

In the Matter of

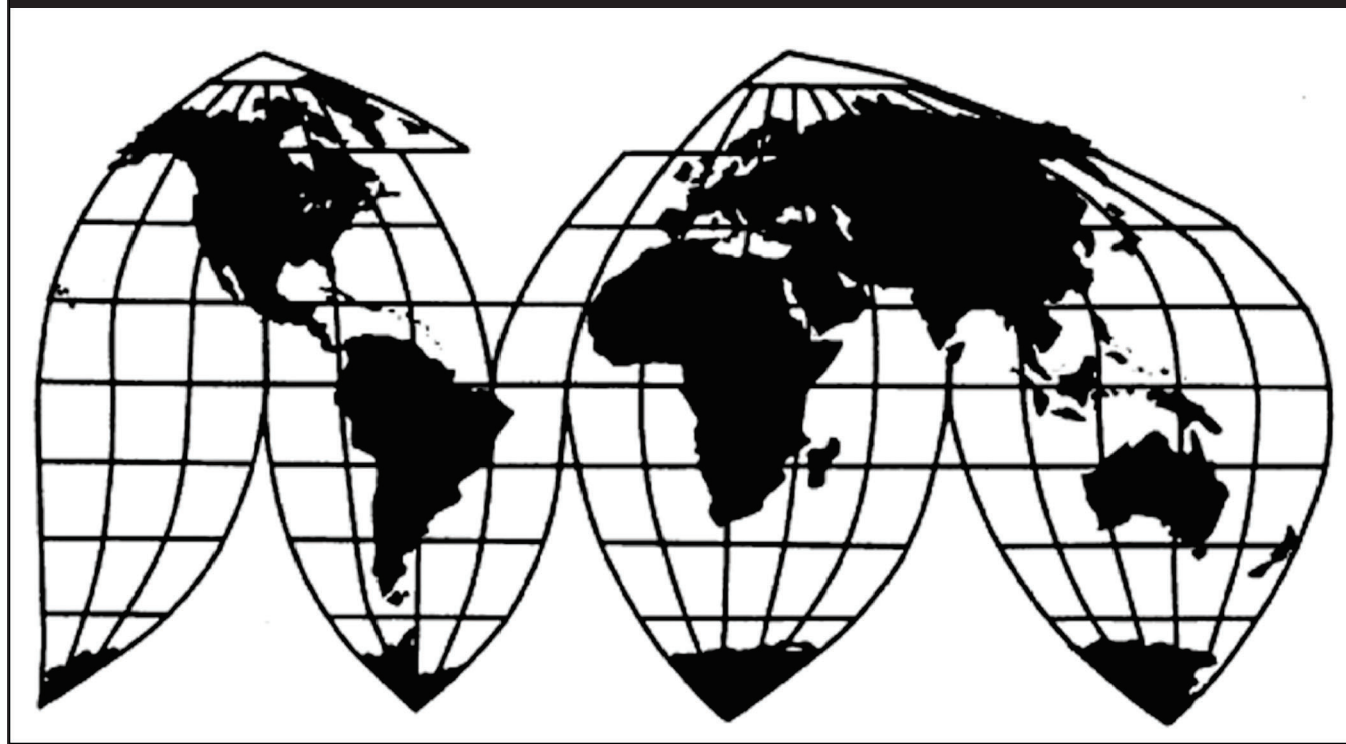
**CERTAIN FULL-CAPTURE ARROW RESTS
AND COMPONENTS THEREOF**

337-TA-1117

Publication 5027

February 2020

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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U.S. International Trade Commission

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In the Matter of

CERTAIN FULL-CAPTURE ARROW RESTS AND COMPONENTS THEREOF

337-TA-1117



UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN FULL-CAPTURE ARROW
RESTS AND COMPONENTS THEREOF**

Investigation No. 337-TA-1117

**NOTICE OF FINAL COMMISSION DETERMINATION OF VIOLATION; ISSUANCE
OF A GENERAL EXCLUSION ORDER; TERMINATION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has terminated the above-captioned investigation with a finding of violation of section 337, and has issued a general exclusion order ("GEO") directed against infringing full-capture arrow rests and components thereof. The Commission has terminated the investigation.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 11, 2018, based on a complaint filed on behalf of Bear Archery, Inc. ("Bear Archery") of Evansville, Indiana. 83 FR 27021-22 (June 11, 2018). The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain full-capture arrow rests and components thereof by reason of infringement of certain claims of U.S. Patent No. 6,978,775 ("the '775 patent"). The Commission's notice of investigation named as respondents 2BULBS Technology Co. Ltd. of Jiangsu, China; Ningbo Linkboy Outdoor Sports Co., Ltd. of Zhejiang, China; Shenzhen Keepmyway Tech. Co., Ltd., Wenqing Zhang, Tingting Ye, and Tao Li, all of Guangdong, China; Zhengzhou IRQ Outdoor Sports Co., Ltd. of Henan, China; and Sean Yuan of Shandong, China. The Office of Unfair Import Investigations ("OUII") is also a party to the investigation. All respondents in the investigation have been found in default. See Order No. 9

(Oct. 29, 2018), *unreviewed by Comm'n Notice* (Nov. 26, 2018).

On March 19, 2019, the presiding administrative law judge (“ALJ”) issued an initial determination (“ID”) granting Bear Archery’s motion for summary determination of violation of section 337 by the defaulting respondents and request for issuance of a GEO. The ID finds that all defaulting respondents met the importation requirement and that Bear Archery satisfied the domestic industry requirement. *See* 19 U.S.C. 1337(a)(1)(B), (a)(2), and (a)(3). The ID also finds that a violation of section 337 has occurred based on its finding that each of the defaulting respondents’ accused products infringe one or more of the asserted claims of the ’775 patent as established by substantial, reliable, and probative evidence. The ID also contains the ALJ’s recommended determination (“RD”) on remedy and bonding. The RD recommends issuance of a general exclusion order (“GEO”) with respect to the asserted ’775 patent. No party petitioned for review of the ID.

On May 2, 2019, the Commission issued notice of its determination not to review the ID. 84 FR 20163-64 (May 8, 2019). On the same date, the Commission requested written submissions on the issues of remedy, the public interest, and bonding from the parties and interested non-parties. *Id.* On May 16, 2019, Bear Archery and OUII each filed a brief regarding remedy, the public interest, and bonding, and on May 23, 2019, OUII filed a reply brief.

The Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is a GEO prohibiting the unlawful entry of full-capture arrow rests and components thereof that infringe one or more of claims 1-2 and 32 of the ’775 patent.

The Commission further determined that the public interest factors enumerated in section 337(g)(1) (19 U.S.C. 1337(g)(1)) do not preclude issuance of the GEO. Finally, the Commission determined that there shall be a bond in the amount of 100 percent of the entered value of the covered products during the period of Presidential review (19 U.S.C. 1337(j)). The Commission’s order and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance. The Commission has terminated the investigation.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission’s Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton".

Lisa R. Barton
Secretary to the Commission

Issued: July 15, 2019

**CERTAIN FULL-CAPTURE ARROW RESTS AND
COMPONENTS THEREOF**

Inv. No. 337-TA-1117

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, **Paul Gennari, Esq.**, and the following parties as indicated, on July 15, 2019.



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

On Behalf of Complainants Bear Archery, Inc.:

Charles J. Meyer, Esq.
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Inv. No. 337-TA-1117

Certificate of Service – Page 2

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN FULL-CAPTURE ARROW
RESTS AND COMPONENTS THEREOF**

Investigation No. 337-TA-1117

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 (“section 337”), in the unlawful importation into the United States, sale for importation, and/or sale within the United States after importation of certain full-capture arrow rests and components thereof that are covered by one or more of claims 1, 2 and 32 of U.S. Patent No. 6,978,775 (“the ’775 Patent”).

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, pursuant to 19 U.S.C. § 1337(d)(2), that a general exclusion order from entry for consumption is necessary (1) to prevent circumvention of an order limited to products of named persons and (2) because there is a pattern of violation of section 337 and it is difficult to identify the source of infringing products. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlawful importation of full-capture arrow rests and components thereof (“covered products”).

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(g) do not preclude issuance of the general exclusion order, and that the bond during the Presidential review shall be set 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. Full-capture arrow rests and components thereof that infringe one or more of claims 1, 2 and 32 of the '775 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 term of the patent, except under license of the patent owner or as provided by law.

2. Notwithstanding paragraph 1 of this Order, the aforesaid full-capture arrow rests and components thereof 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 *Fed. Reg.* 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 (60) days after the date of receipt of this Order. All entries of covered products made pursuant to this paragraph are to be reported to U.S. Customs and Border Protection ("CBP"), in advance of the date of the entry, pursuant to procedures CBP establishes.

3. At the discretion of CBP and pursuant to procedures that it establishes, persons seeking to import full-capture arrow rests and components thereof 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 paragraph 1 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.

4. Per 19 U.S.C. § 1337(l), this Order shall not apply to full-capture arrow rests and components thereof 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.

5. 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 C.F.R. § 210.76).

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

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

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: July 15, 2019

**CERTAIN FULL-CAPTURE ARROW RESTS AND
COMPONENTS THEREOF**

Inv. No. 337-TA-1117

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served by hand upon the Commission Investigative Attorney, **Paul Gennari, Esq.**, and the following parties as indicated, on July 15, 2019.



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

On Behalf of Complainants Bear Archery, Inc.:

Charles J. Meyer, Esq.
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PUBLIC VERSION

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

In the Matter of

**CERTAIN FULL-CAPTURE ARROW
RESTS AND COMPONENTS THEREOF**

Investigation No. 337-TA-1117

COMMISSION OPINION

I. INTRODUCTION

The Commission has found all eight respondents in default and in violation of section 337 pursuant to 19 U.S.C. § 1337(g). *See* 84 *Fed. Reg.* 20163-64 (May 8, 2019). The investigation is now before the Commission to consider issues pertaining to remedy, the public interest, and bonding.

II. BACKGROUND

The Commission instituted this investigation on June 11, 2018, based on a complaint filed on behalf of Bear Archery, Inc. (“Bear Archery”) of Evansville, Indiana. 83 *Fed. Reg.* 27021-22 (June 11, 2018). The complaint alleges violations of section 337 based on, *inter alia*, the importation of certain full-capture arrow rests that infringe certain claims of U.S. Patent No. 6,978,775 (“the ’775 patent”).¹ The Commission’s notice of investigation named as respondents 2BULBS Technology Co. Ltd. of Jiangsu, China; Ningbo Linkboy Outdoor Sports Co., Ltd. (“Linkboy Outdoor”) of Zhejiang, China; Shenzhen Keepmyway Tech. Co., Ltd., Wenqing

¹ An arrow rest is a component of a bow that supports an arrow before it is shot. A full-capture arrow rest includes a circular array of bristles that prevent the arrow from moving or falling out of position. *See* Complaint at ¶¶ 3-4, 52-53; ID at 5.

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Zhang, Tingting Ye, and Tao Li, all of Guangdong, China; Zhengzhou IRQ Outdoor Sports Co., Ltd. of Henan, China; and Sean Yuan of Shandong, China (collectively, “the Defaulting Respondents”). The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. All respondents in the investigation have been found in default. *See* Order No. 9 (Oct. 29, 2018), *unreviewed by* Comm’n Notice (Nov. 26, 2018).

On October 26, 2018, Bear Archery filed a motion for summary determination seeking a determination that the Defaulting Respondents violated section 337. Bear Archery’s motion also requested that the presiding administrative law judge (“ALJ”) recommend that the Commission enter a general exclusion order (“GEO”). On November 21, OUII filed a response supporting the motion.

On March 19, 2019, the ALJ issued an initial determination (“ID”) (Order No. 13) granting Bear Archery’s motion. The ID finds that all Defaulting Respondents met the importation requirement and that Bear Archery satisfied the domestic industry requirement. *See* 19 U.S.C. §§ 1337(a)(1)(B), (a)(2), and (a)(3). The ID also finds that the Defaulting Respondents violated section 337 based on its finding that each of the accused products infringe claims 1, 2, and 32 of the ’775 patent as established by substantial, reliable, and probative evidence. The ID was accompanied by the ALJ’s recommended determination (“RD”) on remedy and bonding.² The RD recommends issuance of a GEO with respect to claims 1, 2, and 32 of the ’775 patent. No party petitioned for review of the ID.

On May 2, 2019, the Commission determined not to review the ID. 84 *Fed. Reg.* 20163-64 (May 8, 2019). On the same date, the Commission requested written submissions on the

² The RD is found at pages 24-29 of the combined ID/RD.

PUBLIC VERSION

issues of remedy, the public interest, and bonding from the parties and interested non-parties.

Id. On May 16, 2019, Bear Archery and OUII each filed a brief on remedy, the public interest, and bonding.³ On May 23, 2019, OUII filed a reply brief.⁴

III. DISCUSSION

A. Default under Section 337(g) and Commission Rule 210.16

All eight respondents were found in default pursuant to section 337(g)(1) and Commission Rule 210.16. Section 337(g)(1) provides:

(1) If --

- (A) a complaint is filed against a person under section 337;
- (B) the complaint and a notice of investigation are served on the person;
- (C) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice;
- (D) the person fails to show good cause why the person should not be found in default; and
- (E) the complainant seeks relief limited solely to that person.

19 U.S.C. § 1337(g)(1). Commission Rule 210.16, which governs default, provides that “[a] party shall be found in default if it fails to respond to the complaint and notice of investigation in the manner prescribed in 210.13 or 210.59(c), or otherwise fails to answer the complaint and notice, and fails to show cause why it should not be found in default.” 19 C.F.R. § 210.16(a)(1).

³ See Complainant’s Submission on the Issue of Remedy, Public Interest and Bonding; and Complainant’s Proposed Remedial Orders (“Bear Archery’s Br.”); Submission of the Office of Unfair Import Investigations on Remedy, the Public Interest, and Bonding (“OUII’s Br.”).

⁴ See Reply Submission of the Office of Unfair Import Investigations on Remedy, the Public Interest, and Bonding.

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Section 337(g)(2) grants the Commission the authority to issue a GEO under default circumstances if:

- (A) no person appears to contest an investigation concerning a violation of the provisions of this section;
- (B) such a violation is established by substantial, reliable, and probative evidence; and
- (C) the requirements of subsection (d)(2) of this section are met.

19 U.S.C. § 1337(g)(2).

Section 337(d)(2) grants the Commission the authority to issue a GEO if:

- (A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or
- (B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.

19 U.S.C. § 1337(d)(2).

The Commission found that each of these statutory and regulatory requirements was satisfied with respect to the Defaulting Respondents. Specifically, the Commission Secretary served all respondents with the complaint and notice of investigation by express mail delivery on June 6, 2018, in accordance with Commission Rule 210.11 (19 C.F.R. § 210.11).⁵ The Defaulting Respondents failed to respond to the complaint and notice of investigation and did not otherwise appear. The ALJ issued an order directing all eight Defaulting Respondents to show

⁵ See Notice of Investigation, Certificate of Service (Jun. 6, 2018) (EDIS Document 646898). The UPS shipping histories indicate that Linkboy Outdoor received the complaint and notice of investigation on June 14, 2018 and that Sean Yuan refused service on June 22, 2018. The remaining respondents were successfully served by Bear Archery on June 28, July 2, July 12, August 16, August 20, and August 22, 2018. See Order No. 8 (Oct. 4, 2018); Bear Archery's Motion for Default Judgment Against Certain Respondents (Sept. 21, 2018).

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cause as to why they should not be found in default. *See* Order No. 8 (Oct. 4, 2018). The Defaulting Respondents failed to respond to the ALJ's show cause order. *See* Order No. 9 (Oct. 29, 2018).

The ID found, by substantial, reliable, and probative evidence, a violation as to each Defaulting Respondent, and the RD recommended that the Commission issue a GEO. *See* 84 *Fed. Reg.* 20163-64 (May 8, 2019). The Commission determined not to review the violation finding. *Id.*

B. The Commission's Determination of an Appropriate Remedy

The RD recommends issuance of a GEO because it found that Bear Archery had shown that the requirements of sections 337(g)(2) and 337(d)(2) were satisfied. *See* RD at 24-28. The Commission adopts the factual findings of the RD (as summarized below) as its own with respect to satisfaction of the requirements for issuance of a GEO under sections 337(d)(2) and 337(g)(2).

1. Section 337(d)(2)(B) – Pattern of Violation and Difficulty Identifying the Source

The RD finds that Bear Archery presented sufficient evidence of a widespread pattern of violation and that it is difficult, if not impossible, to identify the source of the infringing products. *Id.* at 25-26. Specifically, the RD finds that, in addition to the Defaulting Respondents, numerous other sources of infringing arrow rests are available for purchase online. *Id.* (citing McKenna Decl. at Exs. D, 1-3; Compl. Ex. 3 at 1; Compl. Ex. 38). The RD further finds that: (1) over one hundred Chinese entities are offering and/or selling infringing arrow rests for importation into the United States (*Id.* at 26 (citing McKenna Exs. 1-3)); (2) while Bear Archery has attempted to identify sources of infringing products, it is impossible to identify all

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sources given the anonymity with which these sources conduct business through online retailers (*Id.* (citing McKenna Decl. at ¶¶ 2-5)); and (3) infringing products are shipped directly to homes and businesses as gifts and therefore avoid federal excise taxes as compared to legitimate manufacturers that pay “up to an 11 percent tax on the sale” (*Id.* at 26-27 (citing McKenna Decl. at ¶¶ 2-5)). The RD finds, for example, that a search performed on Alibaba.com for the phrase “whisker biscuit”⁶ uncovered at least sixty products from various unidentified overseas sellers, which are available to U.S. customers and appear to infringe the ’775 patent. *Id.* (citing McKenna Decl. at ¶ 3). The RD finds that the majority of these listings are for products from China and use fictitious seller names. *Id.* (citing McKenna Decl. at ¶ 3).

The RD further finds relevant the evidence Bear Archery provided on the current state of counterfeiting in the archery and bow-hunting industry. *Id.* (citing Compl. Ex. 37). The RD finds that: (1) counterfeiters are described as “skilled criminals whose imitations mimic authentic products and their packaging” (*Id.*; citing Compl. Ex. 37 at 2); (2) counterfeiters target industries with “high brand-name recognition and brand-loyal customers,” and that they use photos of authentic products in online advertising, and price imitations just low enough to avoid suspicion (*Id.*; citing Compl. Ex. 37 at 2-3); and (3) counterfeits place a risk on public safety in the industry (*Id.*; citing Compl. Ex. 37 at 2-3).

2. Section 337(d)(2)(A) – Prevention of Circumvention of a Limited Exclusion Order

The RD also finds that the same record evidence that establishes a pattern of violation also establishes circumvention. *Id.* at 27-28. Specifically, the RD finds that the Defaulting

⁶ Bear Archery sells full-capture arrow rests under the Whisker Biscuit® mark. *See* Complaint at ¶¶ 3-13.

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Respondents and other entities rename their companies, hide behind anonymous seller profiles, or sell to other companies who then import their infringing products into the United States under a different name – all to avoid detection. *Id.* (citing *Certain Cases for Portable Electronic Devices*, Inv. No. 337-TA-867/861 (Consolidated), Comm’n Op. at 9-10 (July 10, 2014) (recognizing that “anonymity over the Internet increases the difficulty in identifying the sources of infringing products”)).

Based on its analysis of subparagraphs (A) and (B), the RD recommends that in the event the Commission finds a violation of section 337, the appropriate remedy is a GEO that encompasses the infringing products. *Id.* at 28.

3. Analysis

The Commission finds that the RD comprehensively discusses Bear Archery’s evidence, which satisfies sections 337(g)(2) and 337(d)(2) and therefore warrants issuance of a GEO directed to infringing full-capture arrow rests and components thereof. The Commission also finds that issuing a GEO in this investigation accords with Commission precedent. *See, e.g., Certain Arrowheads with Arcuate Blades and Components Thereof*, Inv. No. 337-TA-1033, Comm’n Op. at 5-9 (May 1, 2018) (issuing a GEO after considering evidence of, *inter alia*, respondents changing names to avoid detection of unfair acts, counterfeiting, market conditions that encourage circumvention, and widespread distribution of the accused products, including through internet sales on Amazon.com, eBay.com and Alibaba.com); *Certain Arrowheads with Deploying Blades and Components Thereof and Packaging Therefor*, Inv. No. 337-TA-977,

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Comm'n Op. at 7-11 (Apr. 6, 2017) (issuing a GEO after considering similar evidence).⁷

Accordingly, the Commission has determined to issue a GEO that excludes from entry for consumption into the United States full-capture arrow rests and components thereof that infringe one or more of claims 1, 2, and 32 of the '775 patent.

C. Public Interest

Before issuing a remedy for a violation of section 337, the Commission must consider the effect of the remedy on certain public interest considerations: (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles that are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers. 19 U.S.C. § 1337(g)(1).

Both Bear Archery and OUII submit that the public interest factors do not weigh against

⁷ The Commission's Opinion in the 977 Investigation further cites to *Certain Foam Footwear*, Inv. No. 337-TA-567, Comm'n Op. at 6-8 (July 15, 2011) (issuing a GEO after considering evidence showing the existence of over 60 non-respondents that sold copied products over the internet and the existence of marketing and distribution networks in the U.S. for the infringing products); *Certain Electronic Paper Towel Dispensing Devices and Components Thereof*, Inv. No. 337-TA-718, Comm'n Op. at 15-16 (Dec. 1, 2011) (issuing a GEO after considering evidence showing the interchangeability of manufacturers in a large distribution system and the existence of "abundant distributors and internet retailers who can sell [the] manufactured articles"); *Certain Ground Fault Circuit Interrupters and Products Containing Same*, Inv. No. 337-TA-739, Comm'n Op. at 88-91 (June 8, 2012) (issuing a GEO after considering evidence showing "that some respondents and other potential manufacturers have a propensity and ability to change names and corporate forms," the use of unreliable product and shipping labeling, and the existence of widespread distribution networks involving multiple intermediaries); and *Certain Ink Cartridges and Components Thereof*, Inv. No. 337-TA-946, Comm'n Op. at 6-11 (June 29, 2016) (issuing a GEO after considering evidence showing an intent to circumvent exclusion orders, the use of unmarked or misleading packaging, and the existence of numerous foreign manufacturers and well-established distribution networks that employ websites such as Amazon.com and eBay.com). See *Certain Arrowheads with Deploying Blades and Components Thereof and Packaging Therefor*, Inv. No. 337-TA-977, Comm'n Op. at 7-11 (Apr. 6, 2017).

PUBLIC VERSION

the proposed remedy in this investigation. Bear Archery's Br. at 10-11; OUII's Br. at 10-11. Bear Archery submits that excluding infringing full-capture arrow rests will not harm the public interest because these products do not directly affect the public health or welfare. Bear Archery's Br. at 10. Bear Archery further submits that because many of the infringing products are imported into the United States as gifts to avoid paying federal excise taxes, a GEO would have a net positive effect on public welfare because such infringing imports deprive the U.S. government of tax revenue. *Id.* OUII adds that no record evidence indicates that issuing a GEO would be contrary to the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. OUII's Br. at 10-11. Accordingly, Bear Archery and OUII submit that a GEO would not be adverse to the public interest.

After considering the public interest factors, the Commission finds that issuing a GEO will not adversely affect the public interest. Specifically, based on the record before the Commission, there is no indication that excluding the infringing products will negatively affect the public health and welfare, competitive conditions in the U.S. economy, the production of articles in the United States that are like or directly competitive with the subject full-capture arrow rests and components thereof, or U.S. consumers of these products. Accordingly, the Commission finds that the statutory public interest factors do not preclude the issuance of a GEO and has determined to issue a GEO.

D. Bond

Bear Archery seeks a 100 percent bond for importation of infringing products during the period of Presidential review under section 337(j)(3) because no reliable price information can

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be determined. *See* Bear Archery's Br. at 11-12. The RD finds that, because none of the Defaulting Respondents participated in discovery, reliable price information is not available, and therefore recommended setting a bond amount of 100 percent of the entered value of the infringing products imported during the period of Presidential review. RD at 29 (citing *Certain Digital Photo Frames and Image Display Devices and Components Thereof*, Inv. No. 337-TA-807, Comm'n Op. at 17, USITC Pub. 4549 (July 2015) ("The Commission finds that there is little or no evidence in the record of this investigation as to pricing of the Defaulting Respondents' products The Commission has traditionally set a bond of 100 percent of the entered value of the products under these circumstances.")).

To establish the appropriate bond amount, the Commission typically calculates the difference in pricing between the complainant's products and the respondent's products. *See Certain Microsphere Adhesives, Processes for Making Same, and Products Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-366, USITC Pub. 2949, Comm'n Op. at 24 (Jan. 1996). The Commission finds that there is no evidence in the record regarding the pricing of the Defaulting Respondents' products because the Defaulting Respondents did not participate in discovery. The Commission has traditionally set a bond of 100 percent of the entered value of the products under these circumstances. *See Oscillating Sprinklers, Sprinkler Components, and Nozzles*, Inv. No. 337-TA-448, Limited Exclusion Order at 4-5 (Mar. 1, 2002) (setting the bond at 100 percent of the entered value of the infringing imported product when the defaulting respondent failed to provide pricing information).

Accordingly, because no reliable price information is available from the Defaulting Respondents, the Commission has determined to set a bond in the amount of 100 percent of the

PUBLIC VERSION

entered value of infringing full-capture arrow rests and components thereof imported during the period of Presidential review.

IV. CONCLUSION

The Commission has considered the issues of remedy, the public interest, and bonding and has determined to issue a GEO. The GEO excludes from entry for consumption into the United States full-capture arrow rests and components thereof that infringe one or more of claims 1, 2, and 32 of the '775 patent. The Commission has also determined to set a bond in the amount of 100 percent of the entered value of the infringing full-capture arrow rests and components thereof imported during the period of Presidential review.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: July 31, 2019

**CERTAIN FULL-CAPTURE ARROW RESTS AND
COMPONENTS THEREOF**

Inv. No. 337-TA-1117

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **OPINION, COMMISSION** has been served by hand upon the Commission Investigative Attorney, **Paul Gennari, Esq.**, and the following parties as indicated, on July 31, 2019.



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

On Behalf of Complainants Bear Archery, Inc.:

Charles J. Meyer, Esq.
**WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY
LLP**
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

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

Respondents:

2BULBS Technology Co. Ltd.
Yuhua East Road 57#
Room 309, Building 6
Jiangsu District
Nanjing China 210046

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

Ningbo Linkboy Outdoor Sports Co., Ltd.
B1, 599 Qiming Road, Xiaying Town,
Yinzhou District, Ningbo, Zhejiang,
China

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

Shenzhen Keepmyway Tech, Co., Ltd.
Building 2, Bagualing Industrial Zone, Bagua 2nd Rd.,
Futian District, Shenzhen, Guangdong
China 518000

- ☐ Via Hand Delivery
☒ Via Express Delivery
☐ Via First Class Mail
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Zhengzhou IRQ Outdoor Sports Co., Ltd.
Shengshijingwei Building B, No. 18,
Xinghua North St., Zhengzhou, Henan
China

- ☐ Via Hand Delivery
☒ Via Express Delivery
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**CERTAIN FULL-CAPTURE ARROW RESTS AND
COMPONENTS THEREOF**

Inv. No. 337-TA-1117

Certificate of Service – Page 2

Wenqing Zhang
6/F, Hu Liang E Shi Dai Bldg, Zhong Xing Rd East
Ma An Tang, Ban Tian St.
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- ☐ Via Hand Delivery
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Tingting Ye
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Tao Li
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Ma An Tang, Ban Tian St.
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- ☐ Via Hand Delivery
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Sean Yuan
97 Fuzhou South Road
Jiaozhou, Qindao, Shandong
China 266300

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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN FULL-CAPTURE ARROW
RESTS AND COMPONENTS THEREOF**

Investigation No. 337-TA-1117

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING COMPLAINANT'S MOTION FOR SUMMARY
DETERMINATION OF VIOLATION OF SECTION 337 BY THE DEFAULTING
RESPONDENTS; REQUEST FOR WRITTEN SUBMISSIONS ON REMEDY,
BONDING, AND THE PUBLIC INTEREST**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 13) of the presiding administrative law judge ("ALJ"), granting complainant's motion for summary determination of violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), by the defaulting respondents. The Commission is requesting written submissions on remedy, bonding, and the public interest.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 11, 2018, based on a complaint filed on behalf of Bear Archery, Inc. ("Bear Archery") of Evansville, Indiana. 83 *Fed. Reg.* 27021-22 (June 11, 2018). The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain full-capture arrow rests and components thereof by reason of infringement of certain claims of U.S. Patent No. 6,978,775 ("the '775 patent"). The Commission's notice of investigation named as respondents 2BULBS

Technology Co. Ltd. of Jiangsu, China; Ningbo Linkboy Outdoor Sports Co., Ltd. of Zhejiang, China; Shenzhen Keepmyway Tech. Co., Ltd., Wenqing Zhang, Tingting Ye, and Tao Li, all of Guangdong, China; Zhengzhou IRQ Outdoor Sports Co., Ltd. of Henan, China; and Sean Yuan of Shandong, China. The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. All respondents in the investigation have been found in default. See Order No. 9 (Oct. 29, 2018), *unreviewed by Comm’n Notice* (Nov. 26, 2018).

On October 26, 2018, Bear Archery moved for summary determination of violation of section 337 by the defaulting respondents and requested a general exclusion order (“GEO”). On November 21, OUII filed a response supporting the motion.

The ALJ issued the subject ID on March 19, 2019, granting the motion for summary determination and finding a violation of section 337 for the ’775 patent. Specifically, the ALJ found that Bear Archery established infringement of claims 1-2 and 32 of the ’775 patent with respect to each defaulting respondent’s accused product by substantial, reliable, and probative evidence. The ALJ recommended that the Commission issue a GEO if it finds a violation of section 337. No party petitioned for review of the subject ID.

Having examined the record of this investigation, the Commission has determined not to review the subject ID.

As noted above, all eight respondents were found in default. Section 337(g) and Commission Rule 210.16(c) authorize the Commission to issue relief against respondents found in default unless, after considering the public interest, it finds that such relief should not issue. Before the ALJ, Bear Archery sought a GEO under section 337(g)(2).

In connection with the final disposition of this investigation, the Commission may issue an order that could result in the exclusion of the subject articles from entry into the United States. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm’n Op. at 7-10 (December 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 *Fed. Reg.* 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

Complainant and OUII are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the date that the patent expires, the HTSUS numbers under which the accused products are imported, and to supply the names of known importers of the products at issue in this investigation. The written submissions and proposed remedial orders must be filed no later than close of business on [two weeks from the date of this notice], 2019. Reply submissions must be filed no later than the close of business on [one week later], 2019. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight true paper copies to the Office of the Secretary 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-1117") in a prominent place on the cover page and/or the first page. (*See Handbook on Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel¹, solely for cybersecurity purposes. All non-confidential written submissions will be

¹ All contract personnel will sign appropriate nondisclosure agreements.

available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'L. Barton', with a large, stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: May 2, 2019

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, **Paul Gennari, Esq.**, and the following parties as indicated, on May 2, 2019.



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

On Behalf of Complainants Bear Archery, Inc.:

Charles J. Meyer, Esq.

**WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY
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111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

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PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN FULL-CAPTURE ARROW
RESTS AND COMPONENTS THEREOF**

Inv. No. 337-TA-1117

**ORDER NO. 13: INITIAL DETERMINATION GRANTING COMPLAINANT BEAR
ARCHERY INC.'S MOTION FOR SUMMARY DETERMINATION
OF VIOLATIONS BY THE DEFAULTING RESPONDENTS AND
FOR RECOMMENDED DETERMINATION ON REMEDY AND
BOND**

(March 19, 2019)

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I. INTRODUCTION

On October 26, 2018, Complainant Bear Archery, Inc. (“Bear Archery”) moved (1117-006) for summary determination, seeking a finding of a violation of section 337 and requesting entry of a general exclusion order (“GEO”). The Commission Investigative Staff (“Staff”) filed a response in support of the motion.

A. Procedural History

On May 4, 2018, Bear Archery filed a Complaint alleging a violation of section 337 of the Tariff Act of 1930. 83 Fed. Reg. 27,021-022 (June 11, 2018). The Complaint alleges a violation of section 337 in the importation and sale of certain full-capture arrow rests and components thereof by reason of infringement of certain claims of U.S. Patent No. 6,978,775 (the “’775 patent”).¹ *Id.* On June 6, 2018, the Commission determined to institute this Investigation. *Id.*

The Notice of Investigation named eight respondents: 2BULBS Technology Co. Ltd. (“Mandarin Duck”); Ningbo Linkboy Outdoor Sports Co. (“Linkboy Outdoor”); Shenzhen Keepmyway Tech. Co., Ltd. (“Out Topper”); Zhengzhou IRQ Outdoor Sports Co., Ltd. (“IRQ Outdoor”); Wenqing Zhang (“Linkskus”); Tingting Ye (“Ipsmate”); Tao Li (“Uwitstar”); and Sean Yuan (“SinoArt”) (collectively, the “Defaulting Respondents”). *Id.* The Office of Unfair Import Investigations was also named as a party to the Investigation. *Id.*

On October 4, 2018, the undersigned issued Order No. 8 directing all eight Respondents to show cause why they should not be held in default. No response was received from any of the Respondents. On October 29, 2018, all eight Respondents were found in default pursuant to 19 C.F.R. § 210.16. (*See* Order No. 9; *see also* Notice of Comm’n Decision Not to Review an Initial

¹ In its Complaint, Bear Archery asserted claims 1-3, 5-7, 16-22, 24-26, 31-33, and 35 of the ’775 patent. (Compl. at ¶¶ 1, 48.) Bear Archery subsequently withdrew claims 3, 5-7, 16-22, 24-26, 31, 33, and 35. (*See* Order No. 10 (Oct. 29, 2018); *see also* Notice of Comm’n Decision Not to Review an Initial Determination Granting an Unopposed Mot. for Partial Termination of the Investigation as to Certain Patent Claims (Nov. 26, 2018).)

Determination Finding Respondents in Default (Nov. 26, 2018).) None of the Defaulting Respondents have contested Bear Archery's allegations that they have violated and continue to violate section 337.

B. The Parties

1. Complainant

a) Bear Archery, Inc.

Bear Archery is a corporation organized and existing under the laws of the State of Florida with a principal place of business in Evansville, Indiana. (Compl. at ¶ 20.) Bear Archery researches, develops, designs, tests, manufactures, markets, and sells a wide range of archery products. (*Id.* at ¶ 21.) These products include traditional archery bows, compound bows, cross bows, bow sights, arrow rests, arrows and arrow components, archery targets, apparel, and gear. (*Id.*)

2. The Defaulting Respondents

a) 2BULBS Technology Co. Ltd.

Respondent Mandarin Duck is a corporation formed under the laws of the People's Republic of China, with a principal place of business at Qilin Technology Innovation Park, Nanjing, Jiangsu 210000 China. (*Id.* at ¶ 23.) Bear Archery alleges that Mandarin Duck manufactures, markets, and sells a variety of archery products for distribution worldwide. (*Id.* at ¶ 24.)

b) Ningbo Linkboy Outdoor Sports Co.

Respondent Linkboy Outdoor is a corporation formed under the laws of the People's Republic of China, with a principal place of business at B1, 599 Qiming Road, Xiaying Town, Yinzhou District, Ningbo, Zhejiang, China. (*Id.* at ¶ 25.) Bear Archery alleges that Linkboy

Outdoor manufactures, markets, and sells a variety of archery products for distribution worldwide.

(*Id.* at ¶ 26.)

c) Shenzhen Keepmyway Tech. Co., Ltd.

Respondent Out Topper is a corporation formed under the laws of the People's Republic of China, with a principal place of business at Building 2, Bagualing Industrial Zone, Bagua 2nd Road, Futian District, Shenzhen, Guangdong, China 518000. (*Id.* at ¶ 27.) Bear Archery alleges that Out Topper markets and sells a variety of outdoor products and novelty items for worldwide distribution. (*Id.* at ¶ 28.)

d) Zhengzhou IRQ Outdoor Sports Co., Ltd.

Respondent IRQ Outdoor is a corporation formed under the laws of the People's Republic of China, with a principal place of business at Shengshijingwei Building B., No. 18, Xinghua North St., Zhengzhou, Henan, China. (*Id.* at ¶ 29.) Bear Archery alleges that IRQ Outdoor manufactures, markets, and sells a variety of archery products for worldwide distribution. (*Id.* at ¶ 30.)

e) Wenqing Zhang

Respondent Wenqing Zhang is a Chinese citizen who conducts business under the Amazon Seller ID "Linkskus". (*Id.* at ¶ 31.) According to Amazon, Linkskus resides at and/or conducts business from Room 308, No. 2, Fuhua Building, Fuhua Road, Futian District, Shenzhen, Guangdong, China 518000. (*Id.*) Bear Archery alleges that Linkskus is in the business of marketing and selling a variety of outdoor products and novelty items for worldwide distribution. (*Id.* at ¶ 32.)

f) Tingting Ye

Respondent Tingting Ye is a Chinese citizen who conducts business under the Amazon Seller ID “Ipsmate”. (*Id.* at ¶ 33.) According to Amazon, Ipsmate resides at and/or conducts business from Freecity 659, Huaqiangbei, Futian District, Shenzhen, Guangdong, China 518000. (*Id.*) Bear Archery alleges that Ipsmate is in the business of marketing and selling a variety of outdoor products and novelty items for worldwide distribution. (*Id.* at ¶ 34.)

g) Tao Li

Respondent Tao Li is a Chinese citizen who conducts business under the Amazon Seller ID “Uwitstar”. (*Id.* at ¶ 35.) According to Amazon, Uwitstar resides and/or conducts business at Shenzhenshi Longhuaqu Dalangjiedao Tongshengshequ linchenggongyeyuan Disandong 11 lou Afengeti, Shenzhen, Guangdong, China 518000. (*Id.*) Bear Archery alleges that Uwitstar is in the business of marketing and selling a variety of outdoor products and novelty items for worldwide distribution. (*Id.* at ¶ 36.)

h) Sean Yuan

Respondent Sean Yuan is a Chinese citizen who conducts business under the Amazon Seller ID “SinoArt”. (*Id.* at ¶ 37.) According to Amazon, SinoArt resides and/or conducts business at 97 Fuzhou South Road, Jiaozhou, Qingdao, Shandong, China 266300. (*Id.*) Bear Archery alleges that SinoArt is in the business of marketing and selling a variety of outdoor products and novelty items for worldwide distribution. (*Id.* at ¶ 38.)

C. The Asserted Patent

1. U.S. Patent No. 6,978,775

The '775 patent, entitled "Arrow Rest System and Method," issued on December 27, 2005 to Stephen Charles Graf. Bear Archery owns the entire right, title, and interest in the patent. (Compl. Exs. 2; *see also* Compl. Ex. 40C at ¶ 13.) The '775 patent relates to archery equipment and "more particularly, to an arrow rest." ('775 patent at 1:13-14; *see also* Compl. at ¶ 52 ("The '775 Patent discloses an improved full-capture arrow rest.").)

The '775 patent has 35 claims. Claims 1, 2, and 32 are at issue in this Investigation. The asserted claims read as follows:

1. An apparatus comprising: a frame adapted to be mounted to an archery bow, the frame comprising a slot; a ring coupled with and disposed within the frame, the frame adapted to receive the ring; and a pliable member adapted to be received in the ring and to support an arrow shaft, the ring distinct from the pliable member.
2. An apparatus comprising: a frame adapted to be mounted to an archery bow and to accommodate an arrow shaft, the frame comprising a slot and defining an orifice comprising an axis; a ring coupled with and disposed within the frame, the frame adapted to receive the ring; and a pliable member adapted to be received in the ring and to support the arrow shaft, the ring distinct from the pliable member.
32. An apparatus comprising: a frame adapted to be mounted to an archery bow, the frame comprising a slot and a first portion comprising a first end and a second portion comprising a second end, the first end and the second end defining the slot; a ring coupled with the frame, the frame adapted to receive the ring; and a pliable member adapted to be received in the ring and to support an arrow shaft, the ring distinct from the pliable member.

D. Products at Issue


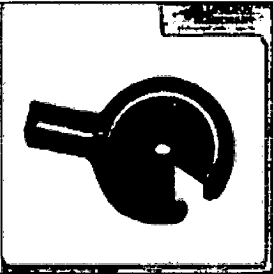

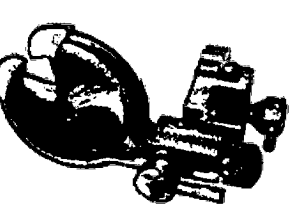
The products at issue in this Investigation are "arrow rests having a slotted circular shaped ring with bristles pointed inward to provide radial support for an arrow, which are designed for attachment to an archery bow to support an arrow before it is fired." 83 Fed. Reg. 27,021 (June 11, 2018).

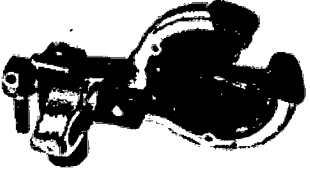
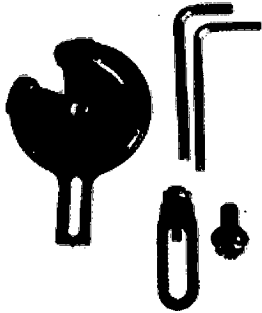

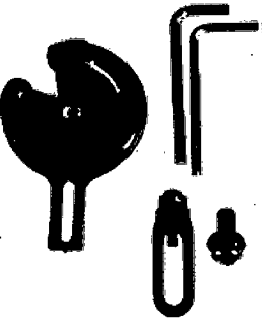

1. Bear Archery's Domestic Industry Products

Bear Archery contends that the following arrow rest products, which are sold under the Trophy Ridge brand, practice claims 1, 2, and 32 of the asserted patent: the Whisker Biscuit® Kill Shot, the Whisker Biscuit® Sure Shot Pro, the Whisker Biscuit® Quick Shot, the Whisker Biscuit® Power Shot, the Whisker Biscuit® Original Quick Shot, and the Cajun Bowfishing Fishing Biscuit Arrow Rest (collectively, the "Domestic Industry Arrow Rests"). (Mem. at 17-18.)

2. The Defaulting Respondents' Accused Products

A summary chart of the various accused products is set forth below:

Respondent	Name of Accused Product	The Accused Product
Mandarin Duck	Compound Bow Brush Biscuit Arrow Rest	
Linkboy Outdoors	Whisker Biscuit Arrow Rest	
Out Topper	Whisker Biscuit Arrow Rest	
IRQ Outdoor	Toparchery Topgrade Brush Capture Arrow Rest	

Respondent	Name of Accused Product	The Accused Product
	IRQ Camo Arrow Rest	
Linkskus	Pixnor Arrow Rest	
Ipsmate	Tinksky Arrow Rest	
Uwitstar	Winomo Brush Capture Arrow Rest	
SinoArt	Archery Bow Brush Capture Arrow Rest	

(Staff Resp. at 12-15; Compl. at ¶¶ 57, 62, 66, 70, 77, 81, 85, 89; Compl. Exs. 7, 9, 11-15, 16, 18, 20, 22, 24, 26, 28, 30, 32.)

II. LEGAL STANDARDS

A. Summary Determination

Summary determination is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to a determination as a matter of law. *See* 19 C.F.R. § 210.18(b). In determining whether there is a genuine issue of material fact, “the evidence must be viewed in the light most favorable to the party opposing the motion with doubts resolved in favor of the non-movant.” *Crown Operations Int’l, Ltd. v. Solutia, Inc.*, 289 F.3d 1367, 1375 (Fed. Cir. 2002) (citations omitted); *see also Paragon Podiatry Lab., Inc. v. KLM Labs, Inc.*, 984 F.2d 1182, 1185 (Fed. Cir. 1993) (“In other words, ‘[s]ummary judgement is authorized when it is quite clear what the truth is, and the law requires judgment in favor of the movant based upon facts not in genuine dispute.’”) (citations omitted).

B. Default

Commission Rule 210.16(b)(4) states: “A party found in default shall be deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation.” 19 C.F.R. § 210.16(b)(4). Commission Rule 210.16(c) further provides that “[t]he facts alleged in the complaint will be presumed to be true with respect to the defaulting respondent.” *Id.* at § 210.16(c).

C. Infringement

Literal infringement is a question of fact. *Finisar Corp. v. DirecTV Grp., Inc.*, 523 F.3d 1323, 1332 (Fed. Cir. 2008). “An infringement analysis entails two steps. The first step is determining the meaning and scope of the patent claims asserted to be infringed. The second step is comparing the properly construed claims to the device accused of infringing.” *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed. Cir. 1995) (*en banc*), *aff’d*, 517 U.S. 370 (1996) (citation omitted).

Literal infringement requires the patentee to prove that the accused device contains each limitation of the asserted claim(s). If any claim limitation is absent, there is no literal infringement of that claim as a matter of law. *Bayer AG v. Elan Pharm. Research Corp.*, 212 F.3d 1241, 1247 (Fed. Cir. 2000).

D. Domestic Industry

In a patent-based complaint, a violation of section 337 can be found “only if an industry in the United States, relating to the articles protected by the patent . . . concerned, exists or is in the process of being established.” 19 U.S.C. § 1337(a)(2). Under Commission precedent, this “domestic industry requirement” of section 337 consists of an economic prong and a technical prong. *Certain Stringed Musical Instruments and Components Thereof*, Inv. No. 337-TA-586, Comm’n Op. at 12-14, 2009 WL 5134139 (U.S.I.T.C. Dec. 2009). The complainant bears the burden of establishing that the domestic industry requirement is satisfied. *See Certain Set-Top Boxes and Components Thereof*, Inv. No. 337-TA-454, Final Initial Determination at 294, 2002 WL 31556392 (U.S.I.T.C. June 21, 2002) (unreviewed by Commission in relevant part).

1. Economic Prong

Section 337(a)(3) sets forth the following economic criteria for determining the existence of a domestic industry in such investigations:

(3) For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent, copyright, trademark, mask work, or design concerned –

- (A) significant investment in plant and equipment;
- (B) significant employment of labor or capital; or
- (C) substantial investment in its exploitation, including engineering, research and development, or licensing.

19 U.S.C. § 1337(a)(3). Given that these criteria are listed in the disjunctive, satisfaction of any one of them will be sufficient to meet the economic prong of the domestic industry requirement. *Certain Integrated Circuit Chipsets and Prods. Containing Same*, Inv. No. 337-TA-428, Order No. 10, Initial Determination (unreviewed) (May 4, 2000).

2. Technical Prong

The technical prong of the domestic industry requirement is satisfied when the complainant in a patent-based section 337 investigation establishes that it is practicing or exploiting the intellectual property at issue. *See* 19 U.S.C. § 1337(a)(2) and (3); *Certain Microsphere Adhesives, Process for Making Same and Prods. Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-366, Comm’n Op. at 8, 1996 WL 1056095 (U.S.I.T.C. Jan. 16, 1996). For patents, “[t]he test for satisfying the ‘technical prong’ of the industry requirement is essentially [the] same as that for infringement, i.e., a comparison of domestic products to the asserted claims.” *Alloc, Inc. v. Int’l Trade Comm’n*, 342 F.3d 1361, 1375 (Fed. Cir. 2003). To prevail, the patentee must establish by a preponderance of the evidence that the domestic product practices one or more claims of the patent, either literally or under the doctrine of equivalents. *Bayer*, 212 F.3d at 1247.

It is sufficient to show that the products practice any claim of that patent, not necessarily an asserted claim of that patent. *Certain Microsphere Adhesives*, Comm'n Op. at 7-16.

III. IMPORTATION

Section 337(a)(1) prohibits, *inter alia*, “[t]he importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that . . . infringe a valid and enforceable United States patent” or trademark. 19 U.S.C. § 1337(a)(1)(B)–(C). Complainant need only prove importation of a single accused product to satisfy the importation element. *Certain DC-DC Controllers and Prods. Containing the Same*, Inv. No. 337-TA-698, Order No. 29 at 3 (June 18, 2010); *Certain Purple Protective Gloves*, Inv. No. 337-TA-500, Order No. 17 at 5 (Sept. 23, 2004).

Bear Archery asserts that “[e]ach of the Defaulting Respondents make for importation into the United States and/or have others make for importation into the United States, and/or import into the United States certain full-capture arrow rests and components that infringe the Asserted Patent.” (Mem. at 7.) In Staff’s view, the evidence shows that the importation requirement has been met for each of the Defaulting Respondents. (Staff Resp. at 21-22.)

The undersigned finds that Bear Archery has established that the importation requirement of section 337 is satisfied with respect to the Defaulting Respondents. In its Complaint and the accompanying exhibits, Bear Archery identified specific instances of importation by each of the Defaulting Respondents. (See Compl. at ¶¶ 57-60, Compl. Exs. 5, 16, 34-A (Mandarin Duck); ¶¶ at 62-64, Compl. Exs. 7, 18, 34-B (Linkboy Outdoor); ¶¶ 66-68, Compl. Exs. 9, 20, 34-C (Out Topper); ¶¶ 70-72, 74-75, Compl. Exs. 11, 22, 24, 34-D, 34-E (IRQ Outdoor); ¶¶ 77-79, Compl. Exs. 12, 26, 34-F (Linkskus); ¶¶ 81-83, Compl. Exs. 13, 28, 34-G (Ipsmate); ¶¶ 85-87, Compl. Exs. 14, 30, 34-H (Uwitstar); ¶¶ 89-91, Compl. Exs. 15, 32, 34-I (SinoArt).) Bear Archery also submitted a declaration from Anthony DeLoera. (Compl. Ex. 34.) In his declaration, Mr. DeLoera

provides detailed evidence of importation by each of the Defaulting Respondents – from where the accused products are advertised for sale to how the accused products were delivered to his home in Brownsburg, Indiana. (*See id.* at ¶¶ 2-4 (Mandarin Duck), ¶¶ 5-7 (Linkboy Outdoors), ¶¶ 8-10 (Out Topper), ¶¶ 11-16 (IRQ Outdoor), ¶¶ 17-19 (Linkskus), ¶¶ 20-22 (Ipsmate), ¶¶ 23-25 (Uwitstar), ¶¶ 26-28 (SinoArt).) In addition, the undersigned is not aware of any evidence to the contrary with respect to importation by the Defaulting Respondents.

IV. JURISDICTION

A. Subject Matter Jurisdiction

Section 337 confers subject matter jurisdiction on the Commission to investigate, and if appropriate, to provide a remedy for, unfair acts and unfair methods of competition in the importation, the sale for importation, or the sale after importation of articles into the United States. *See* 19 U.S.C. §§ 1337(a)(1)(B) and (a)(2). Bear Archery filed a complaint alleging a violation of this subsection. Accordingly, the Commission has subject matter jurisdiction over this Investigation under section 337 of the Tariff Act of 1930. *Amgen, Inc. v. U.S. Int'l Trade Comm'n*, 902 F.2d 1532, 1536 (Fed. Cir. 1990).

B. Personal Jurisdiction

Personal jurisdiction is not required so long as the products are being imported. *See Sealed Air Corp. v. U.S. Int'l Trade Comm'n*, 645 F.2d 976, 985-89 (C.C.P.A. 1981). The undersigned has determined hereinabove that the accused products have been imported into the United States. *See* Section III. Furthermore, the Defaulting Respondents have waived their right to contest that *in personam* jurisdiction exists. *See Certain Protective Cases and Components Thereof*, Inv. No. 337-TA-780, Initial Determination at 46 (June 29, 2012).

C. In Rem Jurisdiction

The Commission has *in rem* jurisdiction by virtue of the fact that accused arrow rests and components thereof have been imported into the United States. *See Sealed Air Corp. v. U. S. Int'l Trade Comm'n*, 645 F.2d 976, 985 (C.C.P.A. 1981).

V. VALIDITY

A patent is presumed valid. 35 U.S.C. § 282; *Microsoft Corp. v. i4i Ltd. P'ship*, 131 S. Ct. 2238, 2242 (2011). In the instant matter, no party has challenged the validity of the asserted patents. The Commission is therefore prohibited from making a determination on validity since no defense of invalidity has been raised. *Lannom Mfg. Co., Inc. v. U.S. Int'l Trade Comm'n*, 799 F.2d 1572, 1580 (Fed. Cir. 1986) (“We conclude, therefore, that Congress did not authorize the Commission to redetermine patent validity when no defense of invalidity has been raised.”) Accordingly, there is no issue of material fact as to the validity of the asserted patents.

VI. U.S. PATENT NO. 6,978,775

A. Claim Construction

Bear Archery and Staff agree that the claim language should be interpreted consistent with its plain and ordinary meaning. (Mem. at 14; Staff Resp. at 25-26.) Given the absence of any dispute, the undersigned agrees. *See O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co., Ltd.*, 521 F.3d 1351, 1362 (Fed. Cir. 2008) (“district courts are not (and should not be) required to construe every limitation present in a patent’s asserted claims,” but rather only “[w]hen the parties present a fundamental dispute regarding the scope of a claim term”) (emphasis added); *see also Hakim v. Cannon Avent Group, PLC*, 479 F.3d 1313, 1318-19 (Fed. Cir. 2007) (“Claim construction is directed to claims or claim terms whose meaning is disputed as applied to the patentee’s invention in the context of the accused device. When there is no dispute as to the meaning of a term that could affect the disputed issues of the litigation, ‘construction’ may not be necessary.”).

B. Infringement

Bear Archery asserts that each of the accused products infringes claims 1, 2, and 32 of the '775 patent. (Mem. at 14-17.) Staff supports a finding of infringement. (Staff Resp. at 26-29.)

For the following reasons, the undersigned finds that Bear Archery has established that the accused products of the Defaulting Respondents infringe the '775 patent. In support of its allegations, Bear Archery submitted a declaration from Mr. Dave Parker, the General Manager of Bear Archery. (*See* Confidential Ex. A ("Parker Decl.")). As General Manager, Mr. Parker supervises and is involved in the design, development, testing, and manufacture of a wide range of archery products. (*Id.* at ¶ 3.) Mr. Parker conducted a detailed examination of the accused products of the Defaulting Respondents and compared those products (element-by-element) to the asserted claims of the '775 patent. (*Id.* at ¶¶ 9-41; *see also* Compl. Ex. 16 (photos of the Compound Bow Brush Biscuit Arrow Rest sold by 2BULBS Technology Co., Ltd. (SKU B05.101 (the "Mandarin Duck Rest"))); Compl. Ex. 18 (photos of the Whisker Biscuit Arrow Rest sold by Ningbo Linkboy Outdoor Sports Co., Ltd. ("the Linkboy Outdoor Rest"))); Compl. Ex. 20 (photos of the Whisker Biscuit Arrow Rest sold by Shenzhen Keepmyway Tech. Co., Ltd. ("the Out Topper Rest"))); Compl. Ex. 22 (photos of the Toparchery Topgrade Brush Capture Arrow Rest sold by Zhengzhou IRQ Outdoor Sports Co. ("the IRQ Toparchery Rest"))); Compl. Ex. 24 (photos of the IRQ Camo Arrow Rest sold by Zhengzhou IRQ Outdoor Sports Co. ("the IRQ Camo Rest"))); Compl. Ex. 26 (photos of the Pixnor Arrow Rest sold by Wenqing Zhang ("the Linkskus Rest"))); Compl. Ex. 28 (photos of the Tinsky Arrow Rest sold by Tingting Ye ("the Ipsmate Rest")); Compl. Ex. 30 (photos of the Winomo Brush Capture Arrow Rest sold by Tao Li ("the Uwitstar Rest"))); Compl. Ex. 32 (photos of the Archery Bow Brush Capture Arrow Rest sold by Sean Yu ("the SinoArt Rest")). Based upon his examination, Mr. Parker concluded that the

accused products infringe the asserted claims of the '775 patent. (*Id.* at ¶¶ 12, 16, 20, 25, 29, 33, 37, 41.) Mr. Parker's opinions are summarized below:

DEFAULTING RESPONDENT	CLAIM CHART	COMPLAINT EX.	'775 PATENT CLAIMS OPINED TO BE INFRINGED
Mandarin Duck	Parker Ex. 3A	16	1, 2, 32
Linkboy Outdoors	Parker Ex. 3B	18	1, 2, 32
Out Topper	Parker Ex. 3C	20	1, 2, 32
IRQ Outdoors	Parker Ex. 3D	22, 24	1, 2, 32
Linkskus	Parker Ex. 3E	26	1, 2, 32
Ipsmate	Parker Ex. 3F	28	1, 2, 32
Uwitstar	Parker Ex. 3G	30	1, 2, 32
SinoArt	Parker Ex. 3H	32	1, 2, 32

(*Id.* at 9-41; *see also* Staff Resp. at 29.) Bear Archery also submitted claim charts demonstrating how the accused products infringe the '775 patent. (*See* Parker Exs. 3A (Mandarin Duck), 3B (Linkboy Outdoors), 3C (Out Topper), 3D (IRQ Outdoors), 3E (Linkskus), 3F (Ipsmate), 3G (Uwitstar), 3H (SinoArt).) In addition, the undersigned is not aware of any evidence to the contrary with respect to infringement of the '775 patent by the Defaulting Respondents.

Accordingly, the undersigned finds that Bear Archery has established by substantial, reliable, and probative evidence that the accused products of Respondents Mandarin Duck, Linkboy Outdoor, Out Topper, IRQ Outdoor, Linkskus, Ipsmate, Uwitstar, and SinoArt infringe claims 1, 2, and 32 of the '775 patent.

C. Technical Prong

Bear Archery asserts that it offers for sale six different arrow rest products that practice the asserted patent – the Whisker Biscuit® Quick Shot, the Whisker Biscuit® Sure Shot Pro, the Whisker Biscuit® Kill Shot, the Whisker Biscuit® Power Shot, the Whisker Biscuit® Original Quick Shot, and the Cajun Bowfishing Fishing Biscuit Arrow Rest. (Mem. at 17.) The Domestic Industry Arrow Rest products are sold under the Trophy Ridge brand. (*Id.* (citing Parker Decl. at ¶

42).) Bear Archery contends that the Domestic Industry Arrow Rests are designed and developed in the United States, and are sold in the United States through various retail channels including direct-to-consumer through Bear Archery's website, its representative Hudalla Associates, Inc., brick and mortar retailers, and online-only retailers such as Amazon.com. (*Id.* at 18 (citing Parker Decl. at ¶ 45).)

In Staff's view, there is no dispute as to any material fact that Bear Archery's Domestic Industry Arrow Rests satisfy the technical prong of the domestic industry requirement. (Staff Resp. at 50-51.) The undersigned agrees.

To demonstrate that its Domestic Industry Arrow Rests practice the asserted patent, Bear Archery submitted a claim chart with its Complaint demonstrating how Bear Archery's Whisker Biscuit® Kill Shot arrow rest practices claims 1, 2, and 32 of the '775 patent. (Compl. Ex. 36.) According to Bear Archery, the Whisker Biscuit® Kill Shot is representative of the Domestic Industry Arrow Rests. (Compl. at ¶ 113; *see also* Compl. Ex. PE1.) Bear Archery also provided testimony from Mr. Parker. (*See* Parker Decl. at ¶¶ 42-48.) Mr. Parker confirmed that the differences among the Domestic Industry Arrow Rests are minimal, stating "[t]he differences between the various models of the Domestic Industry Arrow Rests are material construction (aluminum vs. ballistix copolymer) and other performance enhancements such as the density of the bristles, micro v. standard windage and/or elevation adjustment, and stainless steel vs. coated steel mounting hardware." (Parker Decl. at ¶ 43.) In addition, there is no evidence of record to contradict Bear Archery's assertion that its Domestic Industry Arrow Rests practice the '775 patent.

The undersigned therefore finds that Bear Archery has presented substantial, reliable, and probative evidence that the technical prong of the domestic industry requirement is satisfied with respect to the '775 patent.

VII. DOMESTIC INDUSTRY – ECONOMIC PRONG

Bear Archery asserts that it has satisfied the economic prong of the domestic industry requirement under 19 U.S.C. § 1337(a)(3)(A), (B), and (C). (Mem. at 21, 24, 27.) It explains that it “is a market leader in the design, manufacture, and sale of archery and bow hunting products, including arrow rests.” (*Id.* at 18 (citing Compl. Ex. 40C (Declaration of David Parker) at ¶ 3; Parker Decl. ¶ 49).) Bear Archery notes that the “Domestic Industry Arrow Rests are widely regarded as the best-selling arrow rest in the world” and “are sold in virtually every archery retail in the United States, including Cabela’s, Bass Pro Shops and Dick’s Sporting Goods” (*Id.* at 19 (citing Compl. Ex. 40C at ¶¶ 4, 8; Parker Decl. ¶ 51; Hudalla Decl. ¶¶ 9-10.)) In Staff’s view, “there is no dispute as to any material fact that Bear Archery satisfies the economic prong of the domestic industry requirement under 19 U.S.C. §§ 1337(a)(3)(A), (B), and (C) with respect to the '775 patent.” (Staff Resp. at 34.)

The undersigned finds that Bear Archery has adduced substantial, reliable, and probative evidence to support a finding that it satisfies the economic prong of the domestic industry requirement under § 1337(a)(3)(B).

A. Bear Archery

The record demonstrates that there is a significant employment of labor and capital by Bear Archery.

1. Labor

The record demonstrates that Bear Archery employs approximately [REDACTED] employees and up to [REDACTED] to manufacture, package, store, and ship its products. (Parker Decl. at ¶ 72.) All of these employees are located in the United States. (*Id.*) While Bear Archery does not allocate its employees or employee salaries on a product-by-product basis, all of Bear Archery's employees facilitate the domestic manufacturing, sales, and/or support of the of the Domestic Industry Arrow Rests. (*Id.* at ¶ 74.)

The following table provides the cost of labor, the percentage of Bear Archery's total sales attributable to the Domestic Industry Arrow Rests for that year, and a sales-based allocation of the cost of labor attributable to the Domestic Industry Arrow Rests for that year:

	2014	2015	2016	2017	Total
Total Cost of Labor	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
Percentage of Sales Attributable to Whisker Biscuit	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
Allocation of Labor Costs	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

(Staff Resp. at 43 (citing Parker Decl. at ¶ 75).) The undersigned is not aware of any evidence to the contrary.

Bear Archery also asserts that, in the twelve-year period from January 1, 2006 to December 31, 2017, it incurred [REDACTED] in engineering expenses, [REDACTED] in marketing expenses, and [REDACTED] in administrative expenses with respect to the Domestic Industry Arrow Rests. (Compl. Ex. 40C at ¶ 19.) It explains that, with respect to only the most recent three-year period, Bear Archery "[REDACTED] in engineering expense, over [REDACTED] in

marketing expense, and [REDACTED] in administrative expense with respect to the Domestic Industry Arrow Rests.” (*Id.* at ¶ 20.)

Staff does not believe that these expenses should be included in the analysis. Staff notes that “Bear Archery fails to specify what each of these expenses are, and, therefore in Staff’s view, they cannot be definitively linked to labor expenses.” (Staff Resp. at 43.) Staff explains:

For instance, Bear Archery asserts . . . that it incurred [REDACTED] in engineering expenses in the most recent three years. However, in the table above², the past three years only add up to [REDACTED] in labor costs. If the [REDACTED] in engineering expenses were labor expenses, the labor costs in the table above should be greater than [REDACTED] because they presumably would include labor costs for manufacturing as well. The [REDACTED] in purported ‘engineering expenses’ therefore do not appear to be labor costs, and the same is true for the purported ‘administrative expenses.

(Staff Resp. at 43-44.) The undersigned agrees with Staff’s rationale and declines to include these expenses in the calculation under prong (B).

2. Capital

The record shows that Bear Archery’s total tangible fixed assets for its Gainesville, Florida manufacturing facility [REDACTED] at the end of 2017 and [REDACTED] for its Evansville, Indiana corporate headquarters. (Parker Decl. at ¶¶ 76-77.) Bear Archery does not allocate its expenditures on a product-by-product basis. However, a sales-based allocation method using sales data of the Domestic Industry products as compared to Bear Archery’s total sales can be utilized. To this end, Mr. Parker provided the following information regarding Bear Archery’s unit sales, sales revenue, and percentage of total sales for Domestic Industry Arrow Rests sold by Bear Archery between 2013 and 2017:

² Staff’s response refers to the same table as that included above in this section.

	Unit Sales	Sales Revenue	% of Total Sales
2013	██████████	██████████	██████████
2014	██████████	██████████	██████████
2015	██████████	██████████	██████████
2016	██████████	██████████	██████████
2017	██████████	██████████	██████████
2018 (YTD)	██████████	██████████	██████████
TOTAL	██████████	██████████	██████████

(Parker Decl. at ¶ 54.) Thus, the undersigned finds that it is appropriate to use █████ sales-based allocation. Using this allocation, the total asset value of Bear Archery attributable to the Domestic Industry Arrow Rests was █████. The undersigned is not aware of any evidence to the contrary.

B. Carolina Brush

1. Labor

Bear Archery explains that “Carolina Brush, Inc. (‘Carolina Brush’) is a United States company which custom manufactures the inward coil brush component of the Domestic Industry Arrow Rests for Bear Archery” in Gastonia, North Carolina. (Mem. at 22-23 (citing Spach Decl. at ¶¶ 3, 7, 12, 14).) Carolina Brush “has █████ employees, █████ which are dedicated full time to the production of the inward coil brush.” (*Id.* at 26 (citing Spach Decl. at ¶¶ 14, 16).) Bear Archery believes that the labor costs incurred by Carolina Brush should be considered in the domestic industry analysis. (*Id.*)

Staff states that “Bear Archery did not provide any evidence regarding the cost of these █████ employees in any given year.” (Staff Resp. at 44.) Staff explains:

Although Carolina Brush states that it ‘allocates █████ of its overhead to the sourcing, customer service, shipping and receiving and other actions necessary to support the production of the inward coil brush,’ there is no evidence of Carolina Brush’s total overhead from which to ascertain the amount of labor (even if that is

what is meant by ‘overhead’) that could be credited to the Domestic Industry Arrow Rests.

(*Id.* at 44-45.) Accordingly, Staff did not consider Carolina Brush’s labor expenses. (*Id.* at 45.)

The undersigned agrees with Staff that these labor costs should not be considered.

2. Capital

The record shows that, in the past five years, Bear Archery spent a total of [REDACTED] purchasing inward coil brushes for the Domestic Industry Arrow Rests from Carolina Brush. (Mem. at 26-27 (citing Spach Decl. at ¶ 8).)

Staff believes it is appropriate to consider Carolina Brush’s capital expenses related to the inward coil brushes. (Staff Resp. at 45.) Staff explains that “[t]hese are not off-the-shelf components, [but] are specially made using custom machines.” (*Id.* (citing *Lelo Inc. v. Int’l Trade Comm’n*, 786 F.3d 879, 881 (Fed. Cir. 2015).)

The undersigned agrees with Staff and finds that it is appropriate to consider these expenses. See *Certain Kinesiotherapy Devices & Components Thereof*, Inv. No. 337-TA-823, Comm’n Op. at 30 (July 12, 2013) (“[A]mounts spent to purchase the domestic components can reasonably be considered as evidence of relevant investments in U.S. subcontractors in . . . labor and capital under prong B.”); *Certain Solid State Storage Drives, Stacked Elecs. Components, & Prods. Containing Same*, Inv. No. 337-TA-1097, Comm’n Op. at 24 (Pub. Ver. June 29, 2018) (“In contrast to the ‘retailer’ suppliers in *Lelo*, who simply sold ‘off-the-shelf’ components, the evidence shows that the third-party entities here are, in fact, contractors, who provide specialized services, and do not simply sell ‘off-the-shelf’ products”).

C. Hudalla Associates

Bear Archery asserts that the labor costs of its outside manufacturer's sales representative, Hudalla Associates, should be considered. (Mem. at 25.) Bear Archery explains that Hudalla Associates provides the Domestic Industry Arrow Rests "to over [REDACTED] archery retailers nationwide" and "also conducts well [REDACTED] in-store promotions for the brands it represents, including Bear Archery." (*Id.* (citing Hudalla Decl. at ¶ 6).) According to Bear Archery, "[i]n virtually all of these promotions, the Whisker Biscuit arrow rest is prominently displayed and utilized." (*Id.* (citing Hudalla Decl. at ¶ 13).)

Bear Archery asserts that "Hudalla Associates currently employs [REDACTED] employees, [REDACTED] of which are full time travelling sales representatives." (*Id.* (citing Hudalla Decl. at ¶ 11).) "Based upon an allocation of its sales, Hudalla Associates' employees invested over [REDACTED] per year for each of the past five years in the marketing, promotion and sales of the Domestic Industry Arrow Rests." (*Id.* at 25-26 (citing Hudalla Decl. at ¶ 9).) Bear Archery further states that "Hudalla Associates has incurred approximately [REDACTED] per year in expenses for each of the past five years in the promotion and sale of the Domestic Industry Arrow Rests." (*Id.* at 26 (citing Hudalla Decl. at ¶ 20).) "In addition, Hudalla Associates has [REDACTED] men and women on its pro staff . . . who represent the brands Hudalla Associates sells in the community and at special events." (*Id.*). Thus, "[u]sing the sales based allocation [], Hudalla Associates allocates an annual expense of approximately [REDACTED] to the Domestic Industry Arrow Rests." (*Id.* (citing Hudalla Decl. at ¶ 25).)

To be conservative, Staff does not include these expenses in its analysis. Staff notes that "investments in marketing and sales expenses *alone* are generally not considered to be part of the domestic industry analysis." (Staff Resp. at 46 (citing *Certain Solid State Storage Devices, Inv.*

No. 337-TA-1097, Comm'n Op. at 22 (Pub. Ver. June 29, 2018).) The undersigned agrees with Staff. The Commission has previously noted that “[w]hile [it] has, in some investigations, credited such investments in its assessment of a complainant’s domestic industry under subsections (A) and (B), . . . the analysis has always been conducted on a case-by-case basis.” *Certain Collapsible Sockets for Mobile Elec. Devices & Components Thereof*, Inv. No. 337-TA-1056, Comm’n Op. at 19 (July 9, 2018). Because a domestic industry exists under prong (B) without considering these costs, the undersigned will likewise adopt Staff’s conservative approach and exclude them.

D. Conclusion

For the reasons set forth above, the undersigned finds that the following expenses should be considered in the domestic industry analysis under prong (B):

Investment Type	Bear Archery	Carolina Brush	Hudalla Associates	Total
Labor	██████████	n/a	n/a	██████████
Capital	██████████	██████████	n/a	██████████
TOTAL				██████████

The undersigned finds that this amount is significant. *Certain Printing & Imaging Devices & Components Thereof*, Inv. No. 337-TA-690, Comm’n Op. at 27 (Feb. 17, 2011) (finding that “whether a complainant has established that its investment and/or employment activities are significant with respect to the articles protected by the intellectual property right concerned is not evaluated according to any rigid mathematical formula,” but instead depends on “the facts in each investigation, the article of commerce, and the realities of the marketplace.”).

Thus, for the reasons set forth above, the undersigned finds that Bear Archery has adduced substantial, reliable, and probative evidence to support a finding that it satisfies the economic prong of the domestic industry requirement under § 337(a)(3)(B)³.

VIII. REMEDY AND BONDING⁴

A. General Exclusion Order

Section 337(d)(2) provides that a GEO may issue in cases where (a) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named respondents; or (b) there is a widespread pattern of violation of Section 337 and it is difficult to identify the source of infringing products. 19 U.S.C. § 1337(d)(2). The statute essentially codifies Commission practice under *Certain Airless Paint Spray Pumps and Components Thereof*, Inv. No. 337-TA-90, Comm'n Op. at 18-19, USITC Pub. 119 (Nov. 1981) ("*Spray Pumps*"). See *Certain Neodymium-Iron-Boron Magnets, Magnet Alloys, and Articles Containing the Same*, Inv. No. 337-TA-372 ("*Magnets*"), Comm'n Op. on Remedy, the Public Interest and Bonding at 5 (USITC Pub. 2964 (1996)) (statutory standards "do not differ significantly" from the standards set forth in *Spray Pumps*). In *Magnets*, the Commission confirmed that there are two requirements for a GEO: [1] a "widespread pattern of unauthorized use;" and [2] "certain business conditions from which one might reasonably infer that foreign manufacturers other than the respondents to the investigation may attempt to enter the U.S. market with infringing articles." *Id.* The focus now is primarily on the statutory language itself and not an analysis of the *Spray Pump* factors. *Ground Fault Circuit Interrupters and Prods. Containing Same*, Inv. No. 337-TA-615, Comm'n Op. at 25 (Mar. 9, 2009).

³ The undersigned has already determined that Bear Archery has met the economic prong under section 337(a)(3)(B.) Accordingly, the undersigned need not decide whether Bear Archery meets the economic prong under sections 337(a)(3)(A) or (C).

⁴ Bear Archery did not request cease and desist orders against any of the Defaulting Respondents. (See Mem. at 29.)

Bear Archery and Staff both submit that a GEO is appropriate in this Investigation.

1. Widespread Pattern of Unauthorized Use

Bear Archery asserts that infringement of the '775 patent is widespread. (Mem. at 31-36.) Bear Archery contends that the eight named Respondents are “just the tip of a large and growing iceberg.” (*Id.* at 32.) It explains that enforcement is “difficult, if not impossible, as manufacturers may simply provide their infringing products to resellers, who in turn import the products into the United States.” (*Id.* at 31-33.) Bear Archery further explains that these transactions “are difficult to identify because the selling and importing entities frequently hide their identities and the locations from which [the infringing] products ship.” (*Id.*) According to Bear Archery, while it has made diligent efforts to identify and seek removal of infringing product listings on websites like Amazon.com, the overall number of listings has not decreased and the number of infringing and/or counterfeit products available from sources other than the named Respondents remains significant. (*Id.* at 32-33.)

Staff advances similar arguments, and concludes that Bear Archery has shown that there is a widespread pattern of violation and that the sources of the infringing products are difficult to identify. (Staff Resp. at 55-59.)

The undersigned finds that Bear Archery has presented evidence of a widespread pattern of violation and that it is difficult, if not impossible, to identify the source of the infringing products. In particular, the evidence shows that, in addition to the Defaulting Respondents, numerous other sources of infringing arrow rests are available for purchase online.⁵ (Ex. D (“McKenna Decl.”); *see also* McKenna Exs. 1-3; Compl. Ex. 3 at 1; Compl. Ex. 38.) In fact, the

⁵ “The Commission has found in other investigations that numerous online sales of infringing imported goods can constitute a pattern of violation of section 337.” *Certain Loom Kits For Creating Linked Articles (“Loom Kits”)*, Inv. No. 337-TA-923, Comm’n Op. at 14 (June 26, 2015) (*citing Cases for PEDs*, Comm’n Op. at 10).

evidence shows that over a hundred China-based entities are offering and/or selling infringing arrow rests for importation into the United States. (See McKenna Exs. 1-3.) While Bear Archery has attempted to identify sources of infringing counterfeits, it is impossible to identify all sources given the anonymity with which counterfeiters conduct business through online retailers. (See, e.g., McKenna Decl. at ¶¶ 2-5.) For example, Bear Archery presented evidence from a search performed on Alibaba.com for the phrase “whisker biscuit”. (Id. at ¶ 3.) This search uncovered at least sixty products from various unidentified overseas sellers, which are available to U.S. customers and appear to infringe the ’775 patent. (Id.) The majority of the listings are for products from China and use fictitious seller names. (Id.)

In addition, Bear Archery provided evidence on the current state of counterfeiting facing the archery and bowhunting industry. (See Compl. Ex. 37.) In addressing manufacturing representatives at the annual Archery Trade Association (ATA) Trade Show, Mr. William Ross, the Deputy Director of the National Intellectual Property Rights Coordination Center, described counterfeiters as “skilled criminals whose imitations mimic authentic products and their packaging.” (Id. at 2.) He explained that they target industries with “high brand-name recognition and brand-loyal customers,” and that they use photos of authentic products in online advertising, and price imitations just low enough to avoid suspicion. (Id. at 2-3.) Former ATA CEO/President Jay McAninch stated that safety is the industry’s biggest concern: “When you have people drawing counterfeit bows to shoot counterfeit arrows and broadheads from treestands made from inferior metals, something is bound to give at the worst possible time. It not only puts people at risk, but it increases the chances of wounding losses when arrows don’t fly straight or broadheads break on impact.” (Id.) The evidence shows that counterfeit products are often shipped directly to homes or

businesses as gifts and as such, “counterfeiters pay no federal excise taxes” as compared to legitimate manufacturers who pay “up to an 11 percent tax on the sale.” (*Id.*)

2. Circumvention of a Limited Exclusion Order

Bear Archery asserts that any limited exclusion order issued in this Investigation would likely be subject to immediate evasion because many sales are made via the Internet, making it difficult to gain information about the entities selling the infringing/counterfeit products. (Mem. at 36-35.) For example, on two separate occasions, Bear Archery purchased an infringing product from an online seller and the product received was manufactured by Topoint Archery, a company who was the subject of a prior investigation and whose products were excluded from importation into the United States by a limited exclusion order.^{6, 7} (*Id.* at 32 (citing Compl. at ¶ 12; Compl. Ex. 39 at 1-17, 30-38).) Bear Archery also submits that the small size and interchangeability of the accused products makes it easy for foreign manufacturers and distributors to transfer product between sellers, thereby evading enforcement efforts. (*Id.* at 36.)

Staff believes Bear Archery has presented evidence that a GEO is necessary to prevent the circumvention of a limited exclusion order. (Staff Resp. at 59-60.)

The undersigned notes that many of the facts discussed above are also relevant to subparagraph (A). For example, the evidence shows that the Defaulting Respondents and other entities rename their companies, hide behind anonymous seller profiles, or sell to other companies who then import their infringing products into the United States under a different name – all to avoid detection. *See Certain Cases for Portable Electronic Devices (“Cases for PEDs”)*, Inv. No.

⁶ Bear Archery notes that due to the sellers’ ability to evade identification, these sales were not included as a basis for the present Complaint. (Mem. at 32.)

⁷ *See Certain Archery Prods. and Related Marketing Materials*, Inv. No. 337-TA-919, EDIS Doc ID No. 547258, Issuance of a Limited Exclusion Order Against the Respondent Found in Default; Termination of the Investigation (Dec. 3, 2014) (issuing limited exclusion order against Ningbo Topoint Outdoor Sports Co., Ltd.).

337-TA-867/861 (Consolidated), Comm'n Op. at 9-10 (July 10, 2014). In addition, the fact that the Defaulting Respondents have ignored proceedings in this Investigation (which resulted in them being found in default) suggests that they would not abide by the terms of any limited exclusion order the Commission may impose. The undersigned therefore finds that a GEO may be necessary to prevent circumvention of a limited exclusion order.

3. Conclusion

For the foregoing reasons, the undersigned recommends that, in the event the Commission finds a violation of section 337, the appropriate remedy is a GEO that encompasses the infringing products. The undersigned also finds that the additional requirements of section 337(g)(2) have been satisfied in this Investigation.

B. Bonding

Pursuant to section 337(j)(3), the Administrative Law Judge and the Commission must determine the amount of bond to be required of a respondent during the 60-day Presidential review period following the issuance of permanent relief, in the event that the Commission determines to issue a remedy. 19 U.S.C. § 1337(j)(3). The purpose of the bond is to protect the complainant from any injury. 19 C.F.R. § 210.42(a)(1)(ii), § 210.50(a)(3).

When reliable price information is available, the Commission has often set the bond by eliminating the differential between the domestic product and the imported, infringing product. *See Microsphere Adhesives, Processes for Making Same, and Prods. Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-366, USITC Pub. 2949, Comm'n Op. at 24 (Dec. 8, 1995). In other cases, the Commission has turned to alternative approaches, especially when the level of a reasonable royalty rate could be ascertained. *See, e.g., Certain Integrated Circuit Telecomm. Chips and Prods. Containing Same, Including Dialing Apparatus*, Inv. No. 337-TA-337, Comm'n Op. at 41, 1993 WL 13033517, at *24 (U.S.I.T.C. June 22, 1993). A 100 percent

bond has been required when no effective alternative existed. *See, e.g., Certain Flash Memory Circuits and Prods. Containing Same*, Inv. No. 337-TA-382, USITC Pub. No. 3046, Comm'n Op. at 26-27 (July 1997) (imposing a 100% bond when price comparison was not practical because the parties sold products at different levels of commerce, and the proposed royalty rate appeared to be *de minimus* and without adequate support in the record).

Bear Archery contends that it has been prevented from seeking discovery on pricing and royalty information since none of the Respondents participated in this Investigation. (Mem. at 41.) Bear Archery therefore submits that the bond be set at 100 percent for all infringing goods entered during the Presidential review period. (*Id.*) Staff agrees. (Staff Resp. at 60-61.)

None of the Defaulting Respondents participated in this Investigation. Bear Archery was therefore unable to obtain discovery on pricing and royalty information. Thus, it is impossible to calculate a bond rate based on the average price differential between Bear Archery's Domestic Industry Arrow Rests and the infringing products. The undersigned therefore agrees with Bear Archery and Staff that the Commission set the bond value at 100%. *See Certain Digital Photo Frames and Image Display Devices and Components Thereof*, Inv. No. 337-TA-807, Comm'n Op. at 17, U.S.I.T.C. 4549 (July 2015) ("The Commission finds that there is little or no evidence in the record of this investigation as to pricing of the defaulting respondents' products. . . . The Commission has traditionally set a bond of 100 percent of the entered value of the products under these circumstances.").

IX. INITIAL DETERMINATION

For the foregoing reasons, it is the INITIAL DETERMINATION of the undersigned that Bear Archery has shown by reliable, probative, and substantial evidence that a domestic industry

exists and a violation of section 337 has occurred. Accordingly, Bear Archery's motion for summary determination of violation (1117-006) is hereby granted.

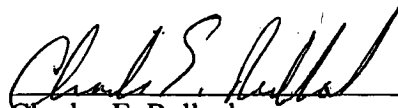
In addition, the undersigned recommends that the Commission issue a general exclusion order, and that 100 percent bond be imposed during the Presidential review period.

The Secretary shall serve the confidential version of this Initial Determination upon counsel who are signatories to the Protective Order (Order No. 1) issued in this Investigation. A public version will be served at a later date upon all parties of record.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review pursuant to 19 C.F.R. § 210.43(a) or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the Initial Determination or certain issues therein.

Within ten days of the date of this document, the parties shall submit to the Office of Administrative Law Judges a joint statement regarding whether or not they seek to have any portion of this document deleted from the public version. The parties' submission shall be made by hard copy and must include a copy of this Initial Determination with red brackets indicating any portion asserted to contain confidential business information to be deleted from the public version. The parties' submission shall include an index identifying the pages of this document where proposed redactions are located. The parties' submission concerning the public version of this document need not be filed with the Commission Secretary.

SO ORDERED.



Charles E. Bullock
Chief Administrative Law Judge

**CERTAIN FULL-CAPTURE ARROW RESTS AND
COMPONENTS**

Inv. No. 337-TA-1117

Certificate of Service – Page 1

I, Lisa R. Barton, hereby certify that the attached **PUBLIC VERSION ORDER NO. 13** has been served by hand upon the Commission Investigative Attorney, **Paul Gennari, Esq.**, and the following parties as indicated, on **April 3, 2019**.



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

On Behalf of Complainant Bear Archery Inc.:

Charles J. Meyer, Esq.
**WOODARD, EMHARDT, MORIARTY, MCNETT &
HENRY LLP**
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

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- ☐ Via First Class Mail
- ☐ Other: _____

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN FULL-CAPTURE ARROW
RESTS AND COMPONENTS THEREOF**

Investigation No. 337-TA-1117

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL
DETERMINATION FINDING RESPONDENTS IN DEFAULT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 9) of the presiding Chief Administrative Law Judge (“CALJ”) finding all respondents in default.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708-4716. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 11, 2018, based on a Complaint filed by Complainant Bear Archery, Inc. of Evansville, Indiana. *See* 83 Fed. Reg. 27021-22 (June 11, 2018). The Complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain full-capture arrow rests and components thereof by reason of infringement of U.S. Patent No. 6,978,775. *See id.* The Notice of Investigation named the following respondents: 2BULBS Technology Co. Ltd. of Nanjing, China; Ningbo Linkboy Outdoor Sports Co., Ltd of Ningbo, China; Shenzhen Keepmyway Tech. Co., Ltd. of Shenzhen, China; Zhengzhou IRQ Outdoor Sports Co., Ltd. of Zhengzhou, China; Wenqing Zhang of Shenzhen, China; Tingting Ye of Shenzhen, China; Tao Li of Shenzhen, China; and Sean Yuan of Qingdao, China. *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.* The Commission served the Complaint and Notice of Investigation on respondents on or after June 11, 2018.

On September 21, 2018, Complainant filed a motion ("*Motion*") pursuant to 19 CFR 210.16 for: (1) an order directing **all** respondents to show cause why they should not be found in default for failing to respond to the Complaint and Notice of Investigation; and (2) an ID finding respondents in default upon their failure to show cause, without terminating the investigation. On October 2, 2018, OUII filed a response in support of the *Motion* and recommending that the CALJ delay terminating the investigation until after the CALJ rules on the motion for summary determination of a section 337 violation. None of the respondents filed a response to the *Motion*.

On October 4, 2018, the CALJ issued Order No. 8 requiring respondents to show cause, no later than October 19, 2018, as to why they should not be held in default for failing to respond to the Complaint and Notice of Investigation. No response was received from any of the respondents. On October 29, 2018, the CALJ issued the subject ID (Order No. 9) finding **all** respondents in default pursuant to Commission Rule 210.16, 19 CFR 210.16, for failure to respond to the Complaint and Notice of Investigation. *See* ID at 1-2. No petition for review of the subject ID was filed.

The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton".

Lisa R. Barton
Secretary to the Commission

Issued: November 26, 2018

**CERTAIN FULL-CAPTURE ARROW RESTS AND
COMPONENTS THEREOF**

Inv. No. 337-TA-1117

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **Order No. 11** has been served by hand upon the Commission Investigative Attorney, **Paul Gennari, Esq.**, and the following parties as indicated, on November 26, 2018.



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

On Behalf of Complainants Bear Archery, Inc.:

Charles J. Meyer, Esq.
**WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY
LLP**
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

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Respondents:

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Nanjing China 210046

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Shenzhen Keepmyway Tech. Co., Ltd.
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**CERTAIN FULL-CAPTURE ARROW RESTS AND
COMPONENTS THEREOF**

Inv. No. 337-TA-1117

Certificate of Service -- Page 2

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN FULL-CAPTURE ARROW
RESTS AND COMPONENTS THEREOF**

Inv. No. 337-TA-1117

**ORDER NO. 9: INITIAL DETERMINATION FINDING RESPONDENTS IN
DEFAULT**

(October 29, 2018)

On September 21, 2018, Complainant Bear Archery, Inc. moved (1117-004) for a determination that Respondents 2BULBS Technology Co., Ltd.; Shenzhen Keepmyway Tech. Co., Ltd.; Wenqing Zhang; Tao Li; Ningbo Linkboy Outdoor Sports Co., Ltd.; Zhengzhou IRQ Outdoor Sports Co., Ltd.; Tingting Ye; and Sean Yuan (collectively, "Respondents") are in default for failure to respond to the Complaint and Notice of Investigation, or otherwise participate in this Investigation.

Pursuant to Rule 210.16 of the Commission's Rules of Practice and Procedure, the undersigned issued Order No. 8, whereby Respondents were ordered to show why they should not be found in default for failure to respond to the Complaint and Notice of Investigation by the close of business on October 19, 2018. *See* 19 C.F.R. § 210.16; *see also* Order No. 8 (Oct. 4, 2018). None of the Respondents filed a response.

Commission Rule 210.16 provides in pertinent part, as follows:


A party shall be found in default if it fails to respond to the complaint and notice of investigation in the manner prescribed in § 210.13 or § 210.59(c), or otherwise fails to answer the complaint and notice, and fails to show cause why it should not be found in default.

19 C.F.R. § 210.16(a)(1). The Commission's Rules further provide that "[a] party found in default shall be deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation. 19 C.F.R. § 210.16(b)(4).

Accordingly, it is the initial determination of the undersigned that Respondents 2BULBS Technology Co., Ltd.; Shenzhen Keepmyway Tech. Co., Ltd.; Wenqing Zhang; Tao Li; Ningbo Linkboy Outdoor Sports Co., Ltd.; Zhengzhou IRQ Outdoor Sports Co., Ltd.; Tingting Ye; and Sean Yuan be found in default.¹ These Respondents have therefore waived their right to appear, be served with documents, and to contest the allegations at issue in this Investigation.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the Initial Determination or certain issues contained herein.

SO ORDERED.


Charles E. Bullock
Chief Administrative Law Judge

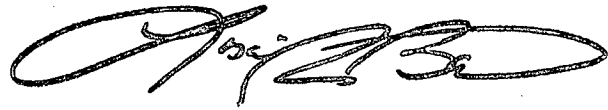
¹ Pursuant to 19 C.F.R. § 210.16(4)(c)(2), Complainant indicated its intent to move for a general exclusion order in its motion requesting the entry of default. Thus, this initial determination does not terminate the Investigation in its entirety.

**CERTAIN FULL-CAPTURE ARROW RESTS AND
COMPONENTS**

Inv. No. 337-TA-1117

Certificate of Service – Page 1

I, Lisa R. Barton, hereby certify that the attached **ORDER NO. 9** has been served by hand upon the Commission Investigative Attorney, **Anne Goalwin, Esq.**, and the following parties as indicated, on **October 29, 2018**.



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

On Behalf of Complainants Bear of Complainant:

Charles J. Meyer, Esq.
**WOODARD, EMHARDT, MORIARTY, MCNETT &
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Respondents:

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☐ Other: _____

Ningbo Linkboy Outdoor Sports Co., Ltd.
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**CERTAIN FULL-CAPTURE ARROW RESTS AND
COMPONENTS**

Inv. No. 337-TA-1117

Certificate of Service – Page 2

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Shenzhen, China 51802

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☐ Other: _____

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China 266300

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☒ Via Express Delivery
☐ Via First Class Mail
☐ Other: _____