

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

In the Matter of

**CERTAIN ARCHERY PRODUCTS AND
RELATED MARKETING MATERIALS**

Investigation No. 337-TA-919

LIMITED EXCLUSION ORDER

The Commission has found Respondent Ningbo Topoint Outdoor Sports Co., Ltd. (“Ningbo Topoint”) of Ningbo, China, in violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”). In particular, the Commission has found Ningbo Topoint in default pursuant to subsection (g)(1) of section 337, 19 U.S.C. § 1337(g)(1), (and section 210.16 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.16) for failing to respond to a Notice of Investigation and a Complaint that alleged a violation of section 337 with respect to the unlawful importation, sale for importation, and sale after importation of certain archery products and related marketing materials that infringe one or more of claims 1-3, 6-12, and 15-38 of U.S. Patent No. RE38,096 and claims 1-3, 16-22, 24-26, 29, 31, and 32 of U.S. Patent No. 6,978,775; and/or U.S. Trademark Registration Nos. 2,501,255 or 3,312,392.

Having reviewed the record of this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of covered archery products and related marketing materials manufactured by or on behalf of, or imported by or on behalf of, the Ningbo Topoint, or any of its affiliated companies, parents, subsidiaries, licensees, or other related business entities, or their successors or assigns.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(g)(1) do not preclude the issuance of the limited exclusion order, and that there shall be a bond of 100 percent of the entered value for all covered archery products and related marketing material during the period of Presidential review.

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

1. Archery products and related marketing materials that are covered by one or more of claims 1-3, 6-12, and 15-38 of U.S. Patent No. RE38,096 and claims 1-3, 16-22, 24-26, 29, 31, and 32 of the U.S. Patent No. 6,978,775 and that are manufactured abroad by or on behalf of, or imported by or on behalf of Ningbo Topoint, or any of its affiliated companies, parents, subsidiaries, licensees or other related business entities, or their successors or assigns, 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 patents, except under license of the patent owner or as provided by law.

2. Archery products and related marketing materials that infringe U.S. Trademark Registration Nos. 2,501,255 or 3,312,392, or any marks confusingly similar thereto or that are otherwise misleading as to source, origin, or sponsorship, and that are manufactured abroad by or on behalf of, or imported by or on behalf of Ningbo Topoint, or any of its affiliated companies, parents, subsidiaries, licensees or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, except under license of the trademark owner or as provided by law, until such date as the trademarks are abandoned, canceled, or rendered invalid or unenforceable.

3. Notwithstanding paragraphs 1 and 2 of this Order, the aforesaid archery products and related marketing materials 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 100 percent of the entered value of such articles pursuant to subsection (j) of Section 337 of the Tariff Act of 1930, as amended (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. Note, however, that this provision does not exempt seizure of infringing articles under the trademark laws enforced by U.S. Customs and Border Protection (“CBP”), most notably 19 U.S.C. § 1526(e) and 19 U.S.C. § 1595a(c)(2)(C) in connection with 15 U.S.C. § 1124.

4. At the discretion of CBP and pursuant to procedures that it establishes, persons seeking to import archery products and related marketing materials 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 paragraphs 1 or 2 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses to substantiate the certification.

5. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to archery products and related marketing materials that are imported by and for the use of

the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

6. SOP Services, Inc. or its exclusive licensee, Bear Archery, Inc., (collectively, "Complainants") shall file a written statement with the Commission, made under oath, each year on the anniversary of the issuance of this Order stating whether Complainants continue to use each of the aforesaid trademarks in commerce in the United States in the class of its registration, whether any of the aforesaid trademarks have been abandoned, canceled, or rendered invalid or unenforceable, and whether Complainants continue to satisfy the domestic industry requirements of Section 337(a)(2) and (3) with respect to these trademarks.

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

7. The Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and CBP.

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

By Order of the Commission.

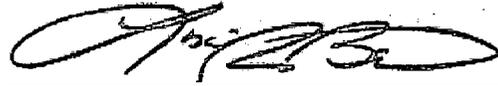


Lisa R. Barton
Secretary to the Commission

Issued: December 3, 2014

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served upon the following parties as indicated, on **December 3, 2014**.



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. and SOP
Services, Inc.:**

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

Respondent:

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