

equipped with electromechanical actuators. The mirror's actuators respond to an electrical signal from a computer and alter the mirror's shape to counteract the distortions of the atmosphere. Deformable mirrors are critical to the effective functioning of the adaptive optics system.

There are only two viable manufacturers of deformable mirrors for the ABL, Itek and Xinetics. Itek has exclusively contracted with Lockheed Martin to supply deformable mirrors to the Boeing team. Xinetics has exclusively contracted with Hughes to supply deformable mirrors to the Rockwell team.

The standard *Merger Guidelines* entry analysis utilizing a two year time period is not applicable to the ABL competition. The ABL Phase I concept design review is scheduled to occur in March 1996 and the bids for Phase II are expected to be due in July of 1996.

Therefore, the only viable entrants are firms with the current capability to supply deformable mirrors. Itek and Xinetics are the only firms that currently possess the expertise, personnel and facilities required to design and fabricate deformable mirrors.

Respondents' acquisition of Itek poses serious antitrust concerns. Following the acquisition, the Boeing-Lockheed Martin team would not be able to replace Hughes/Itek as the supplier of its deformable mirrors for the ABL competition. This would allow Hughes to: (1) increase the bid prices for the ABL competition by raising the price of the deformable mirrors on both teams; (2) decrease its investment in technology or quality on one or both teams' designs; and/or (3) gain access to competitively sensitive information relating to the Boeing team's technical design and cost for its entire adaptive optics system.

Under the proposed Consent Order, respondents are prohibited from enforcing the exclusivity provisions contained in Hughes's teaming agreement with Xinetics for the ABL program. Xinetics will be free to supply the Boeing team with deformable mirrors for the ABL program. This will ensure that the Boeing team will have an alternate source of deformable mirrors for the ABL competition. The purpose of this provision of the Consent Order is to constrain Hughes's ability to raise the price of both teams' bids or decrease its investment in technology or quality on one or both teams' designs for the ABL competition.

Under the proposed Consent Order, respondents are also prohibited from receiving, gaining access to, or obtaining in any manner, without Lockheed

Martin's approval, information not in the public domain that was developed or obtained by Itek in its capacity as a member of the Boeing team for the ABL program. The purpose of this provision of the Consent Order is to ensure that the Rockwell team will not have access to competitively sensitive information relating to the technical design and cost of the Boeing team's adaptive optics system for the ABL competition.

In order to preserve competition in the market for the research, development, manufacture and sale of an Airborne Laser system for use in the U.S. Air Force's Airborne Laser program during the period prior to the Commission's issuance of the Consent Order (after the 60-day public notice period), respondents have entered into an Interim Agreement with the Commission in which they agreed to be bound by the proposed Consent Order as of the date the Commission accepted the proposed Consent Order for public comment.

The purpose of this analysis is to facilitate the public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,
Secretary.

[FR Doc. 96-4005 Filed 2-21-95; 8:45 am]

BILLING CODE 6750-01-M

[File No. 952-3481]

Starwood Advertising, Inc., Les Towne; Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would bar the Aspen, Colorado-based advertising agency from using deceptive demonstrations and certain other misrepresentations in future advertising campaigns. The consent agreement settles allegations stemming from Starwood's advertising campaign for Azrak-Hamway International's line of Steel Tec toy vehicles.

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Toby Milgrom Levin, Federal Trade Commission, S-4002, 6th and Pennsylvania Avenue, NW, Washington, DC 20580. (202) 326-3156.

Joel Winston, Federal Trade Commission, S-4002, 6th and Pennsylvania Avenue, NW, Washington, DC 20580. (202) 326-3153.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

United States of America Before
Federal Trade Commission

In the Matter of: Starwood Advertising, Inc., a corporation, and Les Towne, individually and as an officer of said corporation. File No. 952 3481.

Agreement Containing Consent Order
To Cease and Desist

The Federal Trade Commission, having initiated an investigation of certain acts and practices of Starwood Advertising Inc., a corporation, and Les Towne, individually and as an officer of said corporation ("proposed respondents"), and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Starwood Advertising, Inc., by its duly authorized officer, and Les Towne, individually and as an officer of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Starwood Advertising, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 600 North Starwood Drive, Aspen, Colorado 81612.

Proposed respondent Les Towne is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said

corporation and his address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service.

Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. Proposed respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondents, Starwood Advertising, Inc., a corporation, its successors and assigns, and its officers, and Les Towne, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any toy in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. In connection with any advertisement or package depicting a demonstration, experiment or test, making any representation, directly or by implication, that the demonstration, picture, experiment or test depicted in the advertisement or package proves, demonstrates or confirms any material quality, feature or merit of any toy when such demonstration, picture, experiment or test does not prove, demonstrate or confirm the representation for any reason, including but not limited to:

1. The undisclosed use or substitution of a material mock-up or prop;

2. The undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or

3. The undisclosed use of a visual perspective or camera, film, audio or video technique;

that, in the context of the advertisement as a whole, materially misrepresents a material characteristic of the advertised

toy or any other material aspect of the demonstration or depiction.

Provided, however, that notwithstanding the foregoing, nothing in this order shall be deemed to otherwise preclude the use of fantasy segments or prototypes which use otherwise is not deceptive.

Provided further, however, that it shall be a defense hereunder that respondents neither knew nor had reason to know that the demonstration, experiment or test did not prove, demonstrate or confirm the representation.

B. Misrepresenting, directly or by implication, any performance characteristic of any toy.

II

It is further ordered that for three (3) years after the last date of dissemination of any representation covered by this order, respondent Starwood Advertising, Inc., or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. All materials that were relied upon in disseminating such representation;

B. Any and all videotapes, in complete as well as unedited form, and any and all still photographs taken during the production of any advertisement depicting a demonstration, experiment, or test;

C. Any and all affidavits or certifications submitted by an employee, agent or representative of respondent to a television network or to any other individual or entity, other than counsel for respondent, which affidavit or certification affirms the accuracy or integrity of a demonstration or demonstration techniques contained in an advertisement; and

D. Any toy involved in such representation.

III

It is further ordered that respondent Starwood Advertising, Inc. shall, within thirty (30) days after its service, distribute a copy of this order to each of its operating divisions and to each officer, agent and personnel responsible for the preparation, review or placement of advertising, or other materials covered by this order and shall secure from each such person a signed statement acknowledging receipt of this order.

IV

It is further ordered that respondent Les Towne shall, for a period of ten (10) years from the date of entry of this order, notify the Commission within

thirty (30) days of the discontinuance of his present business or employment and of his affiliation with any new business or employment. Each such notice of affiliation with any new business or employment shall include the respondent's new business address and telephone number, current home address, and a statement describing the nature of the business or employment and his duties and responsibilities.

V

It is further ordered that respondent Starwood Advertising, Inc. shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in its corporate structure, including but not limited to dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, the planned filing of a bankruptcy petition, or any other corporate change that may affect compliance obligations arising out of this order.

VI

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty years;

B. This order's application to any respondent that is not named as a defendant in such complaint; and

C. This order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

VII

It is further ordered that respondents shall, within sixty (60) days after service of this order, and at such other times as the Federal Trade Commission may

require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Starwood Advertising, Inc. ("Starwood") and Les Towne, officer of Starwood. Starwood is the advertising agency for Azrak-Hamway International, Inc. ("Azzrak-Hamway").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint in this matter alleges that Starwood prepared and disseminated advertising for the "Steel Tec Construction System" line of toys, which are manufactured by Azrak-Hamway and marketed by Azrak-Hamway's Remco Toy Division. The complaint challenges as deceptive television advertisements for eight Steel Tec toys, which represent that these toys can move and operate in various ways unaided. According to the complaint, the television advertisements for the motorized helicopter, the "Formula 1" race car, the "Off Road Super Sport" vehicle, the "Sand Buggy" vehicle, the "Harley-Davidson® Electra Glide" motorcycle, the "Hypersonic Fighter" plane, the "Dozer" vehicle, and the "Dump Truck" vehicle represented that the demonstrations of these toys flying, driving, or moving in the manners depicted in the ads were unaltered and that the results shown accurately represent the performance of the actual, unaltered toys under the depicted conditions. This representation is alleged to be false and misleading. According to the complaint, these toys were suspended, pulled, and/or guided by monofilament wires, or a black tube recessed out of view from the camera, held by humans off camera to create the advertised effects. In the case of the motorized helicopter, the rotors were also spun manually by humans off camera to create the effect of motorized spinning.

The complaint also alleges that the challenged advertisements falsely represented that the eight toys can perform by flying, driving, or moving in the manners depicted.

The complaint also alleges that the challenged advertisements falsely represented that the Steel Tec Off Road Super Sport vehicle, Sand Buggy vehicle, Harley-Davidson® Electra Glide motorcycle, Dozer vehicle, and Dump Truck vehicle can be used on dirt, sand, and similar surfaces. According to the complaint, the "Helpful Hints Manual" accompanying these products warns against using the toys on these surfaces to avoid damage to the toys.

The complaint also alleges that the respondents knew or should have known that the representations set forth above were false and misleading.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part IA of the order prohibits the respondents from misrepresenting that an advertised demonstration, picture, experiment or test proves, demonstrates or confirms any material quality, feature or merit of any toy. Part IA enumerates examples of such misrepresentations, including: (1) the undisclosed use or substitution of a material mock-up or prop; (2) the undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or (3) the undisclosed use of a visual perspective or camera, film, audio or video technique. Part IA also states that the order does not preclude the use of fantasy segments or prototypes which are otherwise not deceptive, and provides the respondents with a defense to liability if they neither knew nor had reason to know that the demonstration, experiment or test did not prove, demonstrate or confirm the representation. Part IB prohibits the respondents from misrepresenting any performance characteristic of any toy.

Part II requires the respondents to maintain certain records and materials relating to future representations covered by the order.

Parts III through V and VII relate to the respondents' obligations to provide copies of the order to certain Starwood officers and personnel; to notify the Commission of changes in corporate structure, or, in the case of the individual, changes in employment; and to file compliance reports with the Commission. Part VI provides that the order will terminate after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of

the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,
Secretary.

[FR Doc. 96-4006 Filed 2-21-96; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94F-0250]

Registration and Consulting Co. AG; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to future filing, of a food additive petition (FAP 4B4424) proposing that the food additive regulations be amended to provide for the safe use of 8,9,10,11-tetrachloro-12H-phthaloperin-12-one (C.I. Solvent Red 135) as a colorant in polyethylene phthalate polymers intended for use as food-contact articles.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3081.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of August 5, 1994 (59 FR 40036), FDA announced that a food additive petition (4B4424) had been filed on behalf of the Registration and Consulting Co. AG, c/o Bruce A. Schwemmer, Bruce EnviroExcel Group, Inc., 94 Buttermilk Bridge Rd., Washington, NJ 07882 (formerly, c/o Reynaldo A. Gustilo, 125A 18th St., suite 142, Newport Plaza, Jersey City, NJ 07310). The petition proposed to amend the food additive regulations in § 178.3297 Colorants for polymers (21 CFR 178.3297) to provide for the safe use of 8,9,10,11-tetrachloro-12H-phthaloperin-12-one (C.I. Solvent Red 135) as a colorant in polyethylene phthalate polymers intended for use in food-contact articles complying with 21 CFR 177.1630. Registration and Consulting Co. AG has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: February 1, 1996.

Alan M. Rulis,
*Director, Office of Premarket Approval,
Center for Food Safety and Applied Nutrition.*
[FR Doc. 96-3906 Filed 2-21-96; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92F-0432]

Victorian Chemical Co., Pty. Ltd.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to future filing, of a food additive petition (FAP 2A4340) proposing that the food additive regulations be amended to provide for the safe use of the following: ethyl esters of fatty acids in aqueous emulsions for dehydrating corn, cereal grains, beans, sulfated butyl oleate, and sulfated ethyl oleate alone or in combination for dehydrating grapes to raisins, cereal grains, and beans.

FOR FURTHER INFORMATION CONTACT: Mary E. LaVecchia, Center for Food Safety and Applied Nutrition (HFS-217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3072.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of January 7, 1993 (58 FR 3027), FDA announced that a food additive petition (FAP 2A4340) had been filed by Victorian Chemical Co., Pty. Ltd., P.O. Box 71, Richmond, Victoria 3121, Australia. The petition proposed to amend the food additive regulations in § 172.225 Methyl and ethyl esters of fatty acids produced from edible fats and oils (21 CFR 172.225) (57 FR 12709, April 13, 1992) and § 172.270 Sulfated butyl oleate (21 CFR 172.270) (57 FR 12709, April 13, 1992) to provide for the safe use of: (1) ethyl esters of fatty acids in aqueous emulsions for dehydrating corn, cereal grains, and beans and (2) sulfated butyl oleate and sulfated ethyl oleate alone or in combination in aqueous emulsions for dehydrating grapes to raisins, cereal grains, and beans.

Victorian Chemical Co., Pty. Ltd., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: January 22, 1996.

Alan M. Rulis,
*Director, Office of Premarket Approval,
Center for Food Safety and Applied Nutrition.*
[FR Doc. 96-3907 Filed 2-21-96; 8:45 am]

BILLING CODE 4160-01-F

Public Health Service

Health Resources and Services Administration

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Department of Health and Human Services (DHHS); Public Health Service (PHS); Health Resources and Services Administration (HRSA).

ACTION: Publication of minor changes to system-of-records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," HRSA is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: HRSA has completed the annual review of its systems of records and is publishing below those minor changes which affect the public's right or need to know, such as system deletions, title changes, and changes in the system location of records, or the addresses of systems managers.

1. HRSA has deleted the following systems of records since the last annual review due to the reassignment of the Division of Fiscal Services, Office of Operations and Management, Office of the Administrator, from HRSA to the Program Support Center, DHHS (60 FR 51480, 10/2/95):

- 09-15-0022 Accounts Receivable, HHS/HRSA/OA.
- 09-15-0026 Medical Fellowships and Educational Loans, HHS/HRSA/OA.
- 09-15-0043 Cuban Loan Program, HHS/HRSA/OA.
- 09-15-0045 Health Resources and Services Administration Loan Repayment/Debt Management Records Systems, HHS/HRSA/OA.

2. The following are no longer active systems and have also been deleted:

- 09-15-0040 Health Professions Student Loan Repayment Program, HHS/HRSA/BHPr.
- 09-15-0041 Health Professions Student Loan Cancellation, HHS/HRSA/BHPr.
- 09-15-0052 Nurse Practitioner and Nurse Midwifery Traineeship, HHS/HRSA/BHPr.

3. Other minor system-notice changes affecting individual categories are published below.

Dated: February 9, 1996.

Thomas G. Morford,
Associate Administrator for Operations and Management.

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The following table of contents lists all currently active Privacy Act systems