

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

In the Matter of

**CERTAIN ARROWHEADS WITH
DEPLOYING BLADES AND
COMPONENTS THEREOF AND
PACKAGING THEREFOR**

Investigation No. 337-TA-977

GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the unlawful importation and sale of certain arrowheads with deploying blades and components thereof and packaging therefor covered by one or more of claims 38, 42, 48, 68, and 75 of U.S. Patent No. RE44,144 (“the ‘144 patent”); claim 1 of U.S. Patent No. 6,517,454 (“the ‘454 patent”); claim 1 of U.S. Patent No. 7,771,298 (“the ‘298 patent”); claim 1 of U.S. Patent No. 8,758,176 (“the ‘176 patent”); claim 1 of U.S. Patent No. 8,986,141 (“the ‘141 patent”); claim 1 of U.S. Patent No. 9,068,806 (“the ‘806 patent”); the claim of U.S. Patent No. D710,962 (“the D’962 patent”); the claim of U.S. Patent No. D711,489 (“the D’489 patent”); and U.S. Trademark Registration No. 4,812,058 (“the ‘058 mark”).

Having reviewed the record of this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that a general exclusion from entry for consumption is necessary to prevent circumvention of an exclusion order limited to products of named persons and because there is a pattern of violation of Section 377 and it is difficult to identify the source of infringing products. Accordingly, the Commission has determined to issue

a general exclusion order prohibiting the unlicensed importation of covered arrowheads with deploying blades and components thereof and packaging therefor (“covered products”).

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. 1337(d) do not preclude the issuance of the general exclusion order, and that the bond during the Presidential review period shall be in the amount of one hundred percent (100%) of the entered value for all covered products in question.

Accordingly, the Commission hereby **ORDERS** that:

1. Arrowheads with deploying blades and components thereof and packaging therefor that are covered by one or more of claims 38, 42, 48, 68, and 75 of the ‘144 patent; claim 1 of the ‘454 patent; claim 1 of the ‘298 patent; claim 1 of the ‘176 patent; claim 1 of the ‘141 patent; claim 1 of the ‘806 patent; the claim of the D’962 patent; and the claim of the D’489 patent are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining terms of the patents, except under license of the patent owner or as provided by law.

2. Arrowheads with deploying blades and components thereof and packaging therefor that are covered by the ‘058 mark or any marks confusingly similar thereto or that are otherwise misleading as to source, origin or sponsorship are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, except under license from, or with the permission of, the trademark owner or as provided by law, until such date as the trademark has been abandoned, canceled, or rendered invalid or unenforceable.

3. Notwithstanding paragraphs 1 and 2 of this Order, the aforesaid arrowheads with deploying blades and components thereof and packaging therefor are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption under bond in the amount of one hundred percent (100%) of the entered value of the products, pursuant to subsection (j) of Section 337 (19 U.S.C. 1337(j)) and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 FR 43251), from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty days after the date of receipt of this Order.

4. At the discretion of U.S. Customs and Border Protection (“CBP”) and pursuant to procedures that it establishes, persons seeking to import arrowheads with deploying blades and components thereof and packaging therefor that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under one or more of paragraphs 1 and 2 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

5. In accordance with 19 U.S.C. 1337(l), the provisions of this Order shall not apply to arrowheads with deploying blades and components thereof and packaging therefor imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

6. Complainants shall file a written statement with the Commission, made under oath, each year on the anniversary of the issuance of this Order stating whether Complainants continue to use the '058 mark in commerce in the United States in connection with arrowheads with deploying blades and components thereof and packaging therefor and whether the aforesaid mark has been abandoned, canceled or rendered invalid or unenforceable.

7. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure (19 CFR 210.76).

8. The Secretary shall serve copies of this Order upon each party of record in this investigation and upon CBP.

9. Notice of this Order shall be published in the *Federal Register*.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: April 6, 2017

**CERTAIN ARROWHEADS WITH DEPLOYING BLADES
AND COMPONENTS THEREOF**

Inv. No. 337-TA-977

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **COMMISSION ORDER** has been served by hand upon the Commission Investigative Attorney, Lisa M. Kattan, Esq., and the following parties as indicated, on **April 6, 2017**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

**On Behalf of Complainants FeraDyne Outdoors LLC and Out
RAGE LLC:**

Kevin B. Collins, Esq.
COVINGTON & BURLING LLP
850 Tenth Street, NW
Washington, DC 20001

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

Respondents:

Linyi Junxing Sports Equipment Co., Ltd.
(Northwest Corner of Lihang)
Lihang Industrial Park, Lanshan District
Linyi, Shangdong
China 276000

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

Ningbo Forever Best Import & Export Co. Ltd.
Bldg. A1, Phase 1, Chuangye Park
Economic Development Zone
Yixing, Jiangsu
China 214213

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

Ningbo Linkboy Outdoor Sports Co., Ltd.
No. 155, Chunhui Road
Yinzhou Dist.
Ningbo, Zhenjiang
China 315000

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

**CERTAIN ARROWHEADS WITH DEPLOYING BLADES
AND COMPONENTS THEREOF**

Inv. No. 337-TA-977

Certificate of Service – Page 2

Shenzhen Zowaysoon Trading Company Ltd.
Room 1309, Jiangshi Building, Xintian Road
Xintian Community, Fuyong St.
Baoan Area, Shenzhen
China 518100

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Xiamen Xinhongyou Industrial Trade Co. Ltd.
No. 100, Qianzhaili, Pantu, Xike
Tong'an Dist., Xiamen, Fujian
China 361100

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Xiamen Zhongxinyuan Industry & Trade Ltd.
3F, No. 68, Xihu Xincun, Xihu Community
Xianping Street, Tongan District
Xiamen, Fujian
China 361111

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Zhengzhou IRQ Trading Limited Company
Room 2402, 24th Floor, Building 1# No. 40
Taoyuan Road, Erqi District Zhengzhou, Henan
China 450000

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Zhengzhou Paiao Trade Co., Ltd.
No. 602, Floor 6, Bldg. 3, South Hanghai Rd.
West Gongren Rd., Zhongyuan Area, Zhengzhou, Henan
China 450000

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

In The Matter Of

**CERTAIN ARROWHEADS WITH
DEPLOYING BLADES AND
COMPONENTS THEREOF AND
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Investigation No. 337-TA-977

CEASE AND DESIST ORDER

Having found the respondent Shenzhen Zowaysoon Trading Company Ltd. in default and that consideration of the public interest factors does not prevent issuance of a cease and desist order,

IT IS HEREBY ORDERED THAT Respondent Shenzhen Zowaysoon Trading Company Ltd., Room 1309, Jiangshi Building, Xintian Road, Xintian Community, Fuyong St. Baoan Area, Shenzhen, China 518101, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, offering for sale (including via the internet or electronic mail), advertising (including via the internet or electronic mail), distributing, and soliciting U.S. agents, retailers, resellers and distributors for arrowheads with deploying blades and components thereof and packaging therefor that infringe one or more of claims 38, 42, 48, 68, and 75 of U.S. Patent No. RE44,144 (“the ’144 patent”); claim 1 of U.S. Patent No. 6,517,454 (“the ’454 patent”); claim 1 of U.S. Patent No. 7,771,298 (“the ’298 patent”); and U.S. Trademark Registration No. 4,812,058 (“the RAGE registration”) in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337).

I.

Definitions

As used in this order:

- (A) "Commission" shall mean the United States International Trade Commission.
- (B) "Complainants" shall mean FeraDyne Outdoors, LLC and Out RAGE, LLC, both of 1230 Poplar Ave, Superior, Wisconsin 54880.
- (C) "Respondent" shall mean:
 - Shenzhen Zowaysoon Trading Company Ltd.
 - Room 1309, Jiangshi Building, Xintian Road
 - Xintian Community, Fuyong St.
 - Baoan Area, Shenzhen China
 - 518101;
- (D) "Person" shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority-owned or controlled subsidiaries, or its successors or assigns.
- (E) "United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.
- (F) The terms "import" and "importation" refer to importation for entry for consumption under the Customs laws of the United States.
- (G) The term "covered products" shall mean arrowheads with deploying blades and components thereof and packaging therefor that infringe one or more of claims 38, 42, 48, 68, and 75 of the '144 patent; claim 1 of the '454 patent"; claim 1 of the '298 patent"; and the RAGE registration.

II. Applicability

The provisions of this Cease and Desist Order shall apply to the Respondent and to any of its principals, stockholders, officers, directors, employees, agents, distributors, controlled (whether by stock ownership or otherwise) or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of, Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by the Order. For the remaining term of the patents and trademark registration, Respondent shall not:

- A. Import, sell for importation, or sell after importation into the United States covered products;
- B. market (including via the internet or electronic mail), distribute, offer for sale (including via the internet or electronic mail), or otherwise transfer (except for exportation) in the United States imported covered products;
- C. advertise imported covered products (including via the internet or electronic mail);
- D. solicit U.S. agents, retailers, resellers, or distributors for imported covered products; or
- E. aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

**IV.
Conduct Permitted**

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '144 patent; the '454 patent; the '298 patent; and the Rage registration licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

**V.
Reporting**

For the purposes of this reporting requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through December 31, 2017. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed report, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity units and the value in U.S. dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in U.S. dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to

the investigation number (“Inv. No. 337-TA-977”) in a prominent place on the cover pages and/or the first page. *See Handbook for Electronic Filing Procedures*, https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf. Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainants’ counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. 1001.

VI. Record-Keeping and Inspection

(A) For purposes of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, offer for sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purposes of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in

¹ Complainant must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney must be on the protective order entered in the investigation.

Respondent's principal offices during office hours, and in the presence of counsel, or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, financial statements, income statements, tax returns, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

**VII.
Service of Cease and Desist Order**

Respondent are ordered and directed to:

- A. Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;
- B. Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this Order, a copy of this Order upon each successor; and
- C. Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and (B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and (C) shall remain in effect until the latest of the dates of expiration of the '144 patent; the '454 patent; the '298 patent; and the RAGE registration.

**VIII.
Confidentiality**

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule

201.6, 19 CFR 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure (19 CFR 210.75), including an action for civil penalties under section 337(f) of the Tariff Act of 1930, as amended (19 U.S.C. 1337(f)), and any other action that the Commission deems appropriate. In determining whether a Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure (19 CFR 210.76).

XI. Bonding

The conduct prohibited by section III of this order may be continued during the sixty-day period in which this Order is under review by the United States Trade Representative, as delegated by the President (70 FR 43251 (Jul. 21, 2005)), under a bond of 100 percent. This bond does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this Order are subject to the entry bond as set forth in the limited exclusion order issued by the Commission, and are not subject to this bond provision.

The bond is to be posted in accordance with the procedures established by the

Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* 19 CFR 210.68. The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon the Secretary's acceptance of the bond, (a) the Secretary will serve an acceptance letter on all parties, and (b) Respondent must serve a copy of the bond and accompanying documentation on Complainants' counsel.²

The bond is to be forfeited in the event that the United States Trade Representative approves this Order (or does not disapprove it within the review period), unless (i) the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or (ii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved (or not disapproved) by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application thereof made by Respondent to the Commission.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: April 6, 2017

² *See* Footnote 1.

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **COMMISSION ORDER** has been served by hand upon the Commission Investigative Attorney, Lisa M. Kattan, Esq., and the following parties as indicated, on **April 6, 2017**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

**On Behalf of Complainants FeraDyne Outdoors LLC and Out
RAGE LLC:**

Kevin B. Collins, Esq.
COVINGTON & BURLING LLP
850 Tenth Street, NW
Washington, DC 20001

- Via Hand Delivery
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Respondents:

Shenzhen Zowaysoon Trading Company Ltd.
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