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 IMAX CORPORATION

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15 Attorneys for Defendants
 16 ZIAOFENG ZHANG, individually
 and NEW TRENT, INC.

18 UNITED STATES DISTRICT COURT
 19 NORTHERN DISTRICT OF CALIFORNIA

| | | | |
|----|--|---|---|
| 20 | |) | No. C 10-02552 LHK |
| 21 | IMAX CORPORATION, |) | <u>FINAL JUDGMENT AND PERMANENT INJUNCTION ON CONSENT</u> |
| 22 | Plaintiff, |) | |
| 23 | vs. |) | |
| 24 | ZIAOFENG ZHANG, individually and NEW TRENT, INC., |) | |
| 25 | Defendants. |) | |
| 26 | |) | |

27 Plaintiff IMAX Corporation (“IMAX”) and Defendants Ziaofeng
 28 Zhang, individually and New Trent, Inc. (“Defendants”) have consented to

1 the entry of this Final Judgment and Permanent Injunction on Consent
2 (“Consent Judgment”), based on the following stipulated findings of facts
3 and conclusions of law, which the Court hereby adopts solely for purposes of
4 entry of this Consent Judgment.

Lucy H. Koh

5 FINDINGS OF FACT AND CONCLUSIONS OF LAW

6 1. Plaintiff IMAX Corporation (“Plaintiff”) is a Canadian
7 corporation having a principal place of business located at 2525 Speakman
8 Drive, Sheridan Science and Technology Park, Mississauga, Ontario,
9 Canada L5K 1B1.

10 2. Defendant Ziaofeng Zhang resides at 44412 Pomace Street,
11 Fremont, California 94539. Defendant New Trent Inc. is a California
12 corporation having a principal place of business at 44412 Pomace Street,
13 Fremont, California 94539.

14 3. Pursuant to Section 39 of the Lanham Act, 15 U.S.C. § 1121,
15 and pursuant to 28 U.S.C. §§ 1331 and 1338, this Court has subject matter
16 jurisdiction over IMAX’s claims over Defendants.

17 4. Since at least 1972, IMAX has been, and is currently, using the
18 IMAX mark in connection with a wide range of technology and services
19 including projection systems, cameras, sound systems, motion picture
20 conversion and editing equipment, and production and post-production
21 services, many of which employ or otherwise utilize computer technology,
22 as well as screens and motion picture films and the operation of a
23 worldwide system of motion picture theaters. IMAX’s IMAX mark has also
24 been and is currently used in connection with a wide variety of merchandise
25 including audio and audio-visual tapes and compact discs. IMAX’s use of
26 its IMAX mark has been valid and continuous since the date of first use and
27 has not been abandoned.

28

1 5. Plaintiff is the owner of numerous federal trademark
2 registrations for the IMAX mark in connection with a broad array of goods
3 and services including: Reg. No. 942,747, Reg. No. 2,857,685, Reg. No.
4 2,958,015, Reg. No. 1,283,679, Reg. No. 2,121,078, Reg. No. 2,197,111,
5 Reg. No. 2,263,032, Reg. No. 2,302,107, Reg. No. 3,013,611, Reg. No.
6 2,857,684, and Reg. No. 3,650,746.

7 6. Plaintiff also is the owner of other IMAX marks which are used
8 in connection with a broad array of goods and services, including: IMAX
9 DOME, IMAX 3D, IMAX HD, and IMAX PSE.

10 7. Defendants have designed, manufactured, marketed, sold, and
11 offered for sale batteries, battery chargers, and external battery backup
12 accessories in interstate commerce for cellular phones, laptops, mobile
13 video gaming systems, and various other mobile devices under the
14 designation "Imaxpower." Defendants' goods have been advertised on the
15 Internet and on Defendants' web site, which was accessible through the
16 URL <www.imaxpower.com>.

17 8. On June 9, 2010, IMAX commenced the above-captioned action
18 (the "Action") by filing a Complaint (the "Complaint") against Defendants.
19 The Complaint alleged trademark infringement, unfair competition, and
20 trademark dilution arising under the Trademark Act of 1946, 15 U.S.C.
21 §§ 1051 et seq. (2004) ("Lanham Act"), and the common law.

22 9. This Court has personal jurisdiction over Defendants because
23 Defendants reside in this State, do business in this State, have distributed,
24 offered for sale, or sold allegedly infringing merchandise within this State,
25 have allegedly engaged in acts or omissions within this State causing
26 injury, and have otherwise established contacts with this State making the
27 exercise of personal jurisdiction proper.

28

1 10. Venue is proper in this District under 28 U.S.C. § 1391(b)(1)
2 and (2) because Defendants reside in this District, and a substantial part of
3 the events or omissions giving rise to the action occurred in this District.

4 PERMANENT INJUNCTION AND ORDER

5 Based on the parties' stipulation and agreement hereto, it is hereby
6 ORDERED, ADJUDGED, and DECREED:

7 11. Defendants shall pay IMAX the sum of Five Thousand Dollars
8 (\$5,000) within fifteen (15) days from entry of this Consent Judgment.

9 12. Defendants shall assign the URL <imaxpower.com> to IMAX
10 within fifteen (15) days from entry of this Consent Judgment.

11 13. Defendants and their respective agents, servants, employees,
12 predecessors, officers, directors, shareholders, and all other persons acting
13 for, with, by, through, or under authority from Defendants, or in concert or
14 participation with Defendants are hereby **PERMANENTLY RESTRAINED**
15 **AND ENJOINED** from using any name, mark or URL consisting of or
16 including "IMAX" or "Imaxpower" or any other confusingly similar
17 imitation of IMAX's IMAX® mark in connection with Defendants'
18 businesses, goods or services (including without limitation use of the
19 above-referenced designations within the phrase "formerly known as . . .").

20 14. IMAX and Defendants acknowledge that they have knowingly
21 and voluntarily entered into this Consent Judgment after reviewing the same
22 with their counsel or having had ample opportunity to consult with counsel.
23 IMAX and Defendants understand the undertakings, obligations and terms
24 of this Consent Judgment.

25 15. The parties shall bear their own attorneys' fees, expenses, and
26 costs associated with the Action.

27 16. Except as to Defendants' obligations set forth in this Consent
28 Judgment, IMAX claims against Defendants in this Action are hereby

1 dismissed with prejudice. Without limiting the foregoing, it is the intention
2 of the Parties in executing the Consent Judgment, that the Consent
3 Judgment shall be effective as a bar to each and every claim, demand, and
4 cause of action that the parties may presently have against one another
5 except as to the parties' obligations set forth in this Consent Judgment. In
6 furtherance of this intention, the parties hereby expressly waive any and all
7 rights or benefits conferred by the provisions of Section 1542 of the
8 California Civil Code, and by any similar provision of the law of any state,
9 or federal law, now in effect or in effect in the future, and expressly
10 consent that this stipulation shall be given full force and effect according to
11 each and all of its express terms and conditions, including those relating to
12 unknown and unsuspected claims, demands and causes of action specified
13 above, if any. Section 1542 provides:

14 "A general release does not extend to claims which the creditor does
15 not know or suspect to exist in his favor at the time executing a release,
16 which if known by him might have materially affected his settlement with
17 the debtor."

18 The parties acknowledge that they understand the significance and
19 potential consequences of their release of unknown claims and of the
20 specific waiver of their rights under Section 1542 or similar law.

21 17. No appeals shall be taken from this Consent Judgment, and
22 IMAX and Defendants hereby waive all right to appeal from this Consent
23 Judgment.

24 (signatures continued on next page)
25
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(signatures continued from preceding page)

1
2 ^{MOZ} Agreed to by and between the Parties hereto as of this the 6th day
3 ^{August} of July, 2010.

4 IMAX CORPORATION ZIAOFENG ZHANG, an individual
5
6 By: [Signature] [Signature]
7 Name: G. MARY RUBY Date: 07/27/2010
8 Exec. VP Corporate Services, & Corporate Secretary Date: 08/06/10

9
10 Jeffrey Vance
11 Vice President
12 Finance & Controller
13
14 NEW TRENT INC.
15 By: [Signature]
16 Name: Xiaofeng Zhang
17 Date: 07/27/2010

14 Approved as to form:
15 [Signature]
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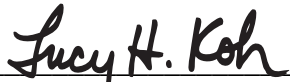
Attorneys for Defendants
ZIAOFENG ZHANG, individually
and NEW TRENT, INC.

(signatures continued on next page)

1 Pursuant to the parties' stipulation, which the Court hereby adopts solely for purposes of
2 entry of this Consent Judgment, IT IS SO ORDERED.

3 The Clerk shall close this file.
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5 Dated: August 11, 2010



6 Hon. Lucy H. Koh
7 United States District Judge
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