

**PUBLIC VERSION**

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

**In the Matter of**

**CERTAIN MULTIPLE MODE OUTDOOR  
GRILLS AND PARTS THEREOF**

**Inv. No. 337-TA-895**

**Order No. 19: Initial Determination**

This investigation was reassigned to the undersigned by Chief Judge Bullock on January 6, 2014.

On December 5, 2013, pursuant to Commission Rules 210.21(b) and (c), complainants A&J Manufacturing, LLC, and A&J Manufacturing, Inc. (collectively, “complainants” or “A&J”) filed a motion to terminate this investigation as to respondent Ningbo Spring Communication Technologies Co., Ltd. (“Ningbo Spring”) based on a consent order stipulation, proposed consent order, and confidential settlement agreement. Motion Docket No. 895-12. On December 16, 2013, the Commission investigative staff (“Staff”) filed a response supporting the motion. No other response was filed.

On December 18, 2013, pursuant to Commission Rules 210.21(b) and (c), complainants filed a corrected motion. Motion Docket No. 895-16. In their corrected motion, complainants included a Consent Order Stipulation (“Consent Order Stipulation”) attached as Exhibit A, a revised proposed Consent Order that corrects certain deficiencies (“Proposed Consent Order”) attached as Exhibit B, a confidential Settlement Agreement (“Settlement Agreement”) attached

as Exhibit C, a second confidential Settlement Agreement attached as Exhibit D,<sup>1</sup> and a public version of the Settlement Agreement attached as Exhibit E.<sup>2</sup> Complainants also request “a stay of the Investigation as to all events and Procedural Schedule deadlines related to Ningbo Spring pending final resolution of the Motion to Terminate.” Mot. at 2. The motion states that respondent Ningbo Spring “consents to the motion as indicated in the Consent Order Stipulation.” *Id.* at 1. On December 30, 2013, the Staff filed a response in support of the corrected motion. No other response was filed. Thus, the original motion (Motion No. 895-12) is superseded by the corrected motion (Motion No. 895-16), which is the only pending motion.

Commission Rule 210.21(a)(2) provides that “[a]ny party may move at any time to terminate an investigation in whole or in part as to any or all respondents on the basis of a settlement, a licensing or other agreement ... or a consent order, as provided in paragraphs (b), (c) and (d) of this section.” 19 C.F.R. § 210.21(a)(2).

Commission Rule 210.21(b)(1) provides in relevant part that “[a]n investigation before the Commission may be terminated as to one or more respondents pursuant to section 337(c) of the Tariff Act of 1930 on the basis of a licensing or other settlement agreement.” 19 C.F.R. § 210.21(b)(1). Similarly, Commission Rule 210.21(c) provides in relevant part that “[a]n investigation before the Commission may be terminated pursuant to section 337(c) of the Tariff

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<sup>1</sup> The motion states that the second confidential Settlement Agreement “is being served on counsel for the remaining, non-settling Respondents. This version of the Settlement Agreement has only certain specific and highly-sensitive details redacted from it because disclosing this information to Respondents or their counsel could affect Complainants’ settlement prospects with the other Respondents.” Mot. at 2.

<sup>2</sup> As noted, in satisfaction of the Commission’s Rules of Practice and Procedure, movants provide public and confidential versions of the settlement agreement. *See* 19 C.F.R. § 210.21(b)(1) (public versions required for certain filings). Copies of the corrected public and confidential versions of the motion and settlement agreement are attached to the respective public and confidential versions of this initial determination. *See* 19 C.F.R. § 210.21(b)(2) (certain documents must be certified with an initial determination terminating an investigation in whole or in part).

Act of 1930 on the basis of a consent order.” 19 C.F.R. § 210.21(b)(1).

Pursuant to Commission Rules 210.21(b)(1) and (c), movants state that “[a]side from the Consent Order Stipulation and Settlement Agreement, there are no other agreements, written or oral, express or implied, between Complainants and Ningbo Spring concerning the subject matter of the Investigation.” Mot. at 2; 19 C.F.R. § 210.21(b)(1) and (c).

With respect to the Settlement Agreement, complainants submitted an unredacted confidential version attached as Exhibit C. Complainants request that “essential financial terms” be redacted in the copies of the Settlement Agreement served on the non-moving respondents, as shown in Exhibit D. Mem. at 3-4. In this regard, Commission Rules 210.21(a)(1) and (b) provide that “[o]n motion for good cause shown, the administrative law judge may limit service of the agreements to the settling parties and the Commission investigative attorney.” 19 C.F.R. § 210.21(a)(1) and (b). Complainants argue that disclosure of certain terms would disadvantage complainants in future settlement negotiations. Mem. at 4. The Staff argues that complainants have shown good cause. Staff Resp. at 5-6. The administrative law judge finds that complainants have shown good cause to redact essential financial terms from the confidential versions served on the non-moving respondents.

Consent Order Stipulation complies with the requirements of Commission Rules 210.21(c)(3). Consent Order Stipulation, ¶¶ 2-5, 8-12 (complying with 19 C.F.R. § 210.21(c)(3)(i)(A)-(G)); *id.*, ¶¶ 13-14 (complying with 19 C.F.R. § 210.21(c)(3)(ii)(A)-(B)); *see also* Staff Resp. at 6-8.

Revised Proposed Consent Order complies with the requirements of Commission Rules 210.21(c)(4). Revised Proposed Consent Order, ¶¶ 1-14 (complying with 19 C.F.R. § 210.21(c)(4)(i)-(xi)); *see also* Staff Resp. at 8-10.

The Commission's Rules provide that in the case of a proposed termination by settlement agreement, consent order, or arbitration agreement, the parties may file statements regarding the impact of the proposed termination on the public interest, and the administrative law judge may hear argument, although no discovery may be compelled, with respect to issues relating solely to the public interest. The administrative law judge is directed to consider and make appropriate findings "regarding the effect of the proposed settlement on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers." *See* 19 C.F.R. § 210.50(b)(2).

Movants argue that "[t]ermination of this Investigation as to Ningbo Spring based on the Settlement Agreement and proposed Consent Order is in the public interest and does not affect the public health and welfare, competitive conditions of the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers." Mem. at 3. The Staff agrees. Staff Resp. at 10-11. The undersigned does not find any evidence that terminating this investigation as to Ningbo Spring based on the Settlement Agreement, Consent Order Stipulation and the Revised Proposed Consent Order would be contrary to the public interest.

Accordingly, it is the INITIAL DETERMINATION of the undersigned that Motion No. 895-16 is granted.

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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.



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David P. Shaw  
Administrative Law Judge

Issued: February 6, 2014

**PUBLIC VERSION**

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, DC**

**The Honorable Sandra Dee Lord  
Administrative Law Judge**

In the Matter of

CERTAIN MULTIPLE MODE OUTDOOR  
GRILLS AND PARTS THEREOF

Investigation No. 337-TA-895

**CORRECTED MOTION TO TERMINATE INVESTIGATION AS TO  
NINGBO SPRING COMMUNICATION TECHNOLOGIES CO., LTD.  
BASED ON SETTLEMENT AGREEMENT AND CONSENT ORDER  
AND MOTION TO STAY INVESTIGATION AS TO NINGBO SPRING**

**Ground Rule 3.2 Certification**

Pursuant to Ground Rule 3.2, Complainants A&J Manufacturing, LLC, and A&J Manufacturing, Inc. (collectively, "Complainants") contacted the participating Respondents and the Commission Investigative Staff ("Staff") regarding this motion. In particular, Complainants discussed the motion and the terms of the Settlement Agreement with Respondents Sears Holdings Corporation, Sears Brands Management Corporation, Sears, Roebuck & Company, and Kmart Corporation ("Sears Respondents"). During those communications, the Sears Respondents indicated that they will take a position after reviewing the papers. The Staff also indicated it would take a position after reviewing the papers. As of the time of filing, no other Respondents oppose the motion. Respondent Ningbo Spring Communication Technologies Co., Ltd. ("Ningbo Spring"), consents to the motion as indicated in the Consent Order Stipulation.

Pursuant to Commission Rules 210.21(b) & (c), Complainants hereby move to terminate this Investigation as to Ningbo Spring based on the Consent Order Stipulation (attached as Exhibit A), proposed Consent Order (attached as Exhibit B), and confidential Settlement Agreement (attached as Confidential Exhibit C). As detailed in the Consent Order Stipulation,

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Ningbo Spring has, among other things, agreed not to import, sell for importation, or sell in the United States after importation any multiple mode outdoor grills or parts thereof that infringe the asserted patents. Aside from the Consent Order Stipulation and Settlement Agreement, there are no other agreements, written or oral, express or implied, between Complainants and Ningbo Spring concerning the subject matter of the Investigation. A&J also respectfully requests a stay of the Investigation as to all events and Procedural Schedule deadlines related to Ningbo Spring pending final resolution of the Motion to Terminate.

Complainants also respectfully request that the Administrative Law Judge prevent access of the confidential version of the Settlement Agreement to the other Respondents and their counsel as provided in Commission Rules 210.21(b)(1) and (c). The unredacted version of the confidential Settlement Agreement is being served only on the Administrative Law Judge and the Staff as Confidential Exhibit C. The Settlement Agreement includes Confidential Business Information as outlined in Commission Rule 201.6, namely, specific and highly-sensitive details that, if disclosed, could affect Complainants' settlement prospects with other Respondents. Accordingly, the other Respondents and their counsel should not have access to the confidential version of the Settlement Agreement.

A second confidential version of the Settlement Agreement (attached as Confidential Exhibit D) is being served on counsel for the remaining, non-settling Respondents. This version of the Settlement Agreement has only certain specific and highly-sensitive details redacted from it because disclosing this information to Respondents or their counsel could affect Complainants' settlement prospects with the other Respondents. Accordingly, Complainants request, pursuant to Commission Rules 210.21(b)(1) and (c), that they be permitted to serve only Confidential Exhibit D on the non-settling Respondents.

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Finally, pursuant to Commission Rule 210.21(b)(1), a public version of the Settlement Agreement (attached as Confidential Exhibit E) is being filed with a public version of the Motion.

For the reasons set forth in the accompanying Memorandum of Points and Authorities, Complainants respectfully request the ALJ grant the motion and issue an initial determination terminating Ningbo Spring from this Investigation and staying the Investigation as to Ningbo Spring pending final resolution of the Motion to Terminate.

Dated: December 18, 2013

Respectfully submitted,

*/s/ Michael L. Doane*

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**UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, DC**

**The Honorable Sandra Dee Lord  
Administrative Law Judge**

In the Matter of

CERTAIN MULTIPLE MODE OUTDOOR  
GRILLS AND PARTS THEREOF

Investigation No. 337-TA-895

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
CORRECTED MOTION TO TERMINATE THE INVESTIGATION AS  
TO NINGBO SPRING COMMUNICATION TECHNOLOGIES CO., LTD.  
BASED ON SETTLEMENT AGREEMENT AND CONSENT ORDER  
AND MOTION TO STAY INVESTIGATION AS TO NINGBO SPRING**

Pursuant to Commission Rule 210.21(b) and (c), Complainants A&J Manufacturing, LLC, and A&J Manufacturing, Inc. (collectively, "Complainants") submit this memorandum in support of their Corrected Motion to Terminate the Investigation as to Ningbo Spring Communication Technologies Co., Ltd. ("Ningbo Spring") Based On Settlement Agreement and Consent Order and Motion to Stay the Investigation as to Ningbo Spring.

**A. The Investigation Should Be Terminated As To Ningbo  
Spring Based On A Settlement Agreement and Consent Order**

Commission Rule 210.21(a)(2) provides that any party may move at any the time to terminate an investigation in whole or in part based on a settlement agreement and/or a consent order. Complainants and Respondent Ningbo Spring have reached an agreement to settle this Investigation as to Ningbo Spring and entered into a fully executed Settlement Agreement. (Confidential Exhibit C). The Settlement Agreement is fully effective and completely resolves the dispute in this Investigation between Complainant and Ningbo Spring. Pursuant to this agreement, Ningbo Spring has agreed to sign a Consent Order Stipulation and to the entry of a Consent Order. Complainants aver that the Settlement Agreement reflects the entire and only

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agreement between Complainants and Ningbo Spring regarding the subject matter of this Investigation. There are no other agreements, written or oral, express or implied, between Complainants and Ningbo Spring concerning the subject matter of this Investigation.

Commission policy and the public interest generally favor settlements, which preserve resources for both the Commission and the parties, and termination based on settlement agreement is routinely granted. *See, e.g., Certain Consumer Electronics, Including Mobile Phones and Tablets*, Inv. No. 337-TA-839, Order No. 35 at 2 (Feb. 4, 2013) ("termination of litigation under these circumstances as an alternative method of dispute resolution is generally in the public interest and will conserve public and private resources"); *Certain Portable Communication Devices*, Inv. No. 337-TA-827, Order No. 15 at 2 (May 31, 2012) (unreviewed) (terminating investigation based on settlement agreement). Furthermore, the terms of the Consent Order Stipulation and proposed Consent Order are consistent with Commission Rule 210.21(c) and the Commission frequently terminates respondents on the basis of similar consent orders. *See, e.g., Certain Sleep-Disordered Breathing Treatment Systems and Components Thereof*, Inv. No. 337-TA-879, Order No. 8 at 4-5 (June 26, 2013) (granting motion for termination by consent order based on application of amended Rule 210.21(c)). Accordingly, the Investigation should be terminated as to Ningbo Spring.

In ruling on a Motion to Terminate based on a settlement agreement and/or proposed consent order, the Commission must consider the effect of the consent order "upon the public health and welfare, competitive conditions in the U.S. economy, the products of like or directly competitive articles in the United States, and U.S. consumers." 19 C.F.R. § 210.21(c)(2)(ii). If a consent order does not adversely affect the public health and welfare or competitive conditions in the United States, termination of the Investigation based on entry of the consent order is

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generally granted by the Commission. *See, e.g., Certain Digital Televisions & Components Thereof*, Inv. No. 337-TA-742, Order No. 7 (Jan. 28, 2011); *Certain Flat Panel Digital Televisions & Components Thereof*, Inv. No. 337-TA-733, Order No. 10 (Jan. 26, 2011). Termination of this Investigation as to Ningbo Spring based on the Settlement Agreement and proposed Consent Order is in the public interest and does not affect the public health and welfare, competitive conditions of the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers.

### **B. The ALJ Should Protect the Confidential Terms of the Settlement Agreement From Disclosure to the Other Respondents and Their Counsel**

The Commission Rules provide that "[o]n motion for good cause shown, the administrative law judge may limit the service of the agreements to the settling parties and the Commission investigative attorney." 19 C.F.R. §§ 210.21(b)(1) and (c). Complainants are engaged in ongoing efforts to settle their patent infringement claims with other parties, including the remaining Respondents. Disclosure of the financial terms set forth in the Settlement Agreement to the remaining Respondents or their counsel would prejudice Complainants by providing the remaining Respondents an unfair advantage in future negotiations. *See Certain Wiper Blades*, Inv. No. 337-TA-816, Order No. 103 (Initial Determination), at 2 (Sept. 30, 2013) (granting motion to terminate based on settlement agreement filed with a redacted version of the settlement agreement); *Certain Consumer Electronics with Display & Processing Capabilities*, Inv. No. 337-TA-884, Order No. 14 at 4 (July 31, 2013) (holding that a redaction of core financial terms from a settlement agreement was appropriate in light of revised Rule 210.21(b)(1)); *Certain Machine Vision Software, Machine Vision Systems & Prods. Containing Same*, Inv. No. 337-TA-680, Order No. 17 at 4 (Oct. 26, 2009) ("[F]orcing settling respondents

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and complainants to reveal the precise terms of their settlements to non-settling respondents could discourage settlements, even if such disclosures were made only to counsel who have subscribed to the protective order.").

Disclosure of the financial terms of the Settlement Agreement to remaining Respondents or their counsel would place these parties at an advantage, and Complainants at a disadvantage, in potential future settlement negotiations. This imbalance would discourage future negotiations and settlements, which is contrary to the public policy of encouraging settlement. Thus, there is good cause for the Administrative Law Judge to bar disclosure of the Settlement Agreement to the remaining Respondents and their counsel. Accordingly, Complainants should be permitted to provide the remaining Respondents with only a confidential version of the Settlement Agreement, attached to the Motion as Confidential Exhibit D, wherein essential financial terms have been redacted. The unredacted version of the Settlement Agreement, attached to the Motion as Confidential Exhibit C, filed with the Commission and served on the Staff should not be served on the non-settling Respondents in this Investigation.

**C. The ALJ Should Stay the Investigation as to Ningbo Spring**

Complainants request a stay of the Investigation pending final resolution of the instant motion as to all events and Procedural Schedule deadlines related to Ningbo Spring. Good cause exists to stay the Investigation as to Ningbo Spring pending resolution of the instant motion to terminate the Investigation based on a settlement agreement and consent order. Such a stay will conserve the resources of the Commission and the parties. Similar requests for stay have been granted when parties have reached settlement. *See, e.g. Certain Hybrid Electric Vehicles*, Inv. No. 337-TA-688, Order No. 15 at 1 (July 15, 2010); *Certain Sleep-Disordered Breathing Treatment Systems and Components Thereof*, Inv. No. 337-TA-879, Order No. 11 at 6 (July 17,



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2013); *Certain Consumer Electronics with Display and Processing Capabilities*, Inv. No. 337-TA-884, Order No. 32 at 1 (Oct. 18, 2013).

For the reasons set forth above, Complainants respectfully request that the ALJ grant the Motion to Terminate and issue an Initial Determination terminating Ningbo Spring from this Investigation pursuant to Commission Rules 210.21(b) and (c). Further, the ALJ should limit service of the unredacted version of the confidential Settlement Agreement to the settling parties and Staff, and stay the investigation as to Ningbo Spring pending final resolution of the Motion to Terminate.

Dated: December 18, 2013

Respectfully submitted,

*/s/ Michael L. Doane*

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Manufacturing, Inc.*

**EXHIBITS TO COMPLAINANTS' CORRECTED MOTION TO TERMINATE  
INVESTIGATION AS TO NINGBO SPRING COMMUNICATION TECHNOLOGIES  
CO., LTD. BASED ON SETTLEMENT AGREEMENT AND CONSENT ORDER AND  
MOTION TO STAY INVESTIGATION AS TO NINGBO SPRING**

- Exhibit A      Consent Order Stipulation, 11/27/13
- Exhibit B      Proposed Consent Order
- Exhibit C      Confidential Settlement Agreement, 11/15/13
- Exhibit D      Confidential Redacted Settlement Agreement, 11/15/13
- Exhibit E      Public Version of Settlement Agreement, 11/15/13

# **EXHIBIT A**

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

**Before The Honorable Sandra Dee Lord  
Administrative Law Judge**

**In the Matter of**

**CERTAIN MULTIPLE MODE OUTDOOR  
GRILLS AND PARTS THEREOF**

**Investigation No. 337-TA-895**

**CONSENT ORDER STIPULATION BY NINGBO  
SPRING COMMUNICATION TECHNOLOGIES CO., LTD.**

WHEREAS, Complainants A&J Manufacturing, LLC and A&J Manufacturing, Inc. (collectively, "A&J") filed a Complaint before the United States International Trade Commission (the "Commission") on August 21, 2013, alleging unfair acts by Ningbo Spring Communication Technologies Co., Ltd. ("Ningbo Spring") in the importation into the United States, sale for importation into the United States, and sale after importation into the United States of multiple mode outdoor grills and parts thereof that infringe one or more of claims 1, 2, 4, 6-8, 10, 11, 13, and 15 of U.S. Patent No. 8,381,712 ("Subject Articles");

WHEREAS, the Commission has instituted the above-captioned investigation under Section 337 of the Tariff Act of 1930 as amended (19 U.S.C. § 1337), based upon the allegations in the Complaint filed by A&J;

WHEREAS, Ningbo Spring agrees to the entry of a Consent Order, by the Commission, in the form attached hereto as Exhibit A; and

WHEREAS, A&J and Ningbo Spring have executed a Settlement Agreement that resolves the dispute between A&J and Ningbo Spring as to Subject Articles manufactured, sold or imported into the United States before November 15, 2013; and

WHEREAS, the Settlement Agreement between A&J and Ningbo Spring authorizes the disposition of Ningbo Spring's existing inventory of completed Subject Articles;

NOW THEREFORE, pursuant to Commission Rule 210.21(c)(1)(ii) and (c)(3), Ningbo Spring stipulates and agrees as follows in connection with A&J's Motion to Terminate Investigation as to Ningbo Spring Communication Technologies Co., Ltd. Based on Settlement Agreement and Consent Order:

1. Ningbo Spring is organized under the laws of the People's Republic of China, and maintains its principal place of business at No. 88 Qiming Road, Yinzhou Industrial Zone, Ningbo, Zhejiang 315104, China.

2. The Commission has: *in rem* jurisdiction over Ningbo Spring's multiple mode outdoor grills and parts thereof that are the basis of this Investigation; *in personam* jurisdiction over Ningbo Spring for purposes of this Consent Order; and subject matter jurisdiction over this Investigation.
3. A&J asserts that Ningbo Spring's multiple mode outdoor grills and parts thereof infringe one or more of claims 1, 2, 4, 6-8, 10, 11, 13, and 15 of U.S. Patent No. 8,381,712.
4. Ningbo Spring will not sell for importation, import, or sell after importation multiple mode outdoor grills and parts thereof that infringe one or more of claims 1, 2, 4, 6-8, 10, 11, 13, and 15 of U.S. Patent No. 8,381,712, 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 Subject Articles except under consent or license from A&J.
5. Ningbo Spring will cease importing, distributing, selling, or otherwise transferring (other than exporting) Subject Articles in the United States, except as authorized by Paragraph 6 below.
6. Notwithstanding Paragraphs 4 and 5, pursuant to the November 15, 2013, Settlement Agreement between A&J and Ningbo Spring, Ningbo Spring is authorized to import into the United States, and to sell in the United States, its existing inventory of completed Subject Articles.
7. Ningbo Spring agrees to the entry of a Consent Order, by the Commission, in the form attached hereto as Exhibit A, and consents to A&J filing a Motion to Terminate Investigation as to Ningbo Spring Communication Technologies Co., Ltd. Based on Settlement Agreement and Consent Order.
8. Ningbo Spring expressly waives all rights to seek judicial review or otherwise challenge or contest the validity of the Consent Order.
9. Ningbo Spring will cooperate with and will 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 C.F.R. Part 210.
10. Enforcement, modification, or revocation of the Consent Order will be carried out pursuant to Subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210, which is incorporated by reference herein.
11. The signing of this Consent Order Stipulation is for settlement purposes only and does not constitute an admission by Ningbo Spring that any unfair act has been committed.

12. The Consent Order shall have the same force and effect and may be enforced, modified, or revoked in the same manner as is provided in section 337 of the Tariff Act of 1930 and 19 C.F.R. Part 210 for other Commission actions, and the Commission may require periodic compliance reports pursuant to Subpart I of 19 C.F.R. Part 210 to be submitted by the person entering into the consent order stipulation.
13. The Consent Order shall not apply with respect to any of claims 1, 2, 4, 6-8, 10, 11, 13, and 15 of U.S. Patent No. 8,381,712 that has expired or been found or adjudicated invalid or unenforceable by the Commission or a court or agency of competent jurisdiction, provided that such finding or judgment has become final and nonreviewable.
14. Ningbo Spring and its officers, directors, employees, agents and any entity or individual acting on its behalf and with its authority will not seek to challenge the validity or enforceability of any of claims 1, 2, 4, 6-8, 10, 11, 13, and 15 of U.S. Patent No. 8,381,712 in any administrative or judicial proceeding to enforce the Consent Order.
15. The Consent Order shall be applicable and binding upon Ningbo Spring, its officers, directors, agents, servants, employees and all persons, firms, successors, assigns, or corporations acting or claiming to act on behalf of Ningbo Spring or under the direction or authority of Ningbo Spring.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

IT IS SO STIPULATED.

Dated: November 27, 2013

Ningbo Spring Communication  
Technologies Co., Ltd.  
No. 88 Qiming Road  
Yinzhou Industrial Zone  
Ningbo  
Zhejiang 315104  
CHINA

By: Maoyi Li  
Title: Vice General Manager

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## **EXHIBIT B**

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

**In the Matter of**

**CERTAIN MULTIPLE MODE  
OUTDOOR GRILLS AND PARTS  
THEREOF**

**Investigation No. 337-TA-895**

**CONSENT ORDER**

The International Trade Commission (the "Commission") has instituted the above-captioned investigation under Section 337 of the Tariff Act of 1930 as amended (19 U.S.C. § 1337), based upon the allegations contained in the Complaint filed by A&J Manufacturing, LLC and A&J Manufacturing, Inc., which alleges violations of Section 337 by Respondent Ningbo Spring Communication Technologies Co., Ltd. based upon the importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation of certain multiple mode outdoor grills and parts thereof that infringe one or more of claims 1, 2, 4, 6-8, 10, 11, 13, and 15 of U.S. Patent No. 8,381,712.

Respondent Ningbo Spring Communication Technologies Co., Ltd. has executed a Consent Order Stipulation in which it agrees to the entry of this Consent Order and to all waivers and other provisions as required by the Commission's Rules of Practice and Procedure, has executed a Settlement Agreement with A&J authorizing the disposition of Ningbo Spring's existing inventory of completed subject articles, and has consented to A&J filing a Motion to Terminate Investigation as to Ningbo Spring Communication Technologies Co., Ltd. Based on Settlement Agreement and Consent Order.

NOW, THEREFORE, the Commission issues the following Consent Order:

1. The Complainants in this Investigation are A&J Manufacturing, LLC, 2465 Demere Road, St. Simons, GA 31522, and A&J Manufacturing, Inc., 903 Lake Asbury Drive, Green Cove Springs, FL 32043, (collectively, "A&J").
2. The Respondent covered by this Consent Order is Ningbo Spring Communication Technologies Co., Ltd. ("Ningbo Spring"), which is organized under the laws of the People's Republic of China, and maintains its principal place of business at No. 88 Qiming Road, Yinzhou Industrial Zone, Ningbo, Zhejiang 315104, China.
3. The subject articles are multiple mode outdoor grills and parts thereof that infringe one or more of claims 1, 2, 4, 6-8, 10, 11, 13, and 15 of U.S. Patent No. 8,381,712 (the "Subject Articles").



4. In its Complaint, A&J alleges that Ningbo Spring sells for importation, imports, and/or sells in the United States after importation Subject Articles in violation Section 337 of the Tariff Act of 1930 as amended (19 U.S.C. § 1337) by reason of infringement of one or more of claims 1, 2, 4, 6-8, 10, 11, 13, and 15 of U.S. Patent No. 8,381,712 (the "Asserted Claims").
5. Ningbo Spring has executed a Consent Order Stipulation and stipulates to the entry of this Consent Order.
6. Ningbo Spring shall not sell for importation, import, or sell after importation Subject Articles, 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 Subject Articles except under consent, license from A&J, or to the extent permitted by the November, 15, 2013, Settlement Agreement between A&J and Ningbo Spring.
7. Ningbo Spring's disposition of existing inventory is governed by the November 15, 2013, Settlement Agreement between A&J and Ningbo Spring, the relevant contents of which are Confidential Business Information and therefore not publicly available.
8. Except as permitted by the November 15, 2013, Settlement Agreement between A&J and Ningbo Spring, Ningbo Spring shall cease and desist from importing and distributing Subject Articles in the United States.
9. Ningbo Spring shall be precluded from seeking judicial review or otherwise challenging or contesting the validity of the Consent Order.
10. Ningbo Spring 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 C.F.R. Part 210.
11. Ningbo Spring and its officers, directors, employees, agents and any entity or individual acting on its behalf and with its authority shall not seek to challenge the validity or enforceability of any of the Asserted Claims in any administrative or judicial proceeding to enforce the Consent Order.
12. When U.S. Patent No. 8,381,712 expires, this Consent Order shall become null and void.
13. If any claim of U.S. Patent No. 8,381,712 is held invalid or unenforceable by a court or agency of competent jurisdiction or as to any articles that has been found or adjudicated not to infringe U.S. Patent No. 8,381,712 in a final decision, no longer subject to appeal, this Consent Order shall become null and void as to such invalid or unenforceable claim.

14. This Investigation is hereby terminated with respect to Ningbo Spring; provided, however, that enforcement, modification, or revocation of this Consent Order shall be carried out pursuant to Subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.

Dated: \_\_\_\_\_

BY ORDER OF THE COMMISSION

\_\_\_\_\_  
Lisa Barton  
Acting Secretary

CHAR704313.docx

**CONFIDENTIAL EXHIBIT C  
REMOVED IN ITS ENTIRETY**

**CONFIDENTIAL EXHIBIT D  
REMOVED IN ITS ENTIRETY**

# **EXHIBIT E**

# PUBLIC VERSION

## SETTLEMENT AGREEMENT

This Agreement is effective this 15 day of November, 2013 ("Effective Date"), by and between A&J Manufacturing, LLC, together with A&J Manufacturing, Inc. ("A&J"), and Ningbo Spring Communication Technologies Co, Ltd. ("Spring").

### RECITALS

1. A&J confirms that it is the owner, by assignment, of all rights in valid United States Patent Nos. 8,381,712 ("712 Patent"); D660,646 and D662,773. A&J has filed a Complaint with the United States International Trade Commission ("ITC"), which has now been instituted as Investigation No. 337-TA-895, styled as *In the Matter of CERTAIN MULTIPLE MODE OUTDOOR GRILLS AND PARTS THEREOF* ("337 Investigation"). Spring is named as a Respondent in said Investigation.
2. In its ITC Complaint, A&J asserts that Spring has imported, sold for importation, and/or sold within United States after importation, multiple mode outdoor grills that infringe A&J's '712 Patent; namely, the "Kenmore Charcoal/Gas Combo Grill, Model No. 611405" grills ("Kenmore Combo Grill").
3. A&J has also filed a Complaint in the United States District Court for the Southern District of Georgia, Brunswick Division ("Georgia Court"), Civil Action No CV213-117, naming the following companies as defendants: Spring and Sears Holdings Corporation; Sears Brands Management Corporation; Sears, Roebuck & Company; and Kmart Corporation. The Complaint asserts that Spring and its codefendants ("Sears") infringe A&J's United States Patent No. 8,381,712 through offering to sell, selling and importing units of the Kenmore Combo Grill.
4. Spring denies any wrongful conduct and denies liability for patent infringement. In order to resolve this dispute, however, A&J and Spring have now agreed to settle all issues between them in both the Investigation and the District Court Action, under the terms set forth herein. Nothing in this agreement shall constitute an admission of patent infringement liability by Spring.

### AGREEMENT

Now, therefore, in consideration of the mutual obligations set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, A&J and Spring covenant and agree as follows:

PUBLIC VERSION

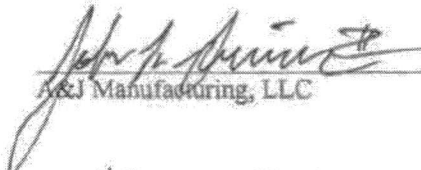
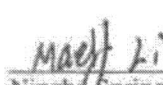
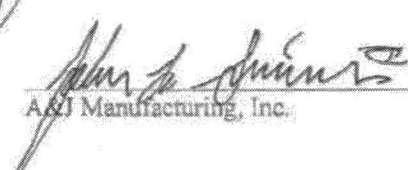
5. **Stipulated Consent Order:** Spring stipulates to entry of a Consent Order in the Investigation. Spring will promptly execute and file with the International Trade Commission the Consent Order Stipulation (in the form attached as Exhibit A) and the Consent Order (in the form attached is Exhibit B) as negotiated between the parties. The Consent Order Stipulation and Consent Order shall be filed with the ITC within five business days of the Effective Date.
6. **Extension of Time:** A&J will not oppose, and will stipulate to, a motion for extension of time to answer, if Spring deems it necessary to file such motion, while the Consent Order Stipulation is pending before the Commission. A&J will extend the deadline for Spring's response to outstanding discovery requests, pending the Commission's action on the Consent Order Stipulation.
7. **Dismissal of District Court Action:** After Spring's filing of the Consent Order Stipulation with the International Trade Commission, A&J will, within five business days, file a Notice of Dismissal, without prejudice, pursuant to FRCP 41(a)(1)(A), of claims against Spring in the above-recited Action filed in the Georgia Court.
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]

PUBLIC VERSION

11. Confidentiality: Spring agrees to maintain the confidentiality of this Agreement and its terms, and not to disclose the same except upon A&J's approval, or as necessary to comply with applicable law, governmental orders or regulations, or as necessary to obtain legal or financial advice with respect to the subject matter of the Agreement.

[REDACTED]

In witness whereof, A&J and Spring, by their authorized representatives, execute this Settlement Agreement and Mutual Release:

 A&J Manufacturing, LLC	11/15/13 Date	 Ningbo Spring Communication Technologies Co., Ltd.	Nov. 15 <sup>th</sup> 2013 Date
 A&J Manufacturing, Inc.	11/15/13 Date		



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **CORRECTED MOTION TO TERMINATE INVESTIGATION AS TO NINGBO SPRING COMMUNICATION TECHNOLOGIES CO., LTD. BASED ON SETTLEMENT AGREEMENT AND CONSENT ORDER AND MOTION TO STAY INVESTIGATION AS TO NINGBO SPRING AND MEMORANDUM IN SUPPORT THEREOF (PUBLIC VERSION)** was served to the parties, in the manner indicated below, this 18<sup>th</sup> day of December 2013:

The Honorable Lisa R. Barton  
Acting Secretary  
U.S. INTERNATIONAL TRADE COMMISSION  
500 E Street, SW, Room 112-A  
Washington, DC 20436

☒ **VIA ELECTRONIC FILING**

The Honorable Dee Lord  
Administrative Law Judge  
U.S. INTERNATIONAL TRADE COMMISSION  
500 E Street, S.W. Rm.  
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☒ **VIA HAND DELIVERY – 2 Copies**  
☒ **VIA ELECTRONIC MAIL**

R. Whitney Winston  
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/s/ Patricia Cotton, Sr. Paralegal  
ADDUCI, MASTRIANI & SCHAUMBERG, L.L.P.

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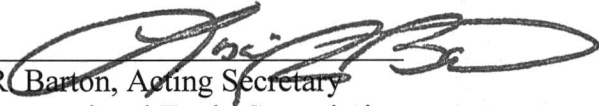
**CERTAIN MULTIPLE MODE OUTDOOR  
GRILLS AND PARTS THEREOF**

Inv. No. 337-TA-895

**PUBLIC CERTIFICATE OF SERVICE**

I, Lisa R. Barton, hereby certify that the attached **Order No. 19 (Initial Determination)** has been served by hand upon the Commission Investigative Attorney, **R. Whitney Winston, Esq.**, and the following parties as indicated, on \_\_\_\_\_.

**FEB - 6 2014**

  
Lisa R. Barton, Acting Secretary  
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