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11 UNITED STATES DISTRICT COURT
 12 CENTRAL DISTRICT OF CALIFORNIA

14	UNITED STATES OF AMERICA,)	CASE NO. 2:15-cv-7821
15)	
16	Plaintiff,)	COMPLAINT FOR
17)	PERMANENT INJUNCTIVE
18	v.)	RELIEF
19)	
20	UNIK TOYZ TRADING, INC., a California)	
21	corporation; JULIE TRAN, an individual;)	
22	and KIET TRAN, an individual,)	
23)	
24	Defendants.)	

25 Plaintiff, the United States of America, alleges:

26 INTRODUCTION

27 1. The United States of America brings this action to enjoin and restrain

1 Unik Toyz Trading, Inc., Julie Tran, and Kiet Tran (collectively, “defendants”),
2 from selling, importing, or distributing children’s products in violation of the
3
4 Consumer Product Safety Act (“CPSA”), 15 U.S.C. §§ 2051-2089; the Federal
5 Hazardous Substances Act (“FHSA”), 15 U.S.C. §§ 1261-1278; and regulations
6 issued thereunder.
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8 2. The United States pursues this action on behalf of the U.S. Consumer
9 Product Safety Commission (“CPSC” or “Commission”), an independent federal
10 regulatory agency that enforces the CPSA, the FHSA, and related regulations. One
11 of the purposes of the CPSC is to protect the public against unreasonable risks of
12 injury associated with consumer products. The principal offices of the Commission
13 are at 4330 East West Highway, Bethesda, Maryland, 20814-4408.
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16 JURISDICTION AND VENUE

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18 3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331,
19 and 1345.
20

21 4. This Court also has jurisdiction, under 15 U.S.C. § 2071(a), to restrain
22 any violation of section 2068 of the CPSA, and, under 15 U.S.C. § 1267(a), to
23 restrain any violation of the FHSA. Venue in the Central District of California is
24 proper under 28 U.S.C. §§ 1391(b) and (c).
25

26 DEFENDANTS

27 5. Defendant Unik Toyz Trading, Inc. (“Unik”) is a corporation organized
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1 and existing under the laws of California, located at 316 East 4th Street, Los Angeles,
2 California, 90013, with a warehouse at 1238 Palmetto Street, Los Angeles,
3 California, 90013. Unik was formed as a corporation on June 8, 2011.
4

5 6. Defendant Julie Tran is the owner of Unik and Defendant Kiet Tran is
6 the manager of Unik. They are the individuals responsible for ensuring compliance
7 with the requirements of the CPSA, the FHSA, and the regulations issued
8 thereunder. At all times relevant to this Complaint, defendants Julie Tran and Kiet
9 Tran formulated, directed, controlled, and participated in the acts and practices of
10 the corporate defendant, including the acts and practices set forth in this Complaint.
11

12 7. Unik is a manufacturer (the definition includes any person who imports
13 a consumer product) and retailer—as those terms are defined in 15 U.S.C.
14 § 2052(a)(11) and (13)—of consumer products, including children’s toys and
15 articles that are subject to the requirements of the CPSA, the FHSA, and the
16 regulations issued thereunder.
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19 8. The defendants operate a retail facility and a warehouse in Los
20 Angeles, California. Through that retail facility and warehouse they import and sell
21 various consumer products, including children’s products and toys.
22

23 9. Since September 27, 2011, the CPSC has collected 45 samples of
24 consumer products from the defendants’ import shipments at the Port of Los
25 Angeles/Long Beach or the defendants’ Los Angeles retail facility. The CPSC
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1 found 39 of these samples to be children's products in violation of CPSC statutes
2 and regulations. The violative samples included children's products and toys with
3 illegal levels of total lead content and phthalates; toys intended for children under
4 three years of age that contain small parts or accessible batteries; children's art
5 materials lacking the required cautionary labeling; and children's products and toys
6 lacking required certification based on third-party testing and lacking tracking
7 labels. The CPSC issued a total of 21 Letters of Advice ("LOAs") from November
8 18, 2011 to January 29, 2015, notifying the defendants of the violations.
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12 VIOLATIONS OF THE CPSA

13 10. The CPSA prohibits the sale, offer for sale, manufacture for sale,
14 distribution in commerce, or importation into the United States of any consumer
15 product, or other product or substance that is regulated under the CPSA or any other
16 Act enforced by the CPSC, that is not in conformity with an applicable consumer
17 product safety rule under the CPSA, or any similar rule, regulation, standard, or ban
18 under any other Act enforced by the Commission. 15 U.S.C. § 2068(a)(1).
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21

22 11. Under the CPSA, it is unlawful to fail to furnish a certificate required
23 by the CPSA or any other Act enforced by the Commission. 15 U.S.C. § 2068(a)(6).
24

25 12. Under the CPSA, it is unlawful for any person to fail to comply with the
26 tracking labels requirement in 15 U.S.C. § 2063, or any rule or regulation under that
27 section. 15 U.S.C. § 2068(a)(6).
28

1 13. The defendants' violations of the CPSA provisions in paragraphs 10
2 through 12 above are specified in Counts 1 through 4 below.

3
4 Count 1

5 14. Under the CPSA it is unlawful for any person to manufacture for sale,
6 offer for sale, distribute in commerce, or import into the United States any children's
7 toys that can be placed in a child's mouth or child care articles containing
8 concentrations of more than 0.1 percent of certain phthalate compounds, including
9 diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate
10 (DnOP). 15 U.S.C. § 2057c(b).

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12
13 15. Samples of products collected from the defendants' import shipments
14 are "children's toys" as defined under 15 U.S.C. § 2057c(g)(1)(B). Two toys
15 exceeded the phthalate concentration limit, because they contained more than 0.1
16 percent of DINP. Accordingly, the toys cannot be manufactured for sale, offered
17 for sale, distributed in commerce, or imported into the United States under the
18 CPSA. The CPSC sent the defendants an LOA dated August 1, 2012 notifying
19 them of these violations and requesting corrective action.

20
21
22 16. On these two occasions, the defendants sold, offered for sale,
23 distributed in commerce, or imported into the United States toys containing
24 phthalates in excess of the statutory limit, thereby violating 15 U.S.C. § 2068(a)(1).
25
26

27 Count 2
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1 issue a certificate, based upon such testing, that such children's product complies
2 with each applicable children's product safety rule. This requirement applies for
3 children's products that produce small parts or contain lead. 15 U.S.C.
4 § 2063(a)(2). This requirement applies for children's products containing
5 phthalates that were manufactured on or after January 1, 2012 and is effective June
6 10, 2013 for toys intended for children under three that contain batteries accessible
7 without the use of a coin, screwdriver, or other household tool per section 4.25 of the
8 American Society for Testing and Materials standard. 15 U.S.C. § 2063(a)(3).
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12 21. Samples of toys and articles CPSC collected from defendants' import
13 shipments and retail facility are "children's products" as defined under 15 U.S.C.
14 § 2052(a)(2) and are subject to a "children's product safety rule" as defined under 15
15 U.S.C. § 2063(f)(1). Fifteen items collected from defendants were required to have
16 a certificate based on third-party testing for small parts, phthalates, accessible
17 batteries and/or lead content, but failed to have one. The CPSC sent the defendants
18 multiple LOAs from November 18, 2011 through December 9, 2014, notifying them
19 that these shipments lacked a certificate based upon third-party testing as required
20 under 15 U.S.C. § 2063(a)(2) and requesting corrective action.
21
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23
24 22. On these 15 occasions, the defendants failed to furnish certificates
25 based upon third-party testing, for children's products that are subject to a children's
26 product safety rule, thereby violating 15 U.S.C. § 2068(a)(6).
27
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1 Count 4

2 23. Under the CPSA, every manufacturer of a children’s product shall
3 place permanent, distinguishing marks (“tracking labels”) on the product and its
4 packaging, which will enable the manufacturer and ultimate purchaser of the
5 product to ascertain the location and date of production of the product, along with
6 cohort information. 15 U.S.C. § 2063(a)(5).
7

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9 24. Samples of toys and articles CPSC collected from defendants’ import
10 shipments are “children’s products” as defined under 15 U.S.C. § 2052(a)(2).
11 Eighteen children’s products collected from defendants failed to have tracking
12 labels. The CPSC sent the defendants LOAs notifying them that their children’s
13 products lacked tracking labels as required under 15 U.S.C. § 2063(a)(5) and
14 requesting corrective action.
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18 25. On these 18 occasions, the defendants failed to comply with the
19 requirement to have tracking labels on children’s products, thereby violating 15
20 U.S.C. § 2068(a)(6).
21

22 VIOLATIONS OF THE CPSA AND THE FHSA –
23 MISBRANDED AND BANNED HAZARDOUS SUBSTANCES

24 26. Under the FHSA, it is unlawful to introduce, cause the introduction of,
25 deliver, or cause the delivery for introduction into interstate commerce of, any
26 misbranded hazardous substance or banned hazardous substance. 15 U.S.C.
27 § 1263(a).
28

1 27. Under the FHSA, it is unlawful to receive, cause the receipt of in
2 interstate commerce, deliver, or proffer to deliver for pay or otherwise, any
3 misbranded hazardous substance or banned hazardous substance. 15 U.S.C.
4 § 1263(c).
5

6 28. Under the CPSA, it is unlawful for any person to “sell, offer for sale,
7 manufacture for sale, distribute in commerce, or import into the United States any
8 consumer product, or other product or substance” that is regulated under the CPSA
9 or any other Act enforced by the CPSC, that is not in conformity with an applicable
10 consumer product safety rule under the CPSA, or any similar rule, regulation,
11 standard, or ban under any other Act enforced by the Commission. 15 U.S.C.
12 § 2068(a)(1).
13
14

15 29. Under the CPSA, it is unlawful for any person to sell, offer for sale,
16 distribute in commerce, or import into the United States any consumer product, or
17 product or substance that is a banned hazardous substance within the meaning of 15
18 U.S.C. § 1261(q)(1). 15 U.S.C. § 2068(a)(2)(D).
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22 30. The defendants’ violations of the CPSA and FHSA provisions in
23 paragraphs 26 through 29 above are specified in Counts 5 through 7 below.
24

25 Count 5

26 31. Under the FHSA and the regulations issued thereunder, toys and other
27 articles intended for use by children under three years of age that constitute a
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1 mechanical hazard because they contain small parts which present the risk of
2 choking, aspiration, or ingestion are banned hazardous substances. 16 C.F.R.
3 § 1500.18(a)(9). Before or after the toy is subjected to use and abuse tests set forth
4 at 16 C.F.R. §§ 1500.50 - 1500.52, no portion of a toy may separate and produce
5 small parts that fit entirely into the specified test fixture. 15 U.S.C.
6 §§ 1261(f)(1)(D), 1261(q)(1)(A), 1261(s); 16 C.F.R. § 1500.18(a)(9) and 16 C.F.R.
7 part 1501.

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11 32. Samples of toys and articles collected from the defendants' import
12 shipments and retail facility are "toys and other articles intended for use by children
13 under 3 years of age," as defined under 16 C.F.R. § 1501.2. Thirteen toys and
14 articles failed to meet the small parts regulation, because portions of the toys and
15 articles separated and produced small parts when subjected to use and abuse tests.
16 Accordingly, the toys and articles are banned hazardous substances. The CPSC
17 sent the defendants LOAs dated November 18, 2011, September 11, 2012,
18 September 12, 2012, March 12, 2013, January 23, 2014, September 30, 2014,
19 October 31, 2014, and January 29, 2015 notifying them of these violations and
20 requesting corrective action.
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25 33. On these 13 occasions, the defendants introduced or caused the
26 introduction or delivery for introduction into interstate commerce of banned
27 hazardous substances, that is, toys or other articles intended for use by children
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1 under three years of age, which contained small parts, or received in interstate
2 commerce such toys or articles and delivered or proffered delivery thereof for pay or
3 otherwise, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).
4

5 Count 6

6 34. Under the FHSA, any children's product containing lead in excess of
7 the statutory limit is a banned hazardous substance. 15 U.S.C. § 1278a(a)(1). As
8 of August 14, 2011, children's products containing more than .001 percent, or 100
9 parts per million, lead were banned hazardous substances. 15 U.S.C. § 1278a(a)(2).
10
11

12 35. Samples of products collected from defendants' import shipments and
13 facility are "children's products," as defined under 15 U.S.C. § 2052(a)(2).
14

15 Thirteen children's products collected from defendants contained lead content in
16 excess of the statutory limit. Accordingly, the children's products are banned
17 hazardous substances. The CPSC sent the defendants LOAs dated January 17,
18 2012, February 15, 2012, December 10, 2012, February 7, 2013, March 7, 2013,
19 September 12, 2014, September 30, 2014, November 18, 2014, and December 9,
20 2014 notifying them of these violations and requesting corrective action.
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23 36. On these 13 occasions, the defendants introduced or caused the
24 introduction and delivery for introduction into interstate commerce of banned
25 hazardous substances, that is, children's products containing lead, or received in
26 interstate commerce such products, and delivered or proffered delivery thereof for
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1 pay or otherwise, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

2 Count 7

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4 37. Under the Labeling of Hazardous Art Materials Act (“LHAMA”), any
5 art material which has the potential to produce chronic adverse health effects and
6 does not meet the requirements of LHAMA is a misbranded hazardous substance.
7
8 15 U.S.C. §§ 1262(b), 1277(a) and (b).

9 38. LHAMA and regulations issued thereunder define a chronic adverse
10 health effect as “a persistent toxic effect(s) that develops over time from a single,
11 prolonged, or repeated exposure to a substance.” 16 C.F.R.
12 § 1500.14(b)(8)(i)(B)(3).

13
14 39. LHAMA and regulations issued thereunder define an art material as
15 “any raw or processed material, or manufactured product, marketed or represented
16 by the producer or repackager as intended for and suitable for . . . artists or crafts
17 people of any age who create, or recreate in a limited number, largely by hand,
18 works which may or may not have a practical use, but in which aesthetic
19 considerations are paramount.” 16 C.F.R. § 1500.14(b)(8)(i)(B)(1) and (2). A
20 producer includes the person or entity who manufactures, processes, or imports an
21 art material. 16 C.F.R. § 1500.14(b)(8)(i)(B)(7).

22
23 40. LHAMA requires that the importer of art materials submit the product
24 formulations to a toxicologist to have the product assessed for its potential to cause
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1 adverse chronic health effects before the product is entered into commerce. 16
2 C.F.R. § 1500.14(b)(8)(i)(C). Prior to the product entering commerce, the importer
3 must submit to CPSC staff the criteria used to determine whether the art materials
4 have the potential for producing chronic adverse health effects and a list of art
5 materials that require hazard warning labels under LHAMA. 16 C.F.R.
6 § 1500.14(b)(8)(ii)(C).
7
8

9 41. An art material must be accompanied by a statement of conformance to
10 ASTM D-4236. 16 C.F.R. § 1500.14(b)(8)(i)(C)(7).
11

12 42. A sample of a product collected from defendants' import shipments
13 constitutes "art materials" as defined under 16 C.F.R. § 1500.14(b)(8)(i)(B)(1) and
14 (2), and has the potential to produce chronic adverse health effects, as defined under
15 16 C.F.R. § 1500.14(b)(8)(i)(B)(3). The sample lacked a statement of conformance
16 to ASTM D-4236 and the defendants did not submit the required criteria or list of art
17 materials that require hazard warning labels to CPSC staff. Accordingly, the art
18 materials are misbranded hazardous substances. The CPSC sent defendants an
19 LOA dated February 10, 2014, notifying them of this violation and requesting
20 corrective action.
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24 43. On this occasion, defendants introduced or caused the introduction and
25 delivery for introduction into interstate commerce of misbranded hazardous
26 substances, that is, art materials, and received in interstate commerce such products,
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1 and delivered or proffered delivery thereof for pay or otherwise, thereby violating 15
2 U.S.C. §§ 1263(a), (c) and 2068(a)(1).

3
4 RELIEF REQUESTED

5 44. Based on the defendants' past and present courses of conduct, there is a
6 substantial likelihood that, unless restrained by order of this Court pursuant to 15
7 U.S.C. §§ 2071(a) and 1267(a), defendants will continue to violate the CPSA, the
8 FHSA, and other regulations issued thereunder.

9
10 WHEREFORE, the United States respectfully requests that this Court:

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12 45. Pursuant to 15 U.S.C. § 2071(a), permanently restrain and enjoin the
13 defendants and each and all of their directors, officers, agents, servants, brokers,
14 employees, successors, assigns, attorneys, and all persons or entities in active
15 concert or participation with any of them, from directly or indirectly selling, offering
16 for sale, distributing in commerce, or importing into the United States children's
17 toys and children's products which do not conform to the consumer product safety
18 statutes and regulations enforced by the CPSC, in violation of 15 U.S.C.

19 § 2068(a)(1); selling, offering for sale, manufacturing for sale, distributing in
20 commerce, or importing into the United States products that are banned hazardous
21 substances within the meaning of 15 U.S.C. § 1261(q)(1) of the FHSA, in violation
22 of 15 U.S.C. § 2068(a)(2)(D); and failing to issue certificates and failing to include
23 tracking labels required by 15 U.S.C. § 2063(a)(2), (3) and (5), in violation of 15
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1 U.S.C. § 2068(a)(6).

2 46. Pursuant to 15 U.S.C. § 1267(a), permanently restrain and enjoin the
3 defendants, and each and all of their directors, officers, agents, servants, brokers,
4 employees, successors, assigns, attorneys, and all persons or entities in active
5 concert or participation with any of them, from directly or indirectly introducing or
6 causing the introduction and delivery for introduction into interstate commerce of
7 misbranded hazardous substances or banned hazardous substances, and receiving or
8 causing the receipt in interstate commerce misbranded hazardous substances or
9 banned hazardous substances and delivering or proffering delivery thereof for pay or
10 otherwise, in violation of 15 U.S.C. §§ 1263(a), (c), 2068(a)(1), and (2)(D).

11 47. Pursuant to 15 U.S.C. §§ 2071(a) and 1267(a), award any further
12 injunctive relief that is requested and agreed upon by the parties, as the Court deems
13 necessary and proper.

14 48. Award plaintiff judgment for its costs and for such other and further
15 relief as it deems necessary and proper.

16 DATED: October 6, 2015

17 Respectfully submitted,

18 FOR PLAINTIFF
19 THE UNITED STATES OF AMERICA:

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21 Principal Deputy Assistant Attorney General
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