1 **E-Filed 5/28/2010** 2 3 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA 10 SAN JOSE DIVISION 11 12 Case Number C 10-1902 JF (HRL) QUIA CORPORATION, 13 ORDER¹ DENYING APPLICATION Plaintiff/Counter-Defendant. FOR TEMPORARY RESTRAINING 14 ORDER AND SETTING EXPEDITED HEARING FOR MOTION FOR 15 v. PRELIMINARY INJUNCTION MATTEL, INC. and FISHER-PRICE, INC., 16 [re: docket no. 23] 17 Defendants/Counter-Plaintiffs. 18 19 Plaintiff seeks a temporary restraining order and preliminary injunction prohibiting 20 Defendants from releasing, marketing, or otherwise promoting their children's educational 21 product under the name iXL. After considering the moving papers, declarations, and exhibits 22 presented by counsel, the Court concludes that Plaintiff will not suffer irreparable injury from 23 Defendants' alleged servicemark infringement, if at all, before the product actually is available 24 for sale to the general public, which will occur at the earliest in late June. (See Defs.' Opp'n 8 25 ("The Fisher-Price iXL is scheduled to be received by Defendants' distribution centers on or 26 27 ¹ This disposition is not designated for publication in the official reports. 28

Case Number C 10-1902 JF (HRL)
ORDER DENYING APPLICATION FOR TEMPORARY RESTRAINING ORDER AND SETTING EXPEDITED HEARING FOR MOTION FOR PRELIMINARY INJUNCTION (JFLC3)

1	before June 11, 2010, and is expected to be available for purchase in stores by late June and early
2	July. Erickson Decl. ¶¶ 9-10.).) Accordingly, the application for temporary restraining order wil
3	be denied, and Plaintiff's motion for preliminary injunction will be set on an expedited schedule.
4	The motion will be heard on June 11, 2010, at 9:00 A.M. Plaintiff's reply brief is due on June 7,
5	2010. The Court requests that Plaintiff respond specifically to Defendants' contention that case
6	law establishing a presumption of irreparable harm upon a showing of a likelihood of success on
7	the merits in a trademark case has been abrogated in light of Winter v. Natural Resources
8	Defense Council, 129 S.Ct. 365 (2008).
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10	IT IS SO ORDERED.
11	DATED: May 28, 2010
12	DATED. May 26, 2010
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14	EMY FOCEI United States Listrict Judge
15	Officed States Histrict Judge
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