

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

In the Matter of

**CERTAIN HAND DRYERS AND
HOUSINGS FOR HAND DRYERS**

Investigation No. 337-TA-1015

CONSENT ORDER

The U.S. International Trade Commission (“Commission”) has instituted an investigation at the request of Excel Dryer, Inc. (“Excel”) against Respondent Zhejiang Aike Appliance Co., Ltd. (“Aike”). The Complaint alleges violations of 19 U.S.C. § 1337 based upon the importation into the United States and/or sale after importation of certain hand dryers and housings for hand dryers by reason of trade dress infringement, the threat or effect of which is to destroy or substantially injure an industry in the United States. The Commission instituted this investigation and published the Notice of Institution in the Federal Register on August 1, 2016. *See* 81 Fed. Reg. 50549 (2016).

Without admitting that an unfair act or infringement has been committed or that Aike will not sell for importation, import, distribute, market, advertise, sell, or otherwise transfer any kind of hand dryer product in the United States at all, Aike has executed a Consent Order Stipulation and moved for an Initial Determination terminating this investigation by entry of a Consent Order. Aike has executed a Consent Order Stipulation consistent with Commission Rules.

IT IS HEREBY SO ORDERED:

A. Aike has admitted and acknowledged that the Commission has in rem jurisdiction over the articles that are the subject of the Complaint and Notice of Investigation. Aike has admitted and acknowledged that the Commission has in personam jurisdiction over it for the

purposes of the Stipulation and this Consent Order. Aike has admitted and acknowledged that the Commission has subject matter jurisdiction in this investigation.

B. Effective immediately upon the entry of this Consent Order, Aike shall not sell for importation, import, or sell after importation into the United States any hand dryers or housings for hand dryers, as illustrated by example in the Complaint, that Excel has alleged to infringe the trade dress asserted in this investigation (“Subject Articles”), except under consent or license from Excel, directly or indirectly, and shall not aid, abet, encourage, participate in, or induce the sale for importation, the importation, or the sale after importation of the Subject Articles in the United States except under consent or license from Excel.

C. Upon entry of the Consent Order, to the extent that Aike has any inventory of Subject Articles in the United States intended for sale in the United States, Aike will re-export or have such commercial inventory re-exported outside of the United States.

D. Effective immediately upon the entry of this Consent Order, Aike shall cease and desist from importing into the United States and distributing Subject Articles.

E. Aike shall be precluded from seeking judicial review or otherwise challenging or contesting the validity of this Consent Order.

F. Aike shall cooperate with and shall not seek to impede by litigation or other means the Commission’s efforts to gather information under subpart I of the Commission’s Rules of Practice and Procedure, 19 CFR Part 210.

G. Aike and its officers, directors, employees, agents, affiliated companies, including, but not limited to, its parents, subsidiaries, affiliates, and related companies, and any entity or individual acting on its behalf and with its authority, shall not seek to challenge the

validity or enforceability of the asserted trade dress in any administrative or judicial proceeding to enforce the Consent Order.

H. If the asserted trade dress is held invalid or unenforceable by a court or agency of competent jurisdiction or as to any article that has been found or adjudicated not to infringe the asserted trade dress in a final decision, no longer subject to appeal, this Consent Order shall become null and void as to such invalid or unenforceable trade dress.

I. This investigation is hereby terminated as to Aike, provided, however, that enforcement, modification, or revocation of the Consent Order shall be carried out pursuant to Subpart I 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 3, 2016

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **COMMISSION ORDER** has been served by hand upon the Commission Investigative Attorney, Monisha Deka, Esq., and the following parties as indicated, on **November 3, 2016**.



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

On Behalf of Complainant Excel Dryer, Inc.:

Andrew F. Pratt, Esq.
VENABLE LLP
575 Seventh Street, NW
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- Via Hand Delivery
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- Via First Class Mail
- Other: _____

On Behalf of Respondent Jinhua Kingwe Electrical Co. Ltd. and Alpine Industries, Inc.:

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On Behalf of Respondent ACL Group (Intl.) Ltd.:

Eric S. Parnes, Esq.
HUGHES, HUBBARD & REED LLP
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On Behalf of Respondent Zhejiang Aike Appliance Co., Ltd.:

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CERTAIN HAND DRYERS AND HOUSINGS FOR HAND DRYERS

Inv. No. 337-TA-1015

Certificate of Service – Page 2

On Behalf of Respondents FactoryDirectSale and Toolsempire:

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Respondents:

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