

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

iSPRING WATER SYSTEMS, LLC,
a limited liability company,

ZHUANGYONG CHEN, a/k/a John Chen,
individually and as an officer of
iSPRING WATER SYSTEMS, LLC,

and

PEARL CAI, a/k/a Yunzhu Cai,
individually and as an officer of
iSPRING WATER SYSTEMS, LLC,

Defendants.

Case No. _____

**[Proposed] STIPULATED
ORDER FOR CIVIL
PENALTIES, PERMANENT
INJUNCTION, AND OTHER
RELIEF**

Plaintiff, the United States of America, acting upon notification and on behalf of the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Civil Penalties, Permanent Injunction, and Other Equitable Relief, (“Complaint”), pursuant to Sections 5(l) and 16(a)(1) of the Federal Trade

Commission Act (“FTC Act”), 15 U.S.C. §§ 45(l) and 56(a)(1). Defendants have waived service of the summons and the Complaint. Plaintiff and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. In its Complaint, Plaintiff charges that Defendants violated the FTC Decision and Order in FTC Docket No. C-4611 in connection with the promotion and offering for sale of imported water filtration systems and parts as of U.S.-origin.
3. Defendants admit the allegations in the Complaint are true.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Defendants and the Plaintiff waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

- A. **“Clear(ly) and conspicuous(ly)”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:
1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
 2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
 3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.

4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
5. On a product label, the disclosure must be presented on the principal display panel.
6. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
7. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
8. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.
9. When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

B. “**Defendants**” means all of the Individual Defendants and the Corporate Defendant, individually, collectively, or in any combination.

1. “**Corporate Defendant**” means iSpring Water Systems, LLC, also

doing business as 123filter.com, and its successors and assigns.

2. **“Individual Defendants”** means Zhuangyong Chen, a/k/a John Chen, and Pearl Cai, a/k/a Yunzhu Cai.

C. **“Made in the United States”** means any representation, express or implied, that a product or service, or a specified component thereof, is of U.S.-origin, including, but not limited to, a representation that such product or service is “made,” “manufactured,” “built,” “produced,” or “crafted” in the United States or in America, or any other U.S.-origin claim.

ORDER

I.

PROHIBITION AGAINST MISREPRESENTATIONS REGARDING U.S. ORIGIN CLAIMS

IT IS ORDERED that Defendants, Defendants’ officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with promoting or offering for sale any water filtration system or associated parts or accessories, or any other product or service, must not make any representation, expressly or by implication, that a product or service is Made in the United States unless:

- A. The final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States; or
- B. A Clear and Conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients or components, and/or processing; or
- C. For a claim that a product is assembled in the United States, the product is last substantially transformed in the United States, the product's principal assembly takes place in the United States, and United States assembly operations are substantial.

II.
**PROHIBITION AGAINST DECEPTIVE CLAIMS, INCLUDING FALSE
AND/OR UNSUBSTANTIATED CLAIMS**

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with promoting or offering for sale any product or service, are permanently restrained and enjoined from making any

representation, expressly or by implication, about the country of origin of any product or service unless the representation is non-misleading, and, at the time such representation is made, Defendants possess and rely upon a reasonable basis for the representation.

III.
MONETARY JUDGMENT FOR CIVIL PENALTY

IT IS FURTHER ORDERED that:

A. Judgment in the amount of One Hundred Ten Thousand Dollars (\$110,000) is entered in favor of Plaintiff against Defendants, jointly and severally, as a civil penalty.

B. Defendants are ordered to pay to Plaintiff, by making payment to the Treasurer of the United States, One Hundred Ten Thousand Dollars (\$110,000).

Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of Plaintiff.

IV.
ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

- A. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.
- B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order.
- C. Defendants agree that the judgment represents a civil penalty owed to the government of the United States, is not compensation for actual pecuniary loss, and, therefore, as to the Individual Defendants, it is not subject to discharge under the Bankruptcy Code pursuant to 11 U.S.C. § 523(a)(7).
- D. Corporate Defendant acknowledges that its Taxpayer Identification Number (Employer Identification Number), which Corporate Defendant must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.

V.
NOTICE TO CONSUMERS

IT IS FURTHER ORDERED that, within 30 days of entry of this Order, Defendants must notify customers as follows:

A. Defendants must identify all consumers who purchased iSpring products on or after March 10, 2018 and through July 15, 2018 (“eligible customers”). Such eligible customers, and their contact information, must be identified to the extent such information is in Defendants’ possession, custody or control, including from third parties such as resellers.

B. Defendants must notify all identified eligible customers by mailing or emailing each a notice. The letter or email must be in the form shown in Attachment A.

C. Defendants must report on their notification program under penalty of perjury:

1. Defendants must submit a report within 37 days of entry of this Order summarizing their compliance to date.

2. If a representative of the Commission requests any information regarding the program, including any of the underlying customer data, Defendants must submit it within 10 days of the request.

3. Failure to provide required notices or any requested information will be treated as a continuing failure to obey this Order.

VI. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 5 years after entry of this Order, each Individual Defendant for any business that such Defendant, individually or collectively with any other Defendants, is the majority owner or controls directly or indirectly, and the Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others,

delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission:

A. One year after entry of this Order, each Defendant must submit a compliance report, sworn under penalty of perjury.

1. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and Plaintiff may use to communicate with Defendant; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Individual Defendants must describe if they know or should know due to their own involvement); (d)

describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

2. Additionally, each Individual Defendant must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 20 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any Corporate Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that

may affect compliance obligations arising under this Order, including:
creation, merger, sale, or dissolution of the entity or any subsidiary, parent,
or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, each Individual Defendant must report any change in:
(a) name, including aliases or fictitious name, or residence address; or (b)
title or role in any business activity, including any business for which such
Defendant performs services whether as an employee or otherwise and any
entity in which such Defendant has any ownership interest, and identify the
name, physical address, and any Internet address of the business or entity.

C. Each Defendant must submit to the Commission notice of the filing of any
bankruptcy petition, insolvency proceeding, or similar proceeding by or against
such Defendant within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under
penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746,
such as by concluding: “I declare under penalty of perjury under the laws of the
United States of America that the foregoing is true and correct. Executed on:
_____” and supplying the date, signatory’s full name, title (if applicable), and
signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: United States v. iSpring Water Systems, LLC.

VIII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Specifically, Corporate Defendant and each Individual Defendant for any business that such Defendant, individually or collectively with any other Defendants, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold;
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. Records of all consumer complaints and refund requests, whether received

directly or indirectly, such as through a third party, and any response;

D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and

E. A copy of each unique advertisement or other marketing material making a representation subject to this Order.

IX.
COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order and any failure to transfer any assets as required by this Order:

A. Within 14 days of receipt of a written request from a representative of the Commission or Plaintiff, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and Plaintiff are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission and Plaintiff are

authorized to communicate directly with each Defendant. Defendant must permit representatives of the Commission and Plaintiff to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission and Plaintiff may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

X.
RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED this _____ day of _____, 2019.

UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

FOR PLAINTIFF THE UNITED STATES OF AMERICA:

JOSEPH H. HUNT
Assistant Attorney General
Civil Division

JAMES M. BURNHAM
Deputy Assistant Attorney General

GUSTAV W. EYLER
Acting Director

/s/ Kendrack D. Lewis
KENDRACK D. LEWIS
Trial Attorney
Consumer Protection Branch
U.S. Department of Justice
P.O. Box 386
Washington, DC 20044
Tel: 202-353-3881
Email: kendrack.lewis@usdoj.gov

LOCAL COUNSEL:

BYUNG J. PAK
United States Attorney

AKASH DESAI
Assistant U.S. Attorney
Georgia Bar No. 338124
600 U.S. Courthouse
75 Ted Turner Drive SW
Atlanta, Georgia 30303
Telephone: 404-581-6364
Facsimile: 404-581-6181

FOR THE FEDERAL TRADE COMMISSION:

JAMES A. KOHM
Associate Director for Enforcement

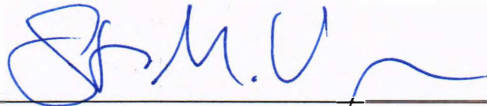
LAURA KOSS
Assistant Director for Enforcement

/s/ Julia S. Ensor

JULIA SOLOMON ENSOR

Attorney
Federal Trade Commission
Division of Enforcement
600 Pennsylvania Ave. NW
Mail Stop CC-9528
Washington, DC 20580
Tel: 202-326-2377
Fax: 202-326-3197
Email: jensor@ftc.gov

FOR DEFENDANTS iSPRING WATER SYSTEMS, LLC; ZHUANGYONG CHEN, A/K/A JOHN CHEN; AND PEARL CAI, A/K/A YUNZHU CAI:



Date: 3/22/2019

STEPHEN VAUGHN, ESQ.
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, NE
Atlanta, GA 30326
Tel: 404-364-7422
Fax: 404-365-9532
Email: svaughn@mmmlaw.com
COUNSEL FOR iSPRING WATER SYSTEMS, LLC



Date: 3/22/2019

ZHUANGYONG CHEN, A/K/A JOHN CHEN
INDIVIDUALLY
AND AS AN OFFICER OF
iSPRING WATER SYSTEMS, LLC



Date: 3/22/2019

PEARL CAI, A/K/A YUNZHU CAI
INDIVIDUALLY
AND AS AN OFFICER OF
iSPRING WATER SYSTEMS, LLC

ATTACHMENT A: NOTIFICATION LETTER OR EMAIL

The notification letter or email must be in the following form, from an authorized iSpring address or email address and containing an iSpring signature line with the sender's full contact information:

Subject: iSpring Water Filtration System

Dear <Name of customer>:

Our records show that you bought a water filtration system from iSpring Water Systems, LLC. We are writing to tell you that the Federal Trade Commission, the nation's consumer protection agency, has sued us for false advertising. According to the FTC, we made misleading claims that our water filtration systems were made in the United States.

To settle the FTC's lawsuit, we are contacting our customers to tell them that our water filtration systems are imported.

If you have questions about this lawsuit, visit <https://www.ftc.gov/enforcement/cases-proceedings/172-3033/ispring-water-systems>. For more information about "Made in the United States" advertising, visit <https://www.ftc.gov/tips-advice/business-center/advertising-and-marketing/made-in-usa>.

Sincerely,

Pearl Cai

[iSpring signature block]