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**FILED**  
**ALAMEDA COUNTY**

OCT 07 2008

CLERK OF THE SUPERIOR COURT

By Lordnell Williams Deputy

Attorneys for Plaintiff  
 JAMIE TE'O

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Attorneys for Defendant  
 JATON CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 FOR THE COUNTY OF ALAMEDA  
 UNLIMITED CIVIL JURISDICTION

JAMIE TE'O,

Plaintiff,

v.

JATON CORPORATION; and DOES 1 through  
 150, inclusive,

Defendants.

Case No. RG-07-360979

ASSIGNED FOR ALL PURPOSES TO  
 JUDGE DAVID HUNTER  
 DEPARTMENT 520

~~PROPOSED~~ JUDGMENT  
 PURSUANT TO TERMS OF  
 CONSENT JUDGMENT

Date: October 3, 2008  
 Time: 9:30 a.m.  
 Dept.: 520  
 Judge: Hon. David Hunter

Reservation # R-838921

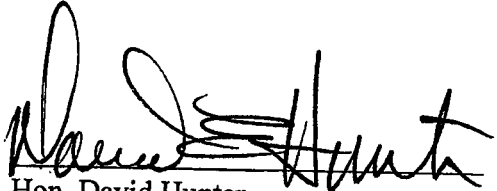
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In the above-entitled action, Plaintiff JAMIE TE'O and Defendant JATON  
COPRORATION, have agreed through their respective counsel that judgment be entered  
pursuant to the terms of the Consent Judgment entered into by the parties on June 2, 2008,  
*and the Court has granted the parties' Joint Motion to Approve the settlement on 10/3/08.*  
IT IS HEREBY ORDERED, ADJUDGED AND DECREED that pursuant to Code of  
Civil Procedure section 664.5, judgment is entered in accordance with the terms of the Order  
Approving Proposition 65 Consent Judgment between the parties, *attached hereto as Exhibit A.*

IT IS SO ORDERED.

Dated: *10 - 7 - 2008*

  
Hon. David Hunter  
JUDGE OF THE SUPERIOR COURT

DJK

# **Exhibit A**

1 David R. Bush, State Bar No. 154511  
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2 2560 Ninth Street  
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3 Berkeley, CA 94710-2565  
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10 Attorneys for Defendant  
JATON CORPORATION

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

JAMIE TE'O,  
  
Plaintiff,  
  
v.  
  
JATON CORPORATION, INC.; and DOES 1  
through 150, inclusive,  
  
Defendants.

Case No. RG 07360979

**[PROPOSED] CONSENT  
JUDGMENT**

1     **1.     INTRODUCTION**

2             **1.1     Parties**

3             This Consent Judgment (also referred to herein as “Agreement”) is entered into by and  
4     between plaintiff, Jamie Te’o (“Plaintiff” or “Te’o”), and defendant Jaton Corporation (“Jaton” or  
5     “Defendant”), with Te’o and Defendant together being referred to as the “Parties.”

6             **1.2     Plaintiff**

7             Te’o is an individual residing in San Francisco County in the State of California who seeks to  
8     promote awareness of exposure to toxic chemicals and improve human health by reducing or  
9     eliminating hazardous substances contained in various consumer and commercial products.

10            **1.3     Defendant**

11            Defendant employs ten or more persons and is a person in the course of doing business for  
12   purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety  
13   Code §§ 25249.6 et seq. (“Proposition 65”).

14            **1.4     General Allegations**

15            Plaintiff alleges that Defendant has manufactured, distributed, and/or sold products with  
16   solder containing lead in the State of California without providing the requisite warnings for lead  
17   exposure required by Proposition 65. Lead is a substance listed pursuant to Proposition 65 as known  
18   to the State of California to cause birth defects and other reproductive harm.<sup>1</sup> Lead is referred to  
19   herein as the “Listed Chemical.”

20            **1.5     Product Description**

21            The products that are covered by this Consent Judgment are defined as follows: video cards,  
22   graphic cards, controller cards, with lead-containing solder (referred to herein collectively as the  
23   “Products”). Examples of lead-containing solder include, but are not limited to, solder, solder balls,  
24   solder spheres, solder paste, wave solder, solder joints, die bumps, and flip-chip bumps. The

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<sup>1</sup> Lead is also listed as a Proposition 65 carcinogen; however, the State has adopted a safe harbor  
27   exposure level for lead as a carcinogen (15 ug/day) that is significantly higher than the level it has identified  
28   for lead as a reproductive toxicant under Proposition 65 (.5 ug/day), such that Parties are in agreement that  
only Proposition 65’s requirements regarding reproductive toxicity are potentially relevant here.

1 Products are sold by Jatón individually and are not sold by Jatón as a component integrated into  
2 another Product.

3 **1.6 Notices of Violation**

4 On August 30, 2007, Te'o served Jatón and all public enforcers entitled to receive it pursuant  
5 to Health & Safety Code § 25249.7(d), with a document entitled "60-Day Notice of Violation"  
6 ("Notice") that provided Defendant and such public enforcers with notice that Plaintiff intended to  
7 file and prosecute a lawsuit at the expiration of the 60-day notice period alleging that Jatón was in  
8 violation of California Health & Safety Code § 25249.6 for failing to warn consumers, workers and  
9 others that controller cards that Jatón sold exposed users in California to the Listed Chemical. In  
10 response to that Notice, Jatón immediately began affixing warnings in conformance with Proposition  
11 65 to Product packages.

12 **1.7 Complaint**

13 On December 12, 2007, in the absence of public prosecutor action, Te'o, who is acting in the  
14 interest of the general public in California, filed a complaint ("Complaint" or "Action") in the  
15 Superior Court in and for the County of Alameda a against Jatón, and Does 1 through 150, *Te'o v.*  
16 *Jatón Corporation; and DOES 1 through 150, inclusive*, Alameda County Superior Court Case  
17 No. RG07360979, alleging violations of California Health & Safety Code § 25249.6, based on the  
18 alleged exposures to the Listed Chemical contained in the Products Jatón sold or distributed.

19 **1.8 No Admission**

20 Jatón denies the material factual and legal allegations contained in Te'o's Notice and  
21 Complaint, denies that consumers are exposed to lead during reasonably foreseeable use of Products  
22 integrated into and enclosed in computer systems, denies any and all liability under Proposition 65,  
23 and maintains that all Products it has sold in and/or distributed for sale or use in California have been  
24 and are in compliance with all laws. Nothing in this Consent Judgment shall be construed as an  
25 admission by Jatón of any fact, finding, issue of law, or violation of law, nor shall compliance with  
26 this Consent Judgment constitute or be construed as an admission by Jatón of any fact, finding,  
27 conclusion, issue of law, or violation of law, such being specifically denied by Jatón. However, this  
28

1 Paragraph shall not diminish or otherwise affect Jatón's obligations, responsibilities and duties under  
2 this Consent Judgment.

3 **1.9 Consent to Jurisdiction**

4 For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
5 jurisdiction over Jatón as to the allegations contained in the Complaint, that venue is proper in the  
6 County of Alameda and that this Court has jurisdiction to enter and enforce the provisions of this  
7 Consent Judgment.

8 **1.10 Effective Date**

9 For purposes of this Settlement Agreement, the term "Effective Date" shall mean May 30,  
10 2008.

11 **2. INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION**

12 After the Effective Date, Defendant shall not sell, ship, or offer to be shipped for sale, in  
13 California, Products containing the Listed Chemical, unless such Products are sold or shipped with  
14 the clear and reasonable warning set out in this Section 2.1, comply with the "Reformulation  
15 Standards" set forth in Section 2.3, or are otherwise exempted pursuant to Section 2.2.

16 **2.1 Product Warnings**

17 (a) Any warning issued for Products pursuant to this Section 2.1 shall be  
18 prominently placed with such conspicuousness as compared with other words, statements, designs, or  
19 devices as to render it likely to be read and understood by an ordinary individual under customary  
20 conditions before use. Jatón does not presently sell directly to consumers, but if it begins to sell or  
21 ship Products directly to consumers, it shall provide the warning for those Products to California  
22 consumers before purchase unless such Products are reformulated pursuant to Section 2.3. Any  
23 warning issued pursuant to this Section 2.1 shall be provided in a manner such that the consumer or  
24 user understands to which specific Product the warning applies, so as to minimize if not eliminate the  
25 chance that an over warning situation will arise.

26 (b) **Package Insert or Label Warning.** Where required under this Consent  
27 Judgment, Jatón may satisfy its Proposition 65 warning obligations for Products that are sold by  
28 telephone, direct sale or sales to distributors who are California residents or businesses by providing a

1 warning with the Product when it is shipped to an address in California. For the sales of all such  
2 Products, a warning may be provided with the Product when it is shipped directly to an individual or  
3 business in California by either: (i) affixing the following warning language to the packaging,  
4 labeling, or directly to a specific Product; (ii) inserting a warning card measuring at least 3"x5" into  
5 the product package, or inserting a warning card measuring at least 4" x 6" into the shipping carton,  
6 which contains the following warning language; or (iii) placing the following warning statement on a  
7 written price quotation, order acknowledgment, packing slip or customer invoice on the line directly  
8 below the description of the Product on the price quotation, order acknowledgment, packing slip or  
9 customer invoice:

10                   WARNING: The solder used in this product contains lead, a chemical  
11                   known to the State of California to cause birth defects and  
12                   other reproductive harm. Please wash hands after  
                          handling and avoid inhalation of fumes if heating the  
                          solder.

13 Alternatively, Jaton may place the following language on the price quotation, order  
14 acknowledgment, packing slip or customer invoice and specifically identify the Product(s) in lettering  
15 of the same size or larger as the description of the Product(s):

16                   WARNING: The solder used in the following product(s) contain lead,  
17                   a chemical known to the State of California to cause birth  
18                   defects or other reproductive harm. Please wash hands  
                          after handling and avoid inhalation of fumes if heating the  
                          solder.

19                   *[list Products for which warning is given].*

20                   (c)    **Sales to Known Integrators**

21                   Defendant does not presently sell Products directly to individuals or entities it knows to be in  
22 the business of integrating its Products into computer systems for resale ("Integrators"). In the future,  
23 if Defendant sells directly to Integrators in California, Products containing lead solder that are neither  
24 labeled with a warning nor reformulated in accordance with Section 2.3, Defendant shall provide the  
25 Integrator with written instructions in the first quarter of each calendar year that notify such  
26 Integrators that solder in certain Products contains lead, and instruct such Integrators to provide  
27 warnings to its employees who may be exposed to lead in Defendant's Products through direct  
28 contact and to consumers with any sales of the Products into California. Defendant shall maintain a



1 record that Defendant provided each Integrator with the above-mentioned written instructions and  
2 shall make said record concerning a particular Integrator available for Te'o's inspections upon  
3 request, but only if the following conditions have been met: i) Te'o or his counsel have independently  
4 identified the Integrator as having sold a Product that has integrated Defendant's Product; ii) Te'o has  
5 a good faith, reasonable belief that the Integrator has failed to comply with the warning requirements  
6 of Proposition 65; and iii) the Integrator has verified in writing that it obtained the Products in  
7 question from Defendant or that, in the alternative, Te'o can independently verify that the serial  
8 number and/or identifying mark on the Products in question evidence that those Products were  
9 obtained directly from Defendant.

## 10 **2.2 Exceptions To Warning Requirements**

11 The warning requirements set forth in Section 2.1 shall not apply to:

- 12 (i) Subject to implementation of Section 2.5 below, any Product received in inventory  
13 before May 15, 2008;
- 14 (ii) Reformulated Products (as defined in Section 2.3 below); or
- 15 (iii) Any Product in which the only possible point of exposure to the Listed Chemical is  
16 embedded in a manner that a consumer or worker would not come into contact with  
17 the Listed Chemical under any reasonably anticipated use, such as Products which are  
18 not expected to be serviced by employees or users other than those with specialized  
19 information technology and related occupational health and safety training, including  
20 servers, storage or storage and array systems, port replicators, and network  
21 infrastructure equipment for switching, signaling and transmission as well as network  
22 management for telecommunications that serve a business's internal non-consumer  
23 market.

## 24 **2.3 Reformulated Products**

25 "Reformulated Products" are defined as follows: any Product containing less than or equal to  
26 one-tenth of one percent (0.1%) lead by weight in each solder material, including all forms of solder  
27 as identified in Section 1.5, unless that material is embedded in a manner that a consumer or worker  
28

1 ordinarily would not come into contact with the lead under any reasonably anticipated use.<sup>2</sup> The  
2 warnings required pursuant to Section 2.1 above shall not be required for Reformulated Products.

3 **2.4 Reformulation Commitment**

4 Jatón hereby commits that all Products that it offers for sale in California after the Effective  
5 Date shall be exempt from the warning requirements of Section 2.1 pursuant to Section 2.2. Further,  
6 as of the Effective Date, Jatón commits to use its commercially reasonable efforts to reformulate all  
7 Products so that by August 30, 2008, all Products received into inventory will qualify as  
8 Reformulated Products pursuant to Section 2.3, except for (i) Products exempted pursuant to  
9 Section 2.2(i) or (iii) above, or (ii) Products purchased by customers who specifically require  
10 Products containing lead, as to which Products warnings will be issued pursuant to Section 2.1.

11 **2.5 Public Information Commitment**

12 In a good faith effort to inform consumers about the risk of exposure to lead in Jatón's  
13 Products received in inventory before the Effective Date and which are not otherwise exempted  
14 pursuant to Section 2.2 above, Jatón hereby commits to provide the following on a web page  
15 addressing environmental/regulatory issues on its website for a period of three years:

16 Certain products (listed below) sold by Jatón before the date indicated  
17 contain lead solder. Lead is a chemical known to the State of  
18 California to cause birth defects and other reproductive harm. Please  
wash hands after handling and avoid inhalation of fumes if heating  
solder.

19 [Add Product List and date before which each product contained lead, or link to such  
20 Product List]

21  
22  
23 <sup>2</sup> Consistent with the European Union's Reduction of Hazardous Substances regulations ("RoHS"),  
24 the lead by weight standard set forth above shall not apply to specialty solders used in a Product, including  
25 specialty solders used with glass and ceramic microcomponents, lead in high melting temperature type solders,  
26 solders used in pin connector systems or to form connections between the pins and the package of processors,  
27 solders used to complete a viable electrical connection between a semiconductor die and carrier within an  
28 integrated circuit flip chip package, solders used for the soldering to machined through hole discoidal and  
planar array ceramic multilayer capacitors, and/or solder used for transducers used in high-powered  
loudspeakers, provided that such solders: (a) are embedded or otherwise used in a Product such that a  
consumer or worker (other than specially trained service provider) would not come into contact with them  
under any reasonably anticipated use, or (b) constitute no more than five percent (5%) of the total amount of  
all non-embedded solder used in the Product in question.

1 **3. MONETARY PAYMENTS**

2 **3.1 Penalties Pursuant to Health & Safety Code § 25249.7(b)**

3 Pursuant to Health & Safety Code § 25249.7(b), the total civil penalty assessed shall be  
4 \$20,000 which shall be apportioned and paid as follows:

- 5 (a) Defendant shall receive a credit of \$10,000 against this amount in light of its  
6 prompt labeling of Products, and its prompt cooperation with Te'o in resolving  
7 this matter and its commitment to sell reformulated (or otherwise exempted)  
8 Products in California pursuant to Section 2.4 above;
- 9 (b) Defendant shall pay \$2,000 in civil penalties by sending payment via certified  
10 mail to the address provided below; and
- 11 (c) Defendant shall pay \$8,000 in civil penalties on or before August 1, 2008.  
12 This payment will be waived provided that Defendant complies with the public  
13 information commitment on or before July 1, 2008, as set forth in Section 2.5.

14 Such payments will settle all the claims referred to in this Consent Judgment. Jaton's  
15 payments shall be apportioned in accordance with California Health & Safety Code §25192, with  
16 75% of these funds remitted to the State of California's Office of Environmental Health Hazard  
17 Assessment ("OEHHA") and the remaining 25% of the penalty remitted to Jamie Te'o as provided by  
18 California Health & Safety Code §25249.12(d). Jaton shall issue two separate checks for the penalty  
19 payment: (a) one check made payable to "Hirst & Chanler LLP in Trust For OEHHA" in the amount  
20 of \$1,500 representing 75% of the first penalty payment; and (b) one check to "Hirst & Chanler LLP  
21 in Trust for Jamie Te'o" in the amount of \$500, representing 25% of the first penalty payment. A  
22 Federal tax form 1099 shall be issued for each of the above payments as follows: (a) OEHHA, P.O.  
23 Box 4010, Sacramento, CA, 95814 (EIN: 68-0284486); and (b) Jamie Te'o, whose information shall  
24 be provided five calendar days before the payment is due.

25 Payment shall be delivered to Te'o's counsel within ten (10) days of the Effective Date at the  
26 following address:

27 ///

28 ///

1 HIRST & CHANLER LLP  
2 Attn: Proposition 65 Controller  
3 455 Capitol Mall, Suite 605  
4 Sacramento, CA 95814

5 **3.2 Attorney Fees and Costs.**

6 The Parties acknowledge that Te'o and his counsel offered to resolve this dispute without  
7 reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee  
8 issue to be resolved after the material terms of the agreement had been settled. Jaton then expressed a  
9 desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized.  
10 The Parties then attempted to (and did) reach an accord on the compensation due to Te'o and his  
11 counsel under general contract principles and the private attorney general doctrine codified at  
12 California Code of Civil Procedure (CCP) §1021.5, for all work performed through the mutual  
13 execution of this agreement. Jaton shall reimburse Te'o and his counsel for fees and costs incurred as  
14 a result of investigating lead in Jaton's Products, bringing this matter to Jaton's attention, and  
15 litigating and negotiating a settlement in the public interest. Jaton shall pay Te'o and his counsel  
16 \$15,500 for all attorneys' fees and costs. Jaton shall issue a separate 1099 for fees and costs (EIN:  
17 20-3929984) and shall make two checks in the amount of \$7,750 each payable to "HIRST &  
18 CHANLER LLP" and shall deliver the first check within ten (10) days of the Effective Date and the  
19 second check within 31 days of the Effective Date to the following address:

20 HIRST & CHANLER LLP  
21 Attn: Proposition 65 Controller  
22 455 Capitol Mall, Suite 605  
23 Sacramento, CA 95814

24 **3.3 Additional Attorney Fees and Costs in Seeking Judicial Approval.**

25 Pursuant to CCP §§1021 and 1021.5, the Parties agree that Jaton will reimburse Te'o and his  
26 counsel for their reasonable fees and costs incurred in seeking judicial approval of this settlement  
27 agreement in the trial court, in an amount not to exceed \$4,000. Such additional fees and costs,  
28 exclusive of fees and costs that may be incurred in the event of an appeal include, but are not limited  
to, drafting and filing of the motion to approve papers, fulfilling the reporting requirements

1 referenced in Health & Safety Code §25249.7(f), corresponding with opposing counsel responding to  
2 any third party objections and appearing before the Court related to the approval process.

3 Reimbursement of such additional fees and costs shall be due within ten days after receipt of a  
4 billing statement from Te'o ("Additional Fee Claim"). Payment of the Additional Fee Claim shall be  
5 made to "Hirst & Chanler LLP," and the payment shall be delivered, at the following address:

6  
7 HIRST & CHANLER LLP  
8 Attn: Proposition 65 Controller  
9 Capitol Mall Complex  
455 Capitol Mall, Suite 605  
Sacramento, CA 95814

10 Jaton has the right to object to such reimbursement and may submit the resolution of this issue  
11 to the American Arbitration Association (AAA) in Northern California to determine the  
12 reasonableness of the additional fees and costs sought, provided that such notice of objection or  
13 decision to arbitrate is received by Te'o by the end of the ten calendar days. If an arbitration notice is  
14 not filed with AAA in a timely manner, Te'o may file a motion with the Court pursuant to both CCP  
15 §1021.5 and this settlement agreement to recover additional attorney fees and costs incurred as set  
16 forth in this paragraph. In the event Jaton submits the matter to arbitration, Te'o may seek, pursuant to  
17 CCP §1021.5, reasonable attorney fees and costs incurred for the arbitration.

18  
19 **4. RELEASE OF ALL CLAIMS**

20 **4.1 Release of Defendant and Downstream Customers**

21 In further consideration of the promises and agreements herein contained, and for the  
22 payments to be made pursuant to Sections 3 and 4, Te'o, on behalf of himself, his past and current  
23 agents, attorneys, successors, and/or assignees, and not acting in a representative capacity on behalf  
24 of the general public, hereby waives all rights to institute or participate in, directly or indirectly, any  
25 form of legal action and releases all claims, including, without limitation, all actions, and causes of  
26 action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties,  
27 losses, or expenses (including, but not limited to, investigation fees, expert fees, and attorneys' fees)  
28 of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "claims"),

1 against Jatón and each of its downstream distributors, wholesalers, licensors, licensees, auctioneers,  
2 retailers, franchisees, dealers, customers, owners, purchasers, users, parent companies, corporate  
3 affiliates, subsidiaries, successors and assigns, and their respective officers, directors, attorneys,  
4 representatives, shareholders, agents, and employees, sister and parent entities, and, with respect to  
5 Products sold in Jatón's own brand names, original equipment manufacturers and distributors  
6 (collectively "Releasees"). This release is limited to those claims that arise under Proposition 65, as  
7 such claims relate to Jatón's alleged failure to warn about exposures to the Listed Chemical contained  
8 in the Products.

9         The Parties further understand and agree that, except as provided for above, this release shall  
10 not extend upstream to any entities other than Jatón Audio Video that manufactured the Products or  
11 any component parts thereof, or any distributors or suppliers who sold the Products or any component  
12 parts thereof to Defendant. The foregoing is not, however, intended to limit any release set forth in,  
13 or direct or indirect effect of, prior settlements or judgments Plaintiff or other enforcers of  
14 Proposition 65 have entered into with such upstream entities in terms of their application to any  
15 claims that have been or which may in the future be alleged against Defendant with respect to the  
16 Listed Chemical in any Products sold by such upstream entities to Defendant. This Agreement also  
17 does not release any downstream party (including Integrators and retailers) that either caused  
18 exposure to the Listed Chemical from Products not supplied by Defendant or, as to the future, alters a  
19 Product purchased from Defendant in such a way as to cause it to violate the Reformulation  
20 Standards or fails to transmit the requisite warnings provided by Defendant in the manner set forth in  
21 Section 2.1 of in this Agreement.

22         This Consent Judgment is also a full, final and binding resolution between Plaintiff, acting on  
23 behalf of the public interest pursuant to California Health & Safety Code § 25249.7(d), and Jatón and  
24 its Releasees, on the other hand, of any violation of Proposition 65 and of all claims made or which  
25 could have been made in the Notice, Supplemental Notice, and/or Complaint based on the facts  
26 asserted therein for Jatón's alleged failure to provide warnings for exposure to the Listed Chemical in  
27 the Products (as defined in Paragraph 1.5 above). Compliance by Jatón with the terms of this  
28 Consent Judgment resolves any issue, now and in the future, concerning compliance by Jatón and its

1 Releasees, with the requirements of Proposition 65 as to warnings for exposure to the Listed  
2 Chemical in the Products (as defined in Paragraph 1.5 above).

3 **4.2 Defendant's Release of Te'o**

4 Defendant waives any and all claims against Te'o, his attorneys, and other representatives for  
5 any and all actions taken or statements made (or those that could have been taken or made) by Te'o  
6 and his attorneys and other representatives, whether in the course of investigating claims or otherwise  
7 seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the Products.

8 **5. COURT APPROVAL**

9 This Agreement is not effective until it is approved and entered by the Court and shall be null  
10 and void if, for any reason, it is not approved and entered by the Court within one year after it has  
11 been fully executed by all Parties, in which event any monies that have been provided to Plaintiff or  
12 his counsel, pursuant to Section 3 and/or Section 4 above, shall be refunded within fifteen (15) days  
13 after receiving written notice from Defendant that the one-year period has expired.

14 **6. SEVERABILITY**

15 If, subsequent to court approval of this Agreement, any of the provisions of this Agreement  
16 are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not  
17 be adversely affected.

18 **7. DISPUTE RESOLUTION, ATTORNEYS' FEES**

19 In the event that a dispute arises with respect to any provision of this Agreement, the parties  
20 shall submit to binding arbitration and the prevailing party shall, except as otherwise provided herein,  
21 be entitled to recover reasonable costs and attorneys' fees incurred in connection with such dispute.

22 **8. GOVERNING LAW**

23 The terms of this Agreement shall be governed by the laws of the State of California and  
24 apply within the State of California. In the event that Proposition 65 is repealed or is otherwise  
25 rendered inapplicable by reason of law generally, or as to the Products, then Defendant shall provide  
26 written notice to Te'o of any asserted change in the law, and shall have no further obligations  
27 pursuant to this Agreement with respect to, and to the extent that, the Products are so affected.

28

1     **9.     NOTICES**

2             Unless specified herein, all correspondence and notices required to be provided pursuant to  
3 this Settlement Agreement shall be in writing and personally delivered or sent by: (i) first-class,  
4 (registered or certified mail) return receipt requested; or (ii) overnight courier on any Party by the  
5 other Party at the following addresses:

6             To Te'o:

7             Proposition 65 Coordinator  
8             HIRST & CHANLER LLP  
9             2560 Ninth Street  
              Parker Plaza, Suite 214  
              Berkeley, CA 94710-2565

10            To Jatón:

11            Wendy L. Manley, Esq.  
12            Wendel, Rosen, Black & Dean, LLP  
13            1111 Broadway, 24th Floor  
14            Oakland, CA 94607  
              TELE: (510) 834-6600  
              FAX: (510) 834-1928

15            Any Party, from time to time, may specify in writing to the other Party a change of address to  
16 which all notices and other communications shall be sent.

17     **10.    COUNTERPARTS; FACSIMILE SIGNATURES**

18            This Agreement may be executed in counterparts and by facsimile, each of which shall be  
19 deemed an original, and all of which, when taken together, shall constitute one and the same  
20 document.

21     **11.    COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)**

22            Te'o agrees to comply with the reporting form requirements referenced in Health & Safety  
23 Code § 25249.7(f).

24     **12.    ADDITIONAL POST EXECUTION ACTIVITIES**

25            Te'o and Jatón agree to mutually employ their best efforts to support the entry of this  
26 Agreement as a Consent Judgment and obtain approval of it by the Court in a timely manner. The  
27 Parties acknowledge that, pursuant to Health & Safety Code § 25249.7, a noticed motion is required  
28 to obtain judicial approval of this Agreement. Accordingly, the Parties agree to file a Motion to



1 Approve the Agreement (the “motion”), which shall be prepared by Plaintiff’s counsel and reviewed  
2 by Jatón’s counsel prior to filing with the Court. Jatón shall have no additional responsibility to  
3 Plaintiff’s counsel pursuant to Code of Civil Procedure § 1021.5 or otherwise with regard to  
4 reimbursement of any fees and costs incurred with respect to the preparation and filing of the motion  
5 or with regard to Plaintiff’s counsel appearing for a hearing thereon.

6 **13. MODIFICATION**

7 This Agreement may be modified only: (1) by written agreement of the Parties and upon  
8 entry of a modified Settlement Agreement by the Court thereon; or (2) upon a successful motion of  
9 any Party and entry of a modified Settlement Agreement by the Court. The Attorney General shall be  
10 served with notice of any proposed modification to this Agreement at least fifteen (15) days in  
11 advance of its consideration by the Court.

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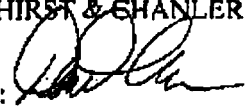
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**AUTHORIZATION**

The undersigned are authorized to execute this Agreement on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this Agreement.

<b>AGREED TO:</b>	<b>AGREED TO:</b>
Date: _____	Date: _____
By: _____ Plaintiff, JAMIE TE'O	By: _____ Defendant, JATON CORPORATION
<b>APPROVED AS TO FORM:</b>	<b>APPROVED AS TO FORM:</b>
Date: <u>May 29, 2008</u>	Date: _____
HIRSH & CHANLER LLP	WENDEL, ROSEN, BLACK & DEAN, LLP
By:  _____ David R. Bush Attorneys for Plaintiff JAMIE TE'O	By: _____ Wendy L. Manley Attorneys for Defendant JATON CORPORATION

IT IS SO ORDERED.

Date: \_\_\_\_\_ JUDGE OF THE SUPERIOR COURT

1 **AUTHORIZATION**

2 The undersigned are authorized to execute this Agreement on behalf of their respective Parties  
3 and have read, understood, and agree to all of the terms and conditions of this Agreement.

<p>4 <b>AGREED TO:</b></p> <p>5</p> <p>6 Date: <u>6-02-08</u></p> <p>7</p> <p>8 By: <u>Jamie Te'o</u> Plaintiff, JAMIE TE'O</p>	<p><b>AGREED TO:</b></p> <p>Date: _____</p> <p>By: _____ Defendant, JATON CORPORATION</p>
<p>10 <b>APPROVED AS TO FORM:</b></p> <p>11</p> <p>12 Date: _____</p> <p>13 HIRST &amp; CHANLER LLP</p> <p>14 By: _____ David R. Bush Attorneys for Plaintiff JAMIE TE'O</p>	<p><b>APPROVED AS TO FORM:</b></p> <p>Date: _____</p> <p>WENDEL, ROSEN, BLACK &amp; DEAN, LLP</p> <p>By: _____ Wendy L. Manley Attorneys for Defendant JATON CORPORATION</p>

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18 IT IS SO ORDERED.


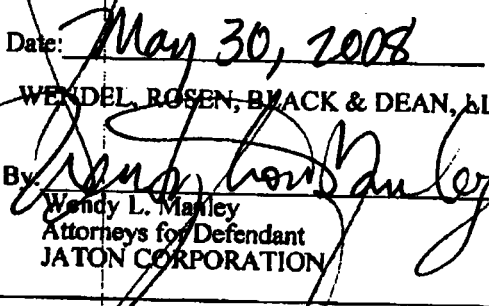
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20 Date: \_\_\_\_\_

21 \_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

1 **AUTHORIZATION**

2 The undersigned are authorized to execute this Agreement on behalf of their respective Parties  
3 and have read, understood, and agree to all of the terms and conditions of this Agreement.

<p>4</p> <p>5 <b>AGREED TO:</b></p> <p>6 Date: _____</p> <p>7</p> <p>8 By: _____ Plaintiff, JAMIE TE'O</p>	<p>5 <b>AGREED TO:</b></p> <p>6 Date: <u>5-30-08</u></p> <p>7</p> <p>8 By:  Defendant, JATON CORPORATION</p>
<p>10 <b>APPROVED AS TO FORM:</b></p> <p>11</p> <p>12 Date: _____</p> <p>13 HIRST &amp; CHANLER LLP</p> <p>14 By: _____ David R. Bush Attorneys for Plaintiff JAMIE TE'O</p>	<p>10 <b>APPROVED AS TO FORM:</b></p> <p>11</p> <p>12 Date: <u>May 30, 2008</u></p> <p>13 WENDEL ROSEN, BLACK &amp; DEAN, LLP</p> <p>14 By:  Wendy L. Manley Attorneys for Defendant JATON CORPORATION</p>

18 IT IS SO ORDERED.

19  
20 Date: \_\_\_\_\_  
21 \_\_\_\_\_  
22 JUDGE OF THE SUPERIOR COURT

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