

ZEN-NOH and Kubota: A Partnership



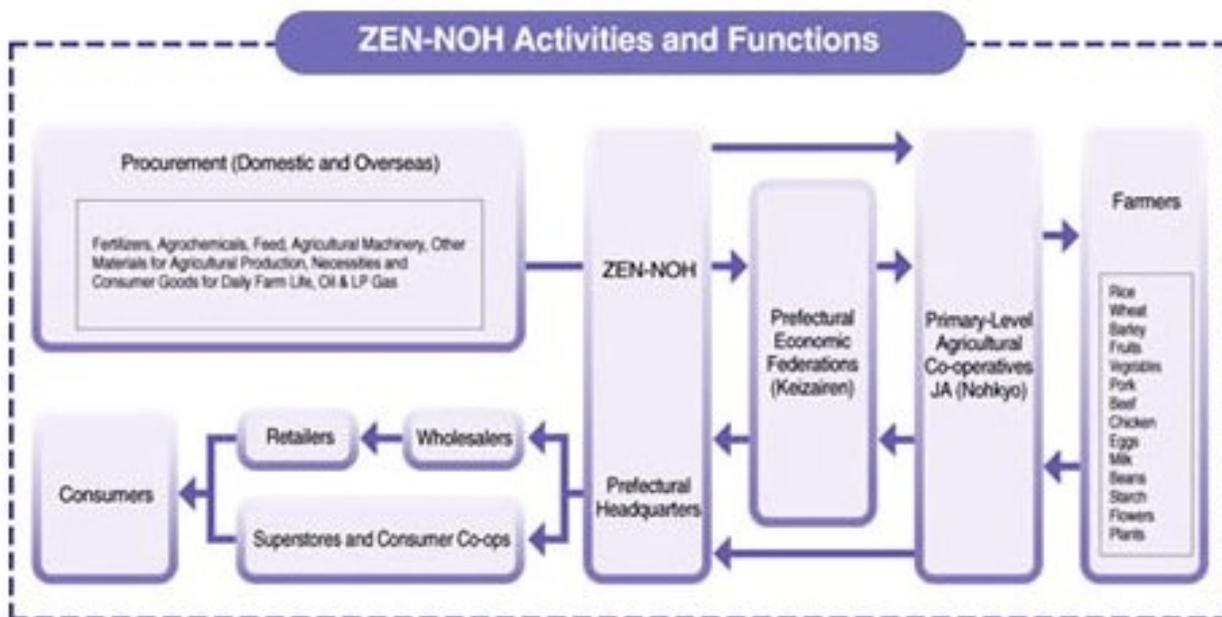
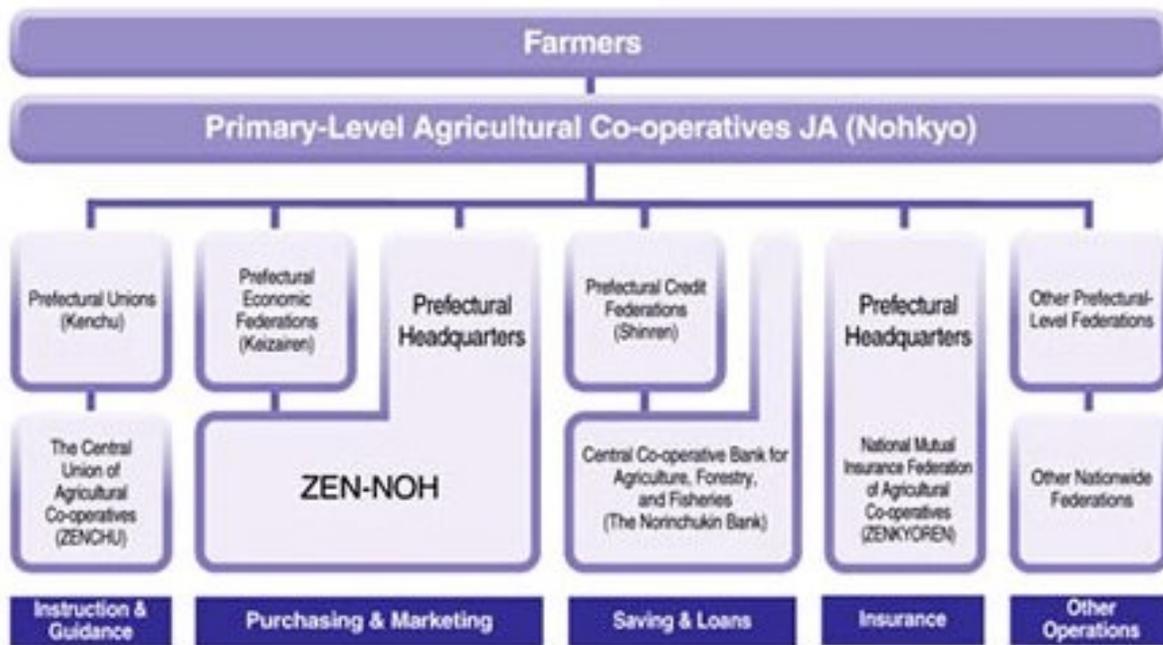
A Kubota Z11500

Here is an article that attempts to clear some confusion surrounding ZEN-NOH tractors. Anyone familiar with direct import Japanese Domestic Market (JDM) Kubota tractors is familiar with the name ZEN-NOH, or sometimes written as Zennoh or Zen-Noh. Exact semantics aside, many have seen the name adorn the side panels and hoods of what look like normal Kubota tractors. Before we get into a lesson on ZEN-NOH, I'll tell you what ZEN-NOH is not – it is not a tractor brand name!

What is ZEN-NOH?

ZEN-NOH is an agricultural cooperative in Japan founded in 1948. It is a government owned and controlled organization that through their strength in numbers is able to buy large quantities of agricultural supply at a discount. There are many cooperatives that operate in Japan, but ZEN-NOH is the largest in Japan's National Federation of Agricultural Cooperative Associations. Actually, not just Japan, but the entire world. The largest agricultural cooperative anywhere, is ZEN-NOH.

ZEN-NOH is a means for millions of Japanese of farmers to grow and market their products and have access to basic supplies for running a farm. This is evident from the name of the co-op – the translation of ZEN-NOH is "all farmers". The size of the cooperative means that vast supply quantities are available at lower pricing due to massive purchasing volume. ZEN-NOH makes sure fertilizers are available, oil, fuel, parts, equipment and so the individual farmer does not have to concern themselves with sourcing these.



An organizational chart for the ZEN-NOH agricultural cooperative.

How big is this Cooperative?

Pretty big. 2006 numbers peg annual turnover at about \$56 billion USD. The cooperative has about 4.5 million farmer members and employees about 12,500 in the organization overhead.

They consistently maintain the number 1 spot in the Global 300 – a ranking of the world’s largest cooperative organizations. Everything from agricultural coops, retail, wholesale, insurance, electric power, banking and credit union cooperatives are listed in this index.

Interestingly, Japanese insurance cooperative Zenkyoren occupies the number 2 spot on the index which is actually ZEN-NOH’s insurance division. Combined, ZEN-NOH and their insurance division, generate a little more than \$100 billion USD in revenue every year.

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World's Top 25 Cooperatives

Name	Type	Country	Sales in U.S. Millions, 2004
1. ZEN-NOH	Food and Agriculture	Japan	\$53,898
2. Zenkyoren	Insurance	Japan	\$46,680
3. Crédit Agricole Group	Finance	France	\$32,914
4. Nationwide Mutual Insurance Company	Insurance	U.S.	\$23,711
5. National Agricultural Cooperative Federation	Food and Agriculture	Korea	\$22,669
6. Groupama	Insurance	France	\$21,651
7. Migros	Retail	Switzerland	\$17,779
8. The Co-operative Group	Retail	U.K.	\$16,556
9. Edeka Zentrale AG	Retail	Germany	\$15,986
10. Mondragon Corp.	Materials	Spain	\$14,155
11. Rabobank Group	Finance	Netherlands	\$13,608
12. UNIPOL	Finance	Italy	\$12,386
13. Co-op Swiss	Retail	Switzerland	\$12,371
14. Groupe Caisse D'Epargne	Banking	France	\$12,143
15. Co-op Norden	Retail	Denmark, Norway, Sweden	\$11,968
16. Confédération Nationale du Crédit Mutuel	Banking	France	\$11,848
17. Metsäliitto	Food and Agriculture	Finland	\$11,636
18. R+V Versicherung AG	Insurance	Germany	\$11,240
19. CHS, Inc.	Food and Agriculture	U.S.	\$10,980
20. The Norinchukin Bank Group	Banking	Japan	\$10,643
21. Groupe Banques Populaires	Finance	France	\$10,348
22. Dairy Farmers of America	Food and Agriculture	U.S.	\$8,936
23. Zenrosai	Insurance	Japan	\$8,932
24. Fonterra Co-operative Group	Food and Agriculture	New Zealand	\$8,354
25. ReWe Group (Zentral-Aktiengesellschaft)	Retail	Germany	\$8,307

ZEN-NOH and its insurance division, Zenkyoren, occupy the number 1 and 2 spots in the top 25 cooperatives in the world.

Where does Kubota Fit In?

Well, when you are the number 1 agricultural cooperative in the world, Kubota will make tractors just for you and stick your name on them.

Since ZEN-NOH is the largest agricultural coop in Japan, it has tractors, rice combines, wrapping machines and many other products – not just equipment, produced for them under their ZEN-NOH brand name by some of the largest companies in Japan – Kubota included. It is not unlike your local grocer having its own brand of cereal, salad dressings or pasta sauce – it had another company manufacture those items to its specifications.

Kubota has manufactured literally thousands of tractors for ZEN-NOH over the years and labeled them right on the assembly line with the ZEN-NOH name plate. Often a Z prefix was added to the existing Kubota model number identifier making an L1501 into a ZL1501 tractor. Once built, the tractor was mated to a matching Kubota tiller and shipped directly to The Procurement Division of ZEN-NOH for their disposition.



A Kubota ZL1801 manufactured for the ZEN-NOH agricultural cooperative.

Established in 1890, Kubota has had a long history of producing farming machinery in Japan. Kubota sailed across the Pacific in 1969 and found a ready market in the US for its new product line that included never before seen compact tractors. Needless to say, the 21HP L200 was an overnight sensation and Kubota Japan got busy incorporating in the US in order to meet the demand for their hot little orange tractors. Domestically in 1974, Kubota followed up the success of the L200 with the B6000DT – at 12HP it was the first compact 4 wheel drive tractor ever made.

How did I end up with a ZEN-NOH Tractor?

At this point you might be wondering – “very interesting, but how did my ZEN-NOH tractor get from the cooperative all the way across the ocean to my shed in Tecumseh Kansas?”. Yes, this is an important piece of the puzzle.

ZEN-NOH and Kubota: Importation



The procedure for loading gray market Kubota, Iseki and Yanmar tractors into shipping containers.

Thousands of containers like these made their way from Japan to Canada, the United States, Australia, Europe and beyond, flooding local domestic markets with low-cost alternatives to the new tractors at dealerships.

The procedure for loading gray market Kubota, Iseki and Yanmar tractors into shipping containers. Thousands of containers like these made their way from Japan to Canada, the United States, Australia, Europe and beyond, flooding local domestic markets with low-cost alternatives to the new tractors at dealerships.

In ZEN-NOH and Kubota Part 1 we learned that ZEN-NOH (or Zennoh as it is sometimes written), is not a tractor brand. It is the name of the largest agricultural cooperative in the world and in the past, they have partnered with Kubota to have equipment built for them. In this article we begin to explore how these tractors made their way across the ocean and what consequences it had for those involved and, for Kubota.

2 Reasons for ZEN-NOH Labeling

You may be asking yourself that if ZEN-NOH is not a tractor brand, make or model, then why does it say that on the sides of the hood of your tractor? You may even notice a plastic name plate firmly attached to the grille area that says ZEN-NOH. How is this possible?



A Kubota L1801 with ZEN-NOH hood decals and plastic grille insert.

Your tractor says ZEN-NOH on the sides of the hood for one of two reasons:

Built for ZEN-NOH by Kubota

Kubota built hundreds of thousands of every conceivable model of their tractor line-up for immediate local delivery to ZEN-NOH. Some of, but not all, the tractors that ZEN-NOH took delivery of were affixed with their name. Kubota installed hood decals and ZEN-NOH branding right on their own assembly line during final stage roll out.

It is not known whether Kubota relabeled their own product under the terms of a contract with ZEN-NOH, or if the cooperative itself was looking to garner some goodwill and advertising of their own once these re-branded tractors were deployed.

One thing is certain, ZEN-NOH was, and still is, buying tractors in very high volume from Kubota and as such, gets a nice volume purchase discount. The rock bottom pricing allows ZEN-NOH to lease or sell the tractor to the farmer or producer at a very affordable price. Everyone wins all the way around.

These ZEN-NOH branded Kubotas are original ZEN-NOH which differ from their counterparts as you will read below.

Exporter Relabeled

The second reason why you may have ZEN-NOH branding on your Kubota is that your equipment was intentionally relabeled at the time of export by a 3rd party. Why would someone go to the trouble of relabeling perfectly fine Kubota equipment at the shipping docks on Japan's eastern coast? Money of course, but the story is a little more complicated than that.

Japan's Equipment Renewal Policy

Before we get into the details of how ZEN-NOH and gray market tractors landed in the United States, a quick lesson on Japan's equipment renewal policy is in order. Every single year thousands of used right-hand drive cars, Kei trucks, mini-trucks, motorcycles, forklifts, mini track hoes, engines, generators, and so on, are exported in massive volume from Japan to other countries.



A Honda mini truck - the same type that are exported from Japan by the container load every year.

The Japanese government offers huge incentives for its citizens to continually buy new and they impose massive taxes, penalties and red tape for anyone wanting to hang onto their old car, tractor or mini-truck. This process keeps orders flowing to local manufacturers for their durable goods and ensures a strong domestic economy. It is less expensive to purchase or lease a new Kubota tractor for use on your small farm in Japan, than it is to keep and maintain the used one.

What Japanese equipment owners are left with is a very strong incentive to abandon older equipment. This older equipment has to go somewhere. Kubota and ZEN-NOH labeled Kubota tractors must leave Japan, as absolutely no domestic market exists for these small compact tractors in the country of origin. Regardless of the number of hours showing on the hour meter or the name plate on the side of the hood, all older equipment, cars, trucks, generators and what have you, must leave

Early Days of Importing Kubota Tractors

Some saw this massive build-up of supply in Japan of used agricultural equipment as an opportunity. And why not – a container holding 16-18 used Japanese tractors could be purchased, shipped across the ocean and unloaded for the same price as 3 or 4 new tractors. Profitability was guaranteed – an endless supply and a hungry American market. Early in the 1990s, ground zero for importing used Kubota tractors into North America was 1197

Bacon Way, Lafayette, California 94549. Home of Mike Wallace and Wallace International Trading incorporated in 1984. Kubota did not know it yet, but this tiny operation on the west coast would grab its attention in due time. Keep in mind that at this point, there were no gray market tractors. Kubota had not yet detected and banned the practice.

Wallace was brilliant and recognized very early that a huge untapped market existed in the United States for a good quality, low hour, used compact diesel tractor – especially one that said Kubota on the side of the hood! He sought out and sourced a group of willing Japanese based exporters that would be capable of gathering, cleaning, disassembling, containerizing and shipping the many boxes of tractors he would need to satisfy the demand.

The new business partners in the supply chain included Eisho World Ltd., Nitto Trading Corporation, Sanko Industries Co., Ltd., Sonica Trading, Inc., Suma Sangyo, Toyo Service Co., Ltd., all headquartered in Japan and all cooperating with Wallace International to export these surplus tractors.

A Distribution Network Emerges

Now that Wallace had an agreement to supply used tractors nailed down, finding used equipment dealers wanting to add to their sales and bottom line was not difficult at all. Although selling off shore used compact tractors was unheard of until that point they all bought in agreeing to take several units each as part of an initial order agreement and securing their sales territories.

The initial distribution network for Wallace's imported Kubota tractors included:

- Bay Implement Company 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
- The Tractor Shop
- The Tractor Company

Wallace would handle all the logistics of product selection, shipping, importation, customs clearance, duty and fees as well as offers to buy that were presented via fax to his distribution network of resellers. Within days of landing on US soil the imported units were disbursed to the distribution network. Wallace never actually held inventory – rather tractors were pre-sold to the distributors. Orders were placed with the exporter in Japan only after Wallace had the container load sold locally in the United States.

A Taste of Success

Wallace International Trading now had a supply chain and a method of distribution. The orders were placed, tractors gathered, cleaned, dismantled, packed for shipping, the containers were loaded and at the mid-way point on the voyage, the money changed hands – as is customary.

The first containers each loaded with 16-18 tractors and rototillers hit the water in the Pacific destined for a shipping port on California's coast. Interestingly, it was not just Kubota tractors on that first boat ride out of Japan. Sharing those containers were other compact diesel tractors made by Mitsubishi, Yanmar, Iseki, Hinomoto, Suzue, and Shibaura.

Things were looking good for Wallace – he had a steady stream of tractors arriving by the container load into his distribution network state-side. He had pioneered the concept of importing inexpensive but high quality compact tractors out of Japan. He was the first one.



Other tractors models commonly imported from Japan: (top) Iseki TS1610 (middle) Shibaura P19 (bottom) Yanmar 2020

Kubota Takes Notice: A Giant Awakens

It did not take very long after the first container loads of Wallace's imported tractors that intel started to make its way back to Kubota corporate. Early buyers of these imported Kubota's were now showing up at the parts departments of their local dealer looking for parts for models that the US parts men had never heard of. L1501, B5001, L2201? What?

By 1996 the phones and faxes at Kubota head office started ringing off the hooks as more and more franchised dealers found themselves competing for sales with these off shore Kubota cousins. Sales were brisk! Low hour, like-new Kubota tractors priced thousands less than a new North American model down the street started a ground swell of anger amongst the equity brick and mortar Kubota dealers. The bad blood between imported Kubotas and built-for-America equipment had begun.

Kubota USA knew that their franchisees would revolt, stop paying royalties and probably launch a class action lawsuit against them for allowing this to happen in the first place. Kubota responded to these unauthorized importations by launching a 337 Suit, or in layman's terms, a classic trademark infringement case.

Wallace, his dealers and his supply chain would be seeing a lot of oak – the inside of a court room! The stage was set for Kubota's landmark legal case against Wallace International Trading.

ZEN-NOH and Kubota: Lawsuits



Actor Bill Lippincott does his impression of Kubota's lead legal counsel laughing at a funny joke.

Since Wallace International Trading had established a supplier network for the importation of used compact Kubotas from Japan. Wallace brought in container loads of compact tractors and disbursed them among his distribution network. The idea caught on and demand was up – these used units were low-hour, high quality and in some cases less than half the price of new Kubota equipment!

The sudden arrival of competitive units from Japan attracted the attention of local brick and motor Kubota dealerships who found themselves in a tough spot to compete. In 1996 they banded together and pushed Kubota corporate to act... and act they did with three legal mechanisms:

- a trademark infringement case
- a general exclusion order by the United States International Trade Commission
- a cease and desist order

Trademark Infringement

This case was known as Kubota Tractor Corp V. Wallace International Trading and was a landmark legal case. Kubota claimed that as owners of the trademarks, namely the KUBOTA block letter stylized design font, the stylized letter K, and their classic Gear and Pipe logo had their intellectual property rights infringed upon.



The Kubota brand name logo, written in a bold, teal, sans-serif font with a registered trademark symbol (®) at the end.

Some of Kubota's trademarks. (top) The classic gear and pipe logo used for many years (middle) the stylized K (bottom) their new logo.

Kubota asserted that they had not consented to the use of the trademark blazoned across the hoods of all those used imported tractors, and furthermore, these imported tractors were materially different than the models sold by their authorized dealers in the US.

General Exclusion Order

Kubota and Wallace argued back and forth on the merits of the trademarks, but by February 1997 Kubota handily won the infringement case. On the heels of that victory they asked for and were granted a General Exclusion Order by the United States International Trade Commission (UCITC). We have saved a copy of the full general exclusion order labeled "Certain Agricultural Tractors Under 50 Power Take-Off Horsepower" for your reading pleasure here.

There is a lot of legalese in the commission's order but the portion that would eventually lead to the blockade of further importation of the kind Wallace International was performing would be in this excerpt:

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.

The commission had excluded any Kubota-manufactured tractors, under 50 PTO horsepower, from ever entering the United States without Kubota's express permission or under license agreement. This big hammer legal move would not only prevent Wallace International Trading from importing any used Kubota tractors with their trademark name on it, but any future entity from ever importing a Kubota trademark branded tractor.

The United States Customs and Border Services were notified and advised that if a shipping manifest contained the words USED KUBOTA TRACTORS anywhere on the documents the shipment was blacklisted and quarantined. Shipments held in this manner by Border Services would either be turned around at the port or seized and destroyed.

Cease and Desist Order

Kubota's legal team was not through with Mike Wallace. They asked for and received a Cease and Desist Order against Wallace and his loose knit band of dealers preventing them from selling any unsold Kubota trademark-branded tractors still in their inventories. The distributors in Wallace's network were not allowed to sell the equipment they had imported and had sitting on their lots! Under the terms of the cease and desist order these tractors had to be either destroyed, exported, dismantled for parts or sold as scrap metal.

It was a three-pack of legal resolve that included a trademark infringement case and subsequent general exclusion and cease and desist orders. Kubota's legal team had effectively put the brakes on Wallace International Trading and their days of importing used Kubota tractors. Or so they thought.

A Loophole is Found

Some will say nothing ruins a friendship faster than dragging everyone into a court room! 10 days in legal hell put the strain on the once profitable and successful Wallace/Gamut business relationship, splitting them up at least for a while. You will remember Gamut Trading as one of the original distributors in the distribution network Wallace organized.

Returning to Apple Valley California, the then directors of Gamut had to comply with a section of the cease and desist order by listing and indicating any unsold Kubota tractors still in their yard. It can be speculated that at this time they took renewed interest in a few orange tractors bearing the ZEN-NOH name on the sides of the hoods instead of the usual Kubota trademark name.

They had seen that ZEN-NOH name plenty of times before as they had taken delivery of many ZEN-NOH labeled Yanmar and Kubota tractors in the past. Noticing this detail would take on a life of its own.

The ZEN-NOH name was not part of the trademark infringement suit Kubota had brought and won against them. ZEN-NOH trademark name was not mentioned in either the general expulsion or cease and desist orders! Gamut Trading had stumbled upon a loop hole in Kubota's trademark infringement suit – they could not distribute Kubota equipment but, ZEN-NOH tractors were fair game! If they could continue to get their hands on ZEN-NOH equipment maybe it would be business as usual...

ZEN-NOH and Kubota: Loopholes



An amateurish looking ZEN-NOH label on this Kubota tractor. Work of replacing Kubota hood decals at the export dock in Japan to satisfy US import requirements? We can only speculate of course.

Gamut Trading headed back to Apple Valley California in an effort to comply with the cease and desist order as a result of losing a trademark infringement case brought by Kubota. Part of the cease and desist order's conditions were that existing Kubota equipment on the lots of the distribution network had to be 1) exported out of the country 2) parted out or 3) sold for scrap metal.

It was about this time, pondering these three alternatives for the equipment they had paid for, that Gamut realized that the trademark case only covered the Kubota name, not ZEN-NOH that they had seen all over the hoods and grille of ZEN-NOH branded Kubotas they had imported. This made them realize that they might be able to import and distribute ZEN-NOH equipment instead! A loophole around the court orders!

Back in Business

What a break! Ronald DePue and his brother Darrel were Chairman of the Board and CFO of Gamut Trading at the time. They performed a check at the United States Trademark Office and found that the trademark ZEN-NOH was available. The name was previously registered and owned in the United States by ZEN-NOH of Japan themselves. In 1988 in a weird twist of fate, ZEN-NOH failed to renew the trademark name leaving it available for adoption by Gamut Trading!

ZEN-NOH

Word Mark	ZEN-NOH
Goods and Services	(CANCELLED) IC 031, US 046, G & S: Grains
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	73258935
Filing Date	July 7, 1980
Current Filing Basis	44E
Original Filing Basis	44E
Published for Opposition	December 15, 1981
Registration Number	1191804
Registration Date	March 9, 1982
Owner	(REGISTRANT) National Federation of Agricultural Cooperative Associations association JAPAN No. 8-3 Ohemachi 1-chome Chiyoda-ku, Tokyo JAPAN
Attorney of Record	Holman & Stern

The original trademark registration filed by ZEN-NOH in the early 1980s. They let it expire in 1988 which left it open for Gamut Trading to pick up nearly 10 years later.

In March 1997 less than three weeks after Kubota's legal dropped the hammer on them, Gamut Trading bought the ZEN-NOH trademark and name. They became the new owners of the brand for \$245. They indicated on their trademark application that they were users of the ZEN-NOH trademark since 1986, long before they had probably even seen a ZEN-NOH tractor. We have a copy of Gamut's full trademark application which you can see here.

STATEMENT AND
REGISTERED TRADEMARK CAUSES

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March 11, 1997

Hon. Assistant Commissioner
for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

RE: TM ZEN-NOH
Gamut Trading Co., Inc.

Sir:

Enclosed is an application for registration of the
above-identified trademark/service mark on the Principal
Register together with our filing fee check in the amount
of \$245.00.

A cover letter dated March 11th from Gamut's lawyer sent to the United States Trademark Office.

Word Mark	ZEN-NOH
Translations	The English translation of "ZEN-NOH" is "all farmers".
Goods and Services	(CANCELLED) IC 012; US 019 021 023 031 035 044; G & S: refurbished tractors. FIRST USE: 19860000 FIRST USE IN COMMERCE: 19860000
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75257139
Filing Date	March 14, 1997
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	February 17, 1998
Registration Number	2159558
Registration Date	May 12, 1998
Owner	(REGISTRANT) Gamut Trading Co., Inc. CORPORATION CALIFORNIA 13450 Normasket Road Apple Valley CALIFORNIA 92308
Assignment Recorded	(LAST LISTED OWNER) MAKINO TRADING CORPORATION CORPORATION HONG KONG GF2 CAMBRIDGE PLAZA SHEUNG SHU NT HONG KONG
Attorney of Record	ASSIGNMENT RECORDED DONALD DIAMOND
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15, SECT 8 (5-YR)
Live/Dead Indicator	DEAD
Cancellation Date	February 14, 2009

A copy of Gamut Trading's awarded trademark for ZEN-NOH, dated March 14, 1997 - about 3 weeks after losing the trademark infringement case to Kubota.

In a legal move that now sounds strangely familiar – Gamut Trading also registered the name ZEN-NOH with United States Customs and Border Security to prevent any other entity from importing a used tractor from Japan bearing their trademark, ZEN-NOH. Kubota's lawyers had schooled them in court and they were obviously paying attention to the lessons!

Even as Gamut was proceeding with an appeal against the USITC general exclusion order they had become the registered legal owners of the ZEN-NOH trademark. This would allow them to import all the ZEN-NOH branded tractors they could get their hands on, regardless of whether they were made by Yanmar or Kubota. Plus, as the new owner of the trademark, they could for a fee, sell a licensing agreement to future tractor importers or resellers wanting in on this still

Kubota Strikes Back – Again

It is not known whether Gamut Trading actually instructed their export suppliers to remove the offending Kubota hood decals, but, as the new owners of the ZEN-NOH trademark and name brand, Gamut resumed importing used Kubota Tractors almost immediately after being served with the original cease and desist.

Between February 1997 and October 1998 Gamut continued to import used Kubota tractors. On 56 different shipments the tractors were identified as ZEN-NOH L and B Series Tractors on the customs declarations paperwork. The Border Services could not turn them away because there was no violation here – ZEN-NOH tractors were free to enter the United States.

When these ZEN-NOH tractors finally cleared customs, Gamut knew that their resellers would not want a no-name unheard of tractor brand. Gamut routinely advertised their tractors as Kubota/Zennoh tractors, stressing that the tractors are the same thing. They went as far as to supply new Kubota hood decals including instructions on how and where to install them!

Little did brothers Ron and Darrel of Gamut know, but, Kubota coporate was already onto their operation. Kubota hired private investigators posing as prospective tractor resellers, recording phone conversations and obtaining wire taps. The end was near.



A ZEN-NOH L1501 in decent shape.

Sued Into the Stone Age

When the dust settled on round two of the legal battle, Gamut was fined in excess of \$2.3 million USD and found in violation of the original cease and desist order placed upon them by the USITC in February 1997. Kubota was seeking a penalty in the \$6.9 million range, but since the directors of Gamut had willingly destroyed so many boxes of files and records pertaining to the importation of these tractors, the deciding Judge could only base the penalty amount on the information the investigators could find. We have a copy of the formal proceedings of Kubota Corp V. Gamut Trading et al available here.

After the lawsuits flew where did the chips fall? What did these players do afterward and what are they doing today? What impact did importing these tractors have? We answer these questions and provide a handy timeline of the whole puzzle.

ZEN-NOH and Kubota: Fallout



A ZEN-NOH branded Yanmar 2610. Yanmar, like Kubota, also manufactured plenty of equipment for the ZEN-NOH agricultural cooperative.

Gamut Trading had registered the ZEN-NOH trademark as their own and began importing tractors from Japan into the United States. While technically not against the court orders it was against the spirit of the court's decision. Kubota brought another lawsuit against them in fall of 1998 and won a judgment in excess of \$2.3 million US. Importing gray market ZEN-NOH or Kubota tractors into the United States was dead.

What Happened to Mike Wallace?

After going round 1 with Kubota and losing, Mike Wallace went looking for redder pastures. He continued to import used compact diesel tractors from Japan, dropping Kubota and importing mostly Yanmar tractors. In September 2002, he reacquainted himself with his old buddies at Gamut Trading. Since they had now been sued into the stone age by Kubota's legal department, they did not have much need for the ZEN-NOH name anymore.

Wallace asked if he could become an authorized user of Gamut's trademark. In 2003, Gamut Trading and Wallace became business partners once again, this time in the ownership of the ZEN-NOH trademark, name, stylized print and logo!

Yanmar Strikes

Wallace did not have a lot of time left to savor that trademark co-ownership. By mid 2003, plans were already floating around the boardroom table at the Yanmar Motor Corporation in Japan, to form a new US subsidiary, the Yanmar Diesel America Corporation. The purpose of this new venture was to reestablish the Yanmar brand in North America. This would mean new franchisees, new parts dealers, new generator and engine sales and a complete relaunch of

The entire Yanmar compact tractor line-up. Yanmar had actually departed the market about 2 decades earlier.

Yanmar had a little unfinished business to tidy up before offering franchises for sale in the United States. In August of 2004, Yanmar brought a Consent Order, Judgment and Permanent Injunction in the US District Court for the Eastern Division of California against, Mike Wallace and Wallace International Trading, barring him from ever importing, selling, and marketing, being involved in or around a Yanmar tractor, a ZEN-NOH Yanmar or any other type of Japanese tractor! We have a copy of that injunction for your legal reading pleasure.

Yanmars lawyers did all their homework as well! Since so much case law now existed regarding trademark infringement on Japanese imported tractors, a history of hood labels being changed, calling a tractor a ZEN-NOH model, falsifying importation documents etc., that Yanmar had no trouble making Mike Wallace go quietly into the night, forever.

What Happened to Ron and Darrel?

After going round 2 with Kubota and being subject to large fines, Gamut Trading went out of the tractor importation business.

It is not known where Darrel landed after the dust up with Kubota, but his brother Ron DePue had owned operated and closed down, Homestead Tractor and Feed and may have had to sell or close it as payment to settle with Kubota. Ron is currently owner of Just Tractor Parts located in Apple Valley California. He is listed as the authorized distributor for Hercules Aftermarket ROPS (which coincidentally has models available for both Kubota, ZEN-NOH and Yanmar tractors!)

What Happened to the ZEN-NOH trademark?

The ZEN-NOH trademark, as registered in the United States, lapsed on February 14th 2009. Gamut Trading decided not to renew for obvious reasons. What this means is that someone else could grab that trademark and technically own that brand (and perhaps own the wrath of Kubota and Yanmar that comes along with it!).

Timeline

Now that all the pieces of the puzzle are available, a timeline summarizes the events nicely:

1948

ZEN-NOH agricultural cooperative is founded in Japan. Later grows to be the largest cooperative in the world with revenue in excess of \$100 billion USD per year.

Late 1970s

Kubota partners with ZEN-NOH to start producing ZEN-NOH branded equipment on its own assembly line.

Early 1980s

ZEN-NOH registers its trademark in the United States.

1984

Mike Wallace incorporates Wallace International Trading Co. in California.

1988

ZEN-NOH's trademark in the United States expires and is left unowned.

Early 1990s

Wallace International Trading begins importing Kubotas from Japan by the container load.

1996

Kubota dealerships start to notice cheaper, low hour Kubota equipment on competitive lots. Phones start to ring at Kubota corporate head office in Torrance California. Kubota files legal paperwork against Wallace International Trading.

February 1997

Kubota wins trademark infringement case against Wallace International Trading and secures both general exclusion orders and cease and desist orders against Wallace and his distribution network.

February 1997

Distributors in Wallace's distribution network are told by the judge to export, dismantle, part-out or destroy their remaining inventory. Kubota lawyers cackle with glee. Muahahahhaaaa.

March 1997

Gamut Trading, one of Wallace's distributors, discovers that the ZEN-NOH trademark is available in the United States, applies for and receives the trademark rights.

1997-1998

Gamut Trading imports hundreds and hundreds of additional ZEN-NOH equipment from Japan into the United States. Rebranding of Kubota equipment to ZEN-NOH equipment "on the dock" is speculated.

October 1998

Kubota files legal paperwork against Gamut Trading.

November 1998

Kubota wins lawsuit against Gamut Trading for violating the terms of the original cease and desist order. Fines are levied at more than \$2.3 million. Gray market tractor importation into the United States halts entirely.

2002

Mike Wallace partners again with Gamut Trading to use their ZEN-NOH trademark to bring Yanmar equipment under that name into the United States.

2004

Yanmar Company files legal paperwork and wins an injunction against Wallace International

Trading, barring him from basically ever importing, selling, parting-out, looking at or sitting on a Yanmar again. Wallace is essentially sued into the stone age.

February 2009

ZEN-NOH trademark quietly expires after Gamut Trading, now defunct, neglects to renew it.

April 2009

OrangeTractorTalks publishes a complete history of how so many gray market tractors found their way out of Japan, and how Kubota used their legal might to smash the flood of inexpensive equipment arriving daily. Probably raising a few eyebrows at Kubota corporate in the process – luckily we're not on their payroll!

Conclusion

The fallout from importing these tractors is still felt today. You can see evidence of it anytime you speak to certain dealerships or Kubota corporate alike. There is a general hostility toward those owners of gray market equipment and those that repair, service or provide parts for. It stems from these series of events – importing thousands and thousands of Kubotas from Japan, flooding the domestic market with high quality, low hour, less expensive models.

Can you blame Kubota for feeling a bit frustrated though? They came to North America and their L200 was an instant success! Things were looking up and they were going about their usual business for 20 years. Then, a few creative individuals got together and changed the game. It was not in Kubota's plans to be competing with itself. This problem is something that Kubota continues to struggle with today and has served as an important lesson to other equipment manufacturers.

Mike Wallace, having been sued once by Kubota and another time by Yanmar, is definitely not high on either company's list of respected community members. That being said, he pioneered the idea of importing surplus compact tractors from Japan into the United States. He saw an opportunity, gathered suppliers and created a distributor network. Many others have followed his recipe but he was the first. You have got to give that in itself, some respect.

What Wallace started has had lasting effects, and not just for Kubota corporate or their dealership network. Anytime an owner of a gray market or ZEN-NOH tractor wonders where their equipment came from and how it managed to find its way to Tecumseh, Kansas, there is a good chance Mike Wallace had something to do with it.