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11 Attorneys for Defendant
12 COMTOP CONNECTIVITY SOLUTIONS INC.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF SAN FRANCISCO
15

16 MY NGUYEN,
17 Plaintiff,
18 v.
19 LINK DEPOT CORP.; et al.,
20 Defendants.

Case No. CGC-21-592813

[PROPOSED] CONSENT JUDGMENT

(Health & Safety Code § 25249.6 et seq. and
Code of Civil Procedure § 664.6)

Case filed: June 14, 2021
Trial: June 10, 2024

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CONSENT JUDGMENT

1 **1. INTRODUCTION**

2 This Consent Judgment is entered into by and between plaintiff My Nguyen (“Nguyen”) and
3 defendant Comtop Connectivity Solutions Inc. (“Comtop”), with Nguyen and Comtop each
4 individually referred to as a “Party” and collectively, as the “Parties,” to resolve the allegations in the
5 August 19, 2020, November 18, 2020, and July 3, 2023 60-Day Notices of Violation (“Notices”) and
6 associated Complaint filed in this action on June 14, 2021 (and amended on September 14, 2023)
7 (“Complaint”) in compliance with the Safe Drinking Water and Toxic Enforcement Act of 1986,
8 Health & Safety Code section 25249.6 *et seq.* (“Proposition 65”).

9 **1.1 The Parties**

10 Nguyen is an individual proceeding in the public interest pursuant to California Health &
11 Safety Code § 25249.7(d) to ensure that chemicals known to the State of California to cause cancer,
12 birth defects, or other reproductive harm are disclosed or eliminated from consumer products sold in
13 California. Comtop is a person in the course of doing business for purposes of California Health &
14 Safety Code section 25249.11(a)-(b).

15 **1.2 Consumer Product Description**

16 Nguyen alleges that Comtop manufactures, imports, sells, or distributes for sale in California,
17 cables containing Diisononyl phthalate (“DINP”)(“Cables”), including but not limited to, the *Link*
18 *Depot SVGA Male to Male Cable, 6-Foot, SVGA-6-MM, Item No. SV-006-LD, Amazon Standard*
19 *Identification Number (ASIN) B008GPYVEM*, without providing the health hazard warning that
20 Nguyen alleges is required by California Health & Safety Code section 25249.5 *et seq.* (“Proposition
21 65”). All such Cables are referred to herein as the “Products.” DINP is listed pursuant to Proposition
22 65 as a chemical known to the State of California to cause cancer.

23 **1.3 Notice of Violation**

24 On July 3, 2023, Nguyen served Comtop, the California Attorney General, and all requisite
25 public enforcement agencies with a 60-Day Notice of Violation; and prior to that Nguyen had served
26 Link Depot Corp. with similar 60-Day Notices of Violation dated August 19, 2020, and November
27 18, 2020 (collectively “Notices”), The Notices allege Comtop and others, including Comtop’s
28 downstream customer Link Depot, i.e., Smart, Inc. dba Link Depot (“Link Depot”), violated

1 Proposition 65 by failing to warn its customers and consumers in California that the Products can
2 expose users to DINP. No public enforcer has commenced and is diligently prosecuting an action to
3 enforce the allegations set forth in the Notice.

4 **1.4 Complaint**

5 On June 14, 2021, Nguyen commenced the instant action (“Complaint”), naming Comtop’s
6 downstream customer Link Depot as a defendant for the alleged violations of Proposition 65 that are
7 the subject of the Notice. During the discovery phase of this litigation, Nguyen’s attorneys learned the
8 true identity of Link Depot’s supplier of the Products, Comtop. On June 7, 2023, Nguyen obtained an
9 order from this Court granting leave to file a Doe Amendment to the Complaint naming Comtop as a
10 defendant. On July 3, 2023 Nguyen served a 60-day Notice of Violation on Comtop. On September
11 14, 2023, after the applicable 60-day period concluded with no public enforcer electing to enforce the
12 allegations in the Notice to Comtop, Nguyen filed an Amendment to Complaint identifying Comtop
13 as Doe defendant number one. On October 30, 2023, Plaintiff served Comtop with a copy of the
14 Complaint and associated documents.

15 **1.5 No Admission**

16 Comtop denies the material, factual and legal allegations contained in the Notice and
17 Complaint and maintains that all products it sold or distributed for sale in California, including the
18 Products, comply with all laws. No term of this Consent Judgment nor Comtop’s compliance with its
19 terms shall be deemed an admission by Comtop of any fact, finding, conclusion of law, issue of law,
20 or violation of law. This section shall not, however, diminish or otherwise affect Comtop’s
21 obligations, responsibilities, and duties under this Consent Judgment. Comtop maintains that it has
22 not knowingly manufactured, supplied, distributed, sold, or caused to be manufactured, supplied,
23 distributed, or sold the Products for sale in California in violation of Proposition 65.

24 **1.6 Jurisdiction**

25 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
26 jurisdiction over Comtop as to the allegations contained in the Complaint; that venue is proper in
27 San Francisco County; and that the Court has jurisdiction to enter and enforce the provisions of this
28 Consent Judgment, pursuant to Proposition 65 and Code of Civil Procedure section 664.6.

1 **1.7 Effective Date and Compliance Date**

2 The term “Effective Date” means the date on which the Court approves this Consent Judgment
3 and enters Judgment pursuant to its terms, and Nguyen has provided notice to Comtop that it has been
4 entered in the Court’s records as a judgment. The Compliance Date means thirty (30) days after the
5 Effective Date.

6 **2. INJUNCTIVE RELIEF: REFORMULATION, WARNINGS AND NOTIFICATION**

7 **2.1 Reformulation Commitment**

8 Commencing on the Compliance Date and continuing thereafter, all Products Comtop
9 manufactures, imports, packages, sells, ships, provides, or distributes for sale in or into California,
10 directly or indirectly through one or more third party retailers or e-commerce marketplaces, shall
11 either qualify as Reformulated Products, as defined by Section 2.2, or be accompanied by a clear and
12 reasonable warning pursuant to Section 2.3.

13 **2.2 Reformulation Standard**

14 For purposes of this Consent Judgment, “Reformulated Products” are defined as Products
15 containing DINP in a maximum concentration of 0.1 percent (1,000 parts per million) in any
16 “accessible component” (i.e., any component that may be touched during a reasonably foreseeable
17 use) when analyzed by a laboratory accredited by the State of California, a federal agency, or a
18 nationally recognized accrediting organization. For purposes of compliance with this reformulation
19 standard, testing samples shall be prepared and extracted using Consumer Product Safety
20 Commission (“CPSC”) methodology CPSC CH-C1001.09.4 and analyzed using U.S. Environmental
21 Protection Agency methodology 8270D, or other methodologies utilized by federal or state
22 government agencies to determine phthalate content in a solid substance.

23 **2.3 Clear and Reasonable Warnings**

24 Commencing on the Compliance Date and continuing thereafter, for all Products that do not
25 meet the definition of Reformulated Products established by Section 2.2, above, Comtop shall provide
26 clear and reasonable warnings for all Products distributed, sold or offered for sale to customers in
27 California in accordance with this Section pursuant to Title 27 California Code of Regulations § 25600,
28 *et seq.* Each warning shall be prominently placed with such conspicuousness as compared with other

1 words, statements, or designs as to render it likely to be read and understood by an ordinary individual
2 under customary conditions before purchase or use and shall be provided in a manner such that it is
3 clearly associated with the specific Product to which the warning applies. The warning for Products
4 containing DINP in amounts greater than 1,000 ppm (0.1%) shall consist of one of the following
5 statements:

6 **(a) Warning:** The Warning shall consist of the following statement:

7 **⚠ WARNING:** This product can expose you to chemicals
8 including Diisononyl phthalate [DINP], which is known to the State
9 of California to cause cancer. For more information go to
10 www.P65Warnings.ca.gov.

11 (Long-Form Warning)

12 **(b) Short-Form Warning:** Comtop may, but is not required to use the following short-form
13 warning set forth in this Section 2.3(b) (“Short-Form Warning subject to the additional requirements
14 set forth in sections 2.4 and 2.5, below).

15 **⚠ WARNING:** Cancer - www.P65Warnings.ca.gov.

16 (Short-Form Warning)

17 Or alternative Short-Form Warning, if applicable.

18
19 **(c) Foreign Language Requirement.** Where a consumer product sign, label or shelf tag used
20 to provide a warning includes consumer information, as that term is defined in Title 27 California
21 Code of Regulations section 25600.1(c) (“Consumer Information”), in a language other than English,
22 the warning must also be provided in those other language(s) in addition to English.

23
24 If Proposition 65 or its implementing regulations change from the requirements as they exist
25 on the date the Parties stipulate to this Consent Judgment with respect to levels of DINP or other
26 phthalate chemicals that trigger Proposition 65 warning obligations or permissible safe-harbor warning
27 language, Comtop may, at its discretion, comply with the provisions of this Consent Judgment or the
28 aforementioned changes in law or regulation.

1 **2.4 Product Warnings**

2 Comtop shall affix a warning to the Product label or otherwise directly on each Product sold or
3 offered for sale to consumers in California and to customers with known retail outlets in California or
4 with known nationwide distribution. For purposes of this Consent Judgment, “Product label” means a
5 display of written, printed or graphic material that is printed on or affixed to each of a Product or its
6 immediate container or wrapper. A warning provided pursuant to Section 2.3(a)-(c) must print the word
7 “**WARNING:**” in all capital letters and in bold font. The warning symbol to the left of the word
8 “**WARNING:**” must be a black exclamation point in a yellow equilateral triangle with a black outline,
9 except that if the labeling does not use yellow, then the symbol may be in black and white. If using the
10 Short-Form Warning option set forth above, the entire warning shall appear in a type size of at least 6-
11 point type and no smaller than the largest type size used for other Consumer Information on the
12 Products.

13 **2.5 Internet Warnings**

14 If, after the Compliance Date, Comtop sells Products via the internet directly, or indirectly
15 through customers with nationwide distribution or e-commerce websites, to customers located in
16 California, Comtop shall provide warnings for each Product both on the Product label in accordance
17 with Section 2.4, and by including either the warning or a clearly marked hyperlink using the word
18 “**WARNING**” on the product display page, or by otherwise prominently displaying the warning to the
19 purchaser prior to completing the purchase and without requiring the purchaser to search for the
20 warning in the general content of the website. The warning or a clearly marked hyperlink to the warning
21 using the word “**WARNING**” given in conjunction with the sale of the Products via the internet shall
22 appear either: (a) on the same web page on which the Products are displayed; (b) on the same web page
23 as the virtual cart displaying the Products; (c) on the same page as the price for the Products; or (d) on
24 one or more web pages displayed to a purchaser during the checkout process. The warning shall appear
25 in any of the above instances adjacent to or immediately following the display, description or price of
26 the Products for which it is given in the same type size or larger than other consumer information
27 provided for the Products. The internet warning may use the Short-Form Warning content described in
28 Section 2.3(b) if the warning provided on the Product label also uses the Short-Form Warning content.

1 For third-party websites, as a condition of sale, Comtop shall notify the sellers the Products must be
2 accompanied by a warning, prior to and as a condition of sale, in or into California, and shall supply
3 the warning requirements, as detailed above.

4 **3. MONETARY SETTLEMENT TERMS**

5 **3.1 Civil Penalty**

6 Pursuant to Health and Safety Code section 25249.7(b), Comtop agrees to pay a civil penalty
7 of \$4,000 within ten (10) business days of the Effective Date. Comtop’s civil penalty payment will be
8 allocated according to Health and Safety Code section 25249.12(c)(1) and (d), with seventy-five
9 percent (75%) of the penalty paid to the California Office of Environmental Health Hazard Assessment
10 (“OEHHA”), and the remaining twenty-five percent (25%) retained by Nguyen. Comtop shall issue its
11 payment in two checks made payable to: (a) “OEHHA” in the amount of \$3,000; and (b) My Nguyen
12 in the amount of \$1,000. Nguyen’s counsel shall deliver to OEHHA and Nguyen their respective
13 portions of the penalty payment.

14 **3.2 Reimbursement of Attorneys’ Fees and Costs**

15 Nguyen and its counsel offered to resolve the allegations in the Notice and Complaint without
16 reaching terms on the amount of reimbursement of attorneys’ fees and costs. After the Parties finalized
17 all other material settlement terms, they negotiated the reimbursement to be paid to Nguyen’s counsel,
18 under general contract principles and the private attorney general doctrine, codified at California Code
19 of Civil Procedure section 1021.5, for all work performed through the mutual execution and reporting
20 of this Consent Judgment to the Office of the California Attorney General and entry of Judgment
21 pursuant its terms, but exclusive of fees and costs on appeal, if any. Within ten (10) business days of
22 the Effective Date, Comtop shall issue a check in the amount of \$30,500 payable to “Seven Hills LLP”
23 for the fees and costs incurred investigating, bringing this matter to Comtop’s attention, litigating,
24 negotiating a settlement in the public interest, obtaining the Court’s approval of its terms pursuant to
25 Section 5, and reporting to the California Attorney General.

1 **3.3 Payments**

2 All payments payable and due under this Consent Judgment shall be delivered to Nguyen’s
3 counsel at the following address:

4 Seven Hills LLP
5 c/o Laralei Paras
6 4 Embarcadero Center, Suite 1400
7 San Francisco, CA 94111

8 Nguyen shall provide a W-9 to Comtop to facilitate payment.

9 **4. CLAIMS COVERED AND RELEASED**

10 **4.1 Nguyen’s Release of Proposition 65 Claims**

11 This Consent Judgment is a full, final, and binding resolution of the claims that were or could
12 have been asserted by Nguyen arising out of the allegations in the Notice and in the Complaint.
13 Nguyen, acting on his own behalf, in the public interest, and on behalf of his past and current agents,
14 shareholders, employees, predecessors, representatives, attorneys, successors and assignees
15 (“Releasers”) releases Comtop, and its respective officers, directors, shareholders, employees, agents,
16 parent companies, subsidiaries, divisions, suppliers, franchisees, licensees, customers (including,
17 without limitation, Link Depot), distributors, online marketplaces (including, without limitation,
18 Amazon.com and Cablesonline.com), wholesalers, retailers, and all other downstream entities in the
19 distribution chain of any of the Products, and the predecessors, successors, and assigns of any of them
20 (collectively, “Released Parties”) based on the alleged or actual failure to provide a clear and
21 reasonable warning about exposures to DINP in Products manufactured, processed, distributed, sold
22 and/or offered for sale in California before the Compliance Date, as set forth in the Notice and
23 Complaint. The Parties further agree that compliance with Section 2 of this Consent Judgment shall
24 be deemed compliance with Proposition 65 with respect to alleged exposures to DINP in the Products.

25 In further consideration of the promises and agreements herein contained, Nguyen in his
26 individual capacity only and not on behalf of the public in California, and on behalf of his past and
27 current agents, representatives, attorneys, successors, and/or assignees, hereby waives all rights he has
28 or may have to institute or participate in, directly or indirectly, any form of legal action and releases
all claims including, without limitation, all actions, and causes of action, in law or in equity, suits,

1 liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses, investigation
2 fees, expert fees, and attorneys' fees arising under Proposition 65 with respect to DINP in Products
3 manufactured, distributed, sold and/or offered for by Comtop prior to the Compliance Date
4 (collectively, "Claims"), against Comtop and Releasees. The Parties further understand and agree that
5 this Section 4.1 release shall not extend upstream to any entity that manufactured the Products or any
6 component parts thereof, or any distributor or supplier who sold the Products or any component parts
7 thereof to Comtop, nor shall this Section 4.1 Release extend downstream to any Releasee who has
8 been instructed by Comtop to provide a warning pursuant to Section 2.6, above, and who fails to so.
9 Nothing in this Section affects Nguyen's right to commence or prosecute an action under Proposition
10 65 against a Releasee that does not involve Comtop's Products.

11 **4.2 Comtop's Release of Nguyen**

12 Comtop, on its own behalf and on behalf of its past and current officers, agents, shareholders,
13 employees, predecessors, representatives, attorneys, successors, and assignees, hereby waives any and
14 all claims against Nguyen and his attorneys and other representatives, for any action taken or statement
15 made (or those that could have been taken or made) by Nguyen and his attorneys and other
16 representatives, whether in the course of investigating claims or otherwise seeking to enforce
17 Proposition 65 against Comtop in this matter with respect to the Products.

18 **4.3 Mutual Waiver of California Civil Code § 1542**

19 Nguyen, on his own behalf in his individual capacity, and *not* in the public interest, on the one
20 hand, and Comtop, on the other hand, each acknowledge that the claims in this Consent Judgment
21 include all known and unknown claims pertaining to the failure to warn of exposures to DINP in
22 Products sold in California before the Compliance Date, and each waives the provisions of California
23 Civil Code section 1542 as to any unknown claims pertaining to the failure to warn of exposures to
24 DINP in the Products sold in California that may have existed prior to and including the Compliance
25 Date. California Civil Code section 1542 reads as follows:

26 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR
27 RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
28 FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY
HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT
WITH THE DEBTOR OR RELEASED PARTY.

1 The Parties acknowledge and understand the significance and consequences of this specific waiver
2 of California Civil Code section 1542 and agree to waive the same as well as any statute of similar
3 import or meaning of any other jurisdiction.

4 **5. COURT APPROVAL**

5 Pursuant to California Health and Safety Code § 25249.7(f)(4), Nguyen shall file a noticed
6 motion for judicial approval of this Consent Judgment. The Parties agree to mutually employ their best
7 efforts, and those of their counsel, to support the entry of a judgment pursuant to the terms of this
8 Consent Judgment, and to obtain judicial approval of their settlement in a timely manner. For purposes
9 of this section, “best efforts” shall include, at a minimum, supporting the motion for approval,
10 responding to third-party objections, if any, and appearing at the hearing before the Court if so
11 requested.

12 **6. SEVERABILITY**

13 If, subsequent to the Court’s approval and entry of this Consent Judgment as a judgment, any
14 provision of this Consent Judgment is deemed by a court to be unenforceable, the validity of the
15 remaining provisions shall not be adversely affected.

16 **7. GOVERNING LAW**

17 The terms of this Consent Judgment shall be governed by the laws of the State of California
18 and apply within California. If Proposition 65 is repealed, preempted, or otherwise rendered
19 inapplicable by reason of law generally, or as to the Products or DINP, then Comtop may provide
20 Nguyen with written notice of its asserted change in the law, and shall have no further injunctive
21 obligations pursuant to this Consent Judgment, with respect to, and to the extent that, the Products are
22 so affected. Nothing in this Consent Judgment shall be interpreted to relieve Comtop from its
23 obligation to comply with any pertinent state or federal law or regulation.

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1 **8. NOTICE**

2 Unless specified herein, all correspondence and notice required by this Consent Judgment shall
3 be in writing and sent by: (i) first-class registered or certified mail, return receipt requested; or (ii) a
4 recognized overnight courier to any Party by the other at the following addresses:

5 For Comtop:

6 Howie Tseng, Vice President
7 Comtop Connectivity Solutions Inc.
15181 Fairfield Ranch Road, #100
Chino Hills, CA 91709

For Nguyen:

Laralei Paras, Esq.
SEVEN HILLS LLP
4 Embarcadero Center, Suite 1400
San Francisco, CA 94111

8 *With a copy to:*

9 Sherry E. Jackman, Esq.; Sedina Banks, Esq.
10 GREENBERG GLUSKER LLP
2049 Century Park East, Suite 2600
11 Los Angeles, CA 90067

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

14 **9. COUNTERPARTS AND ELECTRONIC SIGNATURES**

15 This Consent Judgment may be executed in counterparts and electronic signature(s), each of
16 which shall be deemed an original and, all of which, when taken together, shall constitute one and the
17 same document.

18 **10. COMPLIANCE WITH REPORTING REQUIREMENTS**

19 Nguyen and its counsel agree to comply with the reporting form requirements referenced in
20 California Health and Safety Code § 25249.7(f).

21 **11. ENTIRE AGREEMENT**

22 This Consent Judgment contains the sole and entire agreement and understanding of the Parties
23 with respect to the entire subject matter hereof, and all prior discussions, negotiations, commitments,
24 or understandings related hereto, if any, are hereby merged herein. No warranty, representation, or
25 other agreement between the Parties exists except as expressly set forth herein. No representation,
26 oral or otherwise, express or implied, other than those specifically referred to in this Consent Judgment
27 have been made by any Party hereto. No other agreement not specifically contained herein shall be
28 deemed to exist or to bind either of the Parties hereto.

1 **12. MODIFICATION**

2 This Consent Judgment may be modified only by: (i) a written agreement of the Parties (which
3 agreement shall not be unreasonably withheld) and the entry of a modified Consent Judgment by the
4 Court thereon; or (ii) upon a successful motion of any party and the entry of a modified Consent
5 Judgment by the Court thereon. This Court shall retain jurisdiction over this matter to enforce, modify,
6 or terminate this Consent Judgment pursuant to the Parties' agreement and Code of Civil Procedure
7 section 664.6.

8 **13. AUTHORIZATION**

9 The undersigned are authorized to execute this Consent Judgment on behalf of their respective
10 Parties and have read, understood, and agreed to all the terms and conditions of this Consent Judgment.

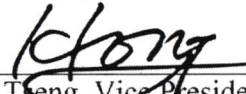
11 **AGREED TO:**

AGREED TO:

12 Date: 5/21/2024 WIN

Date: 5/16/2024

13
14 By: 
My Nguyen

By: 
Howie Tseng, Vice President
COMTOP CONNECTIVITY
SOLUTIONS INC.