

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

In the Matter of

**CERTAIN ROBOTIC TOYS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-

**CONFIDENTIAL BUSINESS
INFORMATION CONTAINED IN
CONFIDENTIAL EXHIBITS 1, 2-
4, 6-9, and 18-20 TO COMPLAINT**

**INNOVATION FIRST INTERNATIONAL, INC.,
INNOVATION FIRST, INC. AND INNOVATION FIRST LABS, INC.'S
COMPLAINT UNDER SECTION 337 OF THE TARIFF ACT OF 1930**

Complainants:

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1	CONFIDENTIAL Information Regarding Domestic Industry
2	CONFIDENTIAL Innovation First Trade Secrets
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5	Photos of Zuru Robo Fish packaging
6	CONFIDENTIAL E-mail attaching design of Swimming Nano (Mar. 31, 2011)
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8	CONFIDENTIAL E-mail regarding RC Nano functions (Mar. 16, 2011)
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10	Document entitled "Departure Notice" issued by Innovation First (Aug. 25, 2011)
11	CUBE6 Confidentiality and Non-Disclosure Agreement (July 11, 2011)
12	Proxy Agreement between Lu and CUBE6 Ltd
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15	Declaration of Nick Mowbray (3:11-cv-02726 (N.D. Tex)) (Oct. 17, 2011)
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24	Photos of Zuru Robo Fish purchase receipts
25	Declaration of Penelope Gamer
26	Pictures from 2012 Dallas Toy Fair showing Zuru exhibit display

27	Temporary Restraining Order issued in the District Court of Dallas County, Texas (case no. DC-11-12860) (Oct. 17, 2011)
28	Updated docket from Innovation First v. Zuru (case no. DC-11-12860)

LIST OF PHYSICAL EXHIBITS

1	Zuru Robo Fish item number 895009
2	Zuru Robo Fish item number 887454

I. OVERVIEW

1. Complainants Innovation First International, Inc., Innovation First, Inc. and Innovation First Labs, Inc. (collectively, “Innovation First”), three U.S. based corporations, file this complaint pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), arising from the unlawful importation into the United States of certain robotic toys by the proposed Respondent that were manufactured as a result of a misappropriation of Innovation First’s trade secrets, and the sale within the United States after importation of certain robotic toys, made using Innovation First’s trade secrets.

2. Innovation First started out producing electronics for autonomous mobile ground robots. As that business has grown and evolved, Innovation First has become a leader in educational and competitive robotics products and a developer of consumer robotics toys—sold under the HEXBUG® brand. HEXBUG® micro robotic toys are sold in retail stores, such as RadioShack and Target, and are also sold via the Internet.

3. Since its inception in 1996, Innovation First has expended substantial time, money, and other resources in researching and developing the technologies that go into its HEXBUG® toys. For more than fifteen years, Innovation First has been a leader in researching, developing, designing, engineering, and commercially implementing these techniques to produce cutting-edge consumer robotic toys (the “Innovation First Technology”). These one of a kind robotic toys are popular for their operability and style, which have evolved over many years.

4. The Innovation First trade secrets are or relate to the new and proprietary Innovation First Technology that was and continues to be under development by Innovation First. For example, the latest generation of Innovation First Technology includes an innovative steering system for a small robotic toy and battery door seal that was developed for a robotic water toy. The Innovation First trade secrets also include the design of a specific robotic toy and

techniques for miniaturizing robotic toys. The design of a robotic fish, steering apparatus technology, techniques for creating a seal for a battery door of a water toy, and miniaturization know-how are collectively referred to as “Innovation First Trade Secrets.” The Innovation First Trade Secrets include technical information, schematics, designs, and know-how that were not known to Innovation First’s competitors or others in the toy or robotics industries.

5. Innovation First has been careful to safeguard these trade secrets. It has maintained the secrecy of many of its inventions and developmental breakthroughs, giving Innovation First an advantage over those competitors who do not know or use them. Although Innovation First has obtained patents for some of its technologies that are suited for patent protection, it has deliberately avoided disclosing other core technologies—including those used in the robotics at issue in this complaint. This strategy has been carefully crafted to protect Innovation First’s investment in its trade secrets.

6. Nonetheless, at least certain of the Innovation First Technology, namely the Innovation First Trade Secrets, have been and are being misappropriated by Zuru Inc. and its related entity, Zuru Ltd. (collectively, “Zuru”), which sell robotic fish products (known as “Robo Fish”) to CVS Pharmacy Inc. (“CVS”).¹ On information and belief, CVS and/or Zuru imports these products into the United States. CVS then sells these imported products in the United States. The importation of these robotic toy fish into the United States and CVS’s sale of these same robotic toy fish after importation form the basis of Innovation First’s unfair trade claim against CVS.

¹ The role of CVS Caremark, Inc. (“CVS Caremark”), the corporate parent of CVS Pharmacy, is unclear. In light of the unreviewed initial determination in In re Certain Vaginal Ring Birth Control Devices, Inv. No. 337-TA-768 (Order No. 7, May 9, 2011), Innovation First has not named CVS Caremark as a respondent in this complaint. Should discovery reveal that CVS Caremark is engaged in activities in violation of Section 337, Innovation First will move to add it as a respondent.

7. To accomplish the misappropriation of Innovation First Trade Secrets, Zuru deliberately engaged Xiaoping Lu (“Lu”), an engineer who formerly developed HEXBUG® technologies for Innovation First in China. Lu violated the terms of his separation agreement with Innovation First and provided Zuru with confidential trade secrets that Innovation First has zealously guarded over the years.

8. Zuru’s trade secret misappropriation enables CVS to target (and as a consequence, injure) Innovation First’s domestic industry relating to robotic toy products and its embryonic robotic toy fish industry.

9. Thus, Zuru produces a product that CVS imports, has imported, and sells in the United States. Zuru also has sold and is selling for importation into the United States robotic toys that are manufactured by Zuru or on its behalf in China that Zuru developed by, through, or with one or more of the misappropriated Innovation First Trade Secrets. CVS has sold and is selling within the United States after importation robotic toys that were manufactured by Zuru or on its behalf in China that Zuru developed by, through, or with one or more of the misappropriated Innovation First Trade Secrets.

II. INTRODUCTION

10. The proposed Respondent has violated and is violating Section 337 and, in particular, § 337(a)(1)(A) by engaging in unfair methods of competition and unfair acts in connection with the importation of articles into the United States, and/or the sale of articles within the United States after importation, the effect, threat, or tendency of which is to substantially injure or destroy an industry in the United States and/or to prevent the establishment of any such industry.

11. The articles at issue are robotic toy fish that CVS has imported into the United States of America and/or sold in the United States after those products were imported. These

robotic toys were manufactured in China by or on behalf of Zuru and have been offered for sale and sold in the United States.

12. Zuru has misappropriated multiple Innovation First Trade Secrets in its robotic toy fish, such as the proprietary and confidential design of the robotic fish, the miniature steering apparatus technology that is used to enable the fish to swim in the water, the technique for creating a seal for a battery door of the fish, which keeps the battery from getting wet (and thereby being rendered useless) when the toy is in water, and the miniaturization know-how used to create the small, robotic fish. The trade secrets at issue in this investigation were developed at Innovation First, are properly owned by Innovation First, and are currently used in Innovation First's business, for example, in connection with products being readied for production.

13. As required by § 337(a)(1)(A), the domestic industry is "an industry in the United States." As set forth in more detail herein, Innovation First has a domestic industry with respect to its robotic toys, as well as an embryonic domestic industry with respect to its robotic toy fish.²

14. Innovation First seeks an exclusion order, pursuant to § 337(d), excluding from entry into and sale within the United States: (a) all robotic toys imported, sold, offered for sale by CVS that were actually, threateningly, or inevitably developed, and/or manufactured by, through, or with one or more of the Innovation First Trade Secrets, and (b) all products to or of which any such robotic toy is attached, mounted, or a part.

² The Commission has held that relief under Section 337 is available to a complainant which is "about to commence production and for which Section 337 violations would have the effect or tendency of frustrating efforts to found a business. For convenience, the class of industries described in [this] category can be referred to as embryo industries, industries about to be born." In re Certain Electric Power Tools, Battery Cartridges, and Battery Chargers, Inv. No. 337-TA-284 (Unreviewed Initial Determination, June 2, 1989) (1989 WL 608746) at 10 (quoting Certain Ultra-Microtome Freezing Attachments, Inv. No. 337-TA-10).

15. Innovation First seeks a cease and desist order, pursuant to § 337(f), directing CVS to cease and desist from marketing and offering for sale within the United States, importing into the United States, and selling, advertising, promoting, shipping, distributing, warehousing, or otherwise transferring within the United States: (a) all robotic toys imported, sold, offered for sale by CVS that were actually, threateningly, or inevitably developed and/or manufactured by, through, or with one or more of the Innovation First Trade Secrets, and (b) all products to or of which any such toy robotic is attached, mounted, or a part.

III. COMPLAINANTS

16. Innovation First International, Inc. is a corporation organized and existing under the laws of the State of Texas, with its principal place of business at 1519 Interstate 30 West, Greenville, Texas 75402.

17. Innovation First, Inc. is a corporation organized and existing under the laws of the State of Texas, with its principal place of business at 1519 Interstate 30 West, Greenville, Texas 75402.

18. Innovation First Labs, Inc. is a corporation organized and existing under the laws of the State of Texas, with its principal place of business at 1519 Interstate 30 West, Greenville, Texas 75402.

19. Innovation First, Inc. owns the Innovation First Technology, including the Innovation First Trade Secrets. Innovation First Labs, Inc. sells toy robots manufactured by Innovation First Trading, Inc.

20. Innovation First International, Inc. is the corporate parent of a family of robotics and toy companies headquartered in Greenville, Texas, including Innovation First Labs, Inc. and Innovation First, Inc.

IV. PROPOSED RESPONDENT

21. On information and belief, the proposed Respondent CVS Pharmacy Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at One CVS Drive, Woonsocket, Rhode Island 02895.

22. Proposed Respondent CVS is a reseller of robotic toy fish manufactured by or for Zuru Inc., which is, on information and belief, a corporation organized and existing under the laws of the People's Republic of China, with its principal place of business at 1301 International Trade Centre, 8D, #3002 Renmin South Rd, Shenzhen, China. Zuru Inc. works in concert with one or more related entities, including Zuru Ltd., which is a Hong Kong company, to market and sell its robotic fish products to resellers in the United States, such as CVS.

V. COMPLAINANTS' BUSINESS

23. Innovation First is a market leader in the manufacture and production of toy robots and robotic products. Innovation First is headquartered out of Greenville, Texas, but has offices worldwide.

24. Innovation First International, Inc. through its subsidiary, VEX Robotics, Inc., designs and supplies control systems to the largest educational robotics competitions worldwide.

25. One of Innovation First's most popular product lines is the HEXBUG® line of toy bugs. Innovation First markets these toy bugs under the HEXBUG® brand name, for example, at www.hexbug.com. HEXBUG® is a registered trademark of Innovation First. Innovation First Labs, Inc. is the Innovation First subsidiary that is responsible for the manufacture and production of the HEXBUG® toy bugs.

26. There are various different types of HEXBUG® toy bugs, including toy inchworms, crabs, ants, and spiders. The HEXBUG® toys also include automated habitats for different toy bugs.

27. The HEXBUG® toy bugs are manufactured in China by manufacturers under contract to an Innovation First company, Innovation First Trading, Inc. Innovation First Trading, Inc. then either ships the toy products to retailers, or ships the toy products to Innovation First headquarters in Greenville, Texas. Innovation First Trading, Inc. is the importer of record for all international shipments. For the products shipped to the Innovation First headquarters in Greenville, Texas, related subsidiary Innovation First Labs ships the imported toy products to U.S. retailers or to U.S. customers who purchased the product from Innovation First's online store.

28. HEXBUG® toy bugs are sold through a variety of channels. HEXBUG® toy bugs are sold directly to customers online, through large domestic retailers such as Radio Shack, Toys "R" Us, Wal-Mart, and Target, through smaller specialty toy and gift stores, and through online retailers such as Amazon.

29. The HEXBUG® toy bugs are suitable for customers of all ages, although the target audience is children.

30. Information about Innovation First's domestic operations for the years 2011 and 2012 is attached as **Confidential Exhibit 1** hereto.

VI. TECHNOLOGY-AT-ISSUE

31. The technology-at-issue in this complaint includes the design of a miniature, robotic toy fish, Innovation First's innovative steering apparatus technology, Innovation First's proprietary techniques for creating a seal for a battery door of a water toy, and Innovation First's miniaturization know-how. Aspects of this technology or improvements thereto are found in or being developed for future use in Innovation First's HEXBUG® toys.

32. HEXBUG® toys are renowned for their innovative style and operation. In particular, HEXBUG® toys include sophisticated technology that operates and moves the

HEXBUG® toys. The bugs appear to respond to their environment intelligently, e.g., avoiding obstacles in a path, and flipping over if necessary. HEXBUG® toys also are known for their small size. Innovation First is able to make these innovative robotic toys small and affordable because it has invested in developing techniques and know-how aimed at miniaturizing robotic toys.

33. Innovation First invests significantly in research and development directed towards creating new products and next generations of existing products as well as maintaining existing products. As part of this effort, Innovation First developed an innovative steering apparatus and battery door seal considered for future generations of NANO HEXBUG® products. **Confidential Exhibit 2** describes these technologies. Despite their sophistication, the steering apparatus and battery door seal are inexpensive to implement and, therefore, appropriate for a reasonably-priced children's toy.

34. The steering apparatus and battery door seal technologies, like various other technological advancements that Innovation First has developed over time to improve its HEXBUG® toy offerings, are protected trade secrets that Innovation First has closely guarded.

35. The HEXBUG® toy model is scalable. Recently, Innovation First completed the design of a robotic fish product based on the HEXBUG® toy model. The robotic fish leverages some of the technology that Innovation First uses in its HEXBUG® toy bugs and incorporates an improvement over the steering apparatus trade secret and the battery door seal trade secret.

36. The Innovation First toy fish under development is a battery-powered fish that swims automatically and intelligently in the water. Innovation First plans to market its toy fish to children of all ages.

37. Innovation First expects to launch the HEXBUG® toy fish in the near future.

Details about this planned launch appear in **Confidential Exhibit 1**.

VII. INTELLECTUAL PROPERTY-AT-ISSUE

38. The Innovation First Trade Secrets at issue in this complaint include Innovation First's innovative steering apparatus technology, techniques for creating a seal for a battery door of a water toy, and miniaturization know-how. **Confidential Exhibit 2** describes this technology.

39. The Innovation First Trade Secrets also include the design of a robotic toy fish, including the design of its electrical circuitry, that Lu developed on company time and using Innovation First's resources, employees, and facilities. **Confidential Exhibit 2** describes this design.

40. Innovation First takes significant steps to ensure that its trade secrets are maintained confidential. For example, as a business practice, Innovation First has required and requires all new employees to sign master employment agreements that obligate, among other things, the employees to keep Innovation First's proprietary information, including its inventions, technology, and know-how, strictly confidential. Following a reorganization, Innovation First also required its employees to re-execute employment agreements with the appropriate Innovation First company. In addition, Innovation First audits its records to ensure that its files include these signed employment agreements for its employees. A copy of a master employment agreement is attached as **Confidential Exhibit 3**. Chinese employees are required to sign a different employment agreement, attached as **Confidential Exhibit 4**. Innovation First also has security at its facilities and regulates access to sensitive areas.

VIII. PRODUCTS-AT-ISSUE

41. The Innovation First Trade Secrets have been usurped by Zuru's robotic toy fish, called the Zuru "Robo Fish" (formerly known as the Zuru "Aqua Pet"). The Robo Fish and Aqua Pet are electronic robotic toy fish that automatically move in the water. Zuru markets the Robo Fish as toys for children of all ages, and focuses its advertising on the ability of the robotic toy fish to move autonomously.

42. The Robo Fish products were manufactured by or for Zuru without the authority or consent of Innovation First, and use one or more of the Innovation First Trade Secrets. Thus, without authority or consent, Zuru Robo Fish actually, threateningly, and inevitably incorporate and are incorporating one or more of the Innovation First Trade Secrets, including the steering apparatus and battery door seal technologies that enable the Robo Fish to swim in water.

Exhibit 5 contains photographs of various Robo Fish and packaging. **Physical Exhibits 1 and 2** are samples of Robo Fish.

43. CVS has sold, imported, is importing, and is selling the Zuru Robo Fish within the United States after importation.

44. The Aqua Pet was similar to the Robo Fish, but was packaged differently.

Exhibit 3 contains photographs of various Aqua Fish and packaging.

IX. MISAPPROPRIATION OF INNOVATION FIRST'S TRADE SECRETS AND/OR CONFIDENTIAL PROPRIETARY INFORMATION

45. Zuru's theft of the Innovation First Trade Secrets is a coordinated effort involving a former Innovation First employee, Xiaoping Lu, who learned of the Innovation First Trade Secrets while employed at Innovation First and then provided those trade secrets to Zuru so that Zuru could manufacture its own robotic fish without investing the resources that Innovation First did to develop the necessary technology.

A. The Acts of Misappropriation by Zuru

46. Lu is an engineer who, until recently, was part of a team working to develop next-generation HEXBUG® technologies for Innovation First in China, at Innovation First subsidiary, Innovation First International China.

47. Before becoming an Innovation First employee, Lu had no knowledge of the Innovation First Trade Secrets, including the steering apparatus technology, the battery door seal technology, the Innovation First miniaturization know-how, or any of the technologies that Lu used in the fish prototype.

48. Lu began working at Innovation First in November 2009. During his time with Innovation First, Innovation First released various HEXBUG® toys, and Lu was involved and familiar with substantially all of them.

49. In his position at Innovation First, Lu was privy to confidential and proprietary information regarding Innovation First's miniaturization know-how and new technologies that were under development for Innovation First, including technical information, schematics, and designs that were not known to Innovation First competitors or others in the toy or robotics industries. Specifically, Lu's team was working to develop a future generation HEXBUG® water toy (sometimes called the "swimming NANO") with a battery door seal that kept the battery compartment dry when the toy was in water. (See Confidential Exs. 6 and 7.) He also worked on a miniature steering apparatus with few mechanical parts under consideration for use in a future generation of the NANO HEXBUG® toy (sometimes called the "RC NANO"). (See Confidential Exs. 8 and 9.)

50. While working on these projects, Lu used Innovation First's resources, including other Innovation First employees, to develop a miniature toy fish product. Lu and other Innovation First employees, who Lu tasked to help him, created computer-aided design ("CAD")

files, schematics, including electrical circuit designs, and eventually a toy fish prototype. This toy fish design and prototype were developed using Innovation First's miniaturization know-how and incorporated the steering apparatus and battery door seal technologies that Innovation First developed in connection with future generations of the NANO HEXBUG® product.

51. On August 25, 2011, Lu resigned from Innovation First to pursue other personal opportunities.

52. Just prior to his August 25, 2011 resignation, Lu signed a document entitled "Departure Notice," a copy of which is attached hereto as **Exhibit 10**. Among other things, Lu reaffirmed in the Departure Notice that he would not use or disclose the confidential or proprietary information of Innovation First:

I will not disclose to any party the confidential and proprietary information of the COMPANY. The confidential and proprietary information includes but is not limited to: the cost, process, research, experiments, inventions, discoveries, developments, improvements, ideas, industrial secrets and "know-how" related to the COMPANY's business, services and products, including product designs, drawings, production modes, prototypes, manufacture processes, materials and technologies, the computer process, technical data and so on, and all related intellectual property.

(**Ex. 10**, Departure Notice at 1.)

53. Lu further stated:

Even after the termination of my labor contract with the COMPANY, I agree to undertake the obligations not to utilize or disclose any confidential and proprietary information of the COMPANY to any other party. I also will not develop any products that utilize the vibration technology found in the COMPANY's Nano product lines.

(Id. at 1.)

54. Lu also promised not to take any work product, including schematics and drawings:

I acknowledges that all files, sketches, drawings, designs, product equipment, office tools, instruments, in any and all media or form, and any and all other

documents or materials containing, comprising or otherwise related to, Proprietary information, whether in draft or final form, furnished to EMPLOYEE by any representative of the COMPANY or otherwise acquired, developed or accessed by EMPLOYEE in connection with my association with the COMPANY (collectively, “Recipient Materials”) shall at all times be the property of the COMPANY. Immediately upon this termination of my employment with the COMPANY, EMPLOYEE will return to the COMPANY any Recipient Materials which are in my possession, custody or control. Additionally, EMPLOYEE shall permit the COMPANY to review and, if necessary, copy and/or purge any files containing any Proprietary Information on any computer or technological device maintained or used by EMPLOYEE during my association with the COMPANY. The EMPLOYEE may not make, keep or otherwise retain a copy of any Recipient Materials or give a copy to a third party.

(Id. at 2.)

55. Shortly after Lu resigned from Innovation First, he began, and currently is, working with Zuru, where he has been and is responsible for the design of Zuru’s robotic fish products.

56. Notwithstanding his promises in the Departure Notice, Lu misappropriated from Innovation First the robotic fish design, the steering apparatus and battery door seal technologies being developed for the HEXBUG® toys, and Innovation First’s miniaturization know-how. Upon information and belief, Lu shared the steering apparatus and battery door seal technologies, the robotic fish design, and Innovation First’s miniaturization know-how, including Innovation First Trade Secrets, with Zuru for use in Zuru’s robotic toy fish (which has ultimately become the “Aqua Pet” and “Robo Fish”).

57. Innovation First never authorized or approved of the sharing of the robotic fish design (including the steering apparatus and battery door seal technologies) with Zuru.

B. Lu Planned His Theft of Innovation First Trade Secrets Prior to His Departure

58. After Lu’s departure, Innovation First learned that Lu had begun marketing the robotic toy fish to companies like Zuru while he was still working for Innovation First.

59. Innovation First learned that Lu entered into a non-disclosure agreement with CUBE6 Ltd. on July 11, 2011 (“CUBE6 NDA”), a copy of which is attached hereto as **Exhibit 11**.

60. In the CUBE6 NDA, Lu agreed, while he was working for Innovation First, to provide CUBE6 with information concerning robotic fish design:

The purpose of [Lu’s] disclosures hereunder is to help [CUBE6] in the design, development, testing and sales of robotic fish concept for [Lu]. [Lu] agrees to disclose to [CUBE6] such of [Lu] Confidential Information as [Lu] deems necessary for such purpose.

(CUBE6 NDA, at ¶2.)

61. That same day, Lu authorized CUBE6 to serve as a “broker” between Lu and Spin Master Ltd., a potential licensee of the robotic fish technology that Lu had stolen from Innovation First. (**Ex. 12**, Proxy Agreement between Lu and CUBE6 Ltd.)

62. Ten days later, CUBE6 entered into a non-disclosure agreement with Spin Master Ltd. (“Spin Master NDA”) regarding the same robotic fish technology:

WHEREAS Inventor owns certain confidential information, including but not limited to designs and prototypes, relating to a product concept describes as robotic fish, IR controller Fish has a very realistic movement while swimming in water.

(**Ex. 13**, Spin Master NDA, at 1.)

63. In that same time period, Lu continued marketing the Innovation First robotic fish technology to other companies, including Ringtoys Ltd. On July 15, 2011, Lu entered into a Reciprocal Non-disclosure Agreement with Ringtoys Ltd. (“Ringtoys NDA”). (See **Ex. 14**, Ringtoys NDA.)

64. In the Ringtoys NDA, Lu professed to be the inventor of the Innovation First robotic fish technology:

THIS AGREEMENT is made on the of July 15, 2011 BETWEEN Xiaoping_Lu, the inventor of the mini robot fish . . . [and] Ringtoys Limited.”

(Id. at 1.)

65. While Lu was working for Innovation First, he and Ringtoys, Ltd. entered into an agreement to allow disclosure of confidential information while “negotiating and concluding a possible business relationship.” (Id. at 1.)

66. This entity, Ringtoys Ltd., is the same entity with whom Zuru would later contract to produce the Aqua Pet, after the 2011 Toy Fair. (**Ex. 15**, Declaration of Nick Mowbray, at ¶ 10.)

67. At the time when Lu was agreeing to provide CUBE6 and Ringtoys with confidential information regarding the technology behind a robotic toy fish, he was employed by Innovation First. Innovation First did not authorize or approve Lu’s activities.

C. Lu and Zuru Tried To Shield Themselves From Liability Using the Fraudulently Obtained “Letter of Certification”

68. In an apparent attempt to disguise his misdeeds, prior to leaving, Lu misled Innovation First into signing a “Letter of Certification” that states that Lu’s fish project was “not part of [Innovation First’s] product line.” (See Ex. 16, Letter of Certification.)

69. This letter does not shield Lu and Zuru from liability. The letter—signed the same day that Lu affirmatively committed to keeping Innovation First’s confidential information secret, even after he left Innovation First—states only that Lu’s fish project was “not part of [Innovation First’s] product line.” It does not include any carve out to the confidentiality obligations existing between Lu and Innovation First. Nor does it mention anything about the ownership of trade secrets used in the robotic toy fish project (or any other project Lu worked on using Innovation First resources). (See id.)

70. In addition, the Letter of Certification was fraudulently obtained because Lu misled Innovation First with regards to the robotic fish technology that is allegedly referenced by the letter. Lu did not disclose to Innovation First that the pictured robotic fish project was the same project that Lu developed using Innovation First resources, or that the pictured fish included Innovation First Trade Secrets. Lu did not disclose to Innovation First the specific implementation details, and did not include any schematics of the robotic fish (even though such schematics existed, as Innovation First would later learn).

71. Lu also did not disclose his intentions in obtaining the letter. More specifically, Lu did not disclose that he was already actively marketing the robotic toy fish technology to Zuru, or that he had entered into an NDA with at least two other entities (CUBE6 and Ringtoys) regarding the Innovation First robotic toy fish design.

72. Lu was also negotiating with Zuru while he was employed by Innovation First. Zuru Marketing Director Nick Mowbray states that the Letter of Certification, which Lu obtained while employed at Innovation First, was at Zuru's behest:

[W]e knew this when we licensed the technology and just to be very safe we asked that the inventor have the founder and CEO of Innovation First sign a letter stating the technology was nothing to do with them and was not their property.

(Ex. 17, E-mail from Nick Mowbray to Kevin Clark (Oct. 10, 2011).) Notably, the Letter of Certification does not say that the pictured robotic fish was not Innovation First's property.

73. Mr. Mowbray confirmed in a declaration that Zuru and Lu were in negotiations over the Innovation First robotic fish technology while Lu worked for Innovation First. In his declaration, Mowbray stated that Zuru insisted that Lu obtain the Letter of Certification before joining Zuru:

Zuru Ltd. entered into a License of Technology with Xiaoping Lu and Ringmax

Ltd. concerning the Robotic Fish on August 26, 2011. Zuru Ltd. was not willing to enter into any such agreement with Xiaoping Lu unless and until he could provide proof that the fish product he developed was not being claimed by his former employer, the plaintiff here, Innovation First International (“IFI”). Xiaoping Lu assured us that IFI played no role in developing the fish technology and that IFI had been offered the opportunity use and/or license the technology but had declined. Xiaoping Lu also provided us with the attached Letter of Certification where IFI’s President and CEO confirms that Xiaoping Lu developed the fish and that it was not part of IFI’s product line. Only after receipt of that certification did we enter into an agreement with Xiaoping Lu.

(**Ex. 15**, Declaration of Nick Mowbray, at ¶ 15.)

D. Analysis of Lu’s Files Confirms Zuru’s Misappropriation

74. After Lu left Innovation First, Innovation First discovered CAD and other files left by Lu on Innovation First computer systems, showing that Lu had incorporated the HEXBUG® miniature steering apparatus and battery door seal technologies into a miniature, swimming fish-like toy that Lu developed using Innovation First equipment and resources.

75. Lu did not disclose these CAD files to Innovation First before obtaining his “Letter of Certification.” Examples of the CAD files left on Lu’s computer are attached as **Confidential Exhibit 18**, and an example graphic design file is attached as **Confidential Exhibit 19**.

76. A close inspection of Zuru’s robotic toy fish products and a comparison to the CAD files that Lu left at Innovation First reveals that the Aqua Pet and Robo Fish products are the same as the robotic toy fish Lu developed while working for Innovation First. (See, e.g., **Confidential Ex. 20; Confidential Exs. 18, 19.**)

77. Thus, Lu shared Innovation First’s robotic toy fish design with Zuru, notwithstanding his having acknowledged in his Departure Notice that this sort of information was the confidential property of Innovation First and not to be disclosed “to any other party.” (See Ex. 10, Departure Notice, at 1.)

78. Innovation First has not authorized or licensed Zuru or Lu to offer a product containing, incorporating, or derived from the Innovation First Trade Secrets or other confidential, proprietary information.

E. Zuru Attempts To Capitalize on the Misappropriated Trade Secrets

79. Zuru has aggressively marketed its Robo Fish and Aqua Pet products at toy fairs around the country.

80. On October 5, 2011, Innovation First learned, while attending the Fall Toy Preview (the “2011 Toy Fair”) presented by the Toy Industry Association at the Dallas Market Center/World Trade Center, that Zuru was marketing a robotic toy fish product called “Aqua Pet” to buyers at the Toy Fair.

81. Zuru was representing to those buyers at the 2011 Toy Fair that the Aqua Pet product was designed and developed by the same individuals who designed and developed Innovation First’s HEXBUG® toys.

82. Zuru was marketing the Aqua Pet product in packaging similar to that used by Innovation First for the HEXBUG® toys and suggested to buyers that they display the Aqua Pet product in close proximity to the HEXBUG® toys in their stores.

83. One year later, in October 2012, Zuru attended the Fall Toy Preview (the “2012 Toy Fair”) presented by the Toy Industry Association at the Dallas Market Center/World Trade Center, where it marketed a similar toy robotic fish product called “Robo Fish” to buyers at the Toy Fair.

84. A copy of the Zuru Aqua Pet and Robo Fish packaging design is attached hereto as **Exhibits 5 and 21**.

F. CVS Has Sold and Continues To Sell the Zuru Robo Fish

85. CVS has sold and is selling the Zuru Robo Fish in the United States, after importation despite knowing that Zuru wrongfully acquired Innovation First Trade Secrets and incorporated them into the Robo Fish. (See **Ex. 22**, Letter from Vince Mouer, Esq. to CVS (June 29, 2012) (“CVS Letter”).) In fact, one selling point of the Zuru Robo Fish to customers—like CVS—is that the Robo Fish products are developed by the same individuals who designed and developed the Innovation First HEXBUG® toys.

86. Innovation First has not authorized CVS to sell the Robo Fish.

X. IMPORTATION INTO, SALE FOR IMPORTATION INTO, AND SALE AFTER IMPORTATION WITHIN THE UNITED STATES

87. As discussed more fully in Section IX above, CVS sells within the United States the Zuru Robo Fish that it has imported from China. Information downloaded from the PIERS database indicates that CVS imports Robo Fish products into the United States. (**Ex. 23**.) In addition, CVS sells Robo Fish products in the United States after they have been imported. Several Robo Fish were purchased at CVS stores across Texas in December of 2012. (See **Exs. 5, 24; Ex. 25**, Declaration of Ms. Gamer.) Further, the Zuru Robo Fish use the Innovation First Trade Secrets and/or were developed with misappropriated time, labor, and know-how of Innovation First. (See supra Section IX; **Confidential Ex. 20**.) Other instances of importation occurred in connection with Zuru’s sales efforts at toy fairs as described herein.

A. Zuru Showcases Its Robotic Toy Fish at the Dallas Toy Fair in 2011 and 2012

88. Innovation First initially learned of Zuru’s robotic toy fish at the 2011 Toy Fair. At that time, Zuru was marketing its toy product under the name Aqua Pet. The 2011 Toy Fair was well attended by toy retailers; analysts estimate that more than half of the world’s top 25 toy sellers and 515 buyers from more than 300 individual outlets were registered for the annual

event. In addition to the proposed Respondent, some of the other notable attendees were domestic retailers such as Big Lots, Costco, JCPenney, Meijer, QVC, Sears Holdings Corp., Target, Toys “R” Us, Walgreens, and Walmart.com.

89. Zuru marketed its Aqua Pet toy to various toy resellers at that 2011 Toy Fair.

90. Zuru claimed that it received favorable interest from the majority of resellers that evaluated the Aqua Pet at the 2011 Toy Fair:

At this year’s Dallas Preview Toy Show held from October 4, 2011 through October 6, 2011, of our 36 appointments with national and chain retailers, 35 showed serious and favorable interest in the Aqua Pet.

(Ex. 15, Declaration of Nick Mowbray, at ¶ 5.)

91. A year later, Zuru attended the 2012 Toy Fair. The 2012 Toy Fair was even better attended than the 2011 Toy Fair. Analysts estimated that more than 700 buyers from around the world attended the 2012 Toy Fair, and that a record-breaking 348 companies exhibited their toy products at the event.

92. Zuru marketed its Robo Fish toy to various toy resellers at the 2012 Toy Fair.

(Ex. 26, Pictures from 2012 Toy Fair.)

B. Zuru Projects Significant Sales for the Robo Fish

93. Emboldened by its success at the 2011 and 2012 Toy Fairs, and the follow-up response from customers after the Toy Fairs, Zuru projected significant revenue from its Aqua Pet and Robo Fish products.

94. For example, Zuru Marketing Director Nick Mowbray claims that after the 2011 Toy Fair, Zuru was in negotiations with Walgreens regarding the Aqua Pet. Mr. Mowbray states:

I was in negotiations with Walgreens regarding a verbal commitment for the Aqua Pet. Walgreens has expressed interest in ordering at least 60 units of the Aqua Pet

for each of its more than 6,900 stores. Our anticipated profit on the robotic fish exceeds \$2.00 per unit.

(Ex. 15, Declaration of Nick Mowbray, at ¶¶ 6-7.)

95. He further states that the initial order would result in \$800,000 profit for Zuru:

Assuming a \$2.00 per unit profit, the initial Walgreens' order alone would result in approximately \$828,000 in profit for Zuru, Inc.

(Id. at ¶ 8.)

96. He further states that Zuru estimates at least \$3 million in profit based on Zuru's conversations with retailers at the 2011 Toy Fair:

Based upon the anticipated orders of Walgreens and the other 34 retailers with serious interest in the Aqua Pet, our anticipated profit is at least \$3,000,000.

(Id. at ¶ 9.)

97. To prepare for this increased demand, Mr. Mowbray states that Zuru engaged Ring Toys, Ltd. to produce two million units in February 2012:

Based upon the reaction at the Dallas Preview Toy Show, we anticipate opening orders of a minimum 1,500,000 of the Aqua Pet at our initial sale into retail. Accordingly, we have made preparations with Ring Toys, Ltd., a manufacturing company, to be ready to produce a minimum of 2,000,000 units commencing from early February 2012.

(Id. at ¶ 10.)

98. Mr. Mowbray projects that in addition to the initial 1.5 million units that Zuru had allocated for its initial sale, it projected to sell another two to six million units, generating as much as \$12 million dollars profit:

After the initial retail set, I would expect a further two to six million units of the Aqua Pet to be sold during 2012 based upon demand within the toy industry. Based upon these anticipated orders a further profit between \$4,000,000 and \$12,000,000 is expected. We had also budgeted 1.50 USD per piece to be spent on National T.V advertising to push sales and help build our brand

(Id. at ¶ 11.)

99. All in all, Mr. Mowbray was very optimistic about the future for the Zuru Robo Fish in the United States:

These future profit projections are based on standard practice in the toy industry. Further, the Aqua Pet shows large potential in the pet, outdoor and educational sectors of the toy industry, all of which are anticipated to create large profits for Zuru, Inc. in 2012.

(Id. at ¶ 12.)

C. CVS Begins Selling the Robo Fish

100. Proposed Respondent CVS began carrying the Zuru Robo Fish product at least as early as the August/September 2012 time frame.

101. As soon as Innovation First learned that several large retailers might be considering buying the Zuru Robo Fish product, Innovation First wrote to all of its significant current or past customers, warning them of Zuru's misappropriation.

102. In response to market intelligence, Innovation First General Counsel Vince Mouer promptly notified CVS that Zuru misappropriated Innovation First's trade secrets to create the Robo Fish:

We believe that Zuru, working in concert with a former Innovation First engineer in China, misappropriated proprietary technology developed at IFI by the engineer and members of the R&D team he led. The fish product includes know-how and other IFI intellectual property.

(See Ex. 22, CVS Letter.)

103. Mr. Mouer further states:

We fear that Zuru, consistent with its efforts to avoid the jurisdiction of US courts, will try to induce CVS to import the products from China. In this fashion, Zuru would further its attempts to avoid [] jurisdiction but would subject unwitting retailers like CVS to liability for aiding and abetting Zuru's theft of intellectual property.

(Id.)

104. Mr. Mouer further states:

We do not relish the possibility of suing a valued retail partner, but our principled beliefs in the merits of our cause are such that we would have little choice. We spend substantial time and resources developing innovative and successful products, and we know that, as a fundamental business principle, we must protect our innovations. We wrote this letter to alert CVS to the legal risk of importing or distributing Zuru's fish product but also to make a larger point about our relationship.

(Id.)

105. Although several retailers responded to Innovation First's notice letter, and engaged in conversation with Innovation First regarding the Zuru Robo Fish, CVS did not.

106. In spite of the warnings from Innovation First, CVS sells and continues to sell Zuru's Robo Fish.

107. By pushing through sales of Zuru's Robo Fish, in spite of Innovation First's notice of Zuru's misappropriation, proposed Respondent CVS was able to beat Innovation First's robotic toy fish product to the market.

108. Given the novelty of the robotic toy fish market, being the first to market with the Robo Fish sets the stage for Zuru and proposed Respondent CVS to capture significant market share and is reasonably likely to lead to an increase in the amount of these Robo Fish being imported into the United States.

D. Summary of Unfair Acts of Importation

109. On information and belief, the Harmonized Tariff Schedule of the United States item number for the Zuru Robo Fish is 9503.00.0090.

110. Proposed Respondent CVS has unfairly competed and continues to compete unfairly with Innovation First and Innovation First's resellers by CVS's knowing sale of robotic toy fish products manufactured by or on behalf of Zuru using misappropriated Innovation First

Trade Secrets. Zuru projects fast growth in this market, which will inevitably lead to a larger volume of imports.

111. Proposed Respondent CVS is and will continue such misappropriation by importing and/or selling after importation robotic toy fish that misappropriate Innovation First Trade Secrets.

112. Unless prevented, proposed Respondent CVS will continue importing and/or selling after import those robotic toy fish in the United States in 2013 on an even larger commercial scale directly in competition with Innovation First's domestic products, including Innovation First's robotic toy fish that is scheduled to enter the market soon, and is likely to capture a substantial portion of the market share that rightfully belongs to Innovation First by virtue of its extensive domestic innovation, manufacturing, distribution, and sales, based on the creativity and high quality of its robotic toys, including those incorporating and/or based on Innovation First Trade Secrets.

XI. RELATED LITIGATION

113. On October 6, 2011, Innovation First filed suit against Zuru in the District Court of Dallas County, Texas, Innovation First International, Inc. v. Zuru, Inc., Cause No. DC-11-12860, asserting trade secret misappropriation, aiding and abetting breach of fiduciary duty, and trade secret misappropriation. Innovation First sought and received a temporary restraining order ("TRO") against Zuru, which enjoined Zuru and its employees from, inter alia, "manufacturing, importing, advertising, marketing, promoting, supplying, distributing, offering for sale or selling the Aqua Pet toy" and "using, disclosing or transferring any information, knowledge or data of Innovation First that [Xiaoping] Lu received, developed or had access to during the course of his employment or association with Innovation First, relating to Innovation First's trade secrets." (See **Ex. 27**, TRO; **Ex. 28**, Case docket for Cause No. DC-11-12860.)

114. On October 14, 2011, Zuru sought removal of this action from state court to federal court to the U.S. District Court for the Northern District of Texas, Dallas Division, Civil Action No. 3:11-CV-2726-B.

115. On October 17, 2011, both parties made separate filings to the district court. Specifically, Innovation First filed an Emergency Motion to Extend Temporary Restraining Order and to Scheduling Preliminary Injunction Hearing, upon which the court never ruled. Zuru filed a combined Motion to Dismiss pursuant to 12(b)(2), 12(b)(6), and 12(b)(5) and Motion to Dissolve the TRO Entered by the State Court.

116. In addition to the above filing, two days later on October 19, 2011, Zuru filed a Motion to Dismiss for Forum Non Conveniens.

117. On April 10, 2012, the district court denied Zuru's Motion to Dismiss, which was based on a lack of personal jurisdiction. However, the district court granted Zuru's Motion to Dismiss for Forum Non Conveniens in part because the controversy allegedly arose in China and the trade secrets were allegedly misappropriated in China. The court also dissolved the TRO.

118. Innovation First appealed the district court's decision to the United States Court of Appeals for the Fifth Circuit on May 10, 2012, Innovation First International, Inc. v. Zuru, Inc., No. 12-10511. The appeal is fully briefed, but the court of appeals has not yet issued its opinion.

XII. DOMESTIC INDUSTRY

119. A domestic industry exists relating to articles incorporating each of the Innovation First Trade Secrets and/or that will compete with the robotic toy fish products manufactured by or on behalf of Zuru and which CVS imports and/or sells after importation.

120. Innovation First conducts significant domestic industry activities in the United States. These activities include Innovation First's investment in plant and equipment, labor and capital, manufacturing, distribution, and research and development. (See Confidential Ex. 1.)

121. Innovation First has made and continues to make significant investment in plant facilities and equipment in the United States dedicated to the research, development, design, manufacturing, and distribution for products directed to the robotic toy industry. The plant facilities and equipment used in connection with these activities are located in Greenville, Texas. A portion of Innovation First's investment in plant and equipment is set forth in **Confidential Exhibit 1**.

122. Innovation First has employed and continues to employ a number of employees in the above-mentioned facilities that devote substantial man-hours towards research, development, design, manufacturing, and distribution for products directed to the robotic toy industry. **Confidential Exhibit 1** describes this labor investment.

123. Innovation First has invested and continues to invest significant capital in its facilities towards research, development, design, manufacturing, and distribution for products directed to the robotic toy industry. **Confidential Exhibit 1** describes the capital Innovation First has expended towards these activities.

124. Innovation First is also taking the necessary tangible steps to commence production of a product utilizing the Innovation First Trade Secrets and/or improvements thereon in a robotic toy fish, which is the subject of Innovation First's embryonic toy fish industry. **Confidential Exhibit 1** describes these steps.

XIII. SUBSTANTIAL INJURY, THREAT OF SUBSTANTIAL INJURY, AND TENDENCY TO SUBSTANTIALLY INJURE

125. As set forth in more detail herein, the proposed Respondent's past and continuing sale of articles incorporating the misappropriated Innovation First Trade Secrets has caused and threatens to cause substantial injury to Innovation First's overall robotic toy industry as well as its embryonic toy fish industry at least as follows: (a) price erosion; (b) reduction in sales; (c) reduction in revenue; and (d) lost market position.

126. In addition to the actual and threatened injury to Innovation First's robotic toy industry and embryonic robotic toy fish industry, the proposed Respondent's sale of articles incorporating the misappropriated Innovation First Trade Secrets have had and will continue to have the threat or effect of preventing the establishment of Innovation First's industry in robotic toy fish.

A. Proposed Respondent's Unfair Acts Have Had the Threat or Effect of Substantially Injuring Innovation First's Robotic Toy Industry as Well as Its Embryonic Robotic Toy Fish Industry

1. Price Erosion

127. The robotic toys sold by the proposed Respondent incorporates the misappropriated Innovation First Trade Secrets.

128. On information and belief, because the manufacturer of proposed Respondent's robotic toys does not have to recoup the significant investment costs associated with the development of the misappropriated Innovation First Trade Secrets, it is able to sell its robotic toys to the proposed Respondent at a relatively low wholesale price.

129. On information and belief, the proposed Respondent is, in turn, able to sell its robotic toys incorporating the Innovation First Trade Secrets at a relatively low retail price.

130. The relatively low retail price at which the proposed Respondent is selling its robotic toy fish will erode the price at which Innovation First's products will be sold, thus threatening real and substantial injury to Innovation First's robotic toy industry and its embryonic industry in robotic toy fish.

2. Reduction in Sales

131. Robotic toys incorporating Innovation First's misappropriated trade secrets are fad novelty items, intended for the amusement of the user. The status of the imported robotic toy fish as a fad novelty item is highlighted by the fact that they were featured as one of this year's "New Holiday Toys" on the December 21, 2012 broadcast of Late Show with David Letterman.³

132. Indeed, the unique manner in which the toy fish move through the water is due to its incorporation of Innovation First's innovative steering apparatus and battery door seal technologies, the details of which are Innovation First's trade secrets. Thus, the fad status of the proposed Respondent's robotic toy fish is a direct result of the misappropriation of the Innovation First Trade Secrets.

133. Generally speaking, when fad novelty items are first introduced to the marketplace, the sales volume spikes early, slowly declines somewhat, and then flattens as the fad wears off over time.

134. A significant portion of sales during the early part of a fad novelty item's commercial life do not repeat themselves as consumers decide to not buy additional or replacement items whose fad has run its course.

135. By selling robotic fish toys that incorporate the Innovation First Trade Secrets, the proposed Respondent has been able to enter the market for such toys at a time earlier than that at

³ http://www.cbs.com/shows/late_show/video/9A7C6F03-5832-58DC-26F7-B6F8DFD49EC2/the-late-show-12-19-2012 starting at 9:40.

which it would have been able had the products been developed without the Innovation First Trade Secrets.

136. Because of its unfair early entry into the market, the proposed Respondent is depriving Innovation First of the sales early in the commercial life cycle of robotic toy fish that incorporate the Innovation First Trade Secrets—sales that, to a significant degree, will probably not be repeated. Thus, the threat or effect of these sales by the proposed Respondent is to substantially injure Innovation First's robotic toy industry, as well as its embryonic industry in robotic toy fish.

3. Lost Revenue

137. As described elsewhere herein, robotic toy fish incorporating the Innovation First Trade Secrets are a fad novelty item.

138. The market for fad novelty toys is such that there is a relatively very high volume of sales early in the commercial life of such a toy. Also during this time, the average purchase price of such a toy is usually at its highest due to forces of supply and demand.

139. The early commercial life of a fad novelty toy is, therefore, the period during which the developer of the toy often expects to realize a significant amount of revenue through the sales of the toy.

140. The sales of robotic toy fish containing the Innovation First Trade Secrets by the proposed Respondent are occurring during the early part of the toys' commercial life. By depriving Innovation First of the ability to make sales during this portion of the product's commercial life, the proposed Respondent is denying Innovation First the revenue that results from sales during this critical period. This lost revenue has caused and threatens to continue to

cause substantial injury to Innovation First's domestic industry in robotic toys as well as its embryonic industry in robotic toy fish.

4. Lost Market Position

141. Because robotic toy fish are a fad novelty item, the first seller to enter the market enjoys a considerable competitive advantage in securing the available market share.

142. Retailers typically do not wish to carry multiple brands of fad novelty items such as robotic toy fish because the market demand does not warrant it. Thus, the first seller to enter the market for a fad novelty item is able to establish a sales channel with retailers that later entrants are typically unable to utilize.

143. Through its unauthorized use of the Innovation First Trade Secrets, the robotic toy fish sold by the proposed Respondent has usurped Innovation First's rightful place as the first company to market this particular fad novelty item.

144. This loss of market position has caused and threatens to continue to cause substantial injury to Innovation First's robotic toy industry as well as its embryonic industry in robotic toy fish.

B. In the Alternative, Proposed Respondent's Unfair Acts Threaten To Prevent the Establishment of Innovation First's Embryonic Industry in Robotic Toy Fish

145. For a fad novelty item, being first to the market is often of critical importance to the commercial success of the enterprise selling the item. This position best enables the enterprise to recoup the investment in labor and capital it made to design and manufacture the product.

146. If a company that has created a fad novelty item loses its opportunity to be the first to market the item, it is frequently the case that it will be unable to recoup its investment.

147. In addition to its industry devoted to the design, manufacture, and sale of robotic toys, Innovation First is working to make its embryonic domestic industry with respect to its robotic toy fish robust.

148. As set forth in **Confidential Exhibit 1**, Innovation First is currently making its robotic toy fish ready for production. In this regard, Innovation First has taken concrete steps towards the creation of an industry devoted to robotic toy fish, and fully expects to this industry to bloom in the near future.

149. By usurping Innovation First's position as a market leader with respect to robotic toy fish, the proposed Respondent not only has caused substantial injury to Innovation First's overall robotic toy industry, but also directly threatens to prevent the establishment of Innovation First's industry devoted to robotic toy fish.

150. Indeed, if the proposed Respondent's unauthorized sale of robotic toy fish is allowed to continue unabated, the resulting market forces may force Innovation First to discontinue the plans currently underway to invest in its embryonic domestic industry with respect to robotic toy fish.

151. CVS's importation and/or sale after importation of the Zuru Robo Fish thus has the effect or tendency of frustrating Innovation First's efforts to bring its robotic toy fish to market.

XIV. RELIEF REQUESTED

Wherefore, by reason of the foregoing, Innovation First respectfully requests that the United States International Trade Commission:

(A) Institute an immediate investigation, pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. §1337, into CVS's unlawful activity, including importation into the

United States, sale for importation into the United States, and sale within the United States after importation of robotic toys that were actually, threateningly, or inevitably manufactured by, through, or with one or more of the Innovation First Trade Secrets;

(B) Determine that CVS has violated and is violating Section 337 of the Tariff Act of 1930;

(C) Pursuant to Section 337(d) of the Tariff Act of 1930, issue a limited exclusion order excluding from entry into and sale within the United States: all robotic toys imported by CVS that actually, threateningly, or inevitably manufactured by, through, or with one or more of the Innovation First Trade Secrets without Innovation First's express authorization.

(D) Pursuant to Section 337(f) of the Tariff Act of 1930, issue a cease and desist order prohibiting the proposed Respondent and all of its respective parents, affiliates, subsidiaries, related entities, successors, assigns, officers, agents, servants, employees, and attorneys and all other persons who are in active concert or participation with any of the foregoing persons from marketing in the United States, offering for sale in the United States, importing into the United States and selling, advertising, promoting, shipping, distributing, warehousing or otherwise transferring within the United States all robotic toys that were actually, threateningly or inevitably manufactured by, through, or with one or more of the Innovation First Trade Secrets without Innovation First's express authorization;

(E) Issue an order instructing the proposed Respondent to immediately and verifiably destroy all robotic toys that (i) are in its possession, custody, or control, and (ii) were actually, threateningly, or inevitably manufactured by, through, or with one or more of the Innovation First Trade Secrets without Innovation First's express authorization;

(F) Issue an order instructing the proposed Respondent to immediately and verifiably turn over to Innovation First all documents and things, whether an original or copy, in paper, electronic or other form or in draft, prototype or final form, that: (i) are in its possession, custody or control, and (ii) contain or embody one or more of the Innovation First Trade Secrets or any information derived from or based on one or more of the Innovation First Trade Secrets; and

(G) Issue such other and further relief as the United States International Trade Commission deems just and proper based on the facts determined by the investigation and the authority of the United States International Trade Commission.

Respectfully submitted,

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Dated: January 4, 2013