

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

In the Matter of)
)
) Investigation o. 337-TA-380
CERTAIN AGRICULTURAL TRACTORS)
UNDER 50 POWER TAKE-OFF)
HORSEPOWER)

GENERAL EXCLUSION ORDER

This trademark-based section 337 investigation was instituted by the Commission on February 14, 1996, based on a complaint filed by Kubota Tractor Corporation ("KTC"), Kubota Manufacturing of America ("KMA"), and Kubota Corporation ("KBT") (collectively "complainants"). Complainants alleged unfair acts in violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation, sale for importation, and/or the sale within the United States after importation, of certain agricultural tractors under 50 power takeoff horsepower, by reason of infringement of complainants' four registered trademarks, U.S. Reg. Nos. 922,330 (-KUBOTA" in block letters), 1,775,620 ("KUBOTA" stylized), 1,028,221 (Gear Design), and 1,874,414 (stylized "K"). The Commission's notice of investigation named 20 respondents: Eisho World Ltd., Nitto Trading Corporation, Nitto Trading Co. Ltd., Sanko Industries Co., Ltd., Sonica Trading, Inc., Suma Sangyo, Toyo Service Co., Ltd., Bay Implement Company, Casteel Farm Implement Co. of Monticello, Arkansas, Casteel Farm Implement Co. of Pine Bluff, Arkansas, Casteel World Group, Inc., Gamut Trading Co., Gamut Imports, Lost Creek Tractor Sales, MGA, Inc. Auctioneers, Tom Yarbrough Equipment Rental and Sales, Inc., The Tractor Shop, Tractor Company, Wallace International Trading Co. and Wallace Import Marketing Co. Inc. 61 Fed. Reg. 6802 (Feb. 22, 1996).

On May 29, 1996, the Commission determined not to review an ID (Order No. 13) finding respondents Tractor Company, Sonica Trading, and Toyo Service in default pursuant to Commission rule 210.16 (19 C.F.R. § 201.16), and ruling that they had waived their respective rights to appear, to be served with documents, and to contest the allegations at issue in the investigation. On June 19, 1996, the notice of investigation was amended to add Fujisawa Trading Company as a respondent. On September 25, 1996, the Commission issued a consent order

terminating the -investigation as to respondent Nitto Trading Corporation. On September 30, 1996, the Commission issued a consent order terminating the investigation as to respondent Tom Yarbrough Equipment Rental and Sales, Inc.

On August 21, 1996, the Commission determined not to review an initial determination ("ID") (OrderNo. 40) granting complainants' motion for summary determination that complainants' four trademarks are valid and that the "KUBOTA" (block letters) and Gear Design marks are incontestable. On September 6, 1996, the Commission determined not to review an ID (Order No. 47) granting complainants' motion for summary determination that a domestic industry exists with respect to the "KUBOTA" (block letters) and "KUBOTA" (stylized) trademarks.

The presiding administrative law judge ("ALJ") held an evidentiary hearing on the merits between August 29 and September 7, 1996, and heard closing arguments on October 24, 1996. The ALJ issued his final ID finding a violation of section 337 on November 22, 1996. He found that there had been imports of the accused products; that 24 specific models of the accused tractors infringed the "KUBOTA" (block letters) trademark (U.S. Reg. No. 922,330); that one model of the accused tractors, the KBT model L200, did not infringe the "KUBOTA" (block letters) trademark; that none of the 25 KBT models examined infringed the "KUBOTA" (stylized) trademark (U.S. Reg. No. 1,775,620); and that complainants were no longer asserting violations of section 337 based on infringement of the stylized "K" and "Gear Design" trademarks.

On January 9, 1997, the Commission determined to review the ALJ's final ID with regard to (1) the finding of no infringement with respect to the KBT model L200 tractor; and (2) the decision to limit infringement analysis to 25 models of accused tractors rather than all models of KBT tractors as to which there is evidence of importation and sale in the United States. The Commission determined not to review the ID in all other respects. On review, the Commission requested that the parties address the following issues:

- (1) whether the fact, that gray market KBT L200 tractors are imported and sold bearing Japanese language labels constitutes a "material difference" from the authorized KTC model L200 tractors sufficient to establish a likelihood of consumer confusion;
- (2) whether evidence on the record in this investigation demonstrates that specific KBT models other than the 25 identified on [Staff Exhibit] SX-1 have been imported and sold in the United States; and, if so,
- (3) whether evidence on the record in this investigation demonstrates that any specific KBT model identified in number (2) above was imported and sold in the United States bearing Japanese-language labels

or is otherwise materially different than the closest corresponding KTC model with respect to any of the differences found to be "material" in the ID.

In addition, the Commission requested written submissions on the issues of remedy, the public interest, and bonding. 62 Fed. Reg. 2179 (Jan. 15, 1997).

Submissions and reply submissions on remedy, the public interest, and bonding and on the issues under review were received from complainants, respondents, and the Commission investigative attorney (TA). In addition, complainants filed a request for oral hearing pursuant to Commission rule 210.45, complainants filed a request to strike pages 4-20 of respondents' brief on review, respondents filed a request to strike certain consumer survey information submitted by complainants and to sanction complainants for submitting that information, complainants filed a motion for leave to file a surreply brief in response to the reply brief of the IA, and respondents filed an objection to complainants' surreply brief.

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has determined (1) to reverse the ALJ's finding of no infringement and no violation with respect to the KBT model L200 tractor; (2) to find a violation of section 337 with respect to 20 models of KBT tractors in addition to the 25 models considered by the ALJ; and (3) to deny complainants' request for oral hearing, both requests to strike, respondents' request for sanctions, and complainants' motion for leave to file a surreply brief. The Commission has further determined that the appropriate form of relief is a general exclusion order prohibiting the unlicensed entry for consumption of agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe the federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) and eleven cease and desist orders directed to respondents Bay Implement Company, Casteel World Group, Inc. (and related entities), Gamut Trading Co. (and related entities), Lost Creek Tractor Sales, MGA, Inc. Auctioneers, The Tractor Shop, Tractor Company, and Wallace International Trading Co., prohibiting the importation, sale for importation, or sale in the United States after importation of agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe the federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330).

The Commission has also determined that the public interest factors enumerate in subsections 1337(d) and (f) do not preclude the issuance of the general exclusion order and cease and desist orders, and that the bond during the Presidential review period shall be in the amount of 90 percent of the entered value of the articles in question.

Accordingly, the Commission hereby ORDERS that

1. Agricultural tractors under 50 power take-off horsepower that are manufactured by Kubota Corporation of Japan and that infringe the federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330)¹ are excluded from entry for consumption into the United States for the remaining term of the trademark, including any renewals, or, if sooner, until such time as the trademark is abandoned, except (1) if imported by, under license from, or with the permission of the trademark owner, or (2) as provided by law.

2. The aforesaid agricultural tractors otherwise excluded by paragraph I above are entitled to entry for consumption into the United States under bond in the amount of ninety (90) percent of the entered value of such items 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 Order.

3. In accordance with subsection (1) of section 337 (19 U.S.C. § 1337(1)), the provisions of this Order shall not apply to agricultural tractors 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 United States Government.

4. 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 the U.S. Customs Service.

5. The Commission may modify this Order in accordance with the procedure described in rule 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76 (1996).

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

¹A copy of Registration No. 922,330 is attached.

By Order of the Commission.

Donna R. Koehnke
Secretary

Issued: February 25, 1997

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

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In the Matter of)
) **Investigation No. 337-TA-380**
CERTAIN AGRICULTURAL TRACTORS)
UNDER 50 POWER TAKE-OFF)
HORSEPOWER)
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ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Wallace International Trading Company, 1197 Bacon Way, Lafayette, California 94549, cease and desist from importing, selling for importation into the United States, marketing, distributing, offering for sale, selling in the United States, or otherwise transferring (except for exportation) certain agricultural tractors under 50 power take-off horsepower, as described below, in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, except as provided in Section IV.

I.

(Definitions)

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Kubota Corporation" or "KBT" shall mean Kubota Corporation, 2-47 Shikitsu Higashi 1-chome, Naniwa-ku, Osaka 556, Japan, Complainant in this investigation, and its successors and assigns.

(C) "Kubota Tractor Corporation" or "KTC" shall mean Kubota Tractor Corporation, 3401 Del Arno Boulevard, Torrance, CA 90503, Complainant in this investigation, and its successors and assigns.

(D) "Kubota Manufacturing of America Corporation" or "KMA" shall mean Kubota Manufacturing of America Corporation, Industrial Park North, 2715 Ramsey Road, Gainesville, Georgia 30501, Complainant in this investigation, and its successors and assigns.

(E) "Respondent" shall mean Wallace International Trading Company, 1197 Bacon Way, Lafayette, California 94549.

(F) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation,

or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, their successors, or assigns.

(G) " United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(H) The term "covered product" shall mean agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) and that are not imported by, under license from, or with the permission of the trademark owner.

II.

(Applicability)

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III.

(Conduct Prohibited)

The following conduct of Respondent in the United States is prohibited by this Order. Until the expiration or, if sooner, the abandonment, of the trademark identified in Section I(H) above, Respondent shall not:

(A) import or sell for importation into the United States covered product; or

(B) sell, market, distribute, offer for sale, or otherwise transfer (except for exportation) in the United States imported covered product.

IV.

(Conduct Permitted)

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) has licensed or authorized such specific conduct, or such specific conduct is related to the importation or sale of agricultural tractors by or for the United States.

V.

(Reporting)

For purposes of this reporting requirement, the reporting period shall commence on the first day of September, and shall end on the last day of the following August. The first report required under this section shall cover the period February 25, 1997, through August 31, 1997. This reporting requirement shall continue in force until the expiration, or, if sooner, the abandonment, of the trademark specified in Section I(H) herein unless, pursuant to subsection 0)(2) of section 337 of the Tariff Act of 1930, the President notifies the Commission within sixty (60) days after the date he receives this Order that he disapproves this Order.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission the following: the quantity in units and the value in dollars of foreign-produced covered or sold in the United States during the reporting period or that product that Respondent has imported or sold in the United States during the reporting period or that remains in inventory at the end of the period.

Any failure to make the required report shall constitute a violation of this Order.

VI.

(Recordkeeping and Inspection)

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the importation, sale, offer for sale, marketing, distribution, or otherwise transferring in the United States of imported covered product made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other record documents, both in detail and in summary form, as are required to be retained by subparagraph VI(A) of this Order.

VII.

(Service of Cease and Desist Order)

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution, or sale of imported covered product in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order had been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraph VII(B) and VII(C) shall remain in effect until the date of expiration or, if sooner, abandonment, of the trademark specified in Section I(H) herein.

VIII.

(Confidentiality)

Any request for confidential treatment of information submitted to or obtained by the Commission pursuant to Sections V and VI of the Order should be in accordance with section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6 (1996). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX.

(Enforcement)

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75 (1996), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent

if Respondent fails to provide adequate or timely information.

X.

(Modification)

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76 (1996).

XI.

(Bonding)

The conduct prohibited by Section III of this Order may be continued during the period in which this Order is under review by the President pursuant to section 3370 of the Tariff Act 1930, 19 U.S.C. § 1337(j), subject to Respondent posting a bond with the Commission in the amount of ninety (90) percent of the entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered product imported on or after February 25, 1997, is subject to the entry bond as set forth in the limited exclusion order issued by the Commission on February 25, 1997, and is not subject to this bond provision.

The bond prescribed in this section is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission rule 210.68, 19 C.F.R. § 210.68 (1996). The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order.

The bond is to be forfeited in the event that the President approves, or does not disapprove within the Presidential review period, the Commission's Orders of February 25, 1997, or any subsequent final order issued after the completion of Investigation No. 337-TA-380, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the President disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the President, upon service on Respondent of an Order issued by the Commission based upon application therefor made to the Commission.

By Order of the Commission.

Donna R. Koehnke
Secretary

Issued: February 25, 1997

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436**

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In the Matter of)
) **Investigation No. 337-TA-380**
CERTAIN AGRICULTURAL TRACTORS)
UNDER 50 POWER TAKE-OFF)
HORSEPOWER)
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ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Wallace International Trading Company, 1197 Bacon Way, Lafayette, California 94549, cease and desist from importing, selling for importation into the United States, marketing, distributing, offering for sale, selling in the United States, or otherwise transferring (except for exportation) certain agricultural tractors under 50 power take-off horsepower, as described below, in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, except as provided in Section IV.

I.

(Definitions)

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Kubota Corporation" or "KBT" shall mean Kubota Corporation, 2-47 Shikitsuhigashi 1-chome, Naniwa-ku, Osaka 556, Japan, Complainant in this investigation, and its successors and assigns.

(C) "Kubota Tractor Corporation" or "KTC" shall mean Kubota Tractor Corporation, 3401 Del Arno Boulevard, Torrance, CA 90503, Complainant in this investigation, and its successors and assigns.

(D) "Kubota Manufacturing of America Corporation" or "KMA" shall mean Kubota Manufacturing of America Corporation, Industrial Park North, 2715 Ramsey Road, Gainesville, Georgia 30501, Complainant in this investigation, and its successors and assigns.

(E) "Respondent" shall mean Tractor Company, 8392 Meadowbrook Way S.E., Snoqualmie, Washington 98045.

(F) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation,

or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, their successors, or assigns.

(G) " United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(H) The term "covered product" shall mean agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) and that are not imported by, under license from, or with the permission of the trademark owner.

II.

(Applicability)

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III.

(Conduct Prohibited)

The following conduct of Respondent in the United States is prohibited by this Order. Until the expiration or, if sooner, the abandonment, of the trademark identified in Section I(H) above, Respondent shall not:

(A) import or sell for importation into the United States covered product; or

(B) sell, market, distribute, offer for sale, or otherwise transfer (except for exportation) in the United States imported covered product.

IV.

(Conduct Permitted)

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) has licensed or authorized such specific conduct, or such specific conduct is related to the importation or sale of agricultural tractors by or for the United States.

V.

(Reporting)

For purposes of this reporting requirement, the reporting period shall commence on the first day of September, and shall end on the last day of the following August. The first report required under this section shall cover the period February 25, 1997, through August 31, 1997. This reporting requirement shall continue in force until the expiration, or, if sooner, the abandonment, of the trademark specified in Section I(H) herein unless, pursuant to subsection 0)(2) of section 337 of the Tariff Act of 1930, the President notifies the Commission within sixty (60) days after the date he receives this Order that he disapproves this Order.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission the following: the quantity in units and the value in dollars of foreign-produced covered or sold in the United States during the reporting period or that product that Respondent has imported or sold in the United States during the reporting period or that remains in inventory at the end of the period.

Any failure to make the required report shall constitute a violation of this Order.

VI.

(Recordkeeping and Inspection)

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the importation, sale, offer for sale, marketing, distribution, or otherwise transferring in the United States of imported covered product made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other record documents, both in detail and in summary form, as are required to be retained by subparagraph VI(A) of this Order.

VII.

(Service of Cease and Desist Order)

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution, or sale of imported covered product in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order had been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraph VII(B) and VII(C) shall remain in effect until the date of expiration or, if sooner, abandonment, of the trademark specified in Section I(H) herein.

VIII.

(Confidentiality)

Any request for confidential treatment of information submitted to or obtained by the Commission pursuant to Sections V and VI of the Order should be in accordance with section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6 (1996). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX.

(Enforcement)

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75 (1996), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent

if Respondent fails to provide adequate or timely information.

X.

(Modification)

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76 (1996).

XI.

(Bonding)

The conduct prohibited by Section III of this Order may be continued during the period in which this Order is under review by the President pursuant to section 3370 of the Tariff Act 1930, 19 U.S.C. § 1337(j), subject to Respondent posting a bond with the Commission in the amount of ninety (90) percent of the entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered product imported on or after February 25, 1997, is subject to the entry bond as set forth in the limited exclusion order issued by the Commission on February 25, 1997, and is not subject to this bond provision.

The bond prescribed in this section is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission rule 210.68, 19 C.F.R. § 210.68 (1996). The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order.

The bond is to be forfeited in the event that the President approves, or does not disapprove within the Presidential review period, the Commission's Orders of February 25, 1997, or any subsequent final order issued after the completion of Investigation No. 337-TA-380, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the President disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the President, upon service on Respondent of an Order issued by the Commission based upon application therefor made to the Commission.

By Order of the Commission.

Donna R. Koehnke
Secretary

Issued: February 25, 1997

**UNITED STATES INTERNATIONAL TRADE COMMISSION
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ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Wallace International Trading Company, 1197 Bacon Way, Lafayette, California 94549, cease and desist from importing, selling for importation into the United States, marketing, distributing, offering for sale, selling in the United States, or otherwise transferring (except for exportation) certain agricultural tractors under 50 power take-off horsepower, as described below, in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, except as provided in Section IV.

I.

(Definitions)

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Kubota Corporation" or "KBT" shall mean Kubota Corporation, 2-47 Shikitsu Higashi 1-chome, Naniwa-ku, Osaka 556, Japan, Complainant in this investigation, and its successors and assigns.

(C) "Kubota Tractor Corporation" or "KTC" shall mean Kubota Tractor Corporation, 3401 Del Arno Boulevard, Torrance, CA 90503, Complainant in this investigation, and its successors and assigns.

(D) "Kubota Manufacturing of America Corporation" or "KMA" shall mean Kubota Manufacturing of America Corporation, Industrial Park North, 2715 Ramsey Road, Gainesville, Georgia 30501, Complainant in this investigation, and its successors and assigns.

(E) "Respondent" shall mean MGA, Inc., 28999 Front Street, suite 203, Temecula, California 92590.

(F) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, their

successors, or assigns.

(G) " United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(H) The term "covered product" shall mean agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) and that are not imported by, under license from, or with the permission of the trademark owner.

II.

(Applicability)

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III.

(Conduct Prohibited)

The following conduct of Respondent in the United States is prohibited by this Order. Until the expiration or, if sooner, the abandonment, of the trademark identified in Section I(H) above, Respondent shall not:

(A) import or sell for importation into the United States covered product; or

(B) sell, market, distribute, offer for sale, or otherwise transfer (except for exportation) in the United States imported covered product.

IV.

(Conduct Permitted)

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) has licensed or authorized such specific conduct, or such specific conduct is related to the importation or sale of agricultural tractors by or for the United States.

V.

(Reporting)

For purposes of this reporting requirement, the reporting period shall commence on the first day of September, and shall end on the last day of the following August. The first report required under this section shall cover the period February 25, 1997, through August 31, 1997. This reporting requirement shall continue in force until the expiration, or, if sooner, the abandonment, of the trademark specified in Section I(H) herein unless, pursuant to subsection 0)(2) of section 337 of the Tariff Act of 1930, the President notifies the Commission within sixty (60) days after the date he receives this Order that he disapproves this Order.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission the following: the quantity in units and the value in dollars of foreign-produced covered or sold in the United States during the reporting period or that product that Respondent has imported or sold in the United States during the reporting period or that remains in inventory at the end of the period.

Any failure to make the required report shall constitute a violation of this Order.

VI.

(Recordkeeping and Inspection)

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the importation, sale, offer for sale, marketing, distribution, or otherwise transferring in the United States of imported covered product made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other record documents, both in detail and in summary form, as are required to be retained by subparagraph VI(A) of this Order.

VII.

(Service of Cease and Desist Order)

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution, or sale of imported covered product in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order had been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraph VII(B) and VII(C) shall remain in effect until the date of expiration or, if sooner, abandonment, of the trademark specified in Section I(H) herein.

VIII.

(Confidentiality)

Any request for confidential treatment of information submitted to or obtained by the Commission pursuant to Sections V and VI of the Order should be in accordance with section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6 (1996). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX.

(Enforcement)

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75 (1996), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent

if Respondent fails to provide adequate or timely information.

X.

(Modification)

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76 (1996).

XI.

(Bonding)

The conduct prohibited by Section III of this Order may be continued during the period in which this Order is under review by the President pursuant to section 3370 of the Tariff Act 1930, 19 U.S.C. § 1337(j), subject to Respondent posting a bond with the Commission in the amount of ninety (90) percent of the entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered product imported on or after February 25, 1997, is subject to the entry bond as set forth in the limited exclusion order issued by the Commission on February 25, 1997, and is not subject to this bond provision.

The bond prescribed in this section is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission rule 210.68, 19 C.F.R. § 210.68 (1996). The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order.

The bond is to be forfeited in the event that the President approves, or does not disapprove within the Presidential review period, the Commission's Orders of February 25, 1997, or any subsequent final order issued after the completion of Investigation No. 337-TA-380, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the President disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the President, upon service on Respondent of an Order issued by the Commission based upon application therefor made to the Commission.

By Order of the Commission.

Donna R. Koehnke
Secretary

Issued: February 25, 1997

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436**

-----)
In the Matter of)
) **Investigation No. 337-TA-380**
CERTAIN AGRICULTURAL TRACTORS)
UNDER 50 POWER TAKE-OFF)
HORSEPOWER)
-----)

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Wallace International Trading Company, 1197 Bacon Way, Lafayette, California 94549, cease and desist from importing, selling for importation into the United States, marketing, distributing, offering for sale, selling in the United States, or otherwise transferring (except for exportation) certain agricultural tractors under 50 power take-off horsepower, as described below, in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, except as provided in Section IV.

I.

(Definitions)

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Kubota Corporation" or "KBT" shall mean Kubota Corporation, 2-47 Shikitsu Higashi 1-chome, Naniwa-ku, Osaka 556, Japan, Complainant in this investigation, and its successors and assigns.

(C) "Kubota Tractor Corporation" or "KTC" shall mean Kubota Tractor Corporation, 3401 Del Arno Boulevard, Torrance, CA 90503, Complainant in this investigation, and its successors and assigns.

(D) "Kubota Manufacturing of America Corporation" or "KMA" shall mean Kubota Manufacturing of America Corporation, Industrial Park North, 2715 Ramsey Road, Gainesville, Georgia 30501, Complainant in this investigation, and its successors and assigns.

(E) "Respondent" shall mean Lost Creek Tractor Sales, 1050 South Nutmeg Street, Bennett, Colorado 80102.

(F) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, their

successors, or assigns.

(G) " United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(H) The term "covered product" shall mean agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) and that are not imported by, under license from, or with the permission of the trademark owner.

II.

(Applicability)

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III.

(Conduct Prohibited)

The following conduct of Respondent in the United States is prohibited by this Order. Until the expiration or, if sooner, the abandonment, of the trademark identified in Section I(H) above, Respondent shall not:

(A) import or sell for importation into the United States covered product; or

(B) sell, market, distribute, offer for sale, or otherwise transfer (except for exportation) in the United States imported covered product.

IV.

(Conduct Permitted)

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) has licensed or authorized such specific conduct, or such specific conduct is related to the importation or sale of agricultural tractors by or for the United States.

V.

(Reporting)

For purposes of this reporting requirement, the reporting period shall commence on the first day of September, and shall end on the last day of the following August. The first report required under this section shall cover the period February 25, 1997, through August 31, 1997. This reporting requirement shall continue in force until the expiration, or, if sooner, the abandonment, of the trademark specified in Section I(H) herein unless, pursuant to subsection 0)(2) of section 337 of the Tariff Act of 1930, the President notifies the Commission within sixty (60) days after the date he receives this Order that he disapproves this Order.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission the following: the quantity in units and the value in dollars of foreign-produced covered or sold in the United States during the reporting period or that product that Respondent has imported or sold in the United States during the reporting period or that remains in inventory at the end of the period.

Any failure to make the required report shall constitute a violation of this Order.

VI.

(Recordkeeping and Inspection)

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the importation, sale, offer for sale, marketing, distribution, or otherwise transferring in the United States of imported covered product made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other record documents, both in detail and in summary form, as are required to be retained by subparagraph VI(A) of this Order.

VII.

(Service of Cease and Desist Order)

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution, or sale of imported covered product in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order had been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraph VII(B) and VII(C) shall remain in effect until the date of expiration or, if sooner, abandonment, of the trademark specified in Section I(H) herein.

VIII.

(Confidentiality)

Any request for confidential treatment of information submitted to or obtained by the Commission pursuant to Sections V and VI of the Order should be in accordance with section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6 (1996). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX.

(Enforcement)

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75 (1996), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent

if Respondent fails to provide adequate or timely information.

X.

(Modification)

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76 (1996).

XI.

(Bonding)

The conduct prohibited by Section III of this Order may be continued during the period in which this Order is under review by the President pursuant to section 3370 of the Tariff Act 1930, 19 U.S.C. § 1337(j), subject to Respondent posting a bond with the Commission in the amount of ninety (90) percent of the entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered product imported on or after February 25, 1997, is subject to the entry bond as set forth in the limited exclusion order issued by the Commission on February 25, 1997, and is not subject to this bond provision.

The bond prescribed in this section is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission rule 210.68, 19 C.F.R. § 210.68 (1996). The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order.

The bond is to be forfeited in the event that the President approves, or does not disapprove within the Presidential review period, the Commission's Orders of February 25, 1997, or any subsequent final order issued after the completion of Investigation No. 337-TA-380, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the President disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the President, upon service on Respondent of an Order issued by the Commission based upon application therefor made to the Commission.

By Order of the Commission.

Donna R. Koehnke
Secretary

Issued: February 25, 1997

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

-----)
In the Matter of)
) **Investigation No. 337-TA-380**
CERTAIN AGRICULTURAL TRACTORS)
UNDER 50 POWER TAKE-OFF)
HORSEPOWER)
-----)

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Wallace International Trading Company, 1197 Bacon Way, Lafayette, California 94549, cease and desist from importing, selling for importation into the United States, marketing, distributing, offering for sale, selling in the United States, or otherwise transferring (except for exportation) certain agricultural tractors under 50 power take-off horsepower, as described below, in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, except as provided in Section IV.

I.

(Definitions)

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Kubota Corporation" or "KBT" shall mean Kubota Corporation, 2-47 Shikitsu Higashi 1-chome, Naniwa-ku, Osaka 556, Japan, Complainant in this investigation, and its successors and assigns.

(C) "Kubota Tractor Corporation" or "KTC" shall mean Kubota Tractor Corporation, 3401 Del Arno Boulevard, Torrance, CA 90503, Complainant in this investigation, and its successors and assigns.

(D) "Kubota Manufacturing of America Corporation" or "KMA" shall mean Kubota Manufacturing of America Corporation, Industrial Park North, 2715 Ramsey Road, Gainesville, Georgia 30501, Complainant in this investigation, and its successors and assigns.

(E) "Respondent" shall mean Casteel World Group, Inc., 2896 Highway 83 North, Monticello, Arkansas 71655.

(F) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation,

or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, their successors, or assigns.

(G) " United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(H) The term "covered product" shall mean agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) and that are not imported by, under license from, or with the permission of the trademark owner.

II.

(Applicability)

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III.

(Conduct Prohibited)

The following conduct of Respondent in the United States is prohibited by this Order. Until the expiration or, if sooner, the abandonment, of the trademark identified in Section I(H) above, Respondent shall not:

(A) import or sell for importation into the United States covered product; or

(B) sell, market, distribute, offer for sale, or otherwise transfer (except for exportation) in the United States imported covered product.

IV.

(Conduct Permitted)

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) has licensed or authorized such specific conduct, or such specific conduct is related to the importation or sale of agricultural tractors by or for the United States.

V.

(Reporting)

For purposes of this reporting requirement, the reporting period shall commence on the first day of September, and shall end on the last day of the following August. The first report required under this section shall cover the period February 25, 1997, through August 31, 1997. This reporting requirement shall continue in force until the expiration, or, if sooner, the abandonment, of the trademark specified in Section I(H) herein unless, pursuant to subsection 0)(2) of section 337 of the Tariff Act of 1930, the President notifies the Commission within sixty (60) days after the date he receives this Order that he disapproves this Order.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission the following: the quantity in units and the value in dollars of foreign-produced covered or sold in the United States during the reporting period or that product that Respondent has imported or sold in the United States during the reporting period or that remains in inventory at the end of the period.

Any failure to make the required report shall constitute a violation of this Order.

VI.

(Recordkeeping and Inspection)

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the importation, sale, offer for sale, marketing, distribution, or otherwise transferring in the United States of imported covered product made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other record documents, both in detail and in summary form, as are required to be retained by subparagraph VI(A) of this Order.

VII.

(Service of Cease and Desist Order)

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution, or sale of imported covered product in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order had been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraph VII(B) and VII(C) shall remain in effect until the date of expiration or, if sooner, abandonment, of the trademark specified in Section I(H) herein.

VIII.

(Confidentiality)

Any request for confidential treatment of information submitted to or obtained by the Commission pursuant to Sections V and VI of the Order should be in accordance with section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6 (1996). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX.

(Enforcement)

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75 (1996), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent

if Respondent fails to provide adequate or timely information.

X.

(Modification)

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76 (1996).

XI.

(Bonding)

The conduct prohibited by Section III of this Order may be continued during the period in which this Order is under review by the President pursuant to section 3370 of the Tariff Act 1930, 19 U.S.C. § 1337(j), subject to Respondent posting a bond with the Commission in the amount of ninety (90) percent of the entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered product imported on or after February 25, 1997, is subject to the entry bond as set forth in the limited exclusion order issued by the Commission on February 25, 1997, and is not subject to this bond provision.

The bond prescribed in this section is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission rule 210.68, 19 C.F.R. § 210.68 (1996). The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order.

The bond is to be forfeited in the event that the President approves, or does not disapprove within the Presidential review period, the Commission's Orders of February 25, 1997, or any subsequent final order issued after the completion of Investigation No. 337-TA-380, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the President disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the President, upon service on Respondent of an Order issued by the Commission based upon application therefor made to the Commission.

By Order of the Commission.

Donna R. Koehnke
Secretary

Issued: February 25, 1997

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436**

-----)
In the Matter of)
) **Investigation No. 337-TA-380**
CERTAIN AGRICULTURAL TRACTORS)
UNDER 50 POWER TAKE-OFF)
HORSEPOWER)
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ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Wallace International Trading Company, 1197 Bacon Way, Lafayette, California 94549, cease and desist from importing, selling for importation into the United States, marketing, distributing, offering for sale, selling in the United States, or otherwise transferring (except for exportation) certain agricultural tractors under 50 power take-off horsepower, as described below, in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, except as provided in Section IV.

I.

(Definitions)

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Kubota Corporation" or "KBT" shall mean Kubota Corporation, 2-47 Shikitsu Higashi 1-chome, Naniwa-ku, Osaka 556, Japan, Complainant in this investigation, and its successors and assigns.

(C) "Kubota Tractor Corporation" or "KTC" shall mean Kubota Tractor Corporation, 3401 Del Arno Boulevard, Torrance, CA 90503, Complainant in this investigation, and its successors and assigns.

(D) "Kubota Manufacturing of America Corporation" or "KMA" shall mean Kubota Manufacturing of America Corporation, Industrial Park North, 2715 Ramsey Road, Gainesville, Georgia 30501, Complainant in this investigation, and its successors and assigns.

(E) "Respondent" shall mean Bay Implement Company, P.O. Box 2001, Red Bay, Alabama 35582.

(F) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, their

successors, or assigns.

(G) " United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(H) The term "covered product" shall mean agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) and that are not imported by, under license from, or with the permission of the trademark owner.

II.

(Applicability)

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III.

(Conduct Prohibited)

The following conduct of Respondent in the United States is prohibited by this Order. Until the expiration or, if sooner, the abandonment, of the trademark identified in Section I(H) above, Respondent shall not:

(A) import or sell for importation into the United States covered product; or

(B) sell, market, distribute, offer for sale, or otherwise transfer (except for exportation) in the United States imported covered product.

IV.

(Conduct Permitted)

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) has licensed or authorized such specific conduct, or such specific conduct is related to the importation or sale of agricultural tractors by or for the United States.

V.

(Reporting)

For purposes of this reporting requirement, the reporting period shall commence on the first day of September, and shall end on the last day of the following August. The first report required under this section shall cover the period February 25, 1997, through August 31, 1997. This reporting requirement shall continue in force until the expiration, or, if sooner, the abandonment, of the trademark specified in Section I(H) herein unless, pursuant to subsection 0)(2) of section 337 of the Tariff Act of 1930, the President notifies the Commission within sixty (60) days after the date he receives this Order that he disapproves this Order.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission the following: the quantity in units and the value in dollars of foreign-produced covered or sold in the United States during the reporting period or that product that Respondent has imported or sold in the United States during the reporting period or that remains in inventory at the end of the period.

Any failure to make the required report shall constitute a violation of this Order.

VI.

(Recordkeeping and Inspection)

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the importation, sale, offer for sale, marketing, distribution, or otherwise transferring in the United States of imported covered product made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other record documents, both in detail and in summary form, as are required to be retained by subparagraph VI(A) of this Order.

VII.

(Service of Cease and Desist Order)

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution, or sale of imported covered product in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order had been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraph VII(B) and VII(C) shall remain in effect until the date of expiration or, if sooner, abandonment, of the trademark specified in Section I(H) herein.

VIII.

(Confidentiality)

Any request for confidential treatment of information submitted to or obtained by the Commission pursuant to Sections V and VI of the Order should be in accordance with section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6 (1996). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX.

(Enforcement)

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75 (1996), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent

if Respondent fails to provide adequate or timely information.

X.

(Modification)

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76 (1996).

XI.

(Bonding)

The conduct prohibited by Section III of this Order may be continued during the period in which this Order is under review by the President pursuant to section 3370 of the Tariff Act 1930, 19 U.S.C. § 1337(j), subject to Respondent posting a bond with the Commission in the amount of ninety (90) percent of the entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered product imported on or after February 25, 1997, is subject to the entry bond as set forth in the limited exclusion order issued by the Commission on February 25, 1997, and is not subject to this bond provision.

The bond prescribed in this section is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission rule 210.68, 19 C.F.R. § 210.68 (1996). The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order.

The bond is to be forfeited in the event that the President approves, or does not disapprove within the Presidential review period, the Commission's Orders of February 25, 1997, or any subsequent final order issued after the completion of Investigation No. 337-TA-380, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the President disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the President, upon service on Respondent of an Order issued by the Commission based upon application therefor made to the Commission.

By Order of the Commission.

Donna R. Koehnke
Secretary

Issued: February 25, 1997

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436**

-----)
In the Matter of)
) **Investigation No. 337-TA-380**
CERTAIN AGRICULTURAL TRACTORS)
UNDER 50 POWER TAKE-OFF)
HORSEPOWER)
-----)

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Wallace International Trading Company, 1197 Bacon Way, Lafayette, California 94549, cease and desist from importing, selling for importation into the United States, marketing, distributing, offering for sale, selling in the United States, or otherwise transferring (except for exportation) certain agricultural tractors under 50 power take-off horsepower, as described below, in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, except as provided in Section IV.

I.

(Definitions)

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Kubota Corporation" or "KBT" shall mean Kubota Corporation, 2-47 Shikitsu Higashi 1-chome, Naniwa-ku, Osaka 556, Japan, Complainant in this investigation, and its successors and assigns.

(C) "Kubota Tractor Corporation" or "KTC" shall mean Kubota Tractor Corporation, 3401 Del Arno Boulevard, Torrance, CA 90503, Complainant in this investigation, and its successors and assigns.

(D) "Kubota Manufacturing of America Corporation" or "KMA" shall mean Kubota Manufacturing of America Corporation, Industrial Park North, 2715 Ramsey Road, Gainesville, Georgia 30501, Complainant in this investigation, and its successors and assigns.

(E) "Respondent" shall mean Casteel Farm Implement Company, 107 Highway 425 South, Monticello, Arkansas 71655.

(F) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation,

or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, their successors, or assigns.

(G) " United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(H) The term "covered product" shall mean agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) and that are not imported by, under license from, or with the permission of the trademark owner.

II.

(Applicability)

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III.

(Conduct Prohibited)

The following conduct of Respondent in the United States is prohibited by this Order. Until the expiration or, if sooner, the abandonment, of the trademark identified in Section I(H) above, Respondent shall not:

(A) import or sell for importation into the United States covered product; or

(B) sell, market, distribute, offer for sale, or otherwise transfer (except for exportation) in the United States imported covered product.

IV.

(Conduct Permitted)

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) has licensed or authorized such specific conduct, or such specific conduct is related to the importation or sale of agricultural tractors by or for the United States.

V.

(Reporting)

For purposes of this reporting requirement, the reporting period shall commence on the first day of September, and shall end on the last day of the following August. The first report required under this section shall cover the period February 25, 1997, through August 31, 1997. This reporting requirement shall continue in force until the expiration, or, if sooner, the abandonment, of the trademark specified in Section I(H) herein unless, pursuant to subsection 0)(2) of section 337 of the Tariff Act of 1930, the President notifies the Commission within sixty (60) days after the date he receives this Order that he disapproves this Order.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission the following: the quantity in units and the value in dollars of foreign-produced covered or sold in the United States during the reporting period or that product that Respondent has imported or sold in the United States during the reporting period or that remains in inventory at the end of the period.

Any failure to make the required report shall constitute a violation of this Order.

VI.

(Recordkeeping and Inspection)

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the importation, sale, offer for sale, marketing, distribution, or otherwise transferring in the United States of imported covered product made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other record documents, both in detail and in summary form, as are required to be retained by subparagraph VI(A) of this Order.

VII.

(Service of Cease and Desist Order)

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution, or sale of imported covered product in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order had been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraph VII(B) and VII(C) shall remain in effect until the date of expiration or, if sooner, abandonment, of the trademark specified in Section I(H) herein.

VIII.

(Confidentiality)

Any request for confidential treatment of information submitted to or obtained by the Commission pursuant to Sections V and VI of the Order should be in accordance with section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6 (1996). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX.

(Enforcement)

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75 (1996), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent

if Respondent fails to provide adequate or timely information.

X.

(Modification)

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76 (1996).

XI.

(Bonding)

The conduct prohibited by Section III of this Order may be continued during the period in which this Order is under review by the President pursuant to section 3370 of the Tariff Act 1930, 19 U.S.C. § 1337(j), subject to Respondent posting a bond with the Commission in the amount of ninety (90) percent of the entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered product imported on or after February 25, 1997, is subject to the entry bond as set forth in the limited exclusion order issued by the Commission on February 25, 1997, and is not subject to this bond provision.

The bond prescribed in this section is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission rule 210.68, 19 C.F.R. § 210.68 (1996). The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order.

The bond is to be forfeited in the event that the President approves, or does not disapprove within the Presidential review period, the Commission's Orders of February 25, 1997, or any subsequent final order issued after the completion of Investigation No. 337-TA-380, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the President disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the President, upon service on Respondent of an Order issued by the Commission based upon application therefor made to the Commission.

By Order of the Commission.

Donna R. Koehnke
Secretary

Issued: February 25, 1997

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436**

-----)
In the Matter of)
) **Investigation No. 337-TA-380**
CERTAIN AGRICULTURAL TRACTORS)
UNDER 50 POWER TAKE-OFF)
HORSEPOWER)
-----)

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Wallace International Trading Company, 1197 Bacon Way, Lafayette, California 94549, cease and desist from importing, selling for importation into the United States, marketing, distributing, offering for sale, selling in the United States, or otherwise transferring (except for exportation) certain agricultural tractors under 50 power take-off horsepower, as described below, in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, except as provided in Section IV.

I.

(Definitions)

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Kubota Corporation" or "KBT" shall mean Kubota Corporation, 2-47 Shikitsu Higashi 1-chome, Naniwa-ku, Osaka 556, Japan, Complainant in this investigation, and its successors and assigns.

(C) "Kubota Tractor Corporation" or "KTC" shall mean Kubota Tractor Corporation, 3401 Del Arno Boulevard, Torrance, CA 90503, Complainant in this investigation, and its successors and assigns.

(D) "Kubota Manufacturing of America Corporation" or "KMA" shall mean Kubota Manufacturing of America Corporation, Industrial Park North, 2715 Ramsey Road, Gainesville, Georgia 30501, Complainant in this investigation, and its successors and assigns.

(E) "Respondent" shall mean Gamut Trading Company, Inc., 13450 Nomwaket Road, Apple Valley, California 92308.

(F) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation,

or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, their successors, or assigns.

(G) " United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(H) The term "covered product" shall mean agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) and that are not imported by, under license from, or with the permission of the trademark owner.

II.

(Applicability)

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III.

(Conduct Prohibited)

The following conduct of Respondent in the United States is prohibited by this Order. Until the expiration or, if sooner, the abandonment, of the trademark identified in Section I(H) above, Respondent shall not:

(A) import or sell for importation into the United States covered product; or

(B) sell, market, distribute, offer for sale, or otherwise transfer (except for exportation) in the United States imported covered product.

IV.

(Conduct Permitted)

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) has licensed or authorized such specific conduct, or such specific conduct is related to the importation or sale of agricultural tractors by or for the United States.

V.

(Reporting)

For purposes of this reporting requirement, the reporting period shall commence on the first day of September, and shall end on the last day of the following August. The first report required under this section shall cover the period February 25, 1997, through August 31, 1997. This reporting requirement shall continue in force until the expiration, or, if sooner, the abandonment, of the trademark specified in Section I(H) herein unless, pursuant to subsection 0)(2) of section 337 of the Tariff Act of 1930, the President notifies the Commission within sixty (60) days after the date he receives this Order that he disapproves this Order.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission the following: the quantity in units and the value in dollars of foreign-produced covered or sold in the United States during the reporting period or that product that Respondent has imported or sold in the United States during the reporting period or that remains in inventory at the end of the period.

Any failure to make the required report shall constitute a violation of this Order.

VI.

(Recordkeeping and Inspection)

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the importation, sale, offer for sale, marketing, distribution, or otherwise transferring in the United States of imported covered product made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other record documents, both in detail and in summary form, as are required to be retained by subparagraph VI(A) of this Order.

VII.

(Service of Cease and Desist Order)

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution, or sale of imported covered product in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order had been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraph VII(B) and VII(C) shall remain in effect until the date of expiration or, if sooner, abandonment, of the trademark specified in Section I(H) herein.

VIII.

(Confidentiality)

Any request for confidential treatment of information submitted to or obtained by the Commission pursuant to Sections V and VI of the Order should be in accordance with section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6 (1996). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX.

(Enforcement)

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75 (1996), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent

if Respondent fails to provide adequate or timely information.

X.

(Modification)

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76 (1996).

XI.

(Bonding)

The conduct prohibited by Section III of this Order may be continued during the period in which this Order is under review by the President pursuant to section 3370 of the Tariff Act 1930, 19 U.S.C. § 1337(j), subject to Respondent posting a bond with the Commission in the amount of ninety (90) percent of the entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered product imported on or after February 25, 1997, is subject to the entry bond as set forth in the limited exclusion order issued by the Commission on February 25, 1997, and is not subject to this bond provision.

The bond prescribed in this section is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission rule 210.68, 19 C.F.R. § 210.68 (1996). The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order.

The bond is to be forfeited in the event that the President approves, or does not disapprove within the Presidential review period, the Commission's Orders of February 25, 1997, or any subsequent final order issued after the completion of Investigation No. 337-TA-380, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the President disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the President, upon service on Respondent of an Order issued by the Commission based upon application therefor made to the Commission.

By Order of the Commission.

Donna R. Koehnke
Secretary

Issued: February 25, 1997

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436**

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In the Matter of)
) **Investigation No. 337-TA-380**
CERTAIN AGRICULTURAL TRACTORS)
UNDER 50 POWER TAKE-OFF)
HORSEPOWER)
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ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Wallace International Trading Company, 1197 Bacon Way, Lafayette, California 94549, cease and desist from importing, selling for importation into the United States, marketing, distributing, offering for sale, selling in the United States, or otherwise transferring (except for exportation) certain agricultural tractors under 50 power take-off horsepower, as described below, in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, except as provided in Section IV.

I.

(Definitions)

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Kubota Corporation" or "KBT" shall mean Kubota Corporation, 2-47 Shikitsuhashi 1-chome, Naniwa-ku, Osaka 556, Japan, Complainant in this investigation, and its successors and assigns.

(C) "Kubota Tractor Corporation" or "KTC" shall mean Kubota Tractor Corporation, 3401 Del Arno Boulevard, Torrance, CA 90503, Complainant in this investigation, and its successors and assigns.

(D) "Kubota Manufacturing of America Corporation" or "KMA" shall mean Kubota Manufacturing of America Corporation, Industrial Park North, 2715 Ramsey Road, Gainesville, Georgia 30501, Complainant in this investigation, and its successors and assigns.

(E) "Respondent" shall mean The Tractor Shop, 1804 Azalea, Wiggins, Mississippi 39577.

(F) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, their

successors, or assigns.

(G) " United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(H) The term "covered product" shall mean agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) and that are not imported by, under license from, or with the permission of the trademark owner.

II.

(Applicability)

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III.

(Conduct Prohibited)

The following conduct of Respondent in the United States is prohibited by this Order. Until the expiration or, if sooner, the abandonment, of the trademark identified in Section I(H) above, Respondent shall not:

(A) import or sell for importation into the United States covered product; or

(B) sell, market, distribute, offer for sale, or otherwise transfer (except for exportation) in the United States imported covered product.

IV.

(Conduct Permitted)

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) has licensed or authorized such specific conduct, or such specific conduct is related to the importation or sale of agricultural tractors by or for the United States.

V.

(Reporting)

For purposes of this reporting requirement, the reporting period shall commence on the first day of September, and shall end on the last day of the following August. The first report required under this section shall cover the period February 25, 1997, through August 31, 1997. This reporting requirement shall continue in force until the expiration, or, if sooner, the abandonment, of the trademark specified in Section I(H) herein unless, pursuant to subsection 0)(2) of section 337 of the Tariff Act of 1930, the President notifies the Commission within sixty (60) days after the date he receives this Order that he disapproves this Order.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission the following: the quantity in units and the value in dollars of foreign-produced covered or sold in the United States during the reporting period or that product that Respondent has imported or sold in the United States during the reporting period or that remains in inventory at the end of the period.

Any failure to make the required report shall constitute a violation of this Order.

VI.

(Recordkeeping and Inspection)

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the importation, sale, offer for sale, marketing, distribution, or otherwise transferring in the United States of imported covered product made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other record documents, both in detail and in summary form, as are required to be retained by subparagraph VI(A) of this Order.

VII.

(Service of Cease and Desist Order)

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution, or sale of imported covered product in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order had been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraph VII(B) and VII(C) shall remain in effect until the date of expiration or, if sooner, abandonment, of the trademark specified in Section I(H) herein.

VIII.

(Confidentiality)

Any request for confidential treatment of information submitted to or obtained by the Commission pursuant to Sections V and VI of the Order should be in accordance with section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6 (1996). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX.

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Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75 (1996), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent

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X.

(Modification)

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76 (1996).

XI.

(Bonding)

The conduct prohibited by Section III of this Order may be continued during the period in which this Order is under review by the President pursuant to section 3370 of the Tariff Act 1930, 19 U.S.C. § 1337(j), subject to Respondent posting a bond with the Commission in the amount of ninety (90) percent of the entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered product imported on or after February 25, 1997, is subject to the entry bond as set forth in the limited exclusion order issued by the Commission on February 25, 1997, and is not subject to this bond provision.

The bond prescribed in this section is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission rule 210.68, 19 C.F.R. § 210.68 (1996). The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order.

The bond is to be forfeited in the event that the President approves, or does not disapprove within the Presidential review period, the Commission's Orders of February 25, 1997, or any subsequent final order issued after the completion of Investigation No. 337-TA-380, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the President disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the President, upon service on Respondent of an Order issued by the Commission based upon application therefor made to the Commission.

By Order of the Commission.

Donna R. Koehnke
Secretary

Issued: February 25, 1997

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

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In the Matter of)
) **Investigation No. 337-TA-380**
CERTAIN AGRICULTURAL TRACTORS)
UNDER 50 POWER TAKE-OFF)
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ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Wallace International Trading Company, 1197 Bacon Way, Lafayette, California 94549, cease and desist from importing, selling for importation into the United States, marketing, distributing, offering for sale, selling in the United States, or otherwise transferring (except for exportation) certain agricultural tractors under 50 power take-off horsepower, as described below, in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, except as provided in Section IV.

I.

(Definitions)

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Kubota Corporation" or "KBT" shall mean Kubota Corporation, 2-47 Shikitsu Higashi 1-chome, Naniwa-ku, Osaka 556, Japan, Complainant in this investigation, and its successors and assigns.

(C) "Kubota Tractor Corporation" or "KTC" shall mean Kubota Tractor Corporation, 3401 Del Arno Boulevard, Torrance, CA 90503, Complainant in this investigation, and its successors and assigns.

(D) "Kubota Manufacturing of America Corporation" or "KMA" shall mean Kubota Manufacturing of America Corporation, Industrial Park North, 2715 Ramsey Road, Gainesville, Georgia 30501, Complainant in this investigation, and its successors and assigns.

(E) "Respondent" shall mean Casteel Farm Implement Company, 4110 Highway 65 South, Pine Bluff, Arkansas 71601.

(F) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation,

or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, their successors, or assigns.

(G) " United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(H) The term "covered product" shall mean agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) and that are not imported by, under license from, or with the permission of the trademark owner.

II.

(Applicability)

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III.

(Conduct Prohibited)

The following conduct of Respondent in the United States is prohibited by this Order. Until the expiration or, if sooner, the abandonment, of the trademark identified in Section I(H) above, Respondent shall not:

(A) import or sell for importation into the United States covered product; or

(B) sell, market, distribute, offer for sale, or otherwise transfer (except for exportation) in the United States imported covered product.

IV.

(Conduct Permitted)

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330) has licensed or authorized such specific conduct, or such specific conduct is related to the importation or sale of agricultural tractors by or for the United States.

V.

(Reporting)

For purposes of this reporting requirement, the reporting period shall commence on the first day of September, and shall end on the last day of the following August. The first report required under this section shall cover the period February 25, 1997, through August 31, 1997. This reporting requirement shall continue in force until the expiration, or, if sooner, the abandonment, of the trademark specified in Section I(H) herein unless, pursuant to subsection 0)(2) of section 337 of the Tariff Act of 1930, the President notifies the Commission within sixty (60) days after the date he receives this Order that he disapproves this Order.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission the following: the quantity in units and the value in dollars of foreign-produced covered or sold in the United States during the reporting period or that product that Respondent has imported or sold in the United States during the reporting period or that remains in inventory at the end of the period.

Any failure to make the required report shall constitute a violation of this Order.

VI.

(Recordkeeping and Inspection)

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the importation, sale, offer for sale, marketing, distribution, or otherwise transferring in the United States of imported covered product made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other record documents, both in detail and in summary form, as are required to be retained by subparagraph VI(A) of this Order.

VII.

(Service of Cease and Desist Order)

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the marketing, distribution, or sale of imported covered product in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order had been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraph VII(B) and VII(C) shall remain in effect until the date of expiration or, if sooner, abandonment, of the trademark specified in Section I(H) herein.

VIII.

(Confidentiality)

Any request for confidential treatment of information submitted to or obtained by the Commission pursuant to Sections V and VI of the Order should be in accordance with section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6 (1996). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX.

(Enforcement)

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75 (1996), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent

if Respondent fails to provide adequate or timely information.

X.

(Modification)

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76 (1996).

XI.

(Bonding)

The conduct prohibited by Section III of this Order may be continued during the period in which this Order is under review by the President pursuant to section 3370 of the Tariff Act 1930, 19 U.S.C. § 1337(j), subject to Respondent posting a bond with the Commission in the amount of ninety (90) percent of the entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered product imported on or after February 25, 1997, is subject to the entry bond as set forth in the limited exclusion order issued by the Commission on February 25, 1997, and is not subject to this bond provision.

The bond prescribed in this section is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission rule 210.68, 19 C.F.R. § 210.68 (1996). The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order.

The bond is to be forfeited in the event that the President approves, or does not disapprove within the Presidential review period, the Commission's Orders of February 25, 1997, or any subsequent final order issued after the completion of Investigation No. 337-TA-380, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the President disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the President, upon service on Respondent of an Order issued by the Commission based upon application therefor made to the Commission.

By Order of the Commission.

Donna R. Koehnke
Secretary

Issued: February 25, 1997