months of June and July. A second study would beconducted on loggerhead sea turtles in Florida Bay and in a nearbylaboratory: annually, up to 50 adult loggerhead sea turtles would becaptured by hand, measured, weighed, examined for tumors, photographed, PITand flipper tagged, skin and blood sampled, and marked on the carapace witha white laminating gel in the field. The turtles would then be transportedby boat to the Keys Marine Lab and held for a maximum of 24 hours. Duringthis time, the researchers would perform ultrasounds, testicular biopsies,and laparoscopy. The turtles would then be transported back to the capturesite and released. A subset of 15 sea turtles would also be tagged with acombination of a satellite, sonic and temperature-depth recorder. Thisresearch would be conducted for five years from issuance of the permitduring the months of February and March.

File No. 1506: Dr. Witherington seeks authorization to study neonateand juvenile sea turtles in the waters of the Gulf of Mexico and theAtlantic Ocean off the coast of Florida. Annually, up to 250 neonate andjuvenile loggerheads, 10 neonate and juvenile greens, five neonate andjuvenile hawksbill, two neonate and juvenile Kemp's ridley, and two neonateand juvenile leatherback (*Dermochelys coriacea*) sea turtleswould be captured via long-handled dip nets, handled, measured, andreleased. A subset of up to 50 neonate and juvenile loggerhead sea turtleswould be transported less than five hours to a nearby port, held for 12hours, and then transported less than four hours to an imaging center wherethey would be held for no more than four days and examined for plastic andtar loads with either a veterinary high-resolution magnetic resonanceinterferometry instrument or a computerized tomography. The turtles wouldthen be returned to the point of capture and released. Feces samples wouldalso be collected during the holding period. These activities would beauthorized for five years from permit issuance.

Dated: October 1, 2004.

Carrie W. Hubard,

Acting Chief, Permits, Conservation and EducationDivision, Office of Protected Resources, National Marine FisheriesService.

[FR Doc. 04–22730 Filed 10–7–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. 2004–P–047]

Grant of Interim Extension of the Term of U.S. Patent No. 4,567,264; Ranolazine

AGENCY: United States Patent and Trademark Office.

ACTION: Notice of interim patent term extension.

SUMMARY: The United States Patent and Trademark Office has issued a certificate under 35 U.S.C. 156(d)(5) for a second one-year interim extension of the term of U.S. Patent No. 4,567,264.

FOR FURTHER INFORMATION CONTACT: Karin Ferriter by telephone at (571) 272–7744; by mail marked to her attention and addressed to Mail Stop Patent Ext., Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to her attention at (571) 273–7744, or by e-mail to *Karin.Ferriter@uspto.gov.*

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to a year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On March 29, 2004, patent owner Roche Palo Alto LLC, timely filed an application under 35 U.S.C. 156(d)(5) for a second interim extension of the term of U.S. Patent No. 4,567,264. The patent claims the active ingredient ranolazine (Ranexa™). The application indicates, and the Food and Drug Administration (FDA) has confirmed, that a New Drug Application for the human drug product ranolazine has been filed and is currently undergoing regulatory review before the FDA for permission to market or use the product commercially.

Review of the application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156. Since it is apparent that the regulatory review period will continue beyond the extended expiration date of the patent (May 18, 2004), the term of the patent will be extended under 35 U.S.C. 156(d)(5) for an additional year.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 4,567,264 is granted for an additional period of one year from the extended expiration date of the patent, *i.e.,* until May 18, 2005.

Dated: September 17, 2004.

Jon W. Dudas,

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

[FR Doc. 04–22705 Filed 10–7–04; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 05–C0001]

Johnson Health Tech Co., Ltd. and Horizon Fitness, Inc., a Corporation, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20. Published below is a provisionally-accepted Settlement Agreement with Johnson Health Tech Co., Ltd. and Horizon Fitness, Inc., containing a civil penalty of $500,00.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by October 25, 2004.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 05–C0001, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Michelle F. Gillice, Trial Attorney, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7667.

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

Dated: October 4, 2004.

Todd A. Stevenson,

Secretary.

In the Matter of Johnson Health Tech Co., Ltd. and Horizon Fitness, Inc.; Settlement Agreement and Order

[CPSC Docket No. 05–C001]

1. Johnson Health Tech Co., Ltd. and Horizon Fitness, Inc. and (hereinafter,

''Johnson'', ''Horizon'' or collectively ''Respondents'') enter into this Settlement Agreement and Order (hereinafter ''Settlement Agreement'' or ''Agreement'') with the staff of the Consumer Product Safety Commission (hereinafter ''Commission''), and agree to the entry of the attached Order incorporated by reference herein. The Settlement Agreement resolves the Commission staff's allegations set forth regarding reporting violations of the Respondents with respect to all Johnson treadmills manufactured with the Asia Star motor control board.

I. The Parties

2. The Commission is an independent Federal regulatory commission responsible for the enforcement of the Consumer Product Safety Commission Act (''CPSA''), 15 U.S.C. 2051–2084.

3. Johnson is the manufacturer of treadmills and other fitness equipment with its principal office located at 26, Ching Chuan Road, Taya Hsiang, Taichung Hsien, 42844, Taiwan, R.O.C.

4. Horizon was incorporated on August 1, 1999. It is organized and existing under the laws of Wisconsin with its principal office located at 800 Burton Boulevard, DeForest, Wisconsin 53532. Horizon imports and sells treadmills and other fitness equipment manufactured by Johnson. Horizon is 87% owned by Johnson International Holding Corp., Ltd. which is a subsidiary of Johnson.

II. Staff Allegations

5. Section 15(b) of the CPSA, 15 U.S.C. 2064(b) requires that every manufacturer, importer, distributor and retailer who obtains information that reasonably supports the conclusion that a consumer product (1) contains a defect which could create a substantial product hazard, or (2) creates an unreasonable risk of serious injury or death, immediately inform the Commission of the defect or risk.

6. Between August 2000 and June 2001, Johnson manufactured treadmills with a motor control board (''MCB'') manufactured by subcontractor, Asia Star.

7. Between September 2000 and December 2001, Horizon imported and distributed nationwide approximately 10,644 Johnson Treadmills with the Asia Star MCB under the model names, ''Paragon'', ''Quantum'' and ''Omega'' (hereinafter ''treadmills'').

8. The treadmills are ''consumer products'' which were ''distributed in commerce'' as those terms are defined in section 3(a)(1), (11) and (12) of the CPSA, 15 U.S.C. 2052(a)(1), (11) and (12).

9. Johnson and Horizon are ''manufacturers'' of the treadmills as that term is defined in section 3(a)(4) of the CPSA, 15 U.S.C. 2052(4).

10. The treadmills are defective because a component in the MCB can overheat causing (1) a sudden acceleration of the walking belt between 12.9 and 16.5 miles per hour (also known as a ''runaway'' situation) and (2) the safety stop key to fail. These defects could cause consumers to suffer serious injury.

11. Between January 2001 and January 14, 2002 (date of Respondents' full report), Respondents learned of 180 incidents of ''runaway'' treadmills and safety stop key failures. Fifteen of these reports alleged injury including sprains, strains, a torn rotator cuff, bruises and serious friction burns.

12. In response to consumer complaints, between January 2001 and January 14, 2002, Respondents made three modifications to the treadmill, first in February 2001, then in March 2001, and finally in May 2001, in an attempt to correct the defects. At none of these points, did Respondents provide the Commission with a full report.

13. On January 11, 2002, the Commission staff contacted Horizon to schedule an establishment inspection. Three days later, on January 14, 2002, Respondents submitted a full report.

14. Although Respondents had obtained sufficient information to reasonably support the conclusion that these treadmills (1) contained defects which could create a substantial product hazard or (2) created an unreasonable risk of serious injury or death, they failed to timely report such information to the Commission, as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b).

15. By failing to timely report to the Commission pursuant to section 15(b) of the CPSA, Respondents violated section 19(a)(4) of the CPSA, 2068(a)(4).

16. Respondents committed this failure to report to the Commission ''knowingly'' as that term is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d), thus subjecting Respondents to civil penalties under section 20 of the CPSA, 15 U.S.C. 2069.

III. Response of Johnson and Horizon

17. Respondents deny the staff allegations in paragraphs 5 through 16.

18. Respondents deny that the treadmills contained defects which could create a substantial product hazard within the meaning of sections 15(a) and 15(b) of the CPSA, 15 U.S.C. 2064(a) and 2064(b).

19. Respondents deny that they treadmills created an unreasonable risk of serious injury or death pursuant to section 15(b) of the CPSC, 15 U.S.C. 2064(b) and deny the allegations of injury in paragraph 10 above.

20. Respondents deny that they knowingly violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b). They deny that the information available to them reasonably supported the conclusion that the treadmills contained a defect which could create a substantial product hazard or that the treadmills created an unreasonable risk of serious injury or death. They deny that a report was required under section 15(b) of the CPSA, 15 U.S.C. 2064(b).

21. Although Respondents do not believe the treadmills had a reportable defect or risk, they diligently investigated and addressed the circumstances relating to the consumer complaints about the treadmills and fully responded to all consumer complaints and, by May of 2001, they had designed a corrective measure that fully addressed any of the alleged defects.

22. The Respondents had already decided to file a full report with the CPSC and to implement a recall of the treadmills prior to being contacted by the CPSC on January 11, 2002. Respondents' full report to the CPSC and voluntary recall did not result from the CPSC investigation, but instead was part of their ongoing effort to fully address and respond to customer complaints regarding the treadmills.

23. Respondents agree to this Settlement Agreement and Order solely to avoid incurring additional legal costs and expenses. They do not admit to any fault, any liability, any violation of any law or any wrongdoing with respect to the treadmills. Their willingness to enter into this Settlement Agreement and Order does not constitute, nor is it evidence of, an admission by them of any fault, any liability, any violation of any law or any wrongdoing.

IV. Agreement of the Parties

24. The Commission has jurisdiction over Respondents and the subject matter of this Settlement Agreement and Order under the CPSA, 15 U.S.C. 2051–2084.

25. Respondents agree to be bound by, and comply with, this Settlement Agreement and Order.

26. This Agreement is entered into for settlement purposes only and does not constitute an admission by Respondents, or a determination by the Commission, that Respondents knowingly violated the CPSA's reporting requirement.

27. In settlement of the staff's allegations, Respondents agree to pay a civil penalty of five hundred thousand 00/100 dollars ($500,000) in full settlement of this matter. The penalty shall be paid in four installments. The first payment of $125,000.00 shall be paid within twenty (20) calendar days of service of the final Settlement Agreement and Order. The second payment of $125,000.00 shall be paid within 110 days of such service. The third payment of $125,000.00 shall be paid within 200 days of such service. The fourth and final payment of $125,000.00 shall be paid within 290 days of such service.

28. Upon provisional acceptance of this Agreement by the Commission, this Agreement shall be placed on the public on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e). If the Commission does not receive any written objections within 15 days, the Agreement will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**.

29. Upon final acceptance of this Agreement by the Commission, and issuance of the Final Order, Respondents knowingly, voluntarily, and completely waive any rights they may have in this matter (1) to an administrative hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Respondents failed to comply with CPSA and the underlying regulations, (4) to a statement of findings of fact and conclusions of law, and (5) to any claims under the Equal Access to Justice Act.

30. The Commission may publicize the terms of the Settlement Agreement and Order.

31. The Commission's Order in this matter is issued under the provisions of CPSA, 15

U.S.C. 2051–2084. Violation of this Order may subject Respondents to appropriate legal action.

32. This Settlement Agreement may be used in interpreting the Order. Agreements, understandings, representations, or interpretations apart from those contained in this Settlement Agreement and Order may not be used to vary or contradict its terms.

33. If, after the effective date hereof, any provision of this Settlement Agreement and Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Settlement Agreement and Order, such provision shall be fully severable. The rest of the Settlement Agreement and Order shall remain in full effect, unless the Commission and Respondents determine that severing the provision materially affects the purpose of the Settlement Agreement and Order.

34. This Settlement Agreement and Order shall not be waived, changed, amended, modified, or otherwise altered, except in writing executed by the party against whom such amendment, modification, alteration, or waiver is sought to be enforced and approved by the Commission.

35. The provisions of this Settlement Agreement and Order shall apply to Respondents and each of their successors and assigns.

Dated: September 6, 2004.
Johnson Health Tech Co., Ltd.
Jason Lo,
Chief Executive Officer.

Dated: August 25, 2004.

Horizon Fitness, Inc.
Robert Whip,
President.

Thomas L. Skalmoski, Esquire,
Attorney for Respondents Horizon and Johnson.

The U.S. Consumer Product Safety Commission.
Alan H. Schoem,
Director Office of Compliance.
Eric L. Stone,
Director, Legal Division, Office of Compliance.

Dated: September 10, 2004.

By: Michelle Faust Gillice,
Trial Attorney
Belinda V. Bell,
Trial Attorney. Legal Division, Office of Compliance.

In the Matter of Johnson Health Tech Co., Ltd. and Horizon Fitness, Inc.; Order. [CPSC Docket No. 05–C0001]

Upon consideration of the Settlement Agreement between Respondents Johnson Health Tech Co., Ltd (''Johnson'') and Horizon Fitness, Inc. (''Horizon'') and the staff of the Consumer Product Safety Commission, and the Commission having jurisdiction over the subject matter and over Johnson and Horizon, and it appearing that the Settlement Agreement and Order is in the public interest, it is

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

Further Ordered that Johnson and Horizon shall pay the United States Treasury a civil penalty of five hundred thousand 00/100 dollars ($500,000) in four installments. The first payment of $125,000.00 shall be paid within twenty (20) calendar days of service of the final Settlement Agreement and Order. The second payment of $125,000.00 shall be paid within 110 days of such service. The third payment of $125,000.00 shall be paid within 200 days of such service. The fourth and final payment of $125,000.00 shall be paid within 290 days of such service. Upon failure of Respondents Johnson and Horizon to make a payment or upon the making of a late payment by Respondents Johnson and Horizon (a) the entire amount of the civil penalty shall be due and payable, and (b) interest on the outstanding balance shall accrue and be paid at the Federal legal rate of interest under the provisions of 28 U.S.C. 1961(a) and (b).

Provisionally accepted and Provisional Order issued on the 4th day of October, 2004.

By Order of the Commission:

Todd A. Stevenson,
Secretary, Consumer Product Safety Commission.

[FR Doc. 04–22719 Filed 10–7–04; 8:45 am]
BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 05–C0002]

Sears, Roebuck and Company, a Corporation, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 CFR 1118.20. Published below is a provisionally-accepted Settlement Agreement with Sears, Roebuck and Co., a corporation, containing a civil penalty of $500,000.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by (October 25, 2004.).

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 05–C00002, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Dennis C. Kacoyanis, Trial Attorney, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7587.

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

Dated: October 4, 2004.

Todd A. Stevenson,

Secretary.

In the Matter of Sears, Roebuck and Co., a corporation; Settlement Agreement and Order

1. This Settlement Agreement is made by and between the staff (''the staff'') of the U.S. Consumer Product Safety Commission (''the Commission'') and Sears, Roebuck and Co. (''Sears'' or ''Respondent''), a corporation, in accordance with 16 CFR 1118.20 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act (''CPSA''). This Settlement Agreement settles the staff's allegations set forth below.

I. The Parties

2. The Commission is an independent federal regulatory agency responsible for the enforcement of the Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.*

3. Sears is a corporation organized and existing under the laws of the State of New York with its principal corporate offices located at 3333 Beverly Road, Hoffman Estates, IL 60179.

II. Allegations of the Staff

4. Between January 1995 and January 2002, Murray, Inc., 219 Franklin Road, Brentwood, TN 37027, manufactured for Sears approximately 36,000 rear-engine riding lawnmowers, model numbers, 502.270210, 502.270211, 502.256210, 502.256220, 502.251250, 536.270211, and 536.270212 (''the subject rear-engine riding lawnmowers'' or ''the lawnmowers''). Sears sold the lawnmowers under the Craftsman label.

5. The subject rear-engine riding lawnmowers were sold to consumers for use in or around a permanent or temporary household or residence and are, therefore, ''consumer products'' as defined in section 3(a)(1)(i) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2052(a)(1)(i). Respondent is a ''retailer'' and a ''private labeler'' of the subject rear-engine riding lawnmowers, which were ''distributed in commerce''