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9 Attorneys for Plaintiff
10 FEDERAL TRADE COMMISSION

11 UNITED STATES DISTRICT COURT
12 SOUTHERN DISTRICT OF CALIFORNIA

13
14
15 FEDERAL TRADE COMMISSION,
16 Plaintiff,

17 v.

18 YOUR BABY CAN LLC,
19 HUGH PENTON, JR.,
20 ROBERT TITZER, Ph.D., and
21 INFANT LEARNING, INC. d/b/a
THE INFANT LEARNING
COMPANY,

22 Defendants.

Case No. 12-CV-2114 DMS (BGS)

**FIRST AMENDED
COMPLAINT FOR
PERMANENT INJUNCTION
AND OTHER EQUITABLE
RELIEF**

23 Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

24 1. The FTC brings this action under Section 13(b) of the Federal Trade
25 Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain permanent injunctive
26 relief, rescission or reformation of contracts, restitution, the refund of monies
27 paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’
28

1 acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), in
2 connection with Defendants' labeling, advertising, marketing, and sale of Your
3 Baby Can Read![®], an infant and child learning program.

4 **JURISDICTION AND VENUE**

5 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C.
6 §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

7 3. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c),
8 and 15 U.S.C. § 53(b).

9 **PLAINTIFF**

10 4. The FTC is an independent agency of the United States Government
11 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the
12 FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices
13 in or affecting commerce.

14 5. The FTC is authorized to initiate federal district court proceedings,
15 by its own attorneys, to enjoin violations of the FTC Act and to secure such
16 equitable relief as may be appropriate in each case, including rescission or
17 reformation of contracts, restitution, the refund of monies paid, and the
18 disgorgement of ill-gotten monies. 15 U.S.C. § 53(b).

19 **DEFENDANTS**

20 6. **Defendant Your Baby Can LLC** ("YBC") was a California limited
21 liability corporation with its principal office or place of business at 2230 Camino
22 Vida Roble, Suite 105, Carlsbad, California 92011. YBC transacted business in
23 this district and throughout the United States. From 2007 through approximately
24 August 2012, YBC, acting alone or in concert with others, advertised, marketed,
25 distributed, or sold the Your Baby Can Read![®] program to consumers throughout
26 the United States.

27 7. **Defendant Hugh Penton, Jr.** ("Penton") formed YBC in 2007 and
28 was responsible for securing, developing, and implementing the intellectual

1 property rights for the Your Baby Can Read![®] program. Defendant Penton served
2 as President and Chief Executive Officer of YBC until March 2010 and was a
3 member of the YBC Board of Directors. At least until March 2010, Penton
4 oversaw all operations for YBC, including operations regarding the creation,
5 development, and approval of YBC advertising and promotional material and the
6 development, review, and evaluation of substantiation for representations made in
7 YBC advertising and promotional material. In addition, Penton was and is
8 President and Chief Executive Officer of Penton Overseas, Inc., a corporation that
9 was the primary owner of YBC. Penton Overseas provided accounting, payroll,
10 customer service, warehousing distribution, and fulfillment activities for the
11 operation of YBC's business. At various times material to this Complaint, acting
12 alone or in concert with others, Penton formulated, directed, controlled, had the
13 authority to control, or participated in the acts and practices of YBC, including the
14 acts and practices set forth in this Complaint. Defendant Penton resides in this
15 district and, in connection with the matters alleged herein, transacts or has
16 transacted business in this district and throughout the United States.

17 8. **Defendant Robert Titzer, Ph.D.** (“Titzer”) is the creator of the Your
18 Baby Can Read![®] program. In September 2007, Defendant Titzer entered into a
19 Master Consulting Agreement with YBC, under which he assisted with
20 promotional and marketing activities, product development activities, and acted as
21 a spokesperson for the Your Baby Can Read![®] program. In May 2009, through
22 an Exclusive Licensing Agreement, Titzer became an Executive Vice President of
23 YBC and employee of YBC. In this capacity, Titzer provided services related to
24 strategy, planning, product development, and product promotion. The Exclusive
25 Licensing Agreement also gave Titzer “academic approval” rights over each
26 development stage of new products, i.e., the right to raise scientific or academic
27 objections to product changes that had to be resolved through specified procedures
28 prior to continuation of the product's development. From at least January 2008 to

1 the present, Titzer appeared as an expert endorser on all product packaging for the
2 Your Baby Can Read!® program, and in most advertising and promotional
3 material. Defendant Titzer also is the majority owner of Infant Learning, Inc.,
4 also doing business as Infant Learning Company (“ILC”), its Chief Executive
5 Officer, its sole corporate officer, and a director. At all times material to this
6 Complaint, Titzer has overseen operations for ILC, including operations regarding
7 the creation, development, and approval of ILC advertising and promotional
8 material and the development, review, and evaluation of substantiation for
9 representations made in ILC advertising and promotional material. At all times
10 material to this Complaint, acting alone or in concert with others, Titzer
11 formulated, directed, controlled, had the authority to control, or participated in the
12 acts and practices of YBC and ILC, including the acts and practices set forth in
13 this Complaint. Defendant Titzer resides in this district and, in connection with
14 the matters alleged herein, transacts or has transacted business in this district and
15 throughout the United States.

16 **9. Defendant Infant Learning, Inc. d/b/a Infant Learning Company**
17 (“ILC”) is a Nevada corporation with mailing addresses in Louisville, Tennessee
18 and Bonsall, California. ILC transacts or has transacted business in this district
19 and throughout the United States. At various times material to this Complaint,
20 including from 1997 to September 2007 and since August 2012, ILC, acting alone
21 or in concert with others, advertises and has advertised, marketed, distributed, or
22 sold the Your Baby Can Read!® program to consumers throughout the United
23 States.

24 **COMMERCE**

25 10. At all times material to this Complaint, Defendants have maintained
26 a substantial course of trade in or affecting commerce, as “commerce” is defined
27 in Section 4 of the FTC Act, 15 U.S.C. § 44.
28

DEFENDANTS' BUSINESS ACTIVITIES

1
2 11. Defendants YBC, Penton, Titzer, and ILC have manufactured,
3 advertised, promoted, offered for sale, sold, and distributed early education and
4 development products, including the Your Baby Can Read![®] program to
5 consumers throughout the United States since prior to January 2008. The Your
6 Baby Can Read![®] program is a set of DVDs, lift-a-flap books, and word cards.
7 The Your Baby Can Read![®] program is primarily targeted to parents and
8 grandparents with children or grandchildren between the ages of three months and
9 five years.

10 12. From 2007 until approximately August 2012, consumers could
11 purchase the Your Baby Can Read![®] program directly from Defendant YBC,
12 including through its own Internet site and through a toll free number. Consumers
13 also could purchase Your Baby Can Read![®] at retail stores nationwide, including
14 Wal-Mart, Kmart, Walgreens, Buy Buy Baby, Toys “R” Us, and BJ’s Wholesale
15 Club, and through retailer websites, such as Amazon.com and BabiesRUs.com.
16 Prior to September 2007 and since August 2012, consumers could and can
17 purchase the Your Baby Can Read![®] program directly from Defendant ILC
18 through at least its Internet site.

19 13. The retail price for the complete Your Baby Can Read![®] program has
20 ranged from approximately \$150 to \$200. From January 2008 to present, total
21 sales for the Your Baby Can Read![®] program have exceeded \$185 million.

22 14. Defendants have advertised the Your Baby Can Read![®] program
23 through a wide variety of media. Defendants advertised the program through
24 infomercials and short-form advertisements that appeared on national, regional,
25 and local cable and network television stations, including Lifetime, Discovery
26 Kids, Disney DX, Cartoon Network, and Nickelodeon. They also advertised the
27 program on national and local radio stations. Defendants published or caused to
28 be published print advertisements in numerous national publications, including

1 Parenting, Pregnancy and Newborn, and American Baby (First Year of Life).
2 Defendants also widely advertised the Your Baby Can Read![®] program on the
3 Internet, including websites owned or operated by Defendants YBC and ILC, such
4 as www.yourbabycanread.com, YouTube, Twitter, and Facebook.

5 15. To induce consumers to purchase the Your Baby Can Read![®]
6 program, the Defendants disseminated or caused to be disseminated
7 advertisements, including, but not limited to, the attached Exhibits A through L.
8 The advertising and promotional materials typically show babies reading word
9 cards, toddlers reading books, and parents providing glowing testimonials. A
10 likeness of Defendant Titzer appears on all product packaging and in almost all
11 advertisements, and, in many of these materials, he is characterized as a
12 “recognized expert in infant learning.” The advertisements contain, among other
13 things, the following statements and depictions:

14 **A. Television: 30-Minute Advertisement (Exhibit A – DVD and Transcript**
15 **of DVD) [YBCFTC00218697]**

16 Chad Murdock: “Hi, I’m Chad Murdock. As a producer, I have seen
17 thousands of products during my career. Two years ago, I was
18 compelled to bring one of those products to you. . . . I am back
19 again to share more incredible stories from around the world.
20 Your response to Your Baby Can Read has been
21 overwhelming, with over one million families helping babies
22 learn to read. See how far some have grown and you too will
23 want to get Your Baby Can Read. What you are about to see
24 will amaze you.”

25 * * *

26 On Screen: “Atia at 22 months HOME VIDEO” [Toddler in high chair
27 eating with a parent holding up a flashcard with “touch your
28 ears” printed on it]

1 Unidentified Female: “These words say?”

2 Atia: “Touch your ears.”

3 * * *

4 On screen: “Rex at 14 months HOME VIDEO” [Baby sitting on the grass
5 holding a flashcard with “hi” printed on it]

6 Unidentified Female: “What does it say, Rex?”

7 Rex: “Hi.”

8 * * *

9 On screen: “Charley at 18 months HOME VIDEO” [Toddler standing in
10 front of a window. Parent behind toddler holding up a
11 flashcard with “turtle” printed on it]

12 Unidentified Female: “Do you know this one?”

13 Charley: “Oh, Turtle.”

14 * * *

15 Chad Murdock: “These children have seized this small window of early
16 learning and they love to learn. Today you’re going to hear
17 their amazing stories and meet Dr. Robert Titzer, who created
18 the revolutionary early learning system for his own daughter,
19 called Your Baby Can Read.”

20 On Screen: “Robert Titzer, PhD
21 Creator of Your Baby Can Read”

22 Chad Murdock: “I sat down with Dr. Titzer to discuss a recent scientific
23 study of two groups –”

24 On Screen: “Results based on mean scores of two study groups.
25 Study sponsored by Your Baby Can Read on ages 10 to 23
26 months.” [at the bottom of the screen in yellow letters
27 superimposed over the host’s beige shirt and appearing on the screen
28 for approximately 7 seconds]

1 Chad Murdock: “— of babies, a Your Baby Can Read group and a control
2 group.”

3 On Screen: “Test scores chart” [Bar graph titled “Overall Language
4 Results” with bars showing that the Your Baby Can Read
5 group was average, high average or superior whereas the
6 control group was average or below average. Another Bar
7 graph titled “Overall Cognitive Results” with bars showing
8 that the Your Baby Can Read group scored average, high
9 average, or superior, and the control group scored average or
10 below average.]

11 Dr. Robert Titzer: “In all of these tests, the control group babies were at
12 average or below average, whereas the Your Baby Can Read
13 group babies had overall higher language scores. They had
14 cognitive functioning scores higher than the control group
15 babies. The Your Baby Can Read group babies did better than
16 the control group babies in every area.”

17 * * *

18 Chad Murdock: “Let’s get to these amazing stories. The first of two
19 families I interviewed shows that it can work for two children
20 of different ages in the same house.”

21 * * *

22 On Screen: “Amy, Yma & Archer’s mom”

23 Amy: “One and a half or two years old, I ordered it and it only took
24 her [Yma] a few months.”

25 On Screen: “Yma at age 3 HOME VIDEO” [Yma sitting reading from a
26 book]

27 Amy: “I called Manning at work and I told him, I said, Oh my gosh,
28 she’s reading! I have a film of her on vacation. She walked up

1 to a 'Beware of Mountain Lion' sign, and it's three paragraphs
2 and she just read it to us."

3 On Screen: "Make plenty of noise while you hike so as to reduce the
4 chances of surprising a lion. . . ."

5 Yma: "Make plenty of noise while you hike so as to reduce the
6 chances of surprising a lion. I read it to you, too."

7 * * *

8 Manning: "I didn't really know whether it was the program or whether it
9 was just that Yma was really gifted and talented. . . . But here
10 Archer is being able to read at one-and-a-half."

11 * * *

12 On Screen: "Sharon & Jeff HOME VIDEO"

13 Sharon: "We first came across Your Baby Can Read at the Scottish
14 baby show. At the time, my daughter Charley was about nine,
15 ten months old. We're at home that day with the full Your
16 Baby Can Read package and really starting enjoying it and
17 after a couple of weeks she was -- that was all she wanted to
18 do, and it just made me feel wonderful."

19 * * *

20 On Screen: "Charley at 24 months HOME VIDEO" [Child sitting reading
21 a book, pointing to the words]

22 Charley: "He's searching ... He's peeking."

23 * * *

24 Chad Murdock: "You might be saying as a parent, I am not an expert. You
25 don't have to be. Your Baby Can Read was designed by an
26 expert who is also a father. He will be the expert. You will be
27 the teacher."

28 * * *

1 Dr. Robert Titzer: “This is not a short-term effect. This is a long-term
2 effect that can change everything about the child, what the
3 child’s interested in, how the child does in school, the child’s
4 self-esteem. This can put your child on a different path in life.
5 This is what happened with our family and many, many
6 thousands of other families.”

7 * * *

8 Chad Murdock: “There are so many examples of how Your Baby Can
9 Read has helped children later in their education. . . . Who can
10 forget Anya Alexis? I got to sit down with her mother Brandy
11 in Oklahoma, who knew Your Baby Can Read could work
12 when she first heard Dr. Titzer speak.”

13 * * *

14 On Screen: “Anya Alexis at age 2 HOME VIDEO” [Anya Alexis, sitting
15 in a chair reading a book aloud]
16 “Charlotte’s Web – ‘and she took hold of the axe and tried to
17 pull it out of her father’s hand’”

18 Anya Alexis: “And she took hold of the axe and tried to pull it out of her
19 father’s hand. That’s not nice.”

20 * * *

21 Brandy: “When Anya Alexis was three years old, she read her first
22 Harry Potter book and she fell in love with it.”

23 * * *

24 Chad Murdock: “Gwendolyn Cruise, Director of JuniorVersity has been
25 using Your Baby Can Read since 2005 with amazing results.”

26 * * *

27 Gwendolyn: “Our first-graders here are now reading at a third-grade
28 level. . . .”

1 * * *

2 Unidentified Female: “My baby is two years old and he is reading.”

3 Unidentified Male: “He can read, he can understand, he’s using the
4 correlations perfectly.”

5 * * *

6 Female Announcer: “When a baby is born, its brain craves stimulation and
7 its development accelerates at an incredible pace.”

8 On Screen: “Human Brain Development”

9 “Synapse Formation Dependent on Early Experiences”

10 [Graph labeled “Synaptic Formation” and bottom labeled
11 “Age” with numbers 0 to 5. Three lines appear on the graph
12 for Language, Sensory Pathway, and Higher Cognitive
13 Function. Words “Window of Opportunity” appear, above the
14 graph lines. The graph lines start at bottom of graph and peak
15 before age two and then level off or decrease.]

16 Female Announcer: “Studies have shown that synaptic connections related
17 to language acquisition start before birth and peak around 11
18 months of age -- ”

19 On Screen: “Phenomenal brain development during a child’s first 5 years”

20 “25% 75% 90%

21 Birth 2 years 5 years”

22 [Picture of a human brain]

23 Female Announcer: “ – with nearly 90% of this incredible window of
24 growth complete in the first five years. Every parent can seize
25 this small window of opportunity and truly give their child an
26 early start on all learning.”

27 On Screen: “Awards for Your Baby Can Read”

28

1 Female Announcer: “Your Baby Can Read is a multiple award-winner, a
2 proven learning system which can give your child . . .
3 increased communication, enhanced learning and overall
4 confidence.”

5 Female Announcer: “The infant and toddler years are the best and easiest
6 time to learn”

7 On Screen: “Synapses in Infants and Toddlers”

8 “Tens of Thousands of brain connections are created every
9 second!”

10 [Picture of brain with electric currents flowing through it and
11 lighting up]

12 Female Announcer: “when the brain is creating thousands of synapses or
13 connections every second. This allows the child to learn both
14 the written word and spoken word.”

15 * * *

16 Female Announcer: “Your Baby Can Read can . . . become the foundation
17 for . . . all learning for the rest of their lives,”

18 On Screen: “Results based on mean scores of two study groups.

19 Study sponsored by Your Baby Can Read on ages 10 to 23
20 months.”

21 Female Announcer: “and science proves it.”

22 On Screen: “Overall Language Results [C]hart

23 Auditory Communication Results

24 Expressive Communication Results

25 Overall Cognitive Results”

26 Female Announcer: “In a scientific study with two groups of 10 to 23-
27 month old babies, the Your Baby Can Read group scored
28 higher than the control group in all areas of the tests, overall

1 language, understanding what they hear, expression using
2 language and overall cognitive ability. This is proven.
3 Seize this small window of opportunity while they're young.”

4 * * *

5 Female Announcer: “. . . This proven read and play program captures your
6 child's attention using interactive books, DVDs and sliding
7 cards. . . . And before you know it, your baby can read.”

8 * * *

9 Chad Murdock: “You know, in the first show, we had the chance to be
10 introduced to an amazing family, with two boys who both
11 learned to read early with Your Baby Can Read.”

12 On Screen: “Brian and Lindsay
13 Graham and Ridley's Parents”

14 Lindsay: “Graham started at I would say around the sixth-month mark
15 and we didn't see any sign.”

16 On Screen: “Graham at 14 months HOME VIDEO” [Baby in high chair
17 reading words off flashcards.]

18 Lindsay: “But as soon as he could talk, he was reading everything off
19 the screen.”

20 * * *

21 Lindsay: “Having Ridley do the exact same thing two years later was
22 the give-away right there.”

23 On Screen: “Ridley at 18 months HOME VIDEO”

24 Lindsay: “It was all a result of this program.”

25 * * *

26 Krissy: “I saw the program when I was pregnant and I said that we had
27 to have it, especially with all the testimonials. You see all the
28 kids doing it, and you know it can't be fake. . . . So I think at

1 three months is when we had started Your Baby Can Read, and
2 she loved it. And then I think about the nine-month mark, she
3 was starting to pick up the words.”

4 * * *

5 Lautrice: “As a reading specialist, I said developmentally, a child has to
6 be ready to read and at one, they’re not ready to read. And
7 then he put it on. Racquel took to it like a fish takes to water.”

8 Willie: “She was up to 500 words the last time I checked.”

9 * * *

10 Willie: “Everybody thinks it’s memory, you know, she memorizes you
11 saying that. But then we’d mix it up a little bit . . . just write it
12 anywhere, random order, and they’re like, man, she is pretty
13 smart.”

14 **B. Radio Advertisement** (Exhibit B – CD-Rom) [YBCFTC0000733]

15 Announcer: “. . . As a parent, there is nothing better than seeing your child
16 understand how to read a word for the first time. And, we
17 have an amazing new offer today on the Your Baby Can Read
18 program. This is the program that teaches infants and toddlers
19 to read. . . . The researchers tell us that the best time for kids
20 to learn a language is between birth and 5 years old because
21 that’s when over 90% of brain development takes place. . . .”

22 **C. Radio Advertisement** (Exhibit C – CD-Rom) [YBCFTC0000734]

23 Announcer: “Studies prove it. The earlier a child learns to read, the better
24 they perform in school and later in life. . . . Between birth and
25 five years old over 90% of brain development takes place.
26 This short window of opportunity is the critical time to teach
27 your child to read. That’s why the Your Baby Can Read
28 program has been so successful. . . .”

1 **D. Print Advertisement** (Exhibit D) [YBCFTC00000693]

2 Appearing at the top left of advertisement:

3 [Picture of a toddler sitting on a stack of books and holding a book open on
4 her lap]

5 **“Imagine . . .**

6 **Your toddler reading**

7 **YOU a story!”**

8 *“Your Baby Can Read!”*[®] is the early reading
9 Program for children 6 months to 5 years”

10 Appearing alongside the picture of the toddler on the books:

11 “*And best of all it’s FUN. The natural window*
12 *of opportunity to learn written language is*
13 *at the same time children learn to speak.*

14 Imagine your child reading before the age
15 of five, prior to entering school!”

16 Appearing at the bottom left of the advertisement:

17 [Picture of Dr. Titzer with text next to it]

18 “Your Baby Can Read!”[®] was

19 Developed by Dr. Robert Titzer, Ph.D.,

20 A recognized expert in infant research”

21 **E. Product Packaging:** Volume 1 of Your Baby Can Read![®] System
22 (Exhibit E) [YBCFTC00000776]

23 Appearing on the front panel of the package:

24 “Robert Titzer, Ph.D.

25 **Your Baby Can Read!**[®] Early Language Development System”

26 Appearing on the back panel of the package:

27 “Dr. Titzer’s next step following the Starter DVD in your child’s early
28 language development.”

- 1 – “This revolutionary early reading program encourages infants and
- 2 toddlers to learn the written word NATURALLY as they are learning
- 3 the spoken word.”
- 4 – “The most natural window for language development is 3 months to
- 5 5 years.”
- 6 – “Studies indicate that early readers are more confident, have higher
- 7 self-esteem, and generally do better in school and in life!”

8 [Picture of four children: a baby wearing only a diaper sitting, a toddler

9 standing holding a sliding flashcard, a preschooler standing holding a card

10 with her name written on it, another preschooler standing holding a book]

11 “Blake – 14 months | Ridley – 19 months | Aubrey – 3 years old | Drake – 4

12 years old”

13 [Speech bubble above childrens’ heads with arrows pointing to all 4

14 children]

15 “I can read!”

16 Appearing below picture of the four children:

17 “Now is the time to give your child the gift of reading.”

18 “For ages 3 months to 5 years.”

19 **F. Product Packaging:** Your Baby Can Read![®] System (Exhibit F)

20 [YBCFTC00000779]

21 4 DVDs, 20 word & picture cards, and 4 lift-a-flap books

22 Appearing on the front panel of the box:

23 **“Starting Early Is the Key to Reading Success!**

24 **Builds**

- 25 • Self Esteem
- 26 • Comprehension
- 27 • Phonics Awareness”

28 “Give your child the gift of a lifetime!”

1 “Reading System for ages 3 months to 5 years”

2 Appearing on the right side of the box:

3 [Picture of Dr. Robert Titzer]

4 “Robert Titzer, Ph.D.

5 *Your Baby Can Read!*[®] was developed by Robert Titzer, Ph.D., a
6 recognized expert in infant learning.”

7 Appearing on the left side of the box:

8 [Picture of four children]

9 “Blake – 14 months | Ridley – 19 months | Aubrey – 3 years old | Drake – 4
10 years old”

11 [Speech bubble above childrens’ heads with arrows pointing to all 4
12 children]

13 “I can read!”

14 Appearing below picture of the four children:

15 “Major university studies indicate the best time for early learning is during
16 the first five years of life.”

17 [Graph titled “Human Brain Development” with text above graph stating
18 “Synapse Formation Dependent on Early Experiences;” left side of graph
19 labeled “Synaptic Formation” and bottom labeled “Age” with numbers 0 to
20 5. Three lines appear on the graph for Language, Sensory Pathway and
21 Higher Cognitive Function. Words “Window of Opportunity” appear
22 above the graph lines. The graph lines start at bottom of graph and peak
23 before age two and then level off or decrease.]

24 **G. Product Packaging:** Box of *Your Baby Can Read!*[®] DVD Set (Exhibit
25 G) [YBCFTC00000808]

26 Appearing on the front of the box:

27 “Dr. Titzer’s interactive and multi-sensory learning method can be taught at
28 the same time as your child’s speech develops.”

1 Appearing on the left side of the box:

2 “Studies indicate that early readers are more confident, have higher self-
3 esteem, and generally do better in school and in life!”

4 Appearing on the back of the box:

5 “***The Your Baby Can Read!***[®] ***Learning System*** delivers the tools that will
6 make an incredible difference in your child’s life! This easy-to-use DVD
7 and word card set teaches your child whole language and phonics using a
8 combination of sound, sight, and interaction. This multi-sensory technique
9 helps a child group word recognition – leading to early reading success!”

10 * * *

11 “A national panel on reading and early education suggests combining
12 both phonics and whole language approach to reading – the
13 fundamental aspect of the ***Your Baby Can Read Learning System!***”

14 * * *

15 “*A national panel of reading specialists and educators determined that*
16 *most of the nation’s reading problems could be eliminated if we start*
17 *teaching reading earlier.”*

18 **H. Internet Website:** www.yourbabycanread.com (excerpts) (Exhibit H)

19 Appearing on the home page:

20 [Video with clips from the infomercial running at top of the web page]

21 Appearing under the video of the infomercial on the home page:

22 “**What Makes Your Baby Can Read!**[®] **So Special?**”

23 A baby’s brain thrives on stimulation and develops at a phenomenal pace
24 ... nearly 90%

25 during the first five years of life! The best and easiest time to learn a
26 language is during the infant and toddler years when . . . the brain is
27 creating thousands of synapses, or connections, allowing a child to learn
28 both the written word and spoken word simultaneously.”

1 “Seize this small window of opportunity to enhance your child’s learning
2 ability with the Your Baby Can Read Early Language Development
3 System.”

4 **“Benefits of Early Literacy**

5 According to Your Baby Can Read developer Dr. Robert Titzer, the current
6 practice of starting to teach reading in school is too late. When children
7 develop reading skills during their natural window of opportunity, from
8 about birth to age four, they read better and are more likely to enjoy it.”

9 “In fact, studies prove that the earlier a child learns to read, the better they
10 perform in school and later in life. Early readers have more self-esteem and
11 are more likely to stay in school. Meanwhile, a national panel of reading
12 specialists and educators determined that most of the nation’s reading
13 problems could be eliminated if children began reading earlier.”

14 Appearing to the right of the above-quoted text:

15 [Graph titled “Human Brain Development” with text below graph stating
16 “Synapse Formation Dependent on Early Experiences;” right side of graph
17 labeled “Synaptic Formation” and bottom labeled “Age” with numbers 0 to
18 5. Three lines appear on the graph for Language, Sensory Pathway and
19 Higher Cognitive Function. Words “Window of Opportunity” appear
20 above the graph lines. The graph lines start at bottom of graph
21 and peak before age two and then level off or decrease.]

22 **I. Other Internet Advertising:** Krissy & Cory Schneider YBC YouTube
23 10-29-10 (Exhibit I – DVD) [YBCFTC00000964]

24 Murdock: “Rarely has a new way of teaching reached around the world,
25 touching the lives of over one million families. From the first
26 show, I felt that Your Baby Can Read could truly change the
27 future of learning.”

28 On Screen: “Chad Murdock

1 TV Producer/Father”

2 Murdock: “Krissy and Cory saw the Your Baby Can Read infomercial
3 and wanted to give their daughter Lauren the opportunity to
4 learn to read. They started her at three months”

5 * * *

6 On Screen: [baby in a high chair with someone holding up card with words
7 printed on them; “Home Video” graphic on bottom]

8 “Lauren at 10 months”

9 Krissy: “At the 9 month mark she was starting to pick up words. We
10 couldn’t believe it. She was trying to say ‘hi’ and she would
11 ‘wave.’ And, she would start trying to say the first syllable of
12 the word. . . A year and 4 months and she was like through the
13 entire program of Your Baby Can Read.”

14 On Screen: [baby in a high chair with someone holding up card with words
15 printed on them; “Home Video” graphic on bottom right]

16 “Lauren at 15 months”

17 Lauren: “Keys. Cows.”

18 **J. Other Internet Advertising:** LeeAnn YBC YouTube 10-29-10 (Exhibit
19 J – DVD) [YBCFTC00000965]

20 Murdock: “LeeAnn used Your Baby Can Read with Kekoa and after he
21 started with Your Baby Can Read, one day, on his birthday, he
22 read all his cards by himself. He learned so quickly that they
23 started teaching him Spanish at a very early age.”

24 * * *

25 On Screen: [Kekoa kneeling by a coffee table with a book open, reading
26 the book, “Home Video” graphic on bottom right]

27 “Kekoa at 4 years old”

28 LeeAnn: “The books he’s reading, I see 5th and 6th graders reading.”

1 * * *

2 LeeAnn: “And now in Spanish, because he can read in English, he’s
3 learned to read faster in Spanish; so he reads over 150 words
4 in Spanish too.”

5 **K. Other Internet Advertising: Your Baby Can Read Facebook Page**
6 (excerpts)

7 Post dated November 22, 2012 by Dr. Bob Titzer, Sharon Patterson and the
8 Infant Learning Company (Exhibit K) [FTCDOC00001-FTCDOC00003]:

9 “The Infant Learning Company (ILC) is once again selling Your Baby Can
10 Read in the US. We are very pleased to offer you our educational products
11 that have been correlated (in scientific studies) with increased language
12 abilities for babies who consistently use the program.”

13 Post dated November 5, 2012 by Dr. Bob Titzer:

14 “Dear Interested Parties:

15 * * *

16 There have now been 14 studies on YBCR, as far as I know, and the 14th
17 study is still ongoing. ILC does not own all of the data and all of the
18 reports, so I am putting abstracts or highlights from the studies here. As
19 with most research, any individual study could be criticized for one reason
20 or another, but all 14 of the studies show positive results and none show
21 negative effects.”

22 “In addition to all of the studies on YBCR, there are also studies on early
23 literacy showing the earlier a child is taught to read, the better the child
24 reads – even when controlling for IQ and socio-economic status.”

25 **L. Internet Website: www.yourbabycanread.com** (excerpts from ILC’s
26 Your Baby Can Read Website) (Exhibit L – DVD) [FTCDOC00004-07]

27 Appearing on the Home Page:

28 Dr. Robert Titzer’s

1 ILC Infant Learning
2 Company The Creators of “*Your Baby Can Read!*”
3

4 [Picture of the Your Baby Can Read! package]

5 Appearing on the page for the Your Baby Can Read! Deluxe Kit under
6 “Quick Overview” section:

7 “The YBCR program is designed to teach reading in a way that is similar to
8 how infants learn other language skills.”

9 Appearing on the page for the Your Baby Can Read! Deluxe Kit at the
10 “Reviews” Tab:

11 **“Dedication”**

12 “Review by HappyDad

13 This is the best product I’ve bought for my son. His vocabulary and
14 alertness is huge for a 22-month old child. He reads EVERYTHING he
15 sees when I’m driving doing chores with him, at the grocery store, etc.
16 Truly amazing.”

17 **VIOLATIONS OF THE FTC ACT**

18 16. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or
19 deceptive acts of practices in or affecting commerce.”

20 **COUNT I**

21 **Unlawful Claims for the Your Baby Can Read! Program**

22 17. Through the means described in Paragraph 15, including, but not
23 necessarily limited to, the statements and depictions contained in the
24 advertisements attached as Exhibits A through L, and through the use of the name
25 Your Baby Can Read, Defendants YBC, Penton, Titzer, and ILC have
26 represented, expressly or by implication, that:

- 27 a. Your Baby Can Read![®] teaches infants and children as young
28 as 9 months old to read;

- b. Children who use Your Baby Can Read!® will be able to read books, such as Charlotte’s Web and Harry Potter, at the age of three or four years;
- c. Your Baby Can Read!® gives infants and children an early start on academic learning, allowing them to perform better in school and later in life than children who did not use the program; and
- d. Scientific studies prove that Your Baby Can Read!® teaches infants and children to read.

18. The representations set forth in Paragraph 17 are false or were not substantiated at the time the representations were made. Therefore, the making of the representations set forth in Paragraph 17 constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

Unlawful Expert Endorsement

19. Through the means described in Paragraph 15, including the statements and depictions contained in the advertisements attached as Exhibits A through H, and Exhibits K and L, among others, Defendant Titzer has made statements, including statements as an expert endorser, representing, expressly or by implication, that:

- a. Your Baby Can Read!® teaches infants and children as young as 9 months old to read;
- b. Your Baby Can Read!® gives infants and children an early start on academic learning, allowing them to perform better in school and later in life than children who did not use the program; and
- c. Scientific studies prove that Your Baby Can Read!® teaches infants and children to read.

