

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 110th Congress¹**

[Date approved: September 8, 2008]²

Bill No. and sponsor: H.R. 5354 (Mr. Gary Ackerman of New York).

Proponent name,³ location: Leviton Manufacturing Company, Inc., Little Neck, NY.

Other bills on product (110th Congress only): None.

Nature of bill: Temporary duty suspension through December 31, 2011.

Retroactive effect: None.

Suggested article description(s) for enactment (including appropriate HTS subheading(s)):

Spotlights (other than hand-held), of plastics, suitable for use as theater lighting and designed to be affixed to walls, ceilings or supporting stands or beams; nightlights with manual on/off switch; or automatic rotating, light-emitting diode (LED), light-directing LED or motion-activated night lights, all the foregoing of plastics (provided for in subheading 9405.40.80).

Check one: Same as that in bill as introduced.
 Different from that in bill as introduced (see Technical comments section).

Product information, including uses/applications and source(s) of imports:

This duty suspension bill is intended to cover two types of lighting fixtures made from plastics, both classifiable in the same HTS subheading namely, certain theatrical lighting fixtures and various types of night lights. Portable spotlights, which may be hand-held or designed to be mounted on movable stands, are used by professional photographers, museums, art galleries, and other similar venues where tightly focused light is required. Such lighting is sometimes known as parabolic aluminized reflector (PAR) lighting. The lighting is also used in theaters and other venues for performing arts and to provide security-related illumination for buildings and outdoor spaces. These lighting fixtures use quartz lamps (bulbs) because of their long life and constant light output.

On/off night lights provide limited range, low wattage lighting with manual on/off switches. Light-emitting diode (LED) night lights provide constant lighting in dark areas, such as closets, bathrooms, and kitchens. Motion- or sound-activated lights provide illumination in dimly-lit areas while saving energy,

¹ Industry analyst preparing report: Ralph Watkins (202-205-3492); Tariff Affairs contact: Jan Summers (202-205-2605).

² An electronic copy of this memorandum is available at http://usitc.gov/tata/hts/other/rel_doc/bill_reports/index.htm.

³ The sponsor/proponent did not identify any additional beneficiaries of this bill. USITC staff identified three additional beneficiaries of this bill that were not identified by the sponsor/proponent, and those beneficiaries submitted written representations that they would benefit from this bill.

given that they are not constantly lit. These lights can supplement security devices by providing illumination when a secure area is intruded upon at night.

China is the dominant supplier of miscellaneous electrical lighting of plastics. China accounted for 86 percent (\$828 million) of total U.S. imports under HTS subheading 9405.40.80 (a broader category than is covered by this bill) and 91 percent of dutiable imports in 2007.

Estimated effect on customs revenue:

HTS subheading: <u>9404.40.80</u>					
	2009	2010	2011	2012	2013
Col. 1-General rate of duty					
Col. 1-General rate of duty	3.9%	3.9%	3.9%	3.9%	3.9%
Estimated value <i>dutiable</i> import	\$10,500,000	\$11,000,000	\$11,600,000	\$12,200,000	\$12,750,000
Customs revenue loss	\$409,500	\$429,000	\$452,400	\$475,800	\$497,250

Source of estimated dutiable import data: Commission estimates based on discussions with industry representatives.

Contacts with domestic firms/organizations (including the proponent):

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
		(Yes/No)		
Leviton Manufacturing Company, Inc. (Proponent) Christopher Schodowski, 619-205-8600	5/6/2008	Yes	Yes	No
Ace Hardware Corp. Carolann Conner, 630-990-6920	5/7/2008	No	No	No
Acuity Brands Lighting, Inc. Lisa Larkins, 404-853-1400	5/7/2008	No	No	No
Altman Lighting Co., Inc. Brian Altman, 914-476-7987	5/8/2008	No	No	No
American DJ Supply, Inc. Bill Curry, 323-582-2650	5/8/2008	No	No	No
American Tack & Hardware Mary Anne McCarthy, 201-934-3224	5/8/2008	No	No	No

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
		(Yes/No)		
Appleton Electric LLC Garry Mosebach, 847-268-6000	5/8/2008	No	No	No
Arri, Inc. Jose Baun, 845-353-1400, ext. 261	5/7/2008	No	No	No
Bayco Products, Inc. Eric Wickstrom, 469-326-9400	5/8/2008	No	No	No
Bed Bath & Beyond Angela Leary, 908-0688-0888	5/8/2008	No	No	No
Big Lots Stores, Inc. Wayne Stockton, 614-278-6800	5/8/2008	No	No	No
BJ's Wholesale Club Lou Gefteas, 508-651-6186	5/7/2008	No	No	No
Cooper Lighting LLC Tom Salpietra, 770-487-8571	5/8/2008	No	No	No
Costco Wholesale Corp. Art Jackson, 425-427-7644	5/7/2008	No	No	No
CVS Caremark Corp. Wendy Sussman, 202-772-3517	5/7/2008	No	No	No
Desa LLC Natalie Lowe, 800-858-8501	5/8/2008	No	No	No
The Designer's Edge, Inc. Mashele Giesinger, 425-637-9601	5/8/2008	No	No	No
Electrodepot Joan Teller, 561-362-0844	5/8/2008	No	No	No
Electronic Theatre Controls Fred Foster, 608-831-4116	5/7/2008	No	No	No
Elk Lighting Co. Mark Fludgate, 800-613-3261	5/9/2008	No	No	No
ESP Energy Management Products Mitch, 262-723-6867	5/9/2008	No	No	No
Grand Stage Co. Glennie Hudson, 414-276-2707	5/7/2008	No	No	No
Growco Indoor Garden Supply 616-454-6900	5/9/2008	No	No	No
The Home Depot Kevin Pinel, 770-433-8211, ext. 83323	5/9/2008	No	No	No

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
		(Yes/No)		
Intermatic, Inc. Natalie Scholberg, 815-675-7136	5/9/2008	No	No	No
Kohl's Corp. Beth Stellmacher, 262-703-1927	5/7/2008	No	No	No
The Kroger Co. Dennis Gallacher, 503-797-7944	5/9/2008	No	No	No
Lumination LLC (GE) Kelly Novak, 216-606-6555	5/9/2008	No	No	No
Lutron Electronics Co., Inc. Mark D. Yoder, 610-282-6530	5/9/2008	No	No	No
Lycian Stage Lighting S. Lerman, 845-469-5355	5/7/2008	No	No	No
Martin Professional, Inc. Tony Alhadeff, 954-858-1800, ext. 214	5/9/2008	No	No	No
National Specialty Lighting, Inc. Greg Lafebre, 303-926-1100	5/9/2008	No	No	No
Omron Electronics Components Bob Garvin, 847-882-2288	5/9/2008	No	No	No
Orchard Supply Hardware LLC Michael Peterson, 408-281-3500	5/8/2008	No	No	No
Philips Electronics Michelle DeMoor, 202-962-8551	5/9/2008	Yes	Yes	No
The Phoebus Co., Inc. John Tedesco, 415-550-0770	5/7/2008	No	No	No
Ranco North America LP Judy Brady, 614-873-9000	5/12/2008	No	No	No
Rite Aid Corp. John Coster, 703-888-0859	5/9/2008	No	No	No
Robe Lighting, Inc. Marisol Segovia, 954-615-9100	5/12/2008	No	No	No
Robert Shaw Controls Co. Angela Branaman, 865-981-3100	5/12/2008	No	No	No
Rockwell Automation, Inc. Keith Lister, 414-382-4871	5/8/2008	No	No	No
Sacramento Theatrical Lighting Phil Stommel, 916-447-3258	5/8/2008	No	No	No

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
			(Yes/No)	
Seagull Lighting Products, Inc. Michael Hirsch, 800-347-5483	5/12/2008	No	No	No
Sears Holding Corp. Brad Shorse, 847-286-2757	5/7/2008	No	No	No
SolarLightSource.com, NetShops, Inc. Suzi Hernandez, 866-654-0626	5/9/2008	No	No	No
Strand Lighting, Inc. Peter Rogers, 714-230-8205	5/7/2008	No	No	No
Target Corp. Toni Dembski-Brandl, 612-696-2573	5/7/2008	No	No	No
Time Square Lighting Felicia Williams, 845-947-3034, ext. 29	5/8/2008	No	No	No
True Value Co. David Shaddock, 773-695-5000	5/12/2008	No	No	No
Uni-Par Lighting Corp. Wilmetta Wimberly, 270-898-8962	5/12/2008	No	No	No
Walgreen Co. Leslie Higgins, 847-914-2500	5/7/2008	No	No	No
Wal*Mart Stores, Inc. Mark Haney, Sandler Travis Rosenberg mhaney@strtrade.com	5/7/2008	No	No	No

Technical comments:⁴

The proposed article description should be amended as shown on page 1 to take into account available information from the proponent. The term “theatrical lighting” lacks physical characteristics or other information that would tie it to a recognizable category of goods. Spotlights are a type of theatrical lighting fixture, but these goods may also be used to light photographic studios or other venues and they may be designed to be held or to be fixed to walls or supports. Further delineation may be needed to permit Customs to identify the goods actually of interest to the proponents, once this intent is clarified further. In addition, Chris Schodowki, Division Controller-Mexican Operations and Import/Export for the proponent, confirmed by e-mail on May 22, 2008, that the term “night light” was intended to be used in the legislation to describe the types of non-theatrical lighting to be covered by the bill rather than the term “spotlights.” Consequently, the term “night lights” should be substituted for the term “spotlights” in the second portion of the proposed article description.

⁴ The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

110TH CONGRESS
2D SESSION

H. R. 5354

To suspend temporarily the duty on certain theatrical lighting fixtures.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2008

Mr. ACKERMAN introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To suspend temporarily the duty on certain theatrical
lighting fixtures.

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. CERTAIN THEATRICAL LIGHTING FIXTURES.**

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:

“	9902.01.00	Theatrical lighting fixtures of plastic; and on/off, automatic rotating, LED, light directing LED, and motion activated spotlights of plastic (provided for in subheading 9405.40.80)	Free	No change	No change	On or before 12/31/2011	”.
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1 (b) **EFFECTIVE DATE.**—The amendment made by
2 subsection (a) applies to goods entered, or withdrawn from
3 warehouse for consumption, on or after the 15th day after
4 the date of the enactment of this Act.

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