commission ("Commission") enter into this Settlement Agreement ("Agreement"). The Agreement and the incorporated attached Order ("Order") settle the Staff's allegations set forth below.

### Parties

2. The Staff is the staff of the Commission, an independent Federal regulatory agency established pursuant to, and responsible for the enforcement of, the Consumer Product Safety Act, 15 U.S.C. 2051–2089 ("CPSA").

3. Winter Bee is a corporation organized and existing under the laws of California, with its principal offices located in Los Angeles, California. At all times relevant hereto, Winter Bee sold apparel.

### Staff Allegations

4. From December 2004 to December 2008, Winter Bee manufactured and distributed in commerce children's hooded pullover and zipper sweatshirts with drawstrings at the neck ("Sweatshirts").

5. Winter Bee sold Sweatshirts to retailers.

6. The Sweatshirts are "consumer product[s]," and, at all times relevant hereto, Winter Bee was a "manufacturer" of those consumer products, which were "distributed in commerce," as those terms are defined in CPSA sections 3(a)(5), (8), and (11), 15 U.S.C. 2052(a)(5), (8), and (11).

7. In February 1996, the Staff issued the Guidelines for Drawstrings on Children's Upper Outerwear ("Guidelines") to help prevent children from strangling or entangling on neck and waist drawstrings. The Guidelines state that drawstrings can cause, and have caused, injuries and deaths when they catch on items such as playground equipment, bus doors, or cribs. In the Guidelines, the Staff recommends that there be no hood and neck drawstrings in children's upper outerwear sized 2T to 12.

8. In June 1997, ASTM adopted a voluntary standard, ASTM F1816–97, that incorporated the Guidelines. The Guidelines state that firms should be aware of the hazards and should be sure garments they sell conform to the voluntary standard.

9. On May 19, 2006, the Commission posted on its Web site a letter from the

Commission's Director of the Office of Compliance to manufacturers, importers, and retailers of children's upper outerwear. The letter urges them to make certain that all children's upper outerwear sold in the United States complies with ASTM F1816–97. The letter states that the Staff considers children's upper outerwear with drawstrings at the hood or neck area to be defective and to present a substantial risk of injury to young children under Federal Hazardous Substances Act ("FHSA") section 15(c), 15 U.S.C. 1274(c). The letter also notes the CPSA's section 15(b) reporting requirements.

10. Winter Bee informed the Commission that there had been no incidents or injuries associated with the Sweatshirts.

11. Winter Bee's distribution in commerce of the Sweatshirts did not meet the Guidelines or ASTM F1816–97, failed to comport with the Staff's May 2006 defect notice, and posed a strangulation hazard to children.

12. On June 10, 2009, the Commission announced Winter Bee's recall of the Sweatshirts.

13. Winter Bee had presumed and actual knowledge that the Sweatshirts distributed in commerce posed a strangulation hazard and presented a substantial risk of injury to children under FHSA section 15(c)(1), 15 U.S.C. 1274(c)(1). Winter Bee had obtained information that reasonably supported the conclusion that the Sweatshirts contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. CPSA sections 15(b)(3) and (4), 15 U.S.C. 2064(b)(3) and (4), required Winter Bee to immediately inform the Commission of the defect and risk.

14. Winter Bee knowingly failed to immediately inform the Commission about the Sweatshirts as required by CPSA sections 15(b)(3) and (4), 15 U.S.C. 2064(b)(3) and (4), and as the term "knowingly" is defined in CPSA section 20(d), 15 U.S.C. 2069(d). This failure violated CPSA section 19(a)(4), 15 U.S.C. 2068(a)(4). Pursuant to CPSA section 20, 15 U.S.C. 2069, this failure subjected Winter Bee to civil penalties.

### Winter Bee's Response

15. Winter Bee denies the Staff's allegations above that Winter Bee knowingly violated the CPSA.

### Agreement of the Parties

16. Under the CPSA, the Commission has jurisdiction over this matter and over Winter Bee.

17. The parties enter into the Agreement for settlement purposes only.

The Agreement does not constitute an admission by Winter Bee, or a determination by the Commission, that Winter Bee knowingly violated the CPSA.

18. In settlement of the Staff's allegations, a civil penalty in the amount of two hundred thousand dollars (\$200,000.00) shall be imposed against Winter Bee. Based upon Winter Bee's representations in the correspondence and other documents that Winter Bee and its counsel submitted to the Staff concerning Winter Bee's financial condition and concerning Winter Bee's stated inability to pay the foregoing penalty (collectively, "Financial Representations"), and contingent upon the truthfulness, accuracy, and completeness of the Financial Representations, the foregoing civil penalty shall be suspended except for the amount of forty thousand dollars (\$40,000.00).

19. Winter Bee shall pay the \$40,000.00 nonsuspended portion of the civil penalty in four (4) installments as follows: \$25,000.00 shall be paid within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement; \$5,000.00 shall be paid within one (1) year of the date of service of the Commission's final Order accepting the Agreement; \$5,000.00 shall be paid within sixteen (16) months of the date of service of the Commission's final Order accepting the Agreement; and \$5,000.00 shall be paid within twenty (20) months of the date of service of the Commission's final Order accepting the Agreement. Each payment shall be made by check payable to the order of the United States Treasury.

20. In negotiating and consenting to the terms of the Agreement, and in advising the Commission, the Staff has relied upon the Financial Representations. If, at any time, the Staff finds that any information provided as part of the Financial Representations was materially false, inaccurate, or incomplete, or that Winter Bee failed to disclose in the Financial Representations any asset or income, materially misrepresented in the Financial Representations the value of any asset or income, or made any other material misrepresentation or omission in or relating to the Financial Representations and the information therein, the Staff may petition the Commission to, or the Commission may on its own initiative, modify the Order: (a) By lifting the suspension of the \$200,000.00 civil penalty; (b) by requiring that Winter Bee immediately pay the unpaid portion of the

\$200,000.00 civil penalty; and/or (c) in any other manner that the Commission deems appropriate. Unless the Commission otherwise orders, the Agreement shall in all other respects remain in full force and effect.

21. Upon provisional acceptance of the Agreement, the Agreement shall be placed on the public record and published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e). In accordance with 16 CFR 1118.20(f), if the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the sixteenth (16th) calendar day after the date it is published in the **Federal Register**.

22. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, Winter Bee knowingly, voluntarily, and completely waives any rights it may have in this matter to the following: (1) An administrative or judicial hearing; (2) judicial review or other challenge or contest of the validity of the Order or of the Commission's actions; (3) a determination by the Commission of whether Winter Bee failed to comply with the CPSA and its underlying regulations; (4) a statement of findings of fact and conclusions of law; and (5) any claims under the Equal Access to Justice Act.

23. The Commission may publicize the terms of the Agreement and the Order.

24. The Agreement and the Order shall apply to, and be binding upon, Winter Bee and each of its successors and assigns.

25. The Commission issues the Order under the provisions of the CPSA, and violation of the Order may subject Winter Bee and each of its successors and assigns to appropriate legal action.

26. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. The Agreement shall not be waived, amended, modified, or otherwise altered without written agreement thereto executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced.

27. If any provision of the Agreement and the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order

shall remain in full force and effect, unless the Commission and Winter Bee agree that severing the provision materially affects the purpose of the Agreement and the Order.

Winter Bee, Inc.

Dated: 10/15/10

By:

Jai Nam Lee, *President*,  
Winter Bee, Inc.,  
4150 S. Main Street,  
Los Angeles, CA 90037

Dated: 10/15/10.

By:

John N. Politis, *Esq.*  
Politis, Nangano & Politis,  
1055 West 7th Street, Suite 2288,  
Los Angeles, CA 90017,  
Counsel for Winter Bee, Inc.

U.S. Consumer Product Safety Commission  
Staff

Cheryl A. Falvey,  
*General Counsel*.  
Ronald G. Yelenik,  
*Assistant General Counsel*  
*Office of the General Counsel*.  
Dated: 11/5/10.

By:

Seth B. Popkin, *Lead Trial Attorney*,  
Division of Compliance,  
Office of the General Counsel.

#### Order

Upon consideration of the Settlement Agreement entered into between Winter Bee, Inc. ("Winter Bee") and the U.S. Consumer Product Safety Commission ("Commission") staff, and the Commission having jurisdiction over the subject matter and over Winter Bee, and it appearing that the Settlement Agreement and the Order are in the public interest, it is

*Ordered*, that the Settlement Agreement be, and hereby is, accepted; and it is

*Further ordered*, that a civil penalty in the amount of two hundred thousand dollars (\$200,000.00) be, and hereby is, imposed against Winter Bee. Based upon Winter Bee's representations in the correspondence and other documents that Winter Bee and its counsel submitted to the Commission staff concerning Winter Bee's financial condition and concerning Winter Bee's stated inability to pay the foregoing penalty (collectively, "Financial Representations"), and contingent upon the truthfulness, accuracy, and completeness of the Financial Representations, the Commission suspends the foregoing civil penalty except for the amount of forty thousand dollars (\$40,000.00).

*Further ordered*, that Winter Bee shall pay the \$40,000.00 nonsuspended portion of the civil penalty in four (4) installments as follows: \$25,000.00 shall be paid within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement; \$5,000.00 shall be paid within one (1) year of the date of service of the Commission's final Order accepting the Agreement; \$5,000.00 shall be paid within sixteen (16) months of the date of service of the Commission's final Order accepting the Agreement; and \$5,000.00 shall be paid within twenty (20) months of the date of service of the Commission's final Order accepting the Agreement. Each payment shall be made by check payable to the order of the United States Treasury.

*Further ordered*, that the Commission staff's consent to this Order and the Commission's entry of this Order are premised upon the truthfulness, accuracy, and completeness of the Financial Representations. If, upon petition of the Commission staff, or upon the Commission's own initiative, the Commission finds that any information provided as part of the Financial Representations was materially false, inaccurate, or incomplete, or that Winter Bee failed to disclose in the Financial Representations any asset or income, materially misrepresented in the Financial Representations the value of any asset or income, or made any other material misrepresentation or omission in or relating to the Financial Representations and the information therein, then the Commission may modify the Order by lifting the suspension of the \$200,000.00 civil penalty, by requiring that Winter Bee immediately pay the unpaid portion of the \$200,000.00 civil penalty, and/or by making any other change to the Order that the Commission deems appropriate. Unless the Commission otherwise orders, the Agreement shall in all other respects remain in full force and effect.

*Further Ordered*, that upon the failure of Winter Bee to make any of the foregoing payments when due, the total amount of the \$40,000.00 nonsuspended portion of the civil penalty shall become immediately due and payable, and interest on the unpaid amount shall accrue and be paid by Winter Bee at the Federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 1st day of December, 2010.

By Order of the Commission.  
Todd A. Stevenson,  
Secretary, U.S. Consumer Product Safety

Commission.  
[FR Doc. 2010-30834 Filed 12-7-10; 8:45 am]  
BILLING CODE 6355-01-P

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Proposed Information Collection; Comment Request

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed implementation of four forms and their electronic and print versions of the Request to Transfer a Segal Education Award Amount Form, the Accept/Decline Award Transfer Form, the Request to Revoke Transfer of Education Award Form, and the Rescind Acceptance of Award Transfer Form. The information collected identifies those qualified to transfer their award, the transfer amount, and those qualified to receive the award transfer, in accordance with the provisions of 42 U.S.C. 12501.

Copies of the information collection requests can be obtained by contacting the office listed in the addresses section of this Notice.

**DATES:** Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 7, 2011.

**ADDRESSES:** You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, Attn: Bruce Kellogg, 8309C, 1201 New York Avenue, NW., Washington, DC 20525.

(2) By hand delivery or by courier to the Corporation's mailroom at Room

8100 at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) *By fax to:* (202) 606-3492 Attn: Bruce Kellogg.

(4) Electronically through <http://www.regulations.gov>. Individuals who use a telecommunications device for the deaf (TTY-TDD) may call (202) 606-3472 between 8:30 a.m. and 5 p.m. Eastern Time, Monday through Friday.

#### FOR FURTHER INFORMATION CONTACT:

Bruce Kellogg, (202) 606-6954, or by e-mail at [bkellogg@cns.gov](mailto:bkellogg@cns.gov).

**SUPPLEMENTARY INFORMATION:** *The Corporation is particularly interested in comments that:*

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

#### Background

The information is collected from qualified members who wish to transfer all or a part of their education award and from qualified recipients of the award transfer electronically via the My AmeriCorps Portal, the Corporation's secure online program management system. If members are unable to apply on-line, they can use printed forms and instructions to submit their application.

#### Current Action

This new information collection request implements provisions of the recently enacted Serve America Act (42 U.S.C. 12501) which authorizes AmeriCorps members to transfer all or a part of an education award, with limitations on who can transfer an award and on who can receive the transferred award.

*Type of Review:* New.

*Agency:* Corporation for National and Community Service.

*Title:* Request to Transfer a Segal Education Award Amount Form, Accept/Decline Award Transfer Form, Request to Revoke Transfer of Education Award Form, and Rescind Acceptance of Award Transfer Form.

*OMB Number:* None.

*Agency Number:* None.

*Affected Public:* Qualifying AmeriCorps members and education award transfer recipients.

*Total Respondents:* 100.

*Frequency:* Annually.

*Average Time per Response:* Averages 5 minutes.

*Estimated Total Burden Hours:* 8.33.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 1, 2010.

**William Anderson,**  
Chief Financial Officer.

[FR Doc. 2010-30699 Filed 12-7-10; 8:45 am]

BILLING CODE 6050--\$S-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal Nos. 10-73]

#### 36(b)(1) Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

**FOR FURTHER INFORMATION CONTACT:** Ms. B. English, DSCA/DBO/CFM, (703) 601-3740.

**SUPPLEMENTARY INFORMATION:** The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 10-73 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: December 1, 2010.

**Morgan F. Park,**  
Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-06-P