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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ALEXX, INC.,	)	
	)	
Plaintiff(s),	)	No. C09-3623 CRB (BZ)
	)	
v.	)	
	)	
CHARM ZONE, INC.,	)	<b>SETTLEMENT CONFERENCE</b>
	)	<b>ORDER - PATENT CASE</b>
Defendant(s).	)	
	)	
	)	
	)	
	)	

The above matter was referred to me for settlement purposes.

On May 26, 2010, I conducted a telephonic hearing at which both sides were represented by counsel. With the consent of the parties and good cause appearing, **IT IS HEREBY ORDERED** that no later than **June 28, 2010**, Sandy Stein of Alexx, Inc. and Young Kim of Charm Zone, Inc., shall meet in person, preferably outside the presence of counsel, to discuss a resolution of this dispute. They shall meet in any place to which they agree or if they cannot agree they shall meet in Chicago. The principals are urged to explore a creative,

1 business resolution of their dispute. If the case settles,  
2 the parties are to notify the Court immediately.

3 Each party shall provide the other informally,  
4 expeditiously and pursuant to Federal Rule of Evidence 408  
5 with all information reasonably needed to further the progress  
6 of the settlement negotiations. Confidential information may  
7 be provided subject to a protective order.

8 It is **FURTHER ORDERED** that a telephonic conference is  
9 scheduled for **June 2, 2010 at 1:30 p.m.**, to discuss the status  
10 of the negotiations. Counsel shall contact **CourtCall**,  
11 telephonic court appearances at  
12 **1-888-882-6878**, and make arrangements for the telephonic  
13 conference call. The principals need not participate.

14 If there is no settlement, it is **FURTHER ORDERED** that a  
15 Settlement Conference is scheduled for **July 23, 2010 at**  
16 **9:00 a.m.**, in Courtroom G, 15th Floor, Federal Building, 450  
17 Golden Gate Avenue, San Francisco, California 94102. Counsel  
18 who will try the case shall appear at the Settlement  
19 Conference with the party principals who met earlier. The  
20 negotiations will be principally among the party principals in  
21 my presence.

22 Each party shall prepare a Settlement Conference  
23 Statement, which must be served on opposing counsel and lodged  
24 (not faxed) with my chambers no later than seven calendar days  
25 prior to the conference. The Statement shall **not** be filed  
26 with the Clerk of the Court. The Statement **may** be submitted  
27 on CD-ROM with hypertext links to exhibits. Otherwise, the  
28 portion of exhibits on which the party relies **shall** be

1 highlighted. The Settlement Conference Statement shall not  
2 exceed ten pages of text and twenty pages of exhibits and  
3 shall include the following:

4 1. A brief statement of the facts of the case.

5 2. A brief statement of the claims and defenses  
6 including, but not limited to, statutory or other grounds upon  
7 which the claims are founded.

8 3. A summary of any related litigation.

9 4. A summary of the proceedings to date and any pending  
10 motions.

11 5. An estimate of the cost and time to be expended for  
12 further discovery, pretrial and trial.

13 6. The relief sought, including an itemization of  
14 damages.

15 7. The parties' position on settlement, including  
16 present demands and offers and a history of past settlement  
17 discussions. The Court's time can best be used to assist the  
18 parties in completing their negotiations, not in starting  
19 them. So there is no confusion about the parties' settlement  
20 position, plaintiff must serve a demand in writing no later  
21 than fourteen days before the conference and defendant must  
22 respond in writing no later than eight days before the  
23 conference. The parties are urged to carefully evaluate their  
24 case before taking a settlement position since extreme  
25 positions hinder the settlement process.

26 Along with the Statement each party shall lodge with the  
27 court a document of no more than three pages containing a  
28 **candid** evaluation of the parties' likelihood of prevailing on

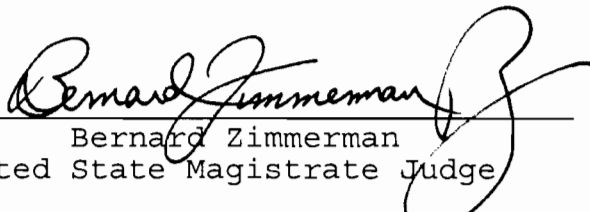
1 the claims and defenses, and any other information that party  
2 wishes not to share with opposing counsel. The more candid  
3 the parties are, the more productive the conference will be.  
4 This document shall not be served on opposing counsel.

5 It is not unusual for conferences to last three or more  
6 hours. Parties are encouraged to participate and frankly  
7 discuss their case. Statements they make during the  
8 conference will not be admissible at trial in the event the  
9 case does not settle. The parties should be prepared to  
10 discuss such issues as:

- 11 1. Their settlement objectives.
- 12 2. Any impediments to settlement they perceive.
- 13 3. Whether they have enough information to discuss  
14 settlement. If not, what additional information is needed.
- 15 4. The possibility of a creative resolution of the  
16 dispute.

17 The parties shall notify chambers immediately if this  
18 case settles prior to the date set for settlement conference.  
19 Counsel shall provide a copy of this order to each party who  
20 will participate in the conference.

21 Dated: May 27, 2010

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23 \_\_\_\_\_  
24 Bernard Zimmerman  
25 United State Magistrate Judge

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