

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON WAYS AND MEANS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES ON PROPOSED TARIFF LEGISLATION ¹

[Date approved: August 30, 2000]²

Bill No.: S. 2653; 106th Congress

Introduced by: Mr. COVERDELL

Similar and/or related³ bills: The tariff treatment of machines for polishing glass substrates for use in DVD production would be affected by S. 2648, which would reclassify this machinery under HTS subheading 8477.10.40 or 8479.89.85, as appropriate, and S. 2646, as this machine is also incorporated in in-line system machines for mastering (see technical comments and following table). See also H.R. 3785 (withdrawn).

Summary of the bill.⁴

The bill would suspend the general rate of duty⁵ on--

Machines or mechanical appliances, whether imported separately or as an entirety, and parts thereof, for use in the manufacture of digital versatile discs (DVDs) (provided for in subheading 8464.20.50)

Effective: The 15th day after the date of enactment.

Through: December 31, 2003.

Retroactive effect: None.

[The remainder of this memorandum is organized in five parts: (1) information about the bill's proponent(s) and the product which is the subject of this bill; (2) information about the bill's

¹ International trade analyst: Dennis Fravel (202-205-3404), Theresa Canavan (202-205-3442), and Melani Schultz (202-205-3436); attorney: Jan Summers (202-205-2605).

² Access to an electronic copy of this memorandum is available at <http://www.usitc.gov/billrpts.htm>. Access to a paper copy is available at the Commission's Law Library (202-205-3287) or at the Commission's Main Library (202-205-2630).

³ "Similar bills" are bills in the other House, in the current Congress, which address, at least in part, the substance of this bill. "Related bills" are bills in the **same** House, in the current Congress, but which are either earlier (or later) in time than the bill which is the subject of this memorandum.

⁴ The product nomenclature is as set forth in the bill. See technical comments for suggested changes (if any).

⁵ See appendix A for definitions of tariff and trade agreement terms.

revenue effect; (3) contacts by Commission staff during preparation of this memorandum; (4) information about the domestic industry (if any); and (5) technical comments.]

– THE PROPONENT AND THE IMPORTED PRODUCT –

| The proponent firm/organization(s) | | | |
|--------------------------------------------------------------------------------|---------------------------------|----------------|-----------------------------|
| Name of firm | Location contacted (city/state) | Date contacted | Response (Y/N) ⁶ |
| Panasonic | Washington, DC | April 5, 2000 | Y |
| Toolex, represented by Collier, Shannon, Rill & Scott, LLP | Washington, DC | April 5, 2000 | Y |
| International Electronics Manufacturers and Consumers of America, Inc. (IEMCA) | Washington, DC | April 5, 2000 | Y |
| JVC Disc America, Inc., a division of JVC America, Inc. ¹ | Elk Grove, CA | May 1, 2000 | Y |

¹JVC America, Inc., is a member of the International Electronics Manufacturers and Consumers of America, Inc., (IEMCA).

*Does the proponent plan **any** further processing or handling⁷ of the subject product after importation to its facilities in the United States (Y/N):*

If “Yes,” provide location of this facility if different from above (city/state): See below.

Panasonic’s headquarters is in Osaka, Japan; its U.S. corporate headquarters is in Secaucus, NJ. Panasonic’s factory automation division in Elgin, IL imports the machinery to be assembled into DVD manufacturing systems.

Toolex imports the machinery to be assembled into DVD manufacturing systems in a recently purchased facility in Irvine, CA.

If “No,” provide location of proponent’s headquarters or other principal facility if different from above (city/state): See below.

IEMCA is a Washington, DC trade association that represents electronics manufacturers and consumers.

JVC imports DVD production machinery to manufacture DVDs in Sacramento, CA.

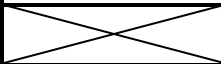
⁶ Non-confidential written responses received prior to approval of this report by the Commission, if any, will be included in appendix C.

⁷ The phrase “further processing or handling” can include repackaging, storage or warehousing for resale, etc.

| The imported product | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| Description and uses | Country(s) of origin |
| <p>This bill would cover grinding or polishing machines for cold working glass or stone, ceramics, concrete, asbestos-cement or like mineral materials, when these machines are entered for use in making DVDs. Because glass substrates used to make DVD master discs (“stampers”) can be reused multiple times to produce generations of master discs, after each use the glass substrate must be thoroughly cleaned to remove photo-resist or dye-polymer residues, adhesives, and other residues. This process is usually accomplished with a glass cleaning machine using a chemical bath and water rise. However, over time, the quality of the glass master substrate decreases due to use and chemical cleaning. Polishing of the master glass substrate removes a very minute layer from the surface, so that the glass substrate will again meet the quality level specified for new glass substrates. The polishing is accomplished by a scrubbing action using fine brushes or high pressure water. See U.S. Customs Service ruling letter HQ 961210, April 12, 1999 regarding the tariff classification of glass polishing machines.</p> | <p>Japan United Kingdom Netherlands</p> |

– EFFECT ON CUSTOMS REVENUE –

[Note: This section is divided in two parts. The first table addresses the effect on customs revenue based on the duty rate for the HTS number set out in the bill. The second table addresses the effect on customs revenue based on the duty rate for the HTS number recommended by the Commission (if a different number has been recommended). Five-year estimates are given based on Congressional Budget Office “scoring” guidelines. If the indicated duty rate is subject to “staging” during the duty suspension period, the rate for each period is stated separately.]

| HTS number used in the bill: 8464.20.50⁸ | | | | | |
|-------------------------------------------------------------------------------------|-----------|-----------|-----------|-----------|-----------|
|  | 2001 | 2002 | 2003 | 2004 | 2005 |
| General rate of duty ⁹ (AVE) ¹⁰ | 2% | 2% | 2% | 2% | 2% |
| Estimated value <i>dutiable</i> imports | \$720,000 | \$600,000 | \$240,000 | \$240,000 | \$240,000 |
| Customs revenue loss | \$14,400 | \$12,000 | \$4,800 | \$4,800 | \$4,800 |

⁸ The HTS number is as set forth in the bill. See technical comments for suggested changes (if any).

⁹ See appendix B for column 1-special and column 2 duty rates.

¹⁰ AVE is ad valorem equivalent expressed as percent. Staged rates may be found at: <http://dataweb.usitc.gov>

Note: Estimated value of dutiable imports calculated based upon industry estimates of imports, prices, and projected number of mastering and replicating lines. Customs revenue loss is estimated value of dutiable imports times the general rate of duty. See technical comments for further explanation of revenue loss estimates.

| HTS number recommended by the Commission: n/a ¹¹ | | | | | |
|-----------------------------------------------------------------------------------|------|------|------|------|------|
|  | 2001 | 2002 | 2003 | 2004 | 2005 |
| General rate of duty (AVE) | | | | | |
| Estimated value <i>dutiable</i> imports | | | | | |
| Customs revenue loss | | | | | |

¹¹ If a different HTS number is recommended, see technical comments.

– CONTACTS WITH OTHER FIRMS/ORGANIZATIONS –

| Contacts with firms or organizations <i>other than the proponents</i> | | | |
|---------------------------------------------------------------------------|------------------------------------|----------------|---------------------------------|
| Name of firm | Location contacted (city/state) | Date contacted | Response (Y/N) ¹² |
| Optical Storage Technology Association (OSTA) | Santa Barbara, CA | April 5, 2000 | N |
| The DVD Association (DVDA) & Interactive Digital Media Association (IDMA) | Solon, OH | April 5, 2000 | N |
| Steag HamaTech, Inc. | Saco, ME | April 6, 2000 | N |
| Marubeni Disc Systems | Southfield, Michigan | April 12, 2000 | N |
| Toolex International/USA | Irvine, CA/Hilliard, OH | April 13, 2000 | N |
| Optical Disc Manufacturing Association | Monmouthshire, UK | April 14, 2000 | N |
| Optical Disc Corporation | Santa Fe Springs, CA | April 19, 2000 | Y |
| Record Products of America | Hamden, CT | April 26, 2000 | N |
| Digital Matrix | Hempstead, NY | April 21, 2000 | Y |
| Warner Advanced Media Operations (WAMO) | Olyphant, PA | April 25, 2000 | Y |

– THE DOMESTIC INDUSTRY –

*[Note: This section is divided in two parts. The first part lists non-confidential written submissions received by the Commission which assert that **the imported product itself** is produced in the United States and freely offered for sale under standard commercial terms. The second part lists non-confidential written submissions received by the Commission which assert either that (1) the imported product will be produced in the United States in the future; or (2) another product which **may compete** with the imported product is (or will be) produced in the United States and freely offered for sale under standard commercial terms. All submissions received by the Commission in connection with this bill prior to approval of the report will be included in appendix D. The Commission cannot, in the context of this memorandum, make any statement concerning the validity of these claims.]*

¹² Non-confidential written responses received prior to approval of this report by the Commission, if any, will be included in appendix D. Only statements submitted in connection with **this** bill will be included in the appendix.

| Statements concerning current U.S. production | | | |
|-----------------------------------------------|--------------------------|--------------------------------------|--------------------------|
| Name of product | Name of firm | Location of U.S. production facility | Date received |
| Mastering system and glass polishing machine | Optical Disc Corporation | Santa Fe Springs, CA | April 24 and May 4, 2000 |

| Statements concerning “future” or “competitive” U.S. production | | | |
|-----------------------------------------------------------------|--------------------------|--------------------------------------|--------------------------|
| Name of product | Name of firm | Location of U.S. production facility | Date received |
| Mastering system and glass polishing machine | Optical Disc Corporation | Santa Fe Springs, CA | April 24 and May 4, 2000 |
| Mastering system and glass polishing machines | Toolex USA, Inc. | Irvine, CA | May 1, 2000 |

– TECHNICAL COMMENTS –

*[The Commission notes that references to HTS numbers in temporary duty suspensions (i.e., proposed amendments to subchapter II of chapter 99 of the HTS) should be limited to **eight** rather than ten digits. Ten-digit numbers are established by the Committee for Statistical Annotation of Tariff Schedules pursuant to 19 U.S.C. 1484(f) and are not generally referenced in statutory enactments.]*

Recommended changes to the nomenclature in the bill:

Several problems are apparent with regard to the proposed description. First, it is helpful to Customs and to users of the tariff schedule if the article description of the chapter 99 provision tracks as much of the language from the permanent tariff provision covering the good as is possible and appropriate. Thus, the subject goods might be described as “Grinding or polishing machines, other than those for processing of semiconductor wafers, and parts thereof, the foregoing for use in the manufacture...”. This language would also eliminate language which could be confusing—namely, the phrase “whether imported separately or as an entirety.” When a chapter 99 provision refers only to one permanent tariff provision, the product scope of the latter sets the maximum possible coverage of the chapter 99 provision, which is itself further delineated by the words used there to describe the intended good. The language in the bill as drafted is not sufficiently related to that in the subheading description to permit easy interpretation. The permanent provision covers machines not used for the stated purpose, but at least the article description is more specific than that in the proposed heading. Also, because it can be difficult to classify goods that may be shipped and presented in different forms, we are uncomfortable with the broad nature of the proposed heading and with its inclusion of entireties. It is not easy to know

whether the subject machine would always fall in the cited category if shipped as an entirety. That shipment would be examined in its condition as imported and, depending on the nomenclature and scope of competing provisions, could be classifiable elsewhere than subheading 8464.20.50. Moreover, it would not seem desirable to suggest that other machines or articles shipped along with the subject machines would automatically be eligible for a duty suspension. Last, we note that parts of machines of subheading 8464.20.50 fall in heading 8466, so that the absence of that heading as a reference in the duty suspension provision would mean that essentially no parts would be allowed entry under the duty suspension.

Recommended changes to any C.A.S. numbers in the bill (if given):

None.

Recommended changes to any Color Index names in the bill (if given):

None.

*Basis for recommended changes to the HTS number used in the bill:*¹³

n/a

Other technical comments (if any):

It is important to note that several manufacturers (domestic and foreign) have indicated that much of the machinery is produced to be used in either CD or DVD production. While DVD-only production equipment is available, this machinery is not currently the majority of production equipment sold. Revenue loss estimates are based on equipment used only in DVD production and assuming inclusion of a use provision in the bill. Although this is somewhat burdensome, specifying the products' use is likely to be the only way that the scope of the duty suspension can be restricted to the subject machines. While it is virtually impossible for U.S. Customs to distinguish between machinery used in CD versus DVD production based on its physical characteristics, it is unlikely that these machines would be imported for CD production only based on machinery price differentials. For example, a CD/DVD replication line may cost at least three times as much as a CD replication line.

¹³ The Commission may express an opinion concerning the HTS classification of a product to facilitate the Committee's consideration of the bill, but the Commission also notes that, by law, the U.S. Customs Service is the only agency authorized to issue a binding ruling on this question. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

Proposed legislation related to DVD production machinery, July 2000

| DVD production process | Bill No. | Machine(s) used in DVD production | Harmonized Tariff System (HTS) subheading | 2000 duty rate (percent ad valorem) | Related bills, No. | U.S. Producer/s |
|--------------------------------------------|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| Complete Process—Mastering and Replicating | H.R. 3778 S. 2648 | Rename HTS for DVD production machinery. Reclassifies all machines listed below for which there is a bill into either HTS 8477.10.40 (injection molding machines) or 8479.89.85 (machines for DVD production) | 8477.10.40 8479.89.85 | Free | H.R. 3779-3795 S. 2647-2664 | All companies listed below. |
| Mastering | H.R. 3780 S. 2646; S. 2664 | In-line system machine (typically includes the following stations: glass cleaning, glass polishing, coating, baking, inspection, laser encoding, developing, and nickel sputter coating) See also in-line replication system machine below. | 8479.89.97 9013.80.90 | 2.5 4.5 | H.R. 3778 / S. 2648 H.R. 3787 / S. 2655 H.R. 3785 / S. 2653 H.R. 3788 / S. 2656 H.R. 3795 / S. 2663 H.R. 3782 / S. 2650 | Optical Disc Corporation (ODC) ¹⁴ |
| Mastering | H.R. 3787 S. 2655 | Glass cleaning machine for recycling/recovering glass substrate | 8464.90.90 | 2.0 | H.R. 3778 / S. 2648 H.R. 3780 / S. 2646 | ODC Reynolds Tech |
| Mastering | H.R. 3785 S. 2653 | Polishing of glass substrates, done periodically | 8464.20.50 | 2.0 | H.R. 3778 / S. 2648 H.R. 3780 / S. 2646 | ODC |
| Mastering | H.R. 3788 S. 2656 | Coating machine (photo-resist or dye-polymer) | 8479.89.97 | 2.5 | H.R. 3778 / S. 2648 H.R. 3780 / S. 2646 | ODC |
| Mastering | NA | Baking station | NA | NA | NA | ODC |
| Mastering | H.R. 3795 S. 2663 | Inspection for defects and measurement of thickness | 9031.49.90 | 3.5 | H.R. 3778 / S. 2648 H.R. 3780 / S. 2646 | Integral Vision, Inc. ODC |
| Mastering | H.R. 3782 S. 2650 | Laser encoder machine | 8479.89.97 | 2.5 | H.R. 3778 / S. 2648 H.R. 3780 / S. 2646 | ODC |

¹⁴ Although ODC does not claim to produce all of the components included in a mastering system, it does sell a complete system including all the items listed under mastering.

| DVD production process | Bill No. | Machine(s) used in DVD production | Harmonized Tariff System (HTS) subheading | 2000 duty rate (percent ad valorem) | Related bills, No. | U.S. Producer/s |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|--------------------------------------------|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| Mastering | NA | Developer machine to develop areas of the glass disc exposed by the laser encoder (If dye-polymer is used to coat the disc this stage is skipped.) | NA | NA | NA | |
| Mastering | NA | Nickel/silver sputter coating to produce a metallized disc that conducts electricity in the electroforming stage | NA | NA | NA | |
| Electroforming (Mastering) | H.R. 3784 S. 2652 | Electrolytic plating—charged nickel sulphamate bath to grow metal layers | 8543.30.00 | 2.6 | H.R. 3778 / S. 2648 H.R. 3786 / S. 2654 | Digital Matrix Reflekt, Inc. Reynolds Tech Technotrans America, Inc. |
| Electroforming (Mastering) | H.R. 3786 S. 2654 | Electrolytic cleaning of nickel master or stamper | 8543.89.96 | 2.6 | H.R. 3778 / S. 2648 H.R. 3784 / S. 2652 | Digital Matrix Reflekt, Inc. Reynolds Tech Technotrans America, Inc. |
| Electroforming (Mastering) | H.R. 3779 S. 2647 | Plasma-etch to remove photo-resist from nickel stamper (“ashing machine”) | 8456.99.90 | 2.2 | H.R. 3778 / S. 2648 | Anatech LTD MetroLine Industries Nordson Corp (March Instruments, Advanced Plasma Systems) Yield Engineering Systems |
| Mastering finishing | H.R. 3781 S. 2649 | Lapping machine to sand/finish back of nickel stamper (“backsander”) | 8460.40.40 | 4.4 | H.R. 3778 / S. 2648 | Record Products of America (RPA) |
| Mastering finishing | H.R. 3783 S. 2651 | Center hole and outside diameter punching of nickel stamper | 8462.41.00 | 4.4 | H.R. 3778 / S. 2648 | RPA |
| Note: Mastering systems may be in-line or modular. Mastering systems are often sold in two packages including a mastering package and electroforming package. Additionally, ashing machines may be sold separately from the electroforming package. | | | | | | |

| DVD production process | Bill No. | Machine(s) used in DVD production | Harmonized Tariff System (HTS) subheading | 2000 duty rate (percent ad valorem) | Related bills, No. | U.S. Producer/s |
|-------------------------------|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|--------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| Replication | H.R. 3789 S. 2657 | Injection molding of DVD disc (molding of DVDs against the stamper) | 8477.10.90 | 3.1 | H.R. 3778 / S. 2648 H.R. 3794 / S. 2662 | |
| Replication | H.R. 3794 S. 2662 | DVD mold | 8480.79.90 | 3.1 | H.R. 3778 / S. 2648 H.R. 3789 / S. 2657 | |
| Replication | H.R. 3780 S. 2646; S. 2664 | In-line system machine (in-line replication machine typically includes the following stations: cooling/feeder, metallizing, bonding, curing, inspection and sorting.) See also In-line mastering system machine above. | 8479.89.97 | 2.5 | H.R. 3778 / S. 2648 H.R. 3788 / S. 2656 H.R. 3790 / S. 2658 H.R. 3791 / S. 2659 H.R. 3792 / S. 2660 H.R. 3793 / S. 2661 H.R. 3795 / S. 2663 | Steag Hamatech, Inc. (Steag) ¹⁵ |
| Replication | NA | Cooling/feed unit—transfers the molded replicas to the metallizer units | NA | NA | NA | Steag |
| Replication | H.R. 3793 S. 2661 | Sputter (or spin) aluminum on DVD disc | 8479.89.97 | 2.5 | H.R. 3778 / S. 2648 H.R. 3792 / S. 2660 | |
| Replication (DVD-9) | H.R. 3792 S. 2660 | Sputter (or spin) gold (or silicon) on DVD disc | 8479.89.97 | 2.5 | H.R. 3778 / S. 2648 H.R. 3793 / S. 2661 | |
| Replication | H.R. 3788 S. 2656 | Coating machine—laquer coating used as bonding agent | 8479.89.97 | 2.5 | H.R. 3778 / S. 2648 H.R. 3790 / S. 2658 | Steag |
| Replication (DVD-only) | H.R. 3790 S. 2658 | Bonding machine | 8479.89.97 | 2.5 | H.R. 3778 / S. 2648 H.R. 3788 / S. 2656 | Steag |
| Replication | NA | UV curing station | NA | NA | NA | |
| Replication | H.R. 3795 S. 2663 | Inspection machine/optical laser scanner—Data Verification System test (DVS) | 9031.49.90 | 3.5 | H.R. 3778 / S. 2648 | Integral Vision Inc. |

¹⁵ In February 2000, German company Steag Hamatech, Inc. purchased First Light located in Seco, Maine, and continues to produce replication equipment for the production of DVDs. According to industry representatives, Steag has a large market share in CD-R (recordable CDs) production machinery but has not had much success with its DVD production machinery.

| DVD production process | Bill No. | Machine(s) used in DVD production | Harmonized Tariff System (HTS) subheading | 2000 duty rate (percent ad valorem) | Related bills, No. | U.S. Producer/s |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|------------------------------------------|--------------------------------------------------|--------------------------------------------|---------------------------|-----------------------------|
| Replication | NA | Electrical Test–signal verification test | NA | NA | NA | CD Associates ¹⁶ |
| Replication | H.R. 3791 S. 2659 | Stacker machine | 8479.89.97 | 2.5 | H.R. 3778 / S. 2648 | Staeg |
| <p>Note: Most, if not all, replication machinery is in-line. Although the testing machinery is listed near the end of the replication process, it may be used throughout the production process. Additional tests may also be conducted, including environmental tests such as storage tests and heat cycle tests used to ensure longevity of the DVDs.</p> | | | | | | |

NA–Not applicable. Existing draft bills, including H.R. 3778 and S. 2648 encompassing all DVD production machinery, omit certain machinery integral to DVD production.

¹⁶ CD Associates produces machinery that verifies the performance of the replica DVD or the stamper produced at the end of the mastering process. While its equipment is not directly contained in any of the bills listed, the equipment is may be bundled with other replication equipment and sold together.

APPENDIX A

TARIFF AND TRADE AGREEMENT TERMS

In the **Harmonized Tariff Schedule of the United States** (HTS), chapters 1 through 97 cover all goods in trade and incorporate in the tariff nomenclature the internationally adopted Harmonized Commodity Description and Coding System through the 6-digit level of product description. Subordinate 8-digit product subdivisions, either enacted by Congress or proclaimed by the President, allow more narrowly applicable duty rates; 10-digit administrative statistical reporting numbers provide data of national interest. Chapters 98 and 99 contain special U.S. classifications and temporary rate provisions, respectively. The HTS replaced the **Tariff Schedules of the United States** (TSUS) effective January 1, 1989.

Duty rates in the **general** subcolumn of HTS column 1 are normal trade relations rates, many of which have been eliminated or are being reduced as concessions resulting from the Uruguay Round of Multilateral Trade Negotiations. Column 1-general duty rates apply to all countries except those listed in HTS general note 3(b) (Afghanistan, Cuba, Laos, North Korea, and Vietnam) plus Serbia and Montenegro, which are subject to the statutory rates set forth in **column 2**. Specified goods from designated general-rate countries may be eligible for reduced rates of duty or for duty-free entry under one or more preferential tariff programs. Such tariff treatment is set forth in the **special** subcolumn of HTS rate of duty column 1 or in the general notes. If eligibility for special tariff rates is not claimed or established, goods are dutiable at column 1-general rates. The HTS does not enumerate those countries as to which a total or partial embargo has been declared.

The **Generalized System of Preferences** (GSP) affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 for 10 years and extended several times thereafter, applies to merchandise imported on or after January 1, 1976 and before the close of September 30, 2001. Indicated by the symbol "A", "A*", or "A+" in the special subcolumn, the GSP provides duty-free entry to eligible articles the product of and imported directly from designated beneficiary developing countries, as set forth in general note 4 to the HTS.

The **Caribbean Basin Economic Recovery Act** (CBERA) affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67, implemented by Presidential Proclamation 5133 of November 30, 1983, and amended by the Customs and Trade Act of 1990, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984. Indicated by the symbol "E" or "E*" in the special subcolumn, the CBERA provides duty-free entry to eligible articles, and reduced-duty treatment to certain other articles, which are the product of and imported directly from designated countries, as set forth in general note 7 to the HTS.

Free rates of duty in the special subcolumn followed by the symbol "IL" are applicable to products of Israel under the **United States-Israel Free Trade Area Implementation Act** of 1985 (IFTA), as provided in general note 8 to the HTS.

Preferential nonreciprocal duty-free or reduced-duty treatment in the special subcolumn followed by the symbol "J" or "J*" in parentheses is afforded to eligible articles the product of designated beneficiary countries under the **Andean Trade Preference Act** (ATPA), enacted as title II of Public Law 102-182 and implemented by Presidential Proclamation 6455 of July 2, 1992 (effective July 22, 1992), as set forth in general note 11 to the HTS.

Preferential free rates of duty in the special subcolumn followed by the symbol "CA" are applicable to eligible goods of Canada, and rates followed by the symbol "MX" are applicable to eligible goods of Mexico, under the **North American**

Free Trade Agreement, as provided in general note 12 to the HTS and implemented effective January 1, 1994 by Presidential Proclamation 6641 of December 15, 1993. Goods must originate in the NAFTA region under rules set forth in general note 12(t) and meet other requirements of the note and applicable regulations.

Other special tariff treatment applies to particular **products of insular possessions** (general note 3(a)(iv)), **products of the West Bank and Gaza Strip** (general note 3(a)(v)), goods covered by the **Automotive Products Trade Act** (APTA) (general note 5) and the **Agreement on Trade in Civil Aircraft** (ATCA) (general note 6), **articles imported from freely associated states** (general note 10), **pharmaceutical products** (general note 13), and **intermediate chemicals for dyes** (general note 14).

The **General Agreement on Tariffs and Trade 1994** (GATT 1994), pursuant to the Agreement Establishing the World Trade Organization, is based upon the earlier GATT 1947 (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786) as the primary multilateral system of disciplines and principles governing international trade. Signatories' obligations under both the 1994 and 1947 agreements focus upon most-favored-nation treatment, the maintenance of scheduled concession rates of duty, and national treatment for imported products; the GATT also provides the legal framework for customs valuation standards, "escape clause" (emergency) actions, antidumping and countervailing duties, dispute settlement, and other measures. The results of the Uruguay Round of multilateral tariff negotiations are set forth by way of separate schedules of concessions for each participating contracting party, with the U.S. schedule designated as Schedule XX. Pursuant to the **Agreement on Textiles and Clothing** (ATC) of the GATT 1994, member countries are phasing out restrictions on imports under the prior "Arrangement Regarding International Trade in Textiles" (known as the **Multifiber Arrangement** (MFA)). Under the MFA, which was a departure from GATT 1947 provisions, importing and exporting countries negotiated bilateral agreements limiting textile and apparel shipments, and importing countries could take unilateral action in the absence or violation of an agreement. Quantitative limits had been established on imported textiles and apparel of cotton, other vegetable fibers, wool, man-made fibers or silk blends in an effort to prevent or limit market disruption in the importing countries. The ATC establishes notification and safeguard procedures, along with other rules concerning the customs treatment of textile and apparel shipments, and calls for the eventual complete integration of this sector into the GATT 1994 over a ten-year period, or by Jan. 1, 2005.

Rev. 1/4/00

APPENDIX B

**SELECTED PORTIONS OF THE
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

[Note: Appendix may not be included in the electronic version of this memorandum.]

APPENDIX C

STATEMENTS SUBMITTED BY THE PROPONENTS

[Note: Appendix C may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.]

APPENDIX D

STATEMENTS SUBMITTED BY OTHER FIRMS/ORGANIZATIONS

[Note: Appendix D may not be included in the electronic version of this memorandum posted on the Commission's web site if an electronic copy of the statement was not received by the Commission.]

April 24, 2000

Ms. Melani Schultz
International Trade Analyst
United States International Trade Commission
ITC Building
500 E Street SW
Washington, DC 20002

Re: The USITC Report on Proposed Legislation - H.R. 3778 through H.R. 3795

Dear Ms. Schultz:

As a longstanding member of OMMA and President and CEO of Optical Disc Corporation, I am writing to express my concerns about legislation that is being proposed, specifically H.R. 3778 through H.R. 3795, for purposes of USITC's public congressional report.

I understand this legislation, which, if enacted, would suspend U.S. tariffs on imports into the United States of certain machinery and their parts related to the production of digital versatile discs (DVDs), as well as amend all HTS product classification codes affected by the bills to include "equipment used to manufacture DVDs." At the same time, the foreign companies presently involved in, and dominating, the optical disc machinery industry will continue to receive support from their governments through import tariffs in their home markets on similar equipment manufactured by U.S. companies such as Optical Disc Corporation. As such, I believe it would place U.S. manufacturers of DVD optical disc manufacturing machinery at a further competitive disadvantage within the U.S. market.

Optical Disc Corporation is a U.S. manufacturer of CD and DVD (optical disc) mastering system machinery and components, and has been in business for over 17 years. During this period we have seen large direct foreign competitors, including Toolex International/ODME (Netherlands-based), Sony and Panasonic (Japan-based), Nimbus (U.K.-based) and others, enter into the market with their own government-backed programs for financing, reducing prices, driving down our pricing structures and profits, often aided by the strong dollar. In fact, we estimate that the current foreign trade advantages have directly resulted in a 75% loss in U.S. market share for Optical Disc Corporation, which under a more balanced trading policy, would not have occurred. Suspending import tariffs on the equipment these companies provide to the U.S. customer-base would take away the only competitive trade advantage that U.S.-based entities currently hold. It is difficult for us to understand why the U.S. Congress would consider providing foreign companies with a such a strong competitive advantage when a U.S. company, such as ODC, remains levied with tariffs when we sell the same type of equipment into their countries.

Furthermore, the way in which bills H.R. 3778 through H.R. 3795 are worded makes it easy to assume that the tariff suspension only applies to DVD-related import products. This is not the case. In fact, all DVD mastering equipment, electroforming equipment, molding/replication and other machinery affected by these bills also provide for the manufacture of CD products. It is impossible to differentiate the equipment because the same equipment is designed to produce both formats. Therefore, in reality, these bills would eliminate the tariffs on all CD manufacturing machinery imported into the U.S., as well. Calculations regarding lost tariff revenue should include projections for both CD and DVD equipment. If

these bills are passed, imported equipment would be claimed as DVD equipment for customs purposes even if it's actual use would be for CD manufacturing. It also would produce an additional advantage for foreign companies, which, in fact, already dominate the U.S. marketplace for CD manufacturing equipment.

Some of the equipment definitions stated in the bills are biased by the proponents and incomplete, and they should be clarified before a vote is made on them. In particular, Bill H.R. 3780 (HTS classification 8479.89.97) defines DVD mastering machinery as an "in-line system machine." In fact, in-line system machines are marketed by the industry worldwide as "mastering equipment" or "mastering systems," which can be designed as an in-line-style or modular-style system. Both are automated mastering systems. Both provide the same function and product – CD and DVD master discs. Therefore, in-line systems compete with modular systems in the same market. Optical Disc Corporation, the only U.S. company manufacturing mastering systems today, produces a modular-style mastering system, and is currently developing an in-line system, which is being planned for release during the fourth quarter of this year. We believe the current "in-line system machine" definition is an attempt to confuse Members of Congress and to make it falsely appear that this type of equipment is not currently manufactured in the U.S. Rather, we believe the machinery should be referred to by its industry name -- "mastering systems" or "mastering equipment" -- since that is the machinery's function, and that is how it is represented to the U.S. marketplace.

As a competitive manufacturer and provider of DVD and CD mastering machinery and supplies worldwide, Optical Disc Corporation contributes many millions of dollars each year toward a more equal balance of trade for the U.S. Since the company's founding in 1982, it has been, and continues to be, faced with high tariffs by foreign governments, both in Europe and Asia, which keep our company at a competitive trade disadvantage in the global marketplace. Since the U.S. market for mastering machinery is already dominated by foreign competitors, we strongly recommend that our Congressional leaders will reject the above mentioned bills.

Lastly, the current trade practices of the mastering industry's largest worldwide manufacturer and influential proponent of this legislation -- Netherlands-based Toolex/ODME -- should be taken into serious question when considering the aforementioned legislation. Already, there is strong evidence of monopolistic-type practices in the U.S. marketplace by Toolex/ODME. In particular, sufficient industry data exists confirming that they continue to leverage their U.S. market dominance by engaging in widespread price dumping of their mastering products within the U.S. It also should be noted that many of these products were derived from technologies invented and originally introduced to the world marketplace by U.S.-based entities. The motives of foreign competitors such as Toolex/ODME should cause Members of Congress serious pause when considering this legislation.

As a U.S. manufacturer, who has been in the optical disc mastering industry since its inception, I am deeply concerned that this legislation will serve not only as another set-back to the balance of trade for the U.S., but also provide the U.S.-based optical disc manufacturing equipment companies at an even further disadvantage in competing in the global marketplace. I strongly encourage the U.S. Congress to reject this legislation.

Respectfully yours,

Richard L. Wilkinson
President and CEO
Optical Disc Corporation

Enclosure

ODC Mastering System. . .

Introduction

ODC's Mastering System incorporates more than 17 years of in-depth expertise in optical disc mastering. Each ODC Mastering System is specifically tailored to meet specific customer requirements for consistent high quality products, efficient operations and the lowest cost per master in the industry.

An investment in ODC Mastering offers several advantages:

- ❑ **Consistent Quality Control:** ODC's exclusive Direct Read After Write (DRAW) closed-loop mastering technology means real-time quality assurance and unparalleled product consistency. As the recording (blue) laser cuts a pit, a red quality laser immediately follows, reading the pit in the same manner as a player or drive. Quality assurance occurs during recording, ensuring that every completed master is a good one. ODC's DRAW Mastering process typically results in mastering yields exceeding 95 percent. The result is highly consistent masters providing high mastering yields, higher replication yields and faster molding cycle times.
- ❑ **Simpler Process and Control:** DRAW Mastering requires far fewer steps than alternative mastering technologies by making the process simpler to control, easier to learn and much more economical to maintain. ODC's DRAW mastering is the most simple to use mastering product on the market. Just clean the glass, spin coat the glass, record the master, and metalize the master. Then, all that is required is electroforming, and you have a high quality stamper ready for replication.
- ❑ **Economical Operation:** DRAW Mastering requires less equipment and fewer personnel. The process is the only complete mastering system that is environmentally friendly, drastically reducing the high costs of hazardous material handling found in alternative processes such as photoresist.
- ❑ **Flexible Configuration:** ODC delivers a comprehensive glass mastering system configured to meet any business objective. Options are available for most equipment, incorporating faster and higher throughput mastering equipment, including additional Laser Beam Recording (LBR) systems to increase capacity. ODC's Laser Wave automatically switches between CD and DVD mastering modes in less than 10 seconds without any user adjustments or need to cut test masters.
- ❑ **Customer Support:** ODC provides complete installation, optimization, and training services, as well as scheduled maintenance and process reviews. Supplemental training courses are offered throughout the year. ODC maintains technical support personnel in the United States, Europe, and Asia.

Attachment A

The ODC Mastering System



ODC Mastering Systems delivers a complete mastering operation capable of producing metalized glass masters ready for making stampers.

The following is an overview of the functional components and services included in the ODC Mastering System:

- Glass Recovery and Cleaning
- Spin Coating
- Drying
- Film Thickness Measurement
- Glass Master Recording
- Metalizing
- Startup Equipment and Supplies
- Process Documentation
- Installation, Training, and Support
- Warranty

GLASS RECOVERY

The Glass Recovery Station allows automatic removal of nickel and dye-polymer residues from glass masters in a very efficient manner. The Glass Recovery Station typically is located in the electroplating area. The ODC Glass Recovery System allows 10 pieces of glass to be cleaned at the same time. Because the recovery process requires minimal processing the glass can be recycled well over 30 times before it must be repolished. Experience indicates that hardened glass can go through the ODC recovery process as many as 100 times.

FINAL GLASS CLEANING

The Final Glass Cleaning Station is designed to quickly clean mastering glass substrates. Simple controls make processing glass a one-button operation. The ODC Glass Cleaning Station produces glass ready for dye-polymer coating for all CD and DVD applications. The station also features a recirculating-loop water polishing system that supplies 18 MOhm filtered water to the system. The Final Glass Cleaning Station comes with glass handling equipment included.

SPIN COATING

ODC's Spin Coating Station is a fully automated spin coating cycle using a single push-button operation. The station deposits Dye Polymer on clean glass and spins it to a precise thickness across the glass. The unique design of the closed chamber makes the finished product virtually immune to particulate contamination, ensuring high yields. The Spin Coating Station is installed with a Class 100 laminar flow hood integrated with a highly-accurate temperature control system that maintains temperature to ± 0.5 C.

Attachment B



DRYING

After spin coating, the coated glass master is baked in a small oven to eliminate any moisture prior to metalization. The ODC Clean Room Oven fits on a tabletop and is used to heat and cure up to three pieces of coated glass in a single, fast step.

FILM THICKNESS MEASUREMENT

ODC's Model 535A Light Transmission Meter (LTM), precisely references the thickness of the Dye Polymer film on the coated glass substrates. By achieving repeatability of $\pm 0.1\%$, the LTM allows a determined repeatability and uniformity of film thickness with a high degree of accuracy. The measurement is nondestructive and performed by pressing a single push-button on the LTM.

MASTER RECORDING - LASER WAVE

ODC's Laser Wave transfers (records) digital information to the glass master disc. The Laser Wave records all current CD and DVD formats. The Laser Wave includes the ODC Mastering Network and front end laser encoder with a supervisory station for job management, setup and offline loading of jobs, allowing you to load one job while recording another. The Laser Wave features state of the art design with "Computer Assisted Mastering" featuring Windows NT, Pentium processors and hot swappable hard disc drives as well as plug and play modular printed circuit boards.

M-5400 Laser Wave:

ODC's M-5400 Laser Wave encodes and transfers digital information to the glass master disc. The M-5400 Laser Wave encodes records all current CD formats at 4x and DVD rates. The LBR is capable of switching automatically between CD and DVD mastering in less than 10 seconds. The Laser Wave automatically adjusts and optimizes optics, laser power, surface velocity, track pitch and other key mastering parameters. Because DRAW Mastering is a closed-loop process, there is no need to cut a test master to assure that the process is optimized for new mastering parameters. The M-5400 Laser Wave also features a Mastering Network with supervisory station for job management, setup, and offline loading of jobs. The M-5400 Laser Wave allows you to load one job while recording another. The Laser Wave features state of the art "Computer Assisted Mastering" featuring Windows NT, Pentium processors, and hot swappable hard disc drives. Typical ODC Laser Wave customers produce up to 65 high quality glass masters in a 3-shift production environment.

METALIZING

Following completion of the master recording, a thin layer of nickel is deposited onto the glass master disc. This layer of nickel provides for electrical conductivity in the galvanic process used to create stampers. ODC offers a single-substrate, vacuum deposition system that ensures a very uniform deposition thickness. The system has a capacity of metalizing three masters per hour.



**DVD MASTERING/REPLICATION FACILITIES
SCOPE OF U.S. MARKETPLACE**

THE DVD MASTERING AND REPLICATION MACHINERY MARKETS ARE IN A CONSTANT STATE OF CHANGE. IT IS, THEREFORE, DIFFICULT – IF NOT IMPOSSIBLE - TO DETERMINE THE EXACT NUMBER OF PARTICIPANTS AND PROSPECTIVE PARTICIPANTS CURRENTLY OPERATING IN THE U.S., NOT TO MENTION WORLDWIDE.

THERE ALSO IS VERY LITTLE INDUSTRY RESEARCH AVAILABLE THAT INDICATES AN ACCURATE ACCOUNTING OF THE TOTAL NUMBER OF MASTERING/REPLICATION FACILITIES, AND DATA SHOWING WHICH COMPANIES ACTUALLY HAVE MANUFACTURING FACILITIES, VS. REGIONAL SALES OFFICES, IN THE U.S.

THE ESTIMATES GIVEN BELOW ARE BASED ON OUR CURRENT KNOWLEDGE OF THE GROWING NUMBER OF DOMESTIC CD/DVD MASTERING/REPLICATION FACILITIES AND VHS DUPLICATION HOUSES THAT HAVE ADDED A DVD MASTERING/REPLICATION FACILITY WITHIN THE LAST FIVE YEARS, OR WILL NEED TO DO SO. IT IS EXPECTED THAT ALL VHS DUPLICATION HOUSES WILL BE ADDING DVD MANUFACTURING EQUIPMENT IN THE NEAR FUTURE.

IT IS IMPORTANT TO NOTE THAT ALL MASTERING AND REPLICATION MACHINERY, WITH THE EXCEPTION OF BONDING EQUIPMENT, CAN BE USED FOR BOTH CD AND DVD PRODUCTION. THIS SHOULD BE CONSIDERED WHEN DETERMINING THE MAGNITUDE OF POTENTIAL REVENUE THAT THE U.S. WOULD LOSE IF TARIFFS WERE SUSPENDED, AS PROPOSED BY THE HR 3779 THROUGH 3795 LEGISLATION.

POTENTIAL U.S. MARKET ESTIMATES

APPROXIMATE NUMBER OF REPLICATION PLANTS IN THE U.S. = 100

APPROXIMATE NUMBER OF VHS DUPLICATION HOUSES IN THE U.S. = 257

NOTE: THE AVERAGE INDUSTRY SALES PRICE FOR A SINGLE MASTERING SYSTEM IS CURRENTLY APPROXIMATELY \$1,100,000.00.

ATTACHMENT C—NOT AVAILABLE ELECTRONICALLY

Alex Greenspan
Digital Matrix Corporation
67 Whitson Street
Hempstead, NY 11550
USA

Theresa Canavan
International Trade Analyst
Electronics and Transportation Division
Office Of Industries
U.S. International Trade Commission

April 15, 2000

Dear Ms. Canavan,

I am the president of Digital Matrix Corporation, a manufacturer/integrator of equipment used for the production of all types of Optical Disc media, including CD and DVD. Specifically, we manufacture electroforming equipment, which is used to produce, by a electrolytic plating process, CD/DVD stampers from CD/DVD glass masters. With this equipment we supply a full range of support equipment, tools, labware, consumable supplies and technical know-how. We refer to this as turnkey supply. It is important to note that electroforming equipment makes up only part of the chain of systems needed to produce CD/DVDs. There are three major categories to consider; Mastering, Electroforming, and Replication. We specialize only in the electroforming category. Our equipment is compatible with all known equipment both in replication and in mastering.

It is also important to understand at the outset, that DVD manufacturing is in many ways the same as CD manufacturing. Within the electroforming category, there is almost no difference between the way a CD

stamper is made and the way a DVD stamper is made. The major difference is in the care and cleanliness required. Since DVD data is more densely packed, and since the feature size which represents this data is smaller, greater care must be taken against contamination. Generally, specifications and tolerances are more rigorous for DVD stampers than for CD stampers. The basic process, however, is the same. Last week I learned of a series of bills under consideration in Congress that relate to the compact disc industry and specifically to the import of equipment for the manufacturing of DVD media. These bills, as I understand them, would eliminate import duty on such equipment, the purpose being to spur growth of the DVD format. As a US based company whose primary business is the manufacture of this type of equipment, these bills appall me.

I don't understand how these bills would stimulate DVD growth. Within this country, we are already leading the world in DVD production. Although much of the equipment is made in Europe, the real testing and research has been going on here. In fact, equipment suppliers from around the world have benefited by using US CD/DVD producers to test and refine their equipment. These foreign companies would have us believe that they are exporting this valuable technology to the US, and then teaching us how to use it. In reality, much of this technology originated in the US, and much of the initial testing and development of new formats has been performed here.

Whereas I believe that cooperation between businesses spanning international borders benefits us all, I also believe that there are companies who look to take advantage of our open market. These companies are simply looking to profit from our willingness to push new technologies. There is nothing wrong with this concept until some unscrupulous companies try to pervert the system by increasing their advantage at the expense of American companies. If this were a fair proposal, I would think that the EC should also eliminate import duty on equipment related to DVD manufacturing. Should not American companies benefit from this cooperation? These bills are clearly one-sided and unfair! In our experience, it is already

easier for European companies to export to the US than it is for US companies to export to Europe. As I understand it, the introduction of these bills pre-supposes that there are no US companies competing in this area. This opinion no doubt comes from our competitors abroad, who have convinced a few congressmen that the easing of the import duty would somehow make sense. I believe this is a deliberate attempt by certain non-US companies to increase their advantage and to increase their profits at the expense of many here in the US. I believe it is no accident that our name and the names of other US suppliers were and are not known to these particular congressmen. We are, after all, talking about a relatively small global industry in which all the players know one another quite well. I can guarantee that the foreign companies behind these bills know Digital Matrix and all the other US players as well. Therefore, if those foreign companies have claimed that there are no US manufacturers of this equipment, a deliberate misrepresentation of the facts has been committed.

I would like to point out that as a US company, we are constantly fighting in foreign markets to sell our equipment based on quality and a high level of technical expertise. This task is made difficult by several factors. First, the dollar is very strong and has been for some time. This means that our selling price is high when compared to that of European suppliers. Secondly, within Europe there is a distinct and pervasive "anti-American" sentiment when it comes to purchasing products made in the US. I have personally attended business meetings in Europe where it was stated that, price being equal, Europeans would prefer not to buy products. I was told in no uncertain terms, that our products must be less expensive than the European equivalent because the quality was obviously inferior. In some cases, the European suppliers are able to export this attitude to Asia. In spite of this perception, I can assure that Digital Matrix makes top quality equipment and provides the best level of technical support in the industry. Further, we accomplish this in innovative fashion thereby doing our part to turn-around this attitude.

It is clear that this bill would hurt US companies such as ourselves. It must also be understood that when I speak of our company, it is not simply one company that is involved. Digital Matrix utilizes many suppliers, both large and small. It is one of our advantages that we can easily and economically work together with many sub-vendors. These sub-vendors produce and/or supply many of the components, design work, assemblies and services that are required to produce a high tech competitive product. Some of these vendors are small companies whose business is in large part dependant on the work we farm out to them. Our vendors are both local (Long Island, NJ) and across the country (Maine, California, Florida, etc...). The effects of this bill would be felt by literally dozens of companies connected with Digital Matrix alone. When you consider that the same scenario exists for each of the other US companies directly related to our industry, the number easily becomes hundreds.

As I stated, this is a relatively small industry. Therefore we should not be fooled by the fact that there are, in the US, only a small number of companies competing directly in the supply of equipment for DVD manufacturing. If you take Digital Matrix as an example, we have only two major competitors outside the US. By removing the import duty on their equipment, you will be giving them an unfair advantage in a highly competitive market. I know these companies quite well, and I know that they are aggressively pursuing sales here in the US. This includes using anti-competitive tactics, about which I would be happy to detail in a separate letter. I feel sure that Digital Matrix and other US manufacturers will get no such consideration in the EC.

These latest tactics by our foreign competitors should not surprise me. We are well acquainted with the aggressive methods employed by some of these companies. In fact, for some time we have been suffering from increasingly monopolistic and anti-competitive behavior on the part of one of the most dominant companies in our industry. This company has purchased many of its competitors and has even acquired one major player here in the US. By using methods such as "dumping" and "tie-in sales" they have crossed the line into anti-competitive practice. We have opinion letters from attorneys both here and in Europe, which back up our conclusions.

In light of all this, I would expect that our government would support our efforts, both as an exporter, and as a domestic supplier of equipment used to develop and produce high tech consumer media formats. The introduction of these bills is an arrogant and cynical effort by our foreign competitors to gain an unfair advantage. Their goal is to increase their own sales and profits by further penetrating the US market, which

they see as the real prize, while at the same time, looking down at American products. An evaluation of the US market would show that the European suppliers already have a substantial share of the domestic market. If you look at the dominant mastering system sold in the US, it is Toolex/ODME, which is a Dutch based company. Toolex also bundles electroforming equipment (which is what we manufacture) and in most cases, when they sell a mastering system, electroforming goes with it. We have even been told that they “throw it in for free”, or that the attractive financing that they offer is only good if they take the whole package. This becomes a problem for us. Other European companies also seek to bundle European equipment with their own, limiting the opportunities for Digital Matrix and other US companies. It is my sincere hope that, once the facts are known it will be clear that there is no basis for these bills in that they presuppose conditions, which don't exist, and in that they are patently unfair to American businesses.

Sincerely,

Alex Greenspan
Digital Matrix, NY

Cc: Joel Berman, Digital Matrix
Richard Wilkinson, Optical Disc Corp.
Robert Roczynski, Record Products of America



Digital Matrix Corporation
67 Whitson Street
Hempstead, NY 11550
USA

June 29, 2000

Ms. Melani G. Schultz
International Trade Analyst
Electronics and Transportation Division
Office of Industries
U.S. International Trade Commission
Room 511-P
500 E Street, SW
Washington, D.C. 20436

Re: Miscellaneous Tariff Legislation (S. 2646-2664)

Dear Ms. Schultz:

I want to thank you and Dennis Fravel for taking time to meet with me to discuss S. 2646-2664, which would suspend customs tariffs for foreign manufactured equipment used to manufacture digital versatile discs (DVDs). As we discussed, these bills would give an unfair competitive advantage to foreign manufacturers. Thus, Digital Matrix is opposed to all of these bills as they will harm Digital Matrix and other U.S. companies competing in the supply of equipment for DVD manufacturing.

I would like to incorporate by reference my April 15, 2000, letter to Theresa Canavan regarding the House bills as the information therein is equally applicable to the Senate bills.

The U.S. DVD industry does not require the "assistance" these bills purport to offer, which is to spur growth of the DVD format. These bills pre-suppose that there are no U.S. companies competing in the DVD manufacturing industry when, in fact, the U.S. is leading the world in DVD production. Moreover, much of the DVD technology originated in the U.S., and a significant amount of initial testing and development of new formats has been performed here as well. Therefore, there simply is no basis for these bills.

As you know, there are three phases involved in the production of DVDs: Mastering, Electroforming, and Replication. Digital Matrix primarily specializes in manufacturing equipment used only in one of the three phases (Electroforming). Although each bill involves separate aspects of the DVD equipment manufacturing process, the removal of tariffs on equipment used in any aspect of DVD manufacturing harms all U.S. companies involved in the industry.

Our electroforming equipment is compatible with all known equipment both in replication and in mastering. However, foreign manufacturers, such as Toolex/ODME, a Dutch based company which produces the dominant mastering system sold in the U.S., "bundle" the three processes and offer attractive financing to customers who take the whole package. Making it less expensive for foreign manufactures such as Toolex to sell their bundled systems in the U.S., as these bills would do, will harm Digital Matrix by reducing the market for our stand alone electroforming equipment. This will be the case even if the tariffs specific to electroforming equipment are not suspended. Thus, Digital Matrix would be

Ms. Melani G. Schultz

June 30, 2000

Page 30

adversely impacted by the enactment of not just the Electroforming bills, but of any of the Mastering and Replication bills as well.

It is already easier for foreign companies to export to the U.S. than it is for U.S. companies to export to Europe or Asia. Any removal of import duty on their equipment, without a similar removal of duties on U.S. exports, will give foreign manufacturers an unfair advantage in this highly competitive market. Currently, the import tariff for our equipment going into the EC is about 4% and I have heard of no move to suspend this duty. In Asia, the import tariffs can go even higher. Moreover, because much of the equipment is the same it will also effect other media, including compact discs and CD-ROMs.

According to our current sales and projections, US sales for electroforming equipment over the next five years will average US \$ 4 million. Estimates for all DVD related manufacturing equipment sales in the US will top US \$ 75 million per year over the next five years.

I urge you to recognize the harmful impact of all of these bills on U.S. companies involved in the DVD manufacturing equipment industry. Considering the obstacles faced by U.S. companies in foreign markets, as well as the strong U.S. industry for DVD manufacturing, I would expect that our government would support our efforts, both as an exporter and as a domestic supplier of equipment used to develop and produce high tech consumer media formats. These bills will hurt U.S. companies and should not be enacted.

Sincerely,

Alex Greenspan
Digital Matrix, NY

106TH CONGRESS
2D SESSION

S. 2653

To suspend temporarily the duty on machines, and their parts, for use
in the manufacture of digital versatile discs (DVDs).

IN THE SENATE OF THE UNITED STATES

MAY 25, 2000

Mr. COVERDELL introduced the following bill; which was read twice and
referred to the Committee on Finance

A BILL

To suspend temporarily the duty on machines, and their
parts, for use in the manufacture of digital versatile
discs (DVDs).

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TEMPORARY SUSPENSION OF DUTY.**

4 (a) IN GENERAL.—Subchapter II of chapter 99 of
5 the Harmonized Tariff Schedule of the United States is
6 amended by inserting in numerical sequence the following
7 new heading:

| | | | | | | | |
|---|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|-----------|-----------|-----------------------|----|
| “ | 9902.84.04 | Machines or mechanical appliances, whether imported separately or as an entirety, and parts thereof, for use in the manufacture of digital versatile discs (DVDs) (provided for in subheading 8464.20.50) | Free | No change | No change | On or before 12/31/03 | ”. |
|---|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|-----------|-----------|-----------------------|----|

1 (b) **EFFECTIVE DATE.**—The amendment made by
2 this section applies with respect to goods entered, or with-
3 drawn from warehouse for consumption, on or after the
4 15th day after the date of the enactment of this Act.

○