

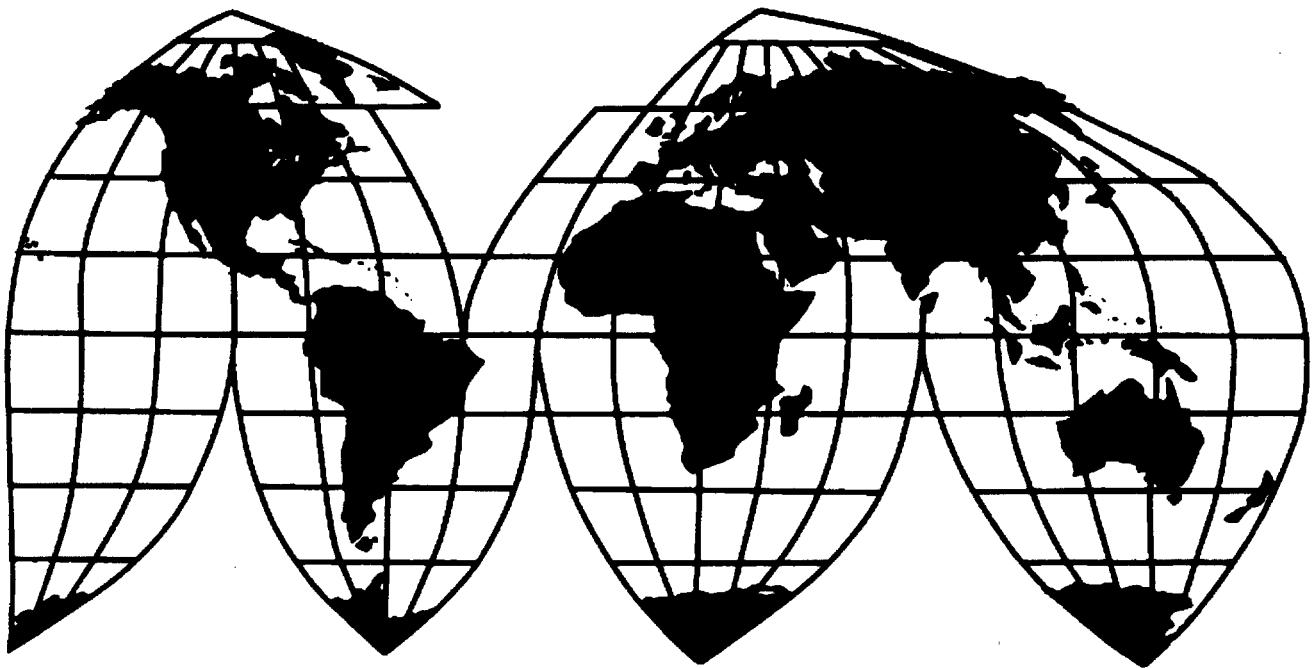
Certain Oscillating Sprinklers, Sprinkler Components, and Nozzles

Investigation No. 337-TA-448

Publication 3498

March 2002

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Stephen Koplan, Chairman
Deanna Tanner Okun, Vice Chairman
Lynn M. Bragg
Marcia E. Miller
Jennifer A. Hillman

**Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436**

U.S. International Trade Commission

Washington, DC 20436

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Certain Oscillating Sprinklers, Sprinkler Components, and Nozzles

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of)
)
)
CERTAIN OSCILLATING SPRINKLERS,)
SPRINKLER COMPONENTS, AND)
NOZZLES)
_____)

Investigation No. 337-TA-448

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NOTICE OF COMMISSION
ISSUANCE OF LIMITED EXCLUSION ORDER AND TERMINATION OF INVESTIGATION

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order and terminated the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Laurent de Winter, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-708-5452. Copies of the limited exclusion order and all other nonconfidential 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 S.W., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol.public>. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain oscillating sprinklers, sprinkler components, and nozzles, on February 9, 2001. 66 Fed. Reg. 9721. In its complaint, filed on January 8, 2001, and amended on January 31, 2001, complainant L.R. Nelson Corp. ("Nelson") alleged that Naan Sprinkler and Irrigation Systems, Inc., Watex International Co., Ltd., Lego Irrigation Equipment, Inc., Rain Bird Manufacturing Corporation, Gardena Krest + Kastner GmbH and Gardena's subsidiary Melnor, Inc., Ruey Ryh Enterprises Co., Ltd., Yuan Mei Corp., Amagine Garden Inc., Aqua Star Industries Inc., Le Yuan Industrial Co. Ltd., Shin Da Spurt Water of Garden Tool Co. Ltd., and Orbit Irrigation Products, Inc. violated section 337 through the importation, sale for importation, and/or sale within the United States after importation of certain oscillating sprinklers, sprinkler components, and nozzles by reason of infringement of certain claims of U.S. Letters Patent Nos. 6,036,117 ("the '117 patent"), 5,645,218 ("the '218 patent"), and 5,511,727 ("the '727 patent").

On May 3, 2001, complainant Nelson moved, pursuant to 19 U.S.C. § 1337(g)(1) and Commission rule 210.16, for an order to show cause why respondent Watex International Co., Ltd. ("Watex") should not be found in default for failing to respond adequately and properly to the amended complaint and notice of investigation, as required by Commission rule 210.13. The Commission investigative attorney ("IA") supported complainant's motion to the extent that it requested an order to show cause against Watex. The presiding administrative law judge ("ALJ") issued an ID (Order No. 4) on March 30, 2001, directing Watex to show cause why it should not be found in default. Watex did not respond to the show cause order.

On May 22, 2001, the ALJ issued an ID (Order No. 7) finding Watex in default pursuant to Commission rule 210.16, and ruling that it had waived its rights to appear, to be served with documents, and to contest the allegations at issue in the investigation. No petitions for review of the ID were filed. On June 12, 2001, the Commission determined not to review the ID, thereby allowing it to become the Commission's final determination.

On September 13, 2001, Nelson moved to withdraw all allegations related to the '117 patent from the investigation. No party responded to Nelson's motion and the IA supported the motion. On September 25, 2001, the ALJ issued an ID (Order No. 26) granting the motion to withdraw the allegations relating to the '117 patent, and on October 26, 2001, the Commission determined not to review that ID. This withdrawal terminated the investigation with respect to all respondents except Watex.

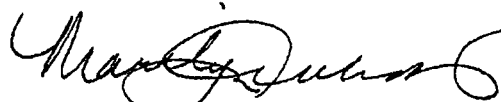
On October 1, 2001, Nelson filed a declaration seeking, pursuant to section 337(g)(1) and Commission rule 210.16(c)(1), entry of a limited exclusion order against Watex barring importation into the United States of Watex sprinklers infringing the claims in issue of the '218 and '727 patents. In its declaration, Nelson did not seek issuance of a cease and desist order against Watex. On December 11, 2001, the Commission issued a notice requesting briefing on the issues of remedy, public interest, and bonding. On January 10, 2002, Nelson, the IA, and Tekni-Plex, Inc., a purchaser of Watex sprinklers, submitted briefing on the issues of the public interest and bonding and proposed limited exclusion orders. No briefs were filed by any other person or government agency. Only the IA filed a reply brief.

Section 337(g)(1) of the Tariff Act of 1930 provides that the Commission shall presume the facts alleged in a complaint to be true, and upon request issue a limited exclusion order and/or cease and desist order if: (1) a complaint is filed against a person under section 337, (2) the complaint and a notice of investigation are served on the person, (3) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice, (4) the person fails to show good cause why it should not be found in default, and (5) the complainant seeks relief limited to that person. Such an order shall be issued unless, after considering the effect of such exclusion, the Commission finds that such exclusion should not be issued.

The Commission found that each of the statutory requirements for the issuance of a limited exclusion order was met with respect to defaulting respondent Watex. The Commission further determined that the public interest factors enumerated in section 337(g)(1) did not preclude the issuance of such relief. Finally, the Commission determined that bond under the limited exclusion order during the Presidential review period shall be in the amount of one hundred (100) percent of the entered value of the imported articles.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and section 210.16 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.16.

By order of the Commission.



Marilyn R. Abbott
Acting Secretary

Issued: March 1, 2002

PUBLIC CERTIFICATE OF SERVICE

I Marilyn R. Abbott, hereby certify that the attached Notice Of Commission Issuance Of Limited Exclusion Order And Termination of Investigation was served upon the following parties via first class mail and air mail where necessary, on March 4, 2002.



Marilyn R. Abbott, Acting Secretary
U.S. International Trade Commission
500 E Street, SW - Room 112
Washington, DC 20436

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**ON BEHALF OF SHIN DA SPURT WATER OF
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**ON BEHALF OF RAIN BIRD SPRINKLER
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**IN THE MATTER OF CERTAIN
OSCILLATING SPRINKLERS, SPRINKLER
COMPONENTS, AND NOZZLES**

337-TA-448

PUBLIC CERTIFICATE OF SERVICE

Page Two

RESPONDENTS:

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Netanya, Israel

Naan Sprinkler and Irrigation Systems, Inc.
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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN OSCILLATING SPRINKLERS,
SPRINKLER COMPONENTS, AND
NOZZLES

Inv. No. 337-TA-448

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LIMITED EXCLUSION ORDER

The Commission instituted this investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in the importation and sale of certain oscillating sprinklers, sprinkler components, and nozzles, on February 9, 2001. 66 Fed. Reg. 9721. In its complaint, filed on January 8, 2001, and amended on January 31, 2001, complainant L.R. Nelson Corp. ("Nelson") alleged that Naan Sprinkler and Irrigation Systems, Inc. ("Naan"), Watex International Co., Ltd. ("Watex"), Lego Irrigation Equipment, Inc. ("Lego"), Rain Bird Manufacturing Corporation ("Rain Bird"), Gardena Krest + Kastner GmbH ("Gardena") and Gardena's subsidiary Melnor, Inc. ("Melnor"), Ruey Ryh Enterprises Co., Ltd. ("Ruey Ryh"), Yuan Mei Corp. ("Yuan Mei"), Amagine Garden Inc. ("Amagine"), Aqua Star Industries Inc. ("Aqua Star"), Le Yuan Industrial Co. Ltd. ("Le Yuan"), Shin Da Spurt Water of Garden Tool Co. Ltd. ("Shin Da"), and Orbit Irrigation Products, Inc. ("Orbit") violated section 337 through the importation, sale for importation, and/or sale within the United States after importation of certain oscillating sprinklers, sprinkler components, and nozzles by reason of infringement of certain claims of U.S. Letters Patent Nos. 6,036,117 ("the '117 patent"), 5,645,218 ("the '218 patent"), and 5,511,727 ("the '727 patent").

On May 3, 2001, complainant Nelson moved, pursuant to section 337(g)(1) and Commission rule 210.16, for an order to show cause why respondents Naan and Watex should not be found in default for failing to respond adequately and properly to the amended complaint and notice of

investigation, as required by Commission rule 210.13. The Commission investigative attorney ("IA") supported complainant's motion. The presiding administrative law judge ("ALJ") issued an ID (Order No. 4) on March 30, 2001, directing Naan and Watex to show cause why they should not be found in default. Neither Naan nor Watex responded to that show cause order.

On May 22, 2001, the ALJ issued an ID (Order No. 7) finding Naan and Watex in default pursuant to Commission rule 210.16, and ruling that they had waived their rights to appear, to be served with documents, and to contest the allegations at issue in the investigation. No petitions for review of the ID were filed. On June 12, 2001, the Commission determined not to review the ID, thereby allowing it to become the Commission's final determination.

On May 4, 2001, Nelson moved, pursuant to section 337(c) and Commission rule 210.21(a), to terminate the investigation with respect to respondent Lego. Nelson asserted that it had reached a settlement agreement with Lego in this investigation and that it was withdrawing all allegations made against Lego. No private party responded to Nelson's motion and the IA supported the motion. On May 31, 2001, the ALJ issued an ID (Order No. 8) terminating the investigation as to Lego on the basis of the settlement agreement. No petitions for review of the ID were filed. On June 31, 2001, the Commission determined not to review the ID, thereby allowing it to become the Commission's final determination.

On June 26, 2001, Nelson moved, pursuant to section 337(c) and Commission rule 210.21(a), to terminate the investigation with respect to respondent Rain Bird. Nelson asserted that it had reached a settlement agreement with Rain Bird, and that Nelson was releasing Rain Bird from all claims for liability for infringing one patent in controversy, the '117 patent. No party responded to Nelson's motion and the IA supported the motion. On July 9, 2001, the ALJ issued an ID (Order No. 11) terminating the investigation as to Rain Bird on the basis of the settlement agreement. No petitions for review of the ID were filed. On August 9, 2001, the Commission determined not to review the ID, thereby allowing it to become the Commission's final determination.

On July 18, 2001, Nelson moved, pursuant to 337(c) and Commission rule 210.21(a), to terminate the investigation with respect to respondents Gardena and its subsidiary Melnor. Nelson asserted that it had reached a settlement agreement with Gardena and Melnor, and that Nelson was releasing Gardena and Melnor from all claims for liability for infringing the claims in issue of all three patents in controversy, viz., the '117 patent, the '218 patent, and the '727 patent. No private party responded to Nelson's motion and the IA supported the motion. On August 2, 2001, the ALJ issued an ID (Order No. 13) terminating the investigation as to Gardena and Melnor on the basis of the settlement agreement. No petitions for review of the ID were filed. On September 4, 2001, the Commission determined not to review the ID, thereby allowing it to become the Commission's final determination.

On September 13, 2001, Nelson moved to withdraw all allegations related to the '117 patent from the investigation. No party responded to Nelson's motion and the IA supported the motion. On September 25, 2001, the ALJ issued an ID (Order No. 26) granting the motion to withdraw the allegations relating to the '117 patent, and on October 26, 2001, the Commission determined not to review that ID. This withdrawal terminated the investigation with respect to all respondents¹ except Watex.² The withdrawal also terminated the investigation with respect to all patent claims relating to nozzles.

On October 1, 2001, Nelson filed a declaration seeking, pursuant to section 337(g)(1) and rule 210.16(c)(1), entry of a limited exclusion order against Watex that would prohibit the importation into the United States of Watex sprinklers, but not components of sprinklers, that infringe the claims in issue of the '218 and '727 patents. In its declaration, Nelson did not seek issuance of a cease and desist

¹ The withdrawal terminated the investigation with respect to respondents Naan, Ruey Ryh, Yuan Mei, Amagine, Aqua Star, Le Yuan, Shin Da, and Orbit.

² Naan, the only other respondent held in default, had only claims relating to the '117 patent pending against it in this investigation. Therefore, upon withdrawal of all claims relating to the '117 patent, Naan was released of liability for infringement of that patent.

order against Watex. On December 11, 2001, the Commission issued a notice requesting briefing on the issues of remedy, public interest, and bonding. On January 10, 2002, Nelson, the IA, and Tekni-Plex, Inc., a purchaser of Watex sprinklers, submitted briefs on the issues of remedy, the public interest, and bonding. No briefs were filed by any other person or government agency. Only the IA filed a reply brief.

Section 337(g)(1) of the Tariff Act of 1930, 19 U.S.C. § 1337(g)(1), provides that the Commission shall presume the facts alleged in a complaint to be true, and upon request issue a limited exclusion order and/or cease and desist order if: (1) a complaint is filed against a person under section 337, (2) the complaint and a notice of investigation are served on the person, (3) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice, (4) the person fails to show good cause why it should not be found in default, and (5) the complainant seeks relief limited to that person. Such an order shall be issued unless, after considering the effect of such exclusion, the Commission finds that such exclusion should not be issued.

The Commission finds that each of the statutory requirements for the issuance of a limited exclusion order has been met with respect to defaulting respondent Watex. The Commission further determines that the public interest factors enumerated in section 337(g)(1) do not preclude the issuance of such relief.

Watex did not participate in the investigation, failed to provide discovery responses, and the record is silent as to prices charged by Watex. In situations where it is not possible to calculate a bond based upon price differentials, the Commission has traditionally set the bond at 100 percent of entered value of the infringing imported product. *Certain Lens-Fitted Film Packages*, Inv. No. 337-TA-406, Commission Opinion at 19 (June 28, 1999), citing *Neodymium-Iron-Boron Magnets, Magnet Alloys, and Articles Containing the Same*, 337-TA-372, USITC Pub. No. 2964 at 15 (May 1996). Therefore, the Commission determines that bond under the limited exclusion order during the Presidential review

period shall be in the amount of one hundred (100) percent of the entered value of the imported articles.

Accordingly, the Commission hereby ORDERS THAT:

1. Oscillating sprinklers covered by claims 1, 2, 3, 4, 5, or 14 of U.S. Letters Patent 5,511,727 and/or claims 44, 45, 46, 47, 48, or 49 of U.S. Letters Patent 5,645,218 that are manufactured abroad and/or imported by or on behalf of Watex International Co., Ltd., or any of its affiliated companies, parents, subsidiaries, 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 terms of those patents, i.e., until July 8, 2014, except under license of the patent owner or as provided by law.

2. Oscillating sprinklers that are excluded by this Order are entitled to entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 100 percent of entered value pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended 19 U.S.C. § 1337(j), from the day after this Order is received by the President until such time as the President notifies the Commission that he approves or disapproves this action but, in any event, not later than sixty (60) days after the date of receipt of this action.

3. Pursuant to procedures to be specified by the U.S. Customs Service, as the Customs Service deems necessary, persons seeking to import oscillating sprinklers subject to this Order shall 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 and/or 2 of this Order. At its discretion, the U.S. Customs Service 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. In accordance with 19 U.S.C. § 1337(1), the provisions of this Order shall not apply to oscillating sprinklers 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.

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 Secretary shall serve copies of this Order upon each party of record in this investigation and upon the U.S. Customs Service.

7. The Secretary shall publish notice of this Order in the Federal Register.

By Order of the Commission.

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott", written in a cursive style.

Marilyn R. Abbott
Acting Secretary

Issued: March 1, 2002

**IN THE MATTER OF CERTAIN OSCILLATING SPRINKLERS,
SPRINKLER COMPONENTS, AND NOZZLES**

337-TA-448

PUBLIC CERTIFICATE OF SERVICE

I Marilyn R. Abbott, hereby certify that the attached Limited Exclusion Order, was served upon the following parties via first class mail and air mail where necessary, on March 4, 2002.



Marilyn R. Abbott, Acting Secretary
U.S. International Trade Commission
500 E Street, SW - Room 112
Washington, DC 20436

**ON BEHALF OF COMPLAINANT L.R.
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**ON BEHALF OF SHIN DA SPURT WATER OF
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**ON BEHALF OF RAIN BIRD SPRINKLER
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MEI GROUP, AMAGINE GARDEN INC.,
AQUA STAR INDUSTRIES, INC.:**

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**IN THE MATTER OF CERTAIN
OSCILLATING SPRINKLERS, SPRINKLER
COMPONENTS, AND NOZZLES**

337-TA-448

**PUBLIC CERTIFICATE OF SERVICE
Page Two**

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of)
)
 CERTAIN OSCILLATING) Investigation No. 337-TA-448
 SPRINKLERS, SPRINKLER)
 COMPONENTS, AND NOZZLES)

Order No. 26: Initial Determination Granting Nelson's Motion To Withdraw
Remaining Claims Of '117 Patent And Terminating The Investigation

On September 13, 2001 complainant L.R. Nelson Corporation (Nelson) filed a paper titled "Complainant's Withdrawal Of Allegations Under 37 C.F.R. § 210.21(a) And Motion To Stay Briefing Pending Resolution" based upon withdrawal of all allegations related to U.S. Patent No. 6,036,117 (the '117 patent). (Motion Docket No. 448-43).

The staff, in a response dated September 14, 2001 supported "termination of the investigation with respect to the remaining claims of the '117 patent and suspension of briefing on all pending motions".

Respondent Orbit Irrigation Products, Inc. (Orbit), in a filing dated September 19, 2001, did not oppose complainant's "motion to terminate" but argued that the "investigation should not be terminated without certain findings and conclusions permitted by 19 C.F.R. § 210.40 as part of an initial determination under 19 C.F.R. § 210.42(d)". With respect to a stay of the briefing pending resolution, Orbit joined in and incorporated unopposed Motion No. 448-42 of Yuan Mei Corporation (Yuan Mei) to stay the procedural schedule.¹

¹ Order No. 23, which issued on September 18, 2001 granted Motion No. 448-42 to the extent that the procedural schedule set in Order No. 12 was suspended.

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Respondent Yuan Mei, in a response dated September 24, 2001, did not oppose termination of the investigation based on the withdrawal of the allegations relating to the '117 patent but requested that such termination be with prejudice and be conditioned on the requirement that complainant Nelson reimburse the attorney's fees and costs incurred by respondent in this investigation.

No other party responded to Motion No. 448-43.


Commission rule 210.21(a)(1) provides that:

Any party may move at any time prior to the issuance of an initial determination on violation of section 337 of the Tariff Act of 1930 for an order to terminate an investigation in whole or in part as to any or all respondents, on the basis of withdrawal of the complaint or certain allegations contained therein, or for good cause other than the grounds listed in paragraph (a)(2) of this section. The presiding administrative law judge may grant the motion in an initial determination upon such terms and conditions as he deems proper.

The Commission has stated that "in the absence of extraordinary circumstances, termination of the investigation will be readily granted to a complainant during the prehearing stage of an investigation." Certain Transport Vehicle Tires, Inv. No. 337-TA-390, Order No. 17 at 4-5. (Jan. 30, 1997); Certain Ultrafiltration Membrane Systems, and Components Thereof, Including Ultrafiltration Membranes, Inv. No. 337-TA-107, Commission Action and Order at 2 (March 11, 1982). The staff, in its response argued that it was not aware of any extraordinary circumstances that would warrant denial of Motion No. 448-43. Based on the record, the administrative law judge finds no extraordinary circumstances. Accordingly this

investigation is terminated.²

This initial determination is hereby CERTIFIED to the Commission. Pursuant to Commission final rule 210.42(h)(3), this initial determination shall become the determination of the Commission within thirty (30) days after the date of service hereof unless the Commission grants a petition for review of this initial determination pursuant to Commission final rule 210.43, or orders on its own motion a review of the initial determination or certain issues therein pursuant to Commission interim rule 210.44.


Paul J. Luckeyn
Administrative Law Judge

Issued: September 25, 2001

² The only respondent that remains in this investigation, as it relates to U.S. Letters patent Nos. 5,511,727 and 5,645,218 which are the remaining patents in issue, is respondent Watex International Co. Ltd. (Watex). As to Watex, see Order No. 21.

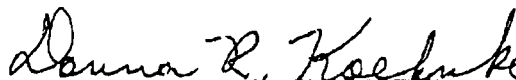
Requests by Orbit and Yuan Mei for certain conditions with respect to any termination is denied. See Order No. 25 which issued on September 25, 2001.

**CERTAIN OSCILLATING SPRINKLERS,
SPRINKLER COMPONENTS, AND NOZZLES**

Investigation No. 337-TA-448

CERTIFICATE OF SERVICE

I, Donna R. Koehnke, hereby certify that the attached Order was served by hand upon Juan Cockburn, Esq., and upon the following parties via first class mail, and air mail where necessary, on September 26, 2001.



Donna R. Koehnke, Secretary
U.S. International Trade Commission
500 E Street, S.W.
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**CERTAIN OSCILLATING SPRINKLERS,
SPRINKLER COMPONENTS, AND NOZZLES**

Investigation No. 337-TA-448

CERTIFICATE OF SERVICE cont'd pg. 2

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**CERTAIN OSCILLATING SPRINKLERS,
SPRINKLER COMPONENTS, AND NOZZLES**

Investigation No. 337-TA-448

CERTIFICATE OF SERVICE cont'd pg. 3

Respondents cont'd:

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**CERTAIN OSCILLATING SPRINKLERS,
SPRINKLER COMPONENTS, AND NOZZLES**

Investigation No. 337-TA-448

PUBLIC MAILING LIST

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(PARTIES NEED NOT SERVE COPIES ON LEXIS OR WEST PUBLISHING)

Federal Register Notice

section 337 of the Tariff Act of 1930 by importing into the United States, selling for importation, and/or selling within the United States after importation certain HSP modems, software and hardware components thereof, and products containing the same by reason of infringement of claims 1-2 of U.S. Letters Patent 5,787,305, claims 1-4, 7-8, and 11-15 of U.S. Letters Patent 5,931,950, claims 1, 2, 10, and 15-17 of U.S. Letters Patent 4,841,561, and claims 1, 6-7, 10-12, and 15-19 of U.S. Letters Patent 5,940,459. On June 28, 2001, the Commission determined not to review an ID terminating the investigation as to respondent Smart Link on the basis of a settlement agreement.

On October 18, 2001, the ALJ issued his final ID in the investigation, and on December 6, 2001, the Commission determined to review portions of the final ID and to extend the target date for completion of the investigation by 45 days, to March 4, 2002. On Friday, February 22, 2002, complainant PCTEL and respondent ESS filed a joint motion to terminate the investigation based on a settlement agreement. The Commission determined to extend the target date for completion of the investigation until March 21, 2002, to allow sufficient time for the Commission investigative attorney to respond to the joint motion to terminate and for the Commission to rule on that motion. This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and 210.51(a) of the Commission's rules of practice and procedure, 19 CFR 210.51(a).

By order of the Commission.

Issued: March 4, 2002.

Marilyn R. Abbott,
Secretary.

[FR Doc. 02-5513 Filed 3-7-02; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-448]

**In the Matter of: Certain Oscillating
Sprinklers, Sprinkler Components, and
Nozzles; Notice of Commission
Issuance of Limited Exclusion Order
and Termination of Investigation**

AGENCY: International Trade
Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that
the U.S. International Trade
Commission has issued a limited

exclusion order and terminated the
above-captioned investigation.

FOR FURTHER INFORMATION CONTACT:
Laurent de Winter, Esq., Office of the
General Counsel, U.S. International
Trade Commission, 500 E Street, SW.,
Washington, DC 20436, telephone 202-
708-5452. Copies of the limited
exclusion order and all other
nonconfidential 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, DC 20436,
telephone 202-205-2000. General
information concerning the Commission
may also be obtained by accessing its
Internet server (<http://www.usitc.gov>).
The public record for this investigation
may be viewed on the Commission's
electronic docket (EDIS-ON-LINE) at
<http://dockets.usitc.gov/eol.public>.
Hearing-impaired persons are advised
that information on the matter can be
obtained by contacting the
Commission's TDD terminal on 202-
205-1810.

SUPPLEMENTARY INFORMATION: The
Commission instituted this
investigation, which concerns
allegations of unfair acts in violation of
section 337 of the Tariff Act of 1930 in
the importation and sale of certain
oscillating sprinklers, sprinkler
components, and nozzles, on February
9, 2001. 66 FR 9721. In its complaint,
filed on January 8, 2001, and amended
on January 31, 2001, complainant L.R.
Nelson Corp. ("Nelson") alleged that
Naan Sprinkler and Irrigation Systems,
Inc., Watex International Co., Ltd., Lego
Irrigation Equipment, Inc., Rain Bird
Manufacturing Corporation, Gardena
Krest + Kastner GmbH and Gardena's
subsidiary Melnor, Inc., Ruyey Ryh
Enterprises Co., Ltd., Yuan Mei Corp.,
Amagine Garden Inc., Aqua Star
Industries Inc., Le Yuan Industrial Co.
Ltd., Shin Da Spurt Water of Garden
Tool Co. Ltd., and Orbit Irrigation
Products, Inc. violated section 337
through the importation, sale for
importation, and/or sale within the
United States after importation of
certain oscillating sprinklers, sprinkler
components, and nozzles by reason of
infringement of certain claims of U.S.
Letters Patent Nos. 6,036,117 ("the '117
patent"), 5,645,218 ("the '218 patent"),
and 5,511,727 ("the '727 patent").

On May 3, 2001, complainant Nelson
moved, pursuant to 19 U.S.C. 1337(g)(1)
and Commission rule 210.16, for an
order to show cause why respondent
Watex International Co., Ltd. ("Watex")
should not be found in default for

failing to respond adequately and
properly to the amended complaint and
notice of investigation, as required by
Commission rule 210.13. The
Commission investigative attorney
("IA") supported complainant's motion
to the extent that it requested an order
to show cause against Watex. The
presiding administrative law judge
("ALJ") issued an ID (Order No. 4) on
March 30, 2001, directing Watex to
show cause why it should not be found
in default. Watex did not respond to the
show cause order.

On May 22, 2001, the ALJ issued an
ID (Order No. 7) finding Watex in
default pursuant to Commission rule
210.16, and ruling that it had waived its
rights to appear, to be served with
documents, and to contest the
allegations at issue in the investigation.
No petitions for review of the ID were
filed. On June 12, 2001, the Commission
determined not to review the ID, thereby
allowing it to become the Commission's
final determination.

On September 13, 2001, Nelson moved
to withdraw all allegations related to the
'117 patent from the investigation. No
party responded to Nelson's motion and
the IA supported the motion. On
September 25, 2001, the ALJ issued an
ID (Order No. 26) granting the motion to
withdraw the allegations relating to the
'117 patent, and on October 26, 2001,
the Commission determined not to
review that ID. This withdrawal
terminated the investigation with
respect to all respondents except Watex.

On October 1, 2001, Nelson filed a
declaration seeking, pursuant to section
337(g)(1) and Commission rule
210.16(c)(1), entry of a limited exclusion
order against Watex barring importation
into the United States of Watex
sprinklers infringing the claims in issue
of the '218 and '727 patents. In its
declaration, Nelson did not seek
issuance of a cease and desist order
against Watex. On December 11, 2001,
the Commission issued a notice
requesting briefing on the issues of
remedy, public interest, and bonding.
On January 10, 2002, Nelson, the IA,
and Tekni-Plex, Inc., a purchaser of
Watex sprinklers, submitted briefing on
the issues of the public interest and
bonding and proposed limited exclusion
orders. No briefs were filed by any other
person or government agency. Only the
IA filed a reply brief.

Section 337(g)(1) of the Tariff Act of
1930 provides that the Commission
shall presume the facts alleged in a
complaint to be true, and upon request
issue a limited exclusion order and/or
cease and desist order if: (1) A
complaint is filed against a person
under section 337, (2) the complaint and

a notice of investigation are served on the person, (3) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice, (4) the person fails to show good cause why it should not be found in default, and (5) the complainant seeks relief limited to that person. Such an order shall be issued unless, after considering the effect of such exclusion, the Commission finds that such exclusion should not be issued.

The Commission found that each of the statutory requirements for the issuance of a limited exclusion order was met with respect to defaulting respondent Watex. The Commission further determined that the public interest factors enumerated in section 337(g)(1) did not preclude the issuance of such relief. Finally, the Commission determined that bond under the limited exclusion order during the Presidential review period shall be in the amount of one hundred (100) percent of the entered value of the imported articles.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and § 210.16 of the Commission's rules of practice and procedure, 19 CFR 210.16.

By order of the Commission.

Issued: March 4, 2002.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02-5512 Filed 3-7-02; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-413 and 731-TA-913-916 and 918 (Final)]

Stainless Steel Bar From France, Germany, Italy, Korea, and the United Kingdom

Determinations

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Italy of stainless steel bar, provided for in subheadings 7222.11.00, 7222.19.00, 7222.20.00, and 7222.30.00 of the Harmonized Tariff Schedule of the United States (HTS), that have been found by the Department of Commerce

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

to be subsidized by the Government of Italy.

The Commission also determines, pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured by reason of imports from France, Germany, Italy, Korea, and the United Kingdom of stainless steel bar, provided for in the HTS subheadings listed above, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective December 28, 2000, following receipt of a petition filed with the Commission and Commerce by Carpenter Technology Corp. (Wyomissing, PA); Crucible Specialty Metals, (Syracuse, NY); Electroalloy Corp. (Oil City, PA); Empire Specialty Steel, Inc. (Dunkirk, NY); Slater Steels Corp., Specialty Alloys Division (Fort Wayne, IN); and the United Steelworkers of America, AFL-CIO/CLC (Pittsburgh, PA). The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce certain imports of stainless steel bar from Italy were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and that certain imports of stainless steel bar from France, Germany, Italy, Korea, and the United Kingdom were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)).² Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of September 17, 2001 (66 FR 48063).³ The hearing was held in Washington, DC, on January 17, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on February 28, 2002. The views of the Commission are contained in USITC Publication 3488 (February 2002), entitled Stainless

² Investigation No. 731-TA-917 (Final), concerning stainless steel bar from Taiwan, was terminated effective January 23, 2002 (67 FR 4745, January 31, 2002), consequent to Commerce's final negative LTFV determination with respect to Taiwan (67 FR 3152, January 23, 2002).

³ The Commission published notice of its revised schedule on November 20, 2001 (66 FR 58162).

Steel Bar from France, Germany, Italy, Korea, and the United Kingdom: Investigation No. 701-TA-413 (Final) and Investigations Nos. 731-TA-913-916 and 918 (Final).

Issued: March 4, 2002.

By order of the Commission.

Marilyn R. Abbott

Acting Secretary.

[FR Doc. 02-5615 Filed 3-7-02; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation 332-440]

Probable Economic Effect of the Reduction or Elimination of U.S. Tariffs

AGENCY: International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: February 28, 2002.

SUMMARY: Following receipt of a request on February 11, 2002, from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-440, Probable Economic Effect of the Reduction or Elimination of U.S. Tariffs, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

As requested by USTR, the Commission will provide advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of:

- Eliminating U.S. tariffs of 5 percent ad valorem or below on dutiable imports from all U.S. trading partners and reducing all other U.S. tariffs by 50 percent;
- Eliminating U.S. tariffs on all dutiable imports from all U.S. trading partners; and
- Eliminating U.S. tariffs on all dutiable imports from FTAA countries.

The import analysis will consider each article in chapters 1 through 97 of the Harmonized Tariff Schedule of the United States for which tariffs will remain after the United States fully implements its Uruguay Round tariff commitments. The import advice will be based on the 2002 Harmonized Tariff System nomenclature and 2000 trade data. The report will identify the five largest sources of dutiable imports (including import values) for each article under the scenarios identified above. The Commission will provide its advice on the effect of reduction or elimination of U.S. tariffs no later than August 9, 2002.