



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

September 14, 2021

VIA EMAIL ONLY

Mr. David Stellato
U.S. Agent for Current Trend Products, Ltd.
Quality Performance Limited Corporation
377 Valley Road, # 1123
Clifton, New Jersey 07013

david.stellato@dfo.global

Consent Agreement and Final Order
In the Matter of Current Trend Products, Ltd. in care of its U.S. Agent,
Quality Performance Limited, Docket Number **FIFRA-05-2021-0026**

Mr. Stellato:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. This document was filed on September 14, 2021 with the Regional Hearing Clerk.

The civil penalty in the amount of \$44,500.00 is to be paid in the manner described in paragraphs 52-53 of the CAFO.

Thank you for your cooperation in resolving this matter.

Sincerely,

**ABIGAIL
WESLEY**

Digitally signed by
ABIGAIL WESLEY
Date: 2021.09.07
08:07:33 -05'00'

Abigail Wesley
Enforcement Officer
Pesticides and Toxics Compliance Section

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. FIFRA-05-2021-0026
)	
Current Trend Products, Ltd.)	Proceeding to Assess a Civil Penalty
Hong Kong)	Under Section 14(a) of the
)	Insecticide, Fungicide, and
in care of its U.S. Agent,)	Rodenticide Act, 7 U.S.C. § 136l(a)
)	
Quality Performance Limited)	
Corporation)	
Clifton, New Jersey)	
)	
Respondent.)	
)	

Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Current Trend Products, Ltd. (Current Trend), a corporation doing business at 402-6 Hennessy Rd., Hong Kong, in care of its U.S. Agent, Quality Performance Limited Corporation, a corporation with a place of business located in Clifton, New Jersey.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

9. Respondent certifies that it is complying with FIFRA, 7 U.S.C. §§ 136 to 136y.

Statutory and Regulatory Background

10. The importation of pesticides into the United States is governed by Sections 17(c) and (e) of FIFRA, 7 U.S.C. §§ 136o(c) and 136o(e), and the regulations promulgated thereunder by the Secretary of the Treasury in consultation with the Administrator of EPA. These regulations are found at 19 C.F.R. Part 12.110 *et seq.* See also 19 C.F.R. § 12.1(b).

11. The regulation at 19 C.F.R. § 12.111 states in pertinent part that imported devices must not bear any statement, design, or graphic representation that is false or misleading in any particular.

12. The regulation at 19 C.F.R. § 12.112(a) states in pertinent part that an importer desiring to import devices into the United States shall submit to the EPA, prior to the arrival of the shipment in the United States, a Notice of Arrival of Pesticides or Devices (NOA) on U.S. EPA Form 3540-1.

13. The regulation at 19 C.F.R. § 141.18 states, in pertinent part, that a nonresident corporation may not enter merchandise into the United States for consumption unless it has a resident agent authorized to accept service of process against the nonresident corporation.

14. The term “importer” is defined at 19 C.F.R. § 101.1 as the person primarily liable for the payment of any duties on the merchandise, or an authorized agent acting on his behalf. The importer may be the importer of record.

15. The term “to distribute or sell” is defined in Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), as “to distribute, sell, offer for sale, hold for distribution, hold for shipment, or receive and (having so received) deliver or offer to deliver.”

16. Section 12(a)(1)(F) of FIFRA, 7 U.S.C. § 136j(a)(1)(F), states that it shall be unlawful for any person in any State to distribute or sell to any person any device which is misbranded.

17. Section 2(q)(1)(A), 7 U.S.C. § 136(q)(1)(A), defines the term “misbranded” as labeling bearing any statement which is false or misleading in any particular.

18. The regulation at 40 C.F.R. § 156.10(a)(5) states in pertinent part that, pursuant to Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A), a device that is subject to FIFRA pursuant to 40 C.F.R. § 152.500 is misbranded if its labeling is false or misleading in any particular. Statements on a device’s labeling that are considered false or misleading include false or misleading comparisons with other pesticides or devices; and claims about the safety of the device, including statements such as “safe,” “nonpoisonous,” “non-injurious,” “harmless” or “nontoxic to humans and pets” with or without such a qualifying phrase as “when used as directed.” 40 C.F.R. § 156.10(a)(5)(iv) and (ix).

19. The regulation at 40 C.F.R. § 152.500 sets forth the requirements for devices under FIFRA.

20. The term “device” is defined at Section 2(h) of FIFRA, 7 U.S.C. § 136(h), as any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.

21. The term “pest” is defined at Section 2(t) of FIFRA, 7 U.S.C. § 136(t), as (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator of EPA declares to be a pest under FIFRA. See also 40 C.F.R. § 152.5(d).

22. The term “pesticide” is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), to include any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

23. The term “person” is defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s), as any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

Factual Allegations and Alleged Violations

24. Respondent is, and was at all times relevant to this CAFO, a corporation and, therefore, is a “person” as that term is defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

25. Respondent is, and was at all times relevant to this CAFO, an “importer” as that term is defined in 19 C.F.R. § 101.1.

26. Quality Performance Limited, located at 19 Faber Place, Nutley Town, New Jersey 07110, is the resident agent for Current Trend pursuant to 19 C.F.R. § 141.18.

27. At all times relevant to this CAFO, Respondent was importing one or more devices into the United States.

28. **Buzz B-Gone** is a pesticide device as defined by FIFRA and its regulations.

29. Current Trend imported 7,000 units of a device, **Buzz B-Gone**, from China to the United States (Entry No. INL-00733045), which arrived in the United States through the Port of Chicago on or about June 13, 2021.

30. Current Trend also imported 4,000 units of a device, **Buzz B-Gone**, from China to the United States (Entry No. INL-00759453), which arrived in the United States through the Port of Chicago on or about June 20, 2021.

31. Current Trend also imported 12,500 units of a device, **Buzz B-Gone**, from China to the United States (Entry No. INL-00759446), which arrived in the United States through the Port of Chicago on or about June 27, 2021.

32. Current Trend also imported 25,000 units of a device, **Buzz B-Gone**, from China to the United States (Entry No. INL-00747391), which arrived in the United States through the Port of Chicago on or about July 2, 2021.

33. Current Trend also imported 15,000 units of a device, **Buzz B-Gone**, from China to the United States (Entry No. INL-00746716), which arrived in the United States through the Port of Chicago on or about July 12, 2021.

34. At the time of each import shipment identified above, the labeling for **Buzz B-Gone** included the statements “Safe for Kids,” “No chemicals or sprays,” and “Rather than relying on poisonous chemicals, Buzz B-Gone Zap uses purple LEDs to lure mosquitoes...”

35. At the time of each import shipment identified above, the device **Buzz B-Gone** was misbranded because its labeling was false or misleading, as the labeling included a claim as

to the safety of the device, and included false or misleading comparisons with other pesticides or devices.

36. Under U.S. Customs and Border Protection (CBP) procedures, imported merchandise for which EPA requests an “Intensive” status will result in an “Intensive Exam” message from CBP being sent to the Port Authority, directing that the merchandise at issue be delivered to a designated examination facility or site for actual physical examination. Merchandise so directed remains in CBP custody and may only be moved under bond.

37. On or about July 16, 2021, EPA requested that U.S. Customs and Border Protection (CBP) at the Port of Chicago to place an “Intensive” status on the subject import shipment described by the NOA for Entry Number INL-00746716, and that the shipment be held for examination by EPA, alleging that the labeling of **Buzz B-Gone** was false or misleading and therefore misbranded.

38. On or about July 16, 2021, EPA requested that CBP at the Port of Chicago to place an Intensive status on the subject import shipment described by the NOA for Entry Number INL-00747391, and that the shipment be held for examination by EPA, alleging that the labeling of **Buzz B-Gone** was false or misleading and therefore misbranded.

39. On or about July 21, 2021, EPA requested that CBP at the Port of Chicago to place an Intensive status on the subject import shipment described by the NOA for Entry Number INL-00733045, and that the shipment be held for examination by EPA, alleging that the labeling of **Buzz B-Gone** was false or misleading and therefore misbranded.

40. On or about July 26, 2021, EPA requested that CBP at the Port of Chicago to place an Intensive status on the subject import shipment described by the NOA for Entry Number INL-00759446, and that the shipment be held for examination by EPA, alleging that the labeling of **Buzz B-Gone** was false or misleading and therefore misbranded.

41. On or about July 26, 2021, EPA requested that CBP at the Port of Chicago to place an Intensive status on the subject import shipment described by the NOA for Entry Number INL-00759453, and that the shipment be held for examination by EPA, alleging that the labeling of **Buzz B-Gone** was false or misleading and therefore misbranded.

42. On or about August 9, 2021, EPA inspected the import shipments of **Buzz B-Gone** described above at a Central Examination Station in Bensenville, Illinois. Following the inspection, EPA determined that the labeling for the units of **Buzz B-Gone** were false and misleading as described above, and that the devices were therefore misbranded within the meaning of 40 C.F.R. § 156.10(a)(5) and Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A).

43. According to the electronic filing for Entry Numbers INL-003733045, INL-00746716, INL-00747391 and INL-00759453, the units of **Buzz B-Gone** in the four shipments described above, were to be delivered to Thinknix Enterprises Limited, located in Middletown, Delaware. According to the electronic filing for Entry Number INL-00759446, the units of **Buzz B-Gone** in the shipment described above, was to be delivered to Swan Packaging Fulfillment, located in Wayne, New Jersey. These units of **Buzz B-Gone** were being held for distribution/shipment and were offered for delivery, and therefore were “distributed or sold” within the meaning of Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg).

44. Section 12(a)(1)(F) of FIFRA, 7 U.S.C. § 136j(a)(1)(F), makes it unlawful for any person in any State to distribute or sell to any person any device which is misbranded.

Counts 1-5

45. The preceding paragraphs are incorporated by reference.

46. All the units in each of the five import shipments of **Buzz B-Gone** described above were misbranded, because the labeling on each of the units included false and misleading

comparisons with other pesticides or devices. 40 C.F.R. § 156.10(a)(5)(iv) and Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A).

47. All the units in each of the five import shipments of **Buzz B-Gone** described above were misbranded, because the labeling on each of the units included false and misleading claims about the safety of the device. 40 C.F.R. § 156.10(a)(5)(ix) and Section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A).

48. Each of the five import shipments of **Buzz B-Gone** described above constituted the distribution or sale of a misbranded pesticide device in violations of Section 12(a)(1)(F) of FIFRA, 7 U.S.C. § 136j(a)(1)(F).

49. Respondent's five violations of Section 12(a)(1)(F) of FIFRA subject Respondent to the issuance of an Administrative Complaint assessing a separate civil penalty under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), for each of the five violations.

Civil Penalty and Other Relief

50. Respondent is a wholesaler, dealer, retailer or other distributor within the meaning of Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1).

51. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the Administrator to consider the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation, when assessing an administrative penalty under FIFRA.

52. Based on an evaluation of the facts alleged in this CAFO, the factors in Section 14(a)(4) of FIFRA and EPA's Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act, dated December 2009, Complainant has determined the appropriate penalty to settle this action is \$44,500 (\$8,900 for each of the five violations).

53. Within thirty (30) days after the effective date of this CAFO, Respondent must pay a \$44,500 civil penalty for the FIFRA violations. Respondent must pay the penalty by electronic funds transfer, payable to the “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
“D 68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state “Current Trend Products, Ltd., in care of its U.S. Agent Quality Performance Limited,” and the docket number of this CAFO.

Respondent must send a notice of payment that states Respondent’s name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
whitehead.ladawn@epa.gov

Abigail Wesley (ECP-17J)
wesley.abigail@epa.gov

James J. Cha (C-14J)
cha.james@epa.gov

54. This civil penalty is not deductible for federal tax purposes.

55. If Respondent does not pay the civil penalty in a timely manner, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

56. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment

was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

57. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses for their respective attorneys/representatives: cha.james@epa.gov (for Complainant), and david.stellato@dfo.global (for Respondent).

58. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in this CAFO.

59. This CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

60. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state, and local laws.

61. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for FIFRA.

62. The terms of this CAFO bind Respondent, its successors, and assigns.

63. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

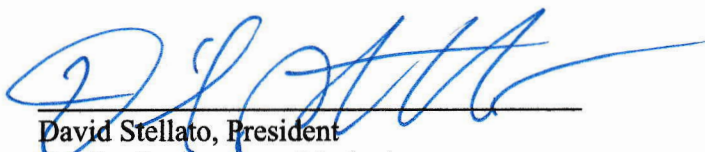
64. Each party agrees to bear its own costs and attorney's fees, in this action.

65. This CAFO constitutes the entire agreement between the parties.

**In the Matter of:
Current Trend Products, Ltd., in care of its U.S. Agent Quality Performance Limited,**

**Current Trend Products, Ltd., in care of its U.S. Agent Quality Performance Limited,
Respondent**

9/2/2021
Date



David Stellato, President
Quality Performance Limited
U.S. Agent for Current Trend Products, Ltd.

**In the Matter of:
Current Trend Products, Ltd., in care of its U.S. Agent Quality Performance Limited**

United States Environmental Protection Agency, Complainant

**Harris,
Michael**

Digitally signed by Harris,
Michael
Date: 2021.09.13
12:30:35 -05'00'

Michael D. Harris, Director
Enforcement & Compliance Assurance Division

**In the Matter of:
Current Trend Products, Ltd., in care of its U.S. Agent Quality Performance Limited,
Docket No. FIFRA-05-2021-0026**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

ANN COYLE Digitally signed by ANN
COYLE
Date: 2021.09.13
15:42:29 -05'00'

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order

In the Matter of: Current Trend Products, Ltd. in care of its U.S. Agent Quality Performance Limited
Docket Number: **FIFRA-05-2021-0026**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number FIFRA-05-2021-0026, which was filed on September 14, 2021, in the following manner to the following addressees:

Copy by E-mail to
Attorney for Complainant: Mr. James Cha
cha.james@epa.gov

Copy by E-mail to
Respondent and Attorney
for Respondent: Mr. David Stellato
david.stellato@dfo.global

Ms. Alena A. Eckhardt
alena@tradelawcounsel.com

Copy by E-mail to
Regional Judicial Officer: Ms. Ann Coyle
coyle.ann@epa.gov

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5