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12 FEDERAL TRADE COMMISSION

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

15 **FEDERAL TRADE**
16 **COMMISSION,**

17 Plaintiff,

18 v.

19 **LIGHTS OF AMERICA, INC.,**
20 *et al.,*

21 Defendants.

Case No. SACV10-01333 JVS
(MLGx)
**FINAL JUDGMENT AND ORDER
FOR INJUNCTIVE AND OTHER
RELIEF**

Hearing Date: None
Judge: Hon. James V. Selna

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1 equitable monetary relief and/or disgorgement of ill-gotten gains. The Court
2 received evidence in the form of exhibits, designated portions of deposition
3 transcripts, and witness testimony. After carefully reviewing all of the evidence,
4 testimony, and arguments presented by the parties' counsel, the Court concluded in
5 its Findings of Fact and Conclusions of Law that the FTC had proven by a
6 preponderance of the evidence that Defendants are liable for the deceptive
7 marketing and sale of certain LED lamps in violation of Section 5(a) of the FTC
8 Act. (Docket No. 361) The Court entered its Findings of Fact and Conclusions of
9 Law pursuant to Federal Rule of Civil Procedure 52(a). The Court also found that
10 injunctive relief against all Defendants is appropriate because: (1) it is reasonably
11 likely that Defendants will commit the kinds of deceptive practices at issue in this
12 case in the future; (2) Defendants acted with sufficient deliberateness; (3)
13 Defendants have had prior experience with false claims; and (4) Defendants are in
14 a position to repeat their deceptive acts with other lighting products they sell.
15 Further, the Court ruled that equitable monetary relief against all Defendants in the
16 amount of \$21,165,863.47 is appropriate in this case.

17 The Court directed the FTC to file a proposed judgment embodying its
18 ruling as set forth in the Findings of Fact and Conclusions of Law entered on
19 September 17, 2013 (Docket No. 361) (the "Findings"). On September 23, 2013,
20 the FTC filed its proposed final judgment and order for permanent injunction
21 against Defendants. Based upon the record established in this case, the Court
22 enters this Final Judgment and Order for Injunctive and Other Relief pursuant to
23 Federal Rule of Civil Procedure 58.

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1 the relevant scientific field to yield accurate and reliable results, and
2 that are sufficient in quality and quantity based on standards
3 generally accepted in the field, when considered in light of the entire
4 body of relevant and reliable scientific evidence, to substantiate that
5 a representation is true.

- 6 6. "Light-Emitting Diode Lamp" shall mean all product(s) advertised,
7 marketed, offered for sale, or sold that include, or are advertised,
8 marketed, offered for sale, or sold as including, a light-emitting
9 diode(s) as a light source.
- 10 7. "Lifetime," as established in the Court's Findings, means the period
11 at which an Light-Emitting Diode Lamp reaches seventy (70)
12 percent of its original light output (known as L_{70}), which shall be
13 based upon Competent and Reliable Scientific Evidence.
- 14 8. "Light Output" means the measure of light emanating from a
15 Covered Product, which amount shall be based upon Competent and
16 Reliable Scientific Evidence.
- 17 9. "Incandescent Lamp" means any light bulb or lamp in which light is
18 produced by a filament heated to incandescence by an electric
19 current.
- 20 10. "Covered Product" means any lamp, Light-Emitting Diode Lamp,
21 luminaire, light bulb, or any other light-emitting device that is
22 intended for lighting and manufactured, assembled, or placed into
23 the stream of commerce by Defendants, regardless of base size, bulb
24 size, bulb shape, or technology.
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1 **I. PROHIBITED REPRESENTATIONS**

2 **IT IS HEREBY ORDERED** that Defendants and their officers, agents,
3 servants, employees, and attorneys, and all persons and entities in active concert or
4 participation with any of them who receive actual notice of this Final Judgment by
5 personal service or otherwise, whether acting directly or indirectly, in connection
6 with the manufacturing, marketing, labeling, advertising, promotion, offering for
7 sale, sale, or distribution of any Covered Product in or affecting commerce, are
8 permanently restrained and enjoined from:

- 9 (A) Making any misrepresentation or assisting others in misrepresenting,
10 expressly or by implication, any fact material to consumers
11 concerning any Covered Product.
- 12 (B) For any Covered Product, making any misrepresentation or assisting
13 others in misrepresenting, expressly or by implication:
- 14 (1) Light output or brightness in lumens;
15 (2) Light output equivalency of any Covered Product to another
16 Covered Product;
17 (3) Lifetime of the product; or
18 (4) Energy costs, energy savings, energy consumption, or energy-
19 related efficacy.

20 At the time of making such representation, Defendants must possess and rely upon
21 competent and reliable evidence that substantiates that the representation is true.
22 If, in general, experts in the relevant scientific fields would conclude it is
23 necessary, such evidence must be Competent and Reliable Scientific Evidence.

24 **II. MONETARY JUDGMENT**

25 **IT IS FURTHER ORDERED** that:

26 A. Judgment is hereby entered in favor of the Commission and against
27 Defendants Lights of America, Inc., Usman Vakil, and Farooq Vakil, jointly and
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(1) Each Defendant must: (a) identify the primary physical, postal, and email and telephone number, as designated points of contact, which representatives of the Commission may use to

1 (1) Each Defendant must report any change in: (a) any designated
2 point of contact; or (b) the structure of any Corporate Defendant
3 or any entity that Defendant has any ownership interest in or
4 controls directly or indirectly that may affect compliance
5 obligations arising under this Final Judgment, including:
6 creation, merger, sale, or dissolution of the entity or any
7 subsidiary, parent, or affiliate that engages in any acts or
8 practices subject to this Final Judgment.

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

17 (C) Each Defendant must submit to the Commission notice of the filing of
18 any bankruptcy petition, insolvency proceeding, or any similar
19 proceeding by or against such Defendant within fourteen (14) days of
20 its filing.

21 (D) Any submission to the Commission required by this Final Judgment to
22 be sworn under penalty of perjury must be true and accurate and
23 comply with 28 U.S.C. § 1746, such as by concluding: “I declare
24 under penalty of perjury under the laws of the United States of
25 America that the foregoing is true and correct. Executed on:
26 _____” and supplying the date, si
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1 (E) Unless otherwise directed by a Commission representative in writing,
2 all submissions to the Commission pursuant to this Final Judgment
3 must be emailed to Debrief@ftc.gov or sent by overnight courier (not
4 the U.S. Postal Service) to: Associate Director for Enforcement,
5 Bureau of Consumer Protection, Federal Trade Commission, 600
6 Pennsylvania Avenue NW, Washington, D.C. 20580. The subject line
7 must begin: FTC v. Lights of America, Inc.

8 **V. COMPLIANCE MONITORING**

9 **IT IS FURTHER ORDERED** that, for the purpose of monitoring
10 Defendants' compliance with this Final Judgment:

11 (A) Within fourteen (14) days of receipt of a written request from a
12 representative of the Commission, each Defendant must: submit
13 additional compliance reports or other requested information, which
14 must be sworn under penalty of perjury; appear for depositions; and
15 produce documents for inspection and copying. The Commission is
16 also authorized to obtain discovery, without further leave of court,
17 using any of the procedures prescribed by Federal Rules of Civil
18 Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36,
19 45, and 69.

20 (B) For matters concerning this Final Judgment, the Commission is
21 authorized to communicate directly with each Defendant. Defendant
22 must permit representatives of the Commission to interview any
23 employee or other person affiliated with any Defendant who has
24 agreed to such an interview. The person interviewed may have
25 counsel present.

26 (C) The Commission may use all other lawful means, including posing,
27 through its representatives, as consumers, suppliers, or other
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VII. RETENTION OF JURISDICTION

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

Dated: January 15, 2014



HON. JAMES V. SELNA
UNITED STATES DISTRICT JUDGE

1 Date: January 14, 2014

Respectfully submitted,

2 /s/ Kimberly L. Nelson

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