

# CPSC Magnets Trial in December? Zen Magnets Throws Down the Gauntlet; Vows to “Fight Until the End”

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Two years ago, the U.S. **Consumer Product Safety Commission** (CPSC) took the uncommon step of filing administrative complaints against multiple rare-earth magnet companies who refused to voluntarily recall magnetic adult desk toy products deemed to be defective by CPSC staff. Specifically, the agency alleged that these companies sold products containing small, but high powered, rare-earth magnets, which pose a “substantial product hazard” to children.

To date, nearly all of the magnet companies have reached a settlement with the CPSC over the government’s claims regarding the magnetic products. In fact, earlier this year, we [wrote](#) about the settlement reached between the CPSC and the maker of Buckyballs and Buckycubes. However, there is one notable exception to those companies who have settled their litigation – Zen Magnets.

After the CPSC announced its [most recent settlement](#) with Star Networks, Zen Magnets issued a strongly worded press release stating, in part:

“Take this as official notice that Zen Magnets is going All-in. We will not settle for any sort of stop-sale of magnets that are perfectly safe when not misused. The hearing is set for December, and we are committed to taking this influential case to trial.

We vow to continue this legal, awareness, and lobbying battle, until our very last drop of cash-flow blood. We will combat the CPSC’s magnet prohibition until triumph, or until a glorious death of insolvency on the legal battlefield.”

As the press release states, the case against Zen Magnets is scheduled to go to trial in December. The result of that trial will be a determination by the Administrative Law Judge assigned to the case as to whether these rare-earth magnets present a “substantial product hazard” within the meaning of Section 15 of the Consumer Product Safety Act as alleged by CPSC staff. Given the stated positions of both sides, a settlement seems unlikely.

It is possible, however, that an intervening CPSC rulemaking to ban rare-earth magnets could stop

Zen Magnets from making any future sales prior to the hearing in December. The CPSC staff originally planned to present the Commission with a final regulation in June, but the final rule has not yet materialized. It is unclear whether it is simply delayed or the Commission is avoiding taking a position on rare-earth magnets prior to potentially hearing an appeal of the Zen Magnets case.

A ban on future rare-earth magnets sales would still leave the issue of a Zen Magnets recall unresolved, however, and the December hearing may still proceed on that basis. We will continue to follow this most interesting case and update our readers.

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