

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of

**MARKER VÖLKL (International) GmbH,
a corporation.**

File No. 121-0004

AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission (Commission), having initiated an investigation of certain acts and practices of Marker Völkl (International) GmbH (“Marker Völkl”), a corporation, hereinafter sometimes referred to as “Proposed Respondent,” and it now appearing that Marker

5. Proposed Respondent waives:
 - a. any further procedural steps;
 - b. the requirement that the Commission's Decision and Order, attached hereto and made a part hereof, contain a statement of findings of fact and conclusions of law;
 - c. all rights to seek judicial review or otherwise to challenge or contest the validity of the Decision and Order entered pursuant to this Consent Agreement; and
 - d. any claim under the Equal Access to Justice Act.

6. Proposed Respondent shall submit an initial compliance report within twenty (20) days of the date it signs this Consent Agreement, pursuant to Commission Rule 2.33, 16 C.F.R. § 2.33, signed by Proposed Respondent setting forth in detail the manner in which the Proposed Respondent has to date complied, has prepared to comply,

10. The Complaint may be used in construing the terms of the Decision and Order, and no agreement, understanding, representation, or interpretation not contained in the Decision and Order or the Consent Agreement may be used to vary or contradict the terms of the Decision and Order.
11. By signing this Consent Agreement, Proposed Respondent represents and warrants that it can accomplish the full relief contemplated by the attached Decision and Order and that all parents, subsidiaries, affiliates, and successors necessary to effectuate the full relief contemplated by this Consent Agreement are parties to the Consent Agreement.
12. Proposed Respondent has read the draft of Complaint and the Decision and Order contemplated hereby. Proposed Respondent understands that once the Decision and Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Decision and Order. Proposed Respondent agrees to comply with the terms of the proposed Decision and Order from the date it signs this Consent Agreement. Proposed Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Decision and Order after the Decision and Order becomes final.

MARKER VÖLKL (Internationalne,

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Edith Ramirez, Chairwoman**
 Julie Brill
 Maureen K. Ohlhausen
 Joshua D. Wright
 Terrell McSweeney

In the Matter of

1. Respondent Marker Völkl is a corporation organized, existing, and doing business under and by virtue of the laws of Switzerland with its office and principal place of business located at Ruessenstrasse 6, 6341 Baar, Switzerland. Marker Völkl is a wholly-owned subsidiary of its parent, Jarden Corporation, which is a corporation organized, existing, and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at

consultants, agents and representatives of the Ski Company acting on behalf of or at the direction of the Ski Company; for the avoidance of doubt, “Ski Company” does not include: (1) any employee of Respondent to the extent he or she is acting on his or her own behalf; or (2) ski teams or ski pools.

- G. “Ski Equipment” means alpine snow skis, ski boots, or ski bindings.
- H. “U.S. Skier” means any living natural person who is engaged or has engaged in the sport of alpine skiing, and who, at the time the Ski Companies enter into an Agreement that, but for the proviso in Paragraph II.A. of this Order, would be prohibited by Paragraph II.A. of this Order, is:
 - 1. a citizen or permanent resident alien (as defined by the US Citizenship and Immigration Services) of the United States;
 - 2. a member of the U.S. Ski and Snowboard Association;
 - 3. a member of the U.S. Ski Team;
 - 4. a representative of the United States at the NorAm Cup, the World Cup, or any competition sanctioned by the International Ski Federation; or
 - 5. a representative of the United States at the Winter Olympics.
- I. “U.S. Employee” means any living natural person who is a citizen or permanent resident alien (as defined by the US Citizenship and Immigration Services) of the United States or whose principal place of employment is within the United States.

II.

IT IS FURTHER ORDERED that in connection with the business of manufacturing, distributing, marketing, or selling Ski Equipment in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, Respondent shall cease and desist from, directly or indirectl

or otherwise facilitating any Agreement, either express or implied, with any Ski Company or Ski Companies (other than Respondent) to forbear from soliciting, cold calling, recruiting, hiring, contracting with, or otherwise competing for any U.S. Employee of a Ski Company.

PROVIDED, HOWEVER, that Respondent may enter into, attempt to enter into, or comply with a written agreement with any other Ski Company or Ski Companies to forbear from competing for any U.S. Employee of a Ski Company that (1) is reasonably related to a lawful joint venture agreement, or lawful merger, acquisition or sale agreement; and (2) is reasonably necessary to achieve such agreement's procompetitive benefits.

PROVIDED, FURTHER, that Respondent may enter into, attempt to enter into, or comply with written agreements with any other Ski Company or Ski Companies to forbear from competing for any employee of a Ski Company if such agreement: (1) is in settlement of a bona fide dispute relating to the enforcement of an employee's non-compete or non-solicitation agreement with the Respondent or the other Ski Company; or (2) is included in non-disclosure or confidentiality agreements that Respondent has entered into in connection with conducting due diligence relating to a proposed and bona fide merger, acquisition, or consolidation.

III.

IT IS FURTHER ORDERED that:

- A. Within sixty (60) days after the date the Order is issued, Respondent shall submit to the Commission a verified written report setting forth in detail the manner and form in which the Respondent has complied, is complying, and will comply with this Order.
- B. One (1) year after the date the Order is issued

V.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this order, upon written request, Respondent shall permit any duly authorized representative of the Commission:

- A. Access, during office hours and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the Respondent relating to any matters contained in this Order; and
- B. Upon five (5) days' notice to the Respondent and without restraint or interference from Respondent, to interview officers, directors, or employees of the Respondent, who may have counsel present, regarding such matters.

VI.

IT IS FURTHER ORDERED that this Order shall terminate twenty (20) years from the date on which it becomes final.

By the Commission.

Donald S. Clark
Secretary

SEAL

ISSUED: