

U.S. Customs and Border Protection



GENERAL NOTICE

COPYRIGHT, TRADEMARK, AND TRADE NAME RECORDATIONS

(No. 9 2011)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

SUMMARY: Presented herein are the copyrights, trademarks, and trade names recorded with U.S. Customs and Border Protection during the month of September 2011. The last notice was published in the CUSTOMS BULLETIN on September 28, 2011.

Corrections or updates may be sent to: Department of Homeland Security, U.S. Customs and Border Protection, Office of Regulations and Rulings, IPR Branch, 1300 Pennsylvania Avenue, N.W., Mail Stop 1179, Washington, D.C. 20229-1179

FOR FURTHER INFORMATION CONTACT: Delois Johnson, Paralegal, Intellectual Property Rights Branch, (202) 325-0088.

Dated: October 6, 2011

CHARLES R. STEUART
Chief,
Intellectual Property Rights &
Restricted Merchandise Branch

CBP IPR RECORDATION — SEPTEMBER 2011

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 93-00489	9/28/2011	6/4/2015	FERRAGAMO STYLIZED	SALVATORE FERRAGAMO S.P.A.	No
TMK 06-00361	9/28/2011	9/24/2021	DUBBLE BUBBLE	CONCORD BRANDS ULC	No
TMK 08-00174	9/28/2011	10/3/2021	MAZOLA	ACH FOOD COMPANIES, INC.	No
TMK 02-00390	9/19/2011	7/21/2021	PERMA-LASH	AMERICAN INTERNATIONAL INDUSTRIE	Yes
TMK 02-00705	9/19/2011	2/9/2012	MC (STYLIZED)	WROUGHT WASHER MFG., INC.	No
TMK 03-00065	9/28/2011	4/28/2012	FERRAGAMO(& BUCKLE DESIGN)	SALVATORE FERRAGAMO S.P.A	No
TMK 03-00237	9/19/2011	8/21/2021	BABY GUND AND DESIGN	ENESCO	No
TMK 03-00148	9/28/2011	4/15/2017	DESIGN (TRI DIMENSIONAL TWO HOOK DEVICE)	SALVATORE FERRAGAMO SPA	No
TMK 03-00580	9/19/2011	8/7/2021	GOLDEN WRAP	REPUBLIC TOBACCO L.P.	No
TMK 03-00581	9/30/2011	10/9/2021	GOLDEN WRAP TOBACCO WRAPS AND DESIGN	REPUBLIC TOBACCO L.P.	No
TMK 04-00068	9/19/2011	4/29/2013	LA MORENA	GRUPO OMOR, S.A. DE C.V.	No
TMK 04-00890	9/30/2011	9/15/2021	PICCOLO PETE	AMERICAN PROMOTIONAL EVENTS, INC.	No
TMK 05-00854	9/30/2011	4/30/2021	MISCELLANEOUS DESIGN (BROWNIE ELF)	BALTIMORE ORIOLES LIMITED PART-NERSHIP	No
TMK 06-00495	9/19/2011	7/10/2021	X XPLOD & DESIGN	SONY KABUSHIKI KAISHA T/A SONY CORPORATION	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 91-00440	9/30/2011	5/25/2021	FIAMM AND DESIGN	FABBRICA ITALIANA ACCUMULATORI MOTOCARRI MONTECCHIO-F.I.A.M.M. S.p.A.	No
TMK 05-01002	9/30/2011	7/3/2021	DAGGER & A HEART	CHROME HEARTS, LLC	No
TMK 06-00982	9/19/2011	12/11/2021	LUMINOR	OFFICINE PANERAI A.G.	No
TMK 06-01141	9/19/2011	5/29/2021	CYPRESS	CYPRESS SEMICONDUCTOR CORP.	No
TMK 07-00314	9/28/2011	9/25/2021	NIVEA BODY	BEIERSDORF AKTIENGESELLSCHAFT	No
TMK 11-01115	9/28/2011	5/16/2020	DESIGN	OWENS CORNING INTELLECTUAL CAPITAL LLC	No
TMK 11-01116	9/28/2011	5/25/2020	PS FROM AEROPOSTALE	AEROPOSTALE PROCUREMENT COM- PANY, INC.	No
TMK 11-01117	9/28/2011	6/14/2021	EMERGE	L.P. GREEN & ASSOCIATES, INC.	No
TMK 11-01118	9/28/2011	11/24/2019	PS FROM AEROPOSTALE	AEROPOSTALE PROCUREMENT COM- PANY, INC.	No
TMK 11-01217	9/30/2011	7/23/2021	DUCK HEAD	DHIP HOLDINGS LLC	No
TMK 07-00266	9/30/2011	6/26/2021	ABREVA	SMITH KLINE BEECHAM (CORK) LIM- ITED	No
TMK 11-01247	9/30/2011	8/26/2017	DESIGN	OWENS CORNING INTELLECTUAL CAPITAL LLC	No
TMK 03-00490	9/28/2011	9/11/2021	VERSUS	GIANNI VERSACE S.P.A.	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 11-01246	9/30/2011	9/13/2021	CUDDLE SOX	BDSRCO, INC.	No
TMK 07-00959	9/30/2011	7/17/2021	VITAMINS BABY AND DESIGN	VITAMINS PLAYWEAR LTD ..	No
TMK 07-01259	9/30/2011	6/9/2021	GIORGIO ARMANI	GIORGIO ARMANI S.P.A.	No
TMK 08-00036	9/28/2011	6/12/2021	FERRARI	FERRARI S.P.A.	No
TMK 08-00262	9/19/2011	7/17/2021	HALLMARK	HALLMARK LICENSING, INC.	No
TMK 08-00582	9/19/2011	7/29/2021	SCOTCH LITE	3M COMPANY	No
TMK 09-01185	9/19/2011	12/17/2021	THE ORIGINAL & BEST	KELLOGG NORTH AMERICA COMPANY	No
TMK 10-00436	9/30/2011	8/1/2016	XL X-LOOK	E& D TRADING INC.	No
COP 11-00146	9/30/2011	9/30/2031	PURPLE BUNNY STUFFED ANIMAL PILLOW	BTC ENTERPRISES LLC	No
COP 11-00147	9/30/2011	9/30/2031	POODLE STUFFED ANIMAL PILLOW.	BTC ENTERPRISES LLC,	No
COP 11-00149	9/30/2011	9/30/2031	FROG STUFFED ANIMAL PILLOW	BTC ENTERPRISES LLC	No
COP 11-00150	9/30/2011	9/30/2031	TRICERATOPS STUFFED ANIMAL PILLOW.	BTC ENTERPRISES LLC,	No
COP 11-00151	9/30/2011	9/30/2031	DOLPHIN STUFFED ANIMAL PILLOW.	BTC ENTERPRISES LLC,	No
COP 11-00152	9/30/2011	9/30/2031	GREEN DRAGON STUFFED ANIMAL PILLOW	BTC ENTERPRISES LLC	No
TMK 11-01111	9/19/2011	6/14/2021	360° PERRY ELLIS	PEI LICENSING, INC.	No
TMK 11-01244	9/30/2011	6/28/2021	NINTENDODSI AND DESIGN	NINTENDO OF AMERICA INC.	No
TMK 11-01242	9/30/2011	2/22/2021	METROID	NINTENDO OF AMERICA INC.	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 11-01238	9/30/2011	1/20/2020	HOT WHEELS AND DESIGN	MATTEL, INC.	No
TMK 11-01241	9/30/2011	7/22/2013	TOP & SPINNING TOP DESIGN	TOP TOBACCO L.P.	No
TMK 11-01229	9/30/2011	5/17/2015	THE SIMPSONS	TWENTIETH CENTURY FOX FILM CORPORATION	No
TMK 11-01233	9/30/2011	6/1/2013	THE SIMPSONS	TWENTIETH CENTURY FOX FILM CORPORATION	No
TMK 11-01210	9/30/2011	6/11/2015	JOB	REPUBLIC TECHNOLOGIES (NA), LLC	No
TMK 11-01231	9/30/2011	7/26/2021	STELLA ROSA	SAN ANTONIO WINERY, INC.	No
TMK 11-01243	9/30/2011	6/28/2021	NINTENDODSI AND DESIGN	NINTENDO OF AMERICA INC.	No
TMK 11-01234	9/30/2011	6/14/2021	NINTENDODSI	NINTENDO OF AMERICA INC.	No
TMK 11-01240	9/30/2011	7/19/2021	WIISPORTSRESORT	NINTENDO OF AMERICA INC.	No
TMK 11-01114	9/19/2011	3/8/2021	GOLDEN SUN	NINTENDO OF AMERICA INC.	No
TMK 11-01112	9/19/2011	7/19/2021	ININTENDODSI AND DESIGN	NINTENDO OF AMERICA INC.	No
TMK 11-01218	9/30/2011	7/5/2021	CLUB NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 11-01232	9/30/2011	5/31/2021	M CLUB. NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 11-01235	9/30/2011	4/10/2017	FAMILY GUY	TWENTIETH CENTURY FOX FILM CORPORATION	No
TMK 11-01203	9/30/2011	3/18/2018	FAMILY GUY	TWENTIETH CENTURY FOX FILM CORPORATION	No

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TMK 11-01202	9/30/2011	9/27/2015	FAMILY GUY	TWENTIETH CENTURY FOX FILM CORPORATION	No
COP 11-00145	9/30/2011	9/30/2031	MARIO KART WII (US COMMERCIAL PACKAGING SLEEVE)	NINTENDO OF AMERICA INC.,	No
TMK 11-01204	9/30/2011	12/2/2018	FAMILY GUY	TWENTIETH CENTURY FOX FILM CORPORATION	No
TMK 11-01207	9/30/2011	9/24/2012	FAMILY GUY	TWENTIETH CENTURY FOX FILM CORPORATION	No
TMK 11-01208	9/30/2011	6/11/2012	FAMILY GUY	TWENTIETH CENTURY FOX FILM CORPORATION	No
TMK 11-01205	9/30/2011	9/25/2017	THE SIMPSONS	TWENTIETH CENTURY FOX FILM CORPORATION	No
TMK 03-00579	9/28/2011	10/11/2021	GAMBLER AND DESIGN	TOP TOBACCO L.P.	No
TMK 11-01236	9/30/2011	4/2/2015	1.25 POINT (STYLIZED)	DRL ENTERPRISES, INC.	No
TMK 11-01206	9/30/2011	2/21/2016	IMAGE OF A MAN SMOKING	REPUBLIC TOBACCO, L.P.	No
TMK 11-01209	9/30/2011	5/17/2015	MAX STEEL	MATTEL, INC.	No
TMK 11-01237	9/30/2011	4/15/2016	PUSH POP	TOPPS PROPERTIES, INC.	No
TMK 11-01239	9/30/2011	11/28/2016	BABY BOTTLE POP	TOPPS PROPERTIES, INC.	No
TMK 11-01078	9/12/2011	11/20/2017	GAMBLER	TOP TOBACCO L.P.	No
TMK 11-01219	9/30/2011	5/17/2015	HOT WHEELS	MATTEL, INC.	No

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TMK 11-01220	9/30/2011	4/12/2021	WIMOTIONPLUS	NINTENDO OF AMERICA INC.	No
TMK 11-01221	9/30/2011	9/8/2020	MATTEL AND DESIGN	MATTEL, INC.	No
TMK 11-01211	9/30/2011	4/13/2014	TOP	TOP TOBACCO L.P.	No
TMK 11-01222	9/30/2011	11/10/2019	TOP AND DESIGN	TOP TOBACCO L.P.	No
TMK 11-01180	9/30/2011	6/15/2014	THE SIMPSONS	TWENTIETH CENTURY FOX FILM CORPORATION	No
TMK 11-01043	9/1/2011	1/12/2020	GTM SPORTSWEAR	IT'S GREEK TO ME, INC.	No
TMK 11-01181	9/30/2011	6/23/2019	TOMEI	TOMEI POWERED INC.	No
TMK 11-01182	9/30/2011	12/14/2020	DUCK HUNT	NINTENDO OF AMERICA INC.	No
TMK 11-01044	9/1/2011	2/22/2020	DESIGN (CYLINDRICAL CONTAINER)	THE TOPPS COMPANY, INC.	No
TMK 11-01045	9/1/2011	1/28/2017	SOUTHWIRE AND DESIGN	SOUTHWIRE COMPANY	No
TMK 11-01046	9/1/2011	3/6/2021	JOB & DIAMOND DESIGN IN CIRCLE	REPUBLIC TECHNOLOGIES (NA), LLC	No
TMK 11-01049	9/1/2011	8/22/2016	TYCO R/C AND DESIGN	MATTEL, INC.	No
TMK 11-01184	9/30/2011	1/30/2018	HOT WHEELS	MATTEL, INC.	No
TMK 11-01050	9/1/2011	9/24/2014	MATCHBOX	MATTEL, INC.	No
TMK 11-01183	9/30/2011	12/21/2020	CLUB NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 11-01230	9/30/2011	6/28/2021	NINTENDODSI	NINTENDO OF AMERICA INC.	No
TMK 11-01048	9/1/2011	8/17/2020	JOB	REPUBLIC TECHNOLOGIES (NA), LLC	No
TMK 11-01047	9/1/2011	7/22/2013	TOP	TOP TOBACCO L.P.	No
TMK 11-01071	9/9/2011	12/1/2019	TOP AND DESIGN	TOP TOBACCO L.P.	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 11-01077	9/12/2011	9/1/2019	TOP AND DESIGN	TOP TOBACCO L.P.	No
TMK 11-01072	9/9/2011	12/8/2019	SUPEROLL	TOP TOBACCO L.P.	No
TMK 11-01073	9/9/2011	9/1/2018	TOP & SPINNING TOP DESIGN	TOP TOBACCO L.P.	No
TMK 11-01075	9/12/2011	1/18/2021	CLUB NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 11-01067	9/9/2011	7/19/2021	NINTENDODSI	NINTENDO OF AMERICA INC.	No
COP 11-00130	9/30/2011	9/30/2031	THE LEGEND OF ZELDA: SPIRIT TRACKS (US COMMERCIAL PACKAGING)	NINTENDO OF AMERICA INC.	No
COP 11-00131	9/30/2011	9/30/2031	KIRBY SUPER STAR ULTRA (US COMMERCIAL PACKAGING)	HAL LABORATORY, INC.	No
TMK 11-01185	9/30/2011	2/5/2018	TECNO SPORT	ABC TIMEPIECES CORP	Yes
COP 11-00129	9/30/2011	9/30/2031	NINTENDO DSI AC ADAPTER HARDWARE PACKAGING.	NINTENDO OF AMERICA INC.	No
COP 11-00140	9/30/2011	9/30/2031	PLUSH FROGGIE BACK PACK	PECOWARE COMPANY INC.	No
TMK 11-01186	9/30/2011	8/28/2017	AEROPOSTALE	AEROPOSTALE PROCUREMENT COMPANY INC.	No
TMK 11-01188	9/30/2011	10/3/2016	A87	AEROPOSTALE PROCUREMENT COMPANY INC.	No

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COP 11-00141	9/30/2011	9/30/2031	OPEN HEARTS NECKLACE (SILVER & DIAMONDS) AND (GOLD & DIAMONDS)	CATFISH PRODUCTIONS, INC.	No
TMK 11-01193	9/30/2011	3/20/2021	POKE BALL	NINTENDO OF AMERICA INC.	No
COP 11-00113	9/30/2011	9/30/2031	WII FIT (US COMMERCIAL PACKAGING SLEEVE)	NINTENDO OF AMERICA INC.,	No
TMK 11-01194	9/30/2011	5/19/2018	ZOTE	FABRICA DE JASON LA CORONA SA DE CV	No
TMK 11-01224	9/30/2011	8/2/2021	NINTENDODSI	NINTENDO OF AMERICA INC.	No
TMK 11-01197	9/30/2011	12/21/2020	CLUB NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 11-01201	9/30/2011	2/12/2018	7-7	CHOI, BYONG MOON	No
TMK 11-01068	9/9/2011	2/5/2012	VENUS	FABRICA DE JASON LA CORONA S.A. DE C.V.	No
TMK 11-01070	9/9/2011	1/8/2012	U-2	LOCKHEED MARTIN CORPORATION	No
COP 11-00102	9/12/2011	9/12/2031	HOLOGRAPHIC PACKAGING FILM DESIGNS.	STAR GIFTS INTERNATIONAL INC.	No
TMK 11-01069	9/9/2011	4/1/2018	TOP	TOP TOBACCO L.P.	No
TMK 11-01113	9/19/2011	10/26/2020	POKEPARK	NINTENDO OF AMERICA INC.	No
TMK 11-01079	9/12/2011	12/7/2020	POKEMON RUMBLE	NINTENDO OF AMERICA INC.	No
TMK 11-01080	9/12/2011	3/22/2021	METROID: OTHER M	NINTENDO OF AMERICA INC.	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 11-01166	9/30/2011	4/3/2017	THE SIMPSONS	TWENTIETH CENTURY FOX FILM CORPORATION	No
TMK 11-01060	9/9/2011	5/28/2021	DR. MARIO	NINTENDO OF AMERICA INC.	No
TMK 11-01081	9/12/2011	5/12/2019	CARDIOLOGY III	3M COMPANY	No
TMK 11-01167	9/30/2011	11/30/2020	WIISPEAK	NINTENDO OF AMERICA INC.	No
TMK 11-01169	9/30/2011	6/8/2013	THE SIMPSONS	TWENTIETH CENTURY FOX FILM CORPORATION	No
TMK 11-01061	9/9/2011	5/19/2019	RIDERSRASP	TOMLINSON FARRIER SERVICE	No
TMK 11-01059	9/9/2011	1/18/2021	CLUS NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 11-01196	9/30/2011	8/16/2021	NINTENDODSI	NINTENDO OF AMERICA INC.	No
TMK 11-01062	9/9/2011	7/19/2021	PILOTWINGS RESORT	NINTENDO OF AMERICA INC.	No
TMK 11-01066	9/9/2011	3/1/2021	POKÉPARK	NINTENDO OF AMERICA INC.	No
TMK 11-01082	9/12/2011	7/27/2019	POKÉMON	NINTENDO OF AMERICA INC.	No
TMK 11-01100	9/19/2011	12/13/2014	AERO AND DESIGN	AEROPOSTALE PROCUREMENT COMPANY, INC.	No
TMK 11-01101	9/19/2011	7/7/2019	87	AEROPOSTALE PROCUREMENT COMPANY, INC.	No
COP 11-00126	9/30/2011	9/30/2031	BEST BUDDY SLIPPERS MONSTER (B005MR)	PECOWARE COMPANY INC.	No
TMK 02-00403	9/19/2011	6/12/2021	RIRI	RIRI SA	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 11-01063	9/9/2011	10/26/2014	F-22	LOCKHEED MARTIN CORPORATION	No
TMK 11-01064	9/9/2011	10/2/2017	RAPTOR	LOCKHEED MARTIN CORPORATION	No
TMK 11-01065	9/9/2011	4/19/2021	POKÉWALKER	NINTENDO OF AMERICA INC.	No
TMK 11-01058	9/9/2011	8/20/2012	P-38 LIGHTNING	LOCKHEED MARTIN CORPORATION	No
TMK 11-01102	9/19/2011	3/8/2021	CLUB NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 11-01090	9/19/2011	9/27/2015	87	AEROPOSTALE PROCUREMENT COMPANY, INC.	No
TMK 11-01168	9/30/2011	4/3/2017	THE SIMPSONS	TWENTIETH CENTURY FOX FILM CORPORATION	No
TMK 11-01086	9/12/2011	5/10/2021	NINTENDO DSI XL	NINTENDO OF AMERICA INC.	No
TMK 11-01051	9/9/2011	2/6/2021	SR-71	LOCKHEED MARTIN CORPORATION	No
TMK 11-01173	9/30/2011	3/8/2021	WII POINTS CARD	NINTENDO OF AMERICA INC.	No
COP 11-00124	9/30/2011	9/30/2031	BEST BUDDY DUFFEL BAG-POODLE (B010PD)	PECOWARE COMPANY, INC.	No
COP 11-00125	9/30/2011	9/30/2031	BEST BUDDY DUFFLE BAG -BALLE-RINA BEAR (B010DB)	PECOWARE COMPANY, INC.	No
COP 11-00127	9/30/2011	9/30/2031	WII SPORTS RESORT.	NINTENDO OF AMERICA INC.,	No
TMK 11-01087	9/12/2011	10/5/2014	BLANCA NIEVES AND DESIGN	FABRICA DE JABON LA CORONA SA DE CV	No
TMK 11-01076	9/12/2011	11/5/2012	F-117	LOCKHEED MARTIN CORPORATION	No

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TMK 11-01088	9/12/2011	2/13/2021	BLACKBIRD	LOCKHEED MARTIN CORPORATION	No
TMK 11-01052	9/9/2011	4/3/2021	SKUNK DESIGN	LOCKHEED MARTIN CORPORATION	No
TMK 11-01083	9/12/2011	9/29/2019	LIGHTNING II	LOCKHEED MARTIN CORPORATION	No
TMK 11-01085	9/12/2011	12/21/2020	CLUB NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 11-01178	9/30/2011	10/17/2016	GA	GIORGIO ARMANI S.P.A., MILAN, SWISS BRANCH MENDRISIO	No
TMK 11-01107	9/19/2011	7/27/2018	ALADDIN	PACIFIC MARKET INTERNATIONAL, LLC	No
TMK 11-01172	9/30/2011	2/25/2014	ALADDIN	PACIFIC MARKET INTERNATIONAL, LLC	No
COP 11-00109	9/19/2011	9/19/2031	POKÉMON SOULSILVER VERSION (US COMMERCIAL PACKAGING BOX)	GAME FREAK INC.	No
TMK 11-01084	9/12/2011	5/10/2021	NINTENDO DSI XL	NINTENDO OF AMERICA INC.	No
TMK 11-01074	9/12/2011	10/26/2020	RUMBATIME AND DESIGN	RUMBATIME, LLC	No
TMK 11-01175	9/30/2011	9/20/2017	FRESH PET	PROFESSOR CONNOR'S, INC.	No
TMK 11-01171	9/30/2011	4/26/2021	R11	TAYLOR MADE GOLF COMPANY, INC.	No
TMK 11-01179	9/30/2011	12/12/2016	DESIGN	ADDIDAS AG (FED REP GERMANY JOINT STOCK COMPANY)	No
TMK 11-01170	9/30/2011	4/13/2020	USPS	UNITED STATES POSTAL SERVICE	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 11-01104	9/19/2011	11/20/2017	ALADDIN	PACIFIC MARKET INTERNATIONAL, LLC	No
COP 11-00108	9/19/2011	9/19/2031	POKÉMON HEARTGOLD VERSION	NINTENDO OF AMERICA INC.	No
COP 11-00105	9/19/2011	9/19/2031	POKÉMON HEARTGOLD VERSION (US COMMERCIAL PACKAGING BOX)	CREATURES INC.	No
COP 11-00106	9/19/2011	9/19/2031	POKEPARK WII: PIKACHU'S ADVENTURE (US COMMERCIAL PACKAGING)	THE POKÉMON COMPANY	No
TMK 11-01053	9/9/2011	8/30/2015	F-16	LOCKHEED MARTIN CORPORATION	No
TMK 11-01054	9/9/2011	4/11/2016	C-130 HERCULES	LOCKHEED MARTIN CORPORATION	No
TMK 11-01165	9/30/2011	7/20/2020	WII FIT	NINTENDO OF AMERICA INC.	No
TMK 11-01103	9/19/2011	4/11/2020	PANERAI	OFFICINE PANERAI A.G.	No
TMK 11-01191	9/30/2011	4/22/2013	USPS	UNITED STATES POSTAL SERVICE	No
TMK 11-01174	9/30/2011	10/24/2016	USPS	UNITED STATES POSTAL SERVICE	No
COP 11-00112	9/30/2011	9/30/2031	POKÉMON RANGER (US COMMERCIAL PACKAGING)	NINTENDO OF AMERICA INC.	No
TMK 11-01098	9/19/2011	11/9/2020	VMI SYNCHRODRUM	VMI HOLLAND B.V.	No
TMK 11-01106	9/19/2011	7/29/2018	A87	AEROPOSTALE PROCUREMENT COMPANY, INC.	No
TMK 11-01108	9/19/2011	6/10/2018	AEROPOSTALE	AEROPOSTALE PROCUREMENT COMPANY, INC.	No

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TMK 11-01109	9/19/2011	7/18/2019	AEROPOSTALE	AEROPOSTALE PROCUREMENT COMPANY, INC.	No
TMK 11-01057	9/9/2011	3/1/2021	THE LEGENDARY STARFY	NINTENDO OF AMERICA INC.	No
TMK 11-01055	9/9/2011	9/9/2013	LOCKHEED MARTIN	LOCKHEED MARTIN CORPORATION	No
TMK 11-01056	9/9/2011	8/30/2015	F-16 FIGHTING FALCON	LOCKHEED MARTIN CORPORATION	No
TMK 11-01110	9/19/2011	1/9/2021	RADIOMIR	OFFICINE PANERAI A.G.	No
TMK 11-01138	9/30/2011	5/26/2019	ALADDIN	PACIFIC MARKET INTERNATIONAL, LLC	No
TMK 11-01139	9/30/2011	3/26/2017	STANLEY	PACIFIC MARKET INTERNATIONAL, LLC	No
COP 11-00114	9/30/2011	9/30/2031	WARIOWARE: D.I.Y. (US COMMERCIAL PACKAGING)	NINTENDO OF AMERICA INC.	No
COP 11-00115	9/30/2011	9/30/2031	WII FIT PLUS (US COMMERCIAL PACKAGING SLEEVE)	NINTENDO OF AMERICA INC.,	No
COP 11-00107	9/19/2011	9/19/2031	BIG BRAIN ACADEMY WII DEGREE.	NINTENDO OF AMERICA INC.,	No
COP 11-00142	9/30/2011	9/30/2031	POKÉMON WHITE VERSION (US INSTRUCTION BOOKLET)	NINTENDO OF AMERICA INC.	No
TMK 11-01176	9/30/2011	3/1/2021	FOCA LAUNDRY DETERGENT AND DESIGN	FABRICA DE JABON LA CORONA SA DE CV	No

CBP IPR RECORDATION — SEPTEMBER 2011

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 11-01177	9/30/2011	9/20/2015	ARMANI JUNIOR	GIORGIO ARMANI S.P.A., MILAN, SWISS BRANCH MENDRISIO	No
TMK 11-01195	9/30/2011	4/12/2021	RUMBA	RUMBATIME, LLC	No
TMK 11-01223	9/30/2011	7/26/2021	FLINGSMASH	NINTENDO OF AMERICA INC.	No
TMK 11-01200	9/30/2011	5/29/2017	DESIGN (HORSE SHOE)	INDIANAPOLIS COLTS, INC.	No
TMK 11-01189	9/30/2011	6/29/2020	ALADDIN (STYLIZED)	PACIFIC MARKET INTERNATIONAL, LLC	No
TMK 11-01199	9/30/2011	4/18/2018	AEROPOSTALE	AEROPOSTALE PROCUREMENT COM- PANY, INC.	No
TMK 03-00020	9/19/2011	6/4/2021	ANGELS	ANAHEIM ANGELS L.P.	No
COP 11-00144	9/30/2011	9/30/2031	DONKEY KONG COUNTRY 3	NINTENDO OF AMERICA INC.	No
TMK 11-01225	9/30/2011	10/2/2020	EMPORIO ARMANI GA	GIORGIO ARMANI S.P.A., MILAN, SWISS BRANCH MENDRISIO	No
TMK 11-01198	9/30/2011	7/19/2021	DONKEY KONG COUNTRY	NINTENDO OF AMERICA INC.	No
TMK 11-01190	9/30/2011	2/21/2019	AEROPOSTALE	AEROPOSTALE PROCUREMENT COM- PANY, INC.	No
COP 11-00134	9/30/2011	9/30/2031	BEST BUDDIES SLIPPERS-FROG (BO05 FR)	PECOWARE COMPANY INC.	No
TMK 11-01192	9/30/2011	8/2/2021	STEEL DIVER	NINTENDO OF AMERICA INC.	No

CBP IPR RECORDATION — SEPTEMBER 2011

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
COP 11-00133	9/30/2011	9/30/2031	BEST BUDDY PURSE -POODLE (B003PD)	PECOWARE COMPANY INC.	No
COP 11-00111	9/30/2011	9/30/2031	PLUSH POODLE BACK PACK.	PECOWARE COMPANY INC.	No
TMK 02-00297	9/19/2011	8/28/2021	ANGELS AND DESIGN	ANAHEIM ANGELS, L.P.	No
COP 11-00103	9/19/2011	9/19/2031	ANIMAL CROSSING: CITY FOLK (US COMMERCIAL PACKAGING)	NINTENDO OF AMERICA INC.	No
TMK 11-01187	9/30/2011	7/3/2017	G	GREEN BAY PACKERS, INC.	No
TMK 11-01094	9/19/2011	12/21/2020	M CLUB. NINTENDO	NINTENDO OF AMERICA INC.	No
COP 11-00136	9/30/2011	9/30/2031	BEST BUDDY COLLECTION.	PECOWARE COMPANY, INC..	No
TMK 11-01091	9/19/2011	1/1/2018	AEROPOSTALE	AEROPOSTALE PROCUREMENT COMPANY INC.	No
TMK 11-01093	9/19/2011	7/4/2020	THEAM	GARREC, JEAN M.	No
TMK 11-01095	9/19/2011	8/18/2019	87	AEROPOSTALE PROCUREMENT COMPANY, INC.	No
COP 11-00139	9/30/2011	9/30/2031	PLUSH TOY BACK PACK.	PECOWARE COMPANY INC.	No
COP 11-00135	9/30/2011	9/30/2031	POCKET BEST BUDDIES.	PECOWARE COMPANY INC.	No
COP 11-00138	9/30/2011	9/30/2031	BEST BUDDIES SLIPPERS -MONKEY (B005MK)	PECOWARE COMPANY INC.	No
COP 11-00137	9/30/2011	9/30/2031	BEST BUDDY PURSE -BALLERINA BEAR (B003DB)	PECOWARE COMPANY INC.	No

CBP IPR RECORDATION — SEPTEMBER 2011

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 11-01226	9/30/2011	5/3/2021	UNITED STATES POSTAL SERVICE EST. 1775 OFFICIAL LICENSED PROD- UCT	UNITED STATES POSTAL SERVICE	No
TMK 02-00415	9/19/2011	9/8/2021	CARDINALS	ST. LOUIS CARDINALS, L.P.	No
TMK 11-01096	9/19/2011	1/1/2018	AEROPOSTALE	AEROPOSTALE PROCUREMENT COM- PANY, INC.	No
TMK 11-01141	9/30/2011	6/8/2014	THE SIMPSONS	TWENTIETH CENTURY FOX FILM COR- PORATION	No
TMK 11-01142	9/30/2011	7/26/2015	THE SIMPSONS	TWENTIETH CENTURY FOX FILM COR- PORATION	No
TMK 11-01143	9/30/2011	8/14/2017	THE SIMPSONS	TWENTIETH CENTURY FOX FILM COR- PORATION	No
TMK 11-01144	9/30/2011	6/8/2014	THE SIMPSONS	TWENTIETH CENTURY FOX FILM COR- PORATION	No
TMK 11-01145	9/30/2011	5/17/2015	THE SIMPSONS	TWENTIETH CENTURY FOX FILM COR- PORATION	No
TMK 11-01097	9/19/2011	3/1/2021	M CLUB. NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 06-00279	9/19/2011	8/27/2021	W (STYLIZED)	TEXAS RANGERS BASEBALL PART- NERS	No
COP 11-00104	9/19/2011	9/19/2031	SUPER MARIO GALAXY 2 (US IN- STRUCTION BOOKLET)	NINTENDO OF AMERICA INC.	No

CBP IPR RECORDATION — SEPTEMBER 2011

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
COP 11-00123	9/30/2011	9/30/2031	BEST BUDDIES SLIPPERS-POODLE (BOO5PD)	PECOWARE COMPANY INC.	No
TMK 11-01213	9/30/2011	6/7/2013	ST. JOHN	ST. JOHN KNITS, INC.	No
COP 11-00116	9/30/2011	9/30/2031	YELLOW/ORANGE OPEN CIRCLE	EVEREADY BATTERY COMPANY INC.	No
TMK 11-01099	9/19/2011	8/2/2021	CLUB.NINTENDO AND DESIGN	NINTENDO OF AMERICA INC.	No
TMK 11-01089	9/19/2011	6/13/2021	CANDIDA PRAECORDIA PUCCI	PUCCI COMPANY	No
TMK 11-01212	9/30/2011	12/8/2018		COLLECTION 2000 COSMETICS,INC.	No
TMK 11-01214	9/30/2011	6/9/2012	ST. JOHN	ST. JOHN KNITS INC.	No
COP 11-00122	9/30/2011	9/30/2031	BLUE CROSSED LINES	EVEREADY BATTERY COMPANY, INC.	No
TMK 11-01149	9/30/2011	7/8/2020	XANAX	PHARMACIA & UPJOHN COMPANY LLC	No
TMK 11-01215	9/30/2011	7/1/2017	ST. JOHN	ST. JOHN KNITS, INC.	No
TMK 11-01148	9/30/2011	6/12/2017	J BRAND	J BRAND, INC.	No
TMK 11-01157	9/30/2011	7/19/2021	NINTENDODSI	NINTENDO OF AMERICA INC.	No
COP 11-00121	9/30/2011	9/30/2031	SIDE BEAMS BLUE	EVEREADY BATTERY COMPANY, INC.	No
TMK 11-01092	9/19/2011	8/17/2020	CLUB NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 03-00584	9/19/2011	6/11/2021	MISCELLANEOUS DESIGN (BORDER WITH LEAVES)	REPUBLIC TOBACCO L.P.	No
COP 11-00118	9/30/2011	9/30/2031	HAIR BEAN PACKAGING.	TELEBRANDS CORP.	No
COP 11-00120	9/30/2011	9/30/2031	PET RIDER PACKAGING.	TELEBRANDS CORP.	No
TMK 11-01163	9/30/2011	9/13/2021	ELLEMENNO	OUTRACO INC.	No

CBP IPR RECORDATION — SEPTEMBER 2011

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 11-01158	9/30/2011	8/29/2020	DESIGN	OWENS CORNING INTELLECTUAL CAPITAL LLC	No
TMK 11-01162	9/30/2011	9/3/2016	DUCK WITHIN A CIRCLE	DHIP HOLDINGS LLC	No
TMK 11-01150	9/30/2011	8/30/2021	PS3	KABUSHIKI KAISHA SONY COMPUTER ENTERTAINMENT TA SONY COMPUTER ENTERTAINMENT INC.	No
TMK 11-01216	9/30/2011	9/24/2012	ST. JOHN	ST. JOHN KNITS, INC.	No
TMK 11-01136	9/30/2011	8/29/2020	DESIGN	OWENS CORNING INTELLECTUAL CAPITAL LLC	No
TMK 04-00376	9/28/2011	2/8/2014	DESIGN ONLY	SALVATORE FERRAGAMO S.P.A	No
TMK 11-01159	9/30/2011	4/29/2018	GROUNDWORK	TRACTOR SUPPLY CO. OF TEXAS	No
TMK 11-01160	9/30/2011	7/15/2017	HANDGARDS	HANDGARDS, INC.	No
TMK 11-01161	9/30/2011	11/29/2015	UNITED STATES POSTAL SERVICE AND DESIGN	UNITED STATES POSTAL SERVICE	No
TMK 11-01152	9/30/2011	6/20/2016	CITIKITTY	CITIKITTY, INC.	No
TMK 11-01153	9/30/2011	3/8/2021	WII	NINTENDO OF AMERICA INC.	No
COP 11-00119	9/30/2011	9/30/2031	GREEN FIGURE 8.	EVEREADY BATTERY COMPANY, INC.,	No
TMK 11-01154	9/30/2011	6/26/2020	ROSA VENUS	FABRICA DE JABON LA CORONA SA DE CV	No
TMK 04-00413	9/28/2011	5/11/2022	CAMBRO	CAMBRO MANUFACTURING COMPANY	No

CBP IPR RECORDATION — SEPTEMBER 2011

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 11-01155	9/30/2011	7/12/2021	CUFF KEEPER	DEDO, RICHARD G.	No
TMK 11-01164	9/30/2011	5/1/2017	DESIGN	ADIDAS AG (FED REP GERMANY JOINT STOCK COMPANY)	No
TMK 11-01121	9/28/2011	12/28/2020	NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 11-01122	9/28/2011	7/19/2021	NINTENDO DSI AND DESIGN	NINTENDO OF AMERICA INC.	No
TMK 11-01156	9/30/2011	3/29/2021	FLUFF MONKEY	FLUFF MONKEY ENTERPRISES, LLC	No
TMK 11-01151	9/30/2011	3/8/2021	WII	NINTENDO OF AMERICA INC.	No
COP 11-00117	9/30/2011	9/30/2031	SNAP-ON FEATHERS PACKAGING	TELEBRANDS CORP.	No
TMK 11-01228	9/30/2011	5/25/2019	PRIORITY MAIL	UNITED STATES POSTAL SERVICE	No
COP 11-00110	9/28/2011	9/28/2031	SIDE BEAMS GREEN.	EVEREADY BATTERY COMPANY, INC.,	No
TMK 11-01133	9/30/2011	11/10/2019	PS FROM AEROPOSTALE	AEROPOSTALE PROCUREMENT COMPANY, INC.	No
TMK 11-01105	9/19/2011	12/21/2020	CLUB NINTENDO	NINTENDO OF AMERICA INC.	No
TMK 11-01147	9/30/2011	7/19/2021	NINTENDODSI AND DESIGN	NINTENDO OF AMERICA INC.	No
TMK 11-01130	9/28/2011	8/16/2021	ROWLEY	ROWLEY COMPANY, LLC	No
COP 11-00143	9/30/2011	9/30/2031	POKÉMON BLACK VERSION	NINTENDO OF AMERICA INC.	No
TMK 11-01127	9/28/2011	2/28/2016	DESIGN	UNITED STATES POSTAL SERVICE	No
TMK 11-01123	9/28/2011	9/20/2021	ZAZEN	ZAZEN LLC	No
TMK 11-01124	9/28/2011	6/8/2020	UNITED STATES POSTAL SERVICE U.S. MAIL AND DESIGN	UNITED STATES POSTAL SERVICE	No

CBP IPR RECORDATION — SEPTEMBER 2011

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 11-01131	9/28/2011	6/16/2019	INCIPIO	INCIPIO TECHNOLOGIES, INC.	No
TMK 11-01135	9/30/2011	5/30/2016	AVION	BECKER DESIGNED INC.	No
TMK 11-01129	9/28/2011	1/22/2018	DESIGN (HEAD OF A BIRD)	DHIP HOLDINGS LLC	No
TMK 11-01132	9/30/2011	1/22/2022	BROADCAST TOOLS	BROADCAST TOOLS, INC.	No
COP 11-00128	9/30/2011	9/30/2031	POKEMON RANGER: GUARDIAN SIGNS (US COMMERCIAL PACKAGING)	NINTENDO OF AMERICA INC.,	No
COP 11-00132	9/30/2011	9/30/2031	PUNCH-OUT!! (US COMMERCIAL PACKAGING)	NINTENDO OF AMERICA INC.,	No
TMK 11-01125	9/28/2011	1/27/2018	UNITED STATES POSTAL SERVICE	UNITED STATES POSTAL SERVICE	No
TMK 11-01126	9/28/2011	9/30/2018	UNITED STATES POSTAL SERVICE AND DESIGN	UNITED STATES POSTAL SERVICE	No
TMK 11-01134	9/30/2011	4/13/2020	UNITED STATES POSTAL SERVICE	UNITED STATES POSTAL SERVICE	No
TMK 11-01128	9/28/2011	2/28/2016	DESIGN	UNITED STATES POSTAL SERVICE	No
TMK 11-01137	9/30/2011	4/19/2014	AMEC DESIGN	AMEC INDUSTRY INC.	No
TMK 11-01119	9/28/2011	6/28/2015	UNITED STATES POSTAL SERVICE AND DESIGN	UNITED STATES POSTAL SERVICE	No
TMK 11-01120	9/28/2011	4/4/2016	UNITED STATES POSTAL SERVICE AND DESIGN	UNITED STATES POSTAL SERVICE	No
TMK 11-01140	9/30/2011	8/16/2021	NINTENDODDSI	NINTENDO OF AMERICA INC.	No

CBP IPR RECORDATION — SEPTEMBER 2011

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 11-01146	9/30/2011	7/27/2020	WII	NINTENDO OF AMERICA INC.	No
TMK 11-01227	9/30/2011	9/8/2019	UNITED STATES POSTAL SERVICE EST. 1775 OFFICIAL LICENSED PROD- UCT	UNITED STATES POSTAL SERVICE	No
TMK 11-01245	9/30/2011	10/25/2016	DUCK HEAD	DHIP HOLDINGS, LLC	No
COP 11-00148	9/30/2011	9/30/2031	HUSKY STUFFED ANIMAL PILLOW	BTC ENTERPRISES LLC	No

Total Records: 293

Date as of: 10/5/2011

NOTICE OF ISSUANCE OF FINAL DETERMINATION CONCERNING CERTAIN ETHERNET SWITCHES

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (“CBP”) has issued a final determination concerning the country of origin of certain Ethernet switches. Based upon the facts presented, CBP has concluded that the programming operations performed in the United States, using U.S.-origin software, substantially transform the non-TAA country switches. Therefore, the country of origin of the switches is the United States for purposes of U.S. Government procurement.

DATES: The final determination was issued on October 4, 2011. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination on or before November 7, 2011.

FOR FURTHER INFORMATION CONTACT: Heather K. Pinnock, Valuation and Special Programs Branch: (202) 325–0034.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on October 4, 2011, pursuant to subpart B of Part 177, U.S. Customs and Border Protection Regulations (19 CFR Part 177, subpart B), CBP issued a final determination concerning the country of origin of Ethernet switches which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, HQ H175415, was issued under procedures set forth at 19 CFR Part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP concluded that, based upon the facts presented, the programming operations performed in the United States, using U.S.-origin software, substantially transform the non-TAA country Ethernet switches. Therefore, the country of origin of the switches is the United States for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: October 4, 2011

SANDRA L. BELL,
*Executive Director,
Regulations and Rulings, Office of
International Trade.*

Attachment

HQ H175415

October 4, 2011

MAR OT:RR:CTF:VS H175415 HkP

CATEGORY: Origin

JOSEPHINE AIELLO LEBEAU, ESQ.

ANNE SEYMOUR, ESQ.

WILSON SONSINI GOODRICH & ROSATI, PC

1700 K STREET, NW, FIFTH FLOOR

WASHINGTON, DC 20006-3817

RE: U.S. Government Procurement; Country of Origin of Local Area Network Switches; Substantial Transformation

DEAR MS. LEBEAU AND MS. SEYMOUR:

This is in response to your letter, dated July 6, 2011, requesting a final determination on behalf of Arista Networks, Inc. (“Arista”), pursuant to subpart B of part 177 of the U.S. Customs and Border Protection (“CBP”) Regulations (19 C.F.R. Part 177). Under these regulations, which implement Title III of the Trade Agreements Act of 1979 (“TAA”), as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of Arista’s 7048, 7050, 7100, 7124, and 7500 series (“7 Series”) local area network (“LAN”) switches. We note that as a U.S. importer, Arista is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

Arista is importing 7 Series Ethernet switches assembled in China. The switches are designed to interconnect servers and storage appliances in data centers. Each switch consists of one or more printed circuit board assembly (“PCBAs”), chassis, top cover, power supply, and fans. After importation, the switches will be programmed with U.S.-origin software.

The following operations occur in China:

1. The chassis and top cover are manufactured from sheet metal.
2. The PCB is populated with various electronic components to make a PCBA.
3. The PCBA is tested to ensure functionality.
4. The power supply and fans are installed in the chassis.
5. The PCBA is installed in the chassis.
6. The chassis and top cover are assembled together.
7. The serial numbers of the components are entered into the data tracking system, and the switch is packaged and shipped to the United States.

The following operations occur in the United States:

1. U.S.-origin EOSTM software is downloaded onto the flash memory on the PCBA.
2. The switch is tested, packaged, and prepared for shipping.

Arista's EOSTM (Extensible Operating System) software is designed to provide switching functionality, secure administration, and reliability, and to optimize network management. Specifically, EOS software provides the following capabilities and benefits to Ethernet switches: in-service software upgrade, software fault containment, fault repair, security exploit containment, and scalable management interface. According to your submission, the units imported from China could not function as network switches without this software, which was developed in the United States at considerable cost to Arista. Since 2005, more than 140 software engineers have continued to develop the software and more than 80 percent of Arista's Research and Development spending has been on EOS software development.

ISSUE:

What is the country of origin of the Arista's 7 Series Ethernet switches for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 CFR § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 C.F.R. § 177.22(a).

In *Data General v. United States*, 4 Ct. Int'l Trade 182 (1982), the court determined that for purposes of determining eligibility under item 807.00, Tariff Schedules of the United States (predecessor to subheading 9802.00.80, Harmonized Tariff Schedule of the United States), the programming of a foreign PROM (Programmable Read-Only Memory chip) in the United States substantially transformed the PROM into a U.S. article. In programming the imported PROMs, the U.S. engineers systematically caused various distinct electronic interconnections to be formed within each integrated circuit. The programming bestowed upon each circuit its electronic function, that is, its "memory" which could be retrieved. A distinct physical change was effected in the PROM by the opening or closing of the fuses, depending on the method of programming. This physical alteration, not visible to the naked eye, could be discerned by electronic testing of the PROM. The court noted that the programs were designed by a U.S. project engineer with many years of experience in "designing and building hardware." While replicating the program

pattern from a “master” PROM may be a quick one-step process, the development of the pattern and the production of the “master” PROM required much time and expertise. The court noted that it was undisputed that programming altered the character of a PROM. The essence of the article, its interconnections or stored memory, was established by programming. The court concluded that altering the non-functioning circuitry comprising a PROM through technological expertise in order to produce a functioning read only memory device, possessing a desired distinctive circuit pattern, was no less a “substantial transformation” than the manual interconnection of transistors, resistors and diodes upon a circuit board creating a similar pattern.

In *Texas Instruments v. United States*, 681 F.2d 778, 782 (CCPA 1982), the court observed that the substantial transformation issue is a “mixed question of technology and customs law.”

In C.S.D. 84–85, 18 Cust. B. & Dec. 1044, CBP stated:

We are of the opinion that the rationale of the court in the *Data General* case may be applied in the present case to support the principle that the essence of an integrated circuit memory storage device is established by programming; ... [W]e are of the opinion that the programming (or reprogramming) of an EPROM results in a new and different article of commerce which would be considered to be a product of the country where the programming or reprogramming takes place.

Accordingly, the programming of a device that changes or defines its use generally constitutes substantial transformation. *See also* Headquarters Ruling Letter (“HQ”) 558868, dated February 23, 1995 (programming of SecureID Card substantially transforms the card because it gives the card its character and use as part of a security system and the programming is a permanent change that cannot be undone); HQ 735027, dated September 7, 1993 (programming blank media (EEPROM) with instructions that allow it to perform certain functions that prevent piracy of software constitute substantial transformation); and, HQ 733085, dated July 13, 1990; *but see* HQ 732870, dated March 19, 1990 (formatting a blank diskette does not constitute substantial transformation because it does not add value, does not involve complex or highly technical operations and did not create a new or different product); and, HQ 734518, dated June 28, 1993, (motherboards are not substantially transformed by the implanting of the central processing unit on the board because, whereas in *Data General* use was being assigned to the PROM, the use of the motherboard had already been determined when the importer imports it).

You believe that under the manufacturing scenario described in the FACTS section above, Arista’s 7 Series Ethernet switches are products of the United States. You argue that without the EOS software, the units exported from China lack the intelligence to perform as network switches. In fact, you claim that the EOS software gives the switches their essential character by providing network switching and routing functionality, management functions, network performance monitoring, security and access control, and by allowing interaction with other switches. Further, programming the switches with the EOS software creates a permanent change in the PCBAs that cannot be undone by third parties during the normal course of business. The only

reprogramming operation that may be performed during the normal course of business is either updating the installed software or entering licensing keys that enable the activation of additional EOS software features. In support of your position, you cite *Data General (supra)*, HQ H052325 (Feb. 14, 2006) and HQ 735027 (Sept. 7, 1993), among others.

HQ H052325 concerned the country of origin of a switch and a switch/router. The Brocade 7800 Extension Switch was assembled to completion in China and programmed in the U.S. with U.S.-origin operating system (OS) software and customer specified firmware and software. The Brocade FX8-24 switch/router contained a PCBA that was assembled and programmed in China and shipped to the U.S., where it was assembled with other components to make the final product. The completed unit was then programmed with U.S.-origin OS software and customer firmware and software. In both cases, the U.S.-origin OS software provided the devices with their functionality. Customs found that in both cases, the processing performed in the United States, including the downloading of the U.S.-origin OS software, resulted in a substantial transformation of the foreign origin components, and that the United States was the country of origin.

In HQ H014068, dated October 9, 2007, CBP determined that a cellular phone designed in Sweden, assembled in either China or Malaysia and shipped to Sweden, where it was loaded with software that enabled it to test equipment on wireless networks, was a product of Sweden. Once the software was installed on the phones in Sweden, they became devices with a new name, character and use, that is, network testing equipment. As a result of the programming operations performed in Sweden, CBP found that the country of origin of the network testing equipment was Sweden.

In this case, hardware components are assembled into complete Ethernet switches in China. The switches are then shipped to the U.S., where they are programmed with EOS software, developed in the U.S. at significant cost to Arista and over many years. Since 2005, more than 140 software engineers have continued to develop the software and more than 80 percent of Arista's Research and Development spending has been on EOS software development. The U.S.-origin EOS software enables the imported switches to interact with other network switches through network switching and routing, and allows for the management of functions such as network performance monitoring and security and access control. Without this software, the imported devices could not function as Ethernet switches. As a result of the programming performed in the U.S., with software developed in the U.S., the imported switches are substantially transformed in the U.S. *See Data General*, C.S.D. 84-85, HQ 052325, HQ 558868, HQ 735027, and HQ 733085. The country of origin of the switches is the United States.

Please be advised, however, that whether the switches may be marked "Made in the U.S.A." or with similar words, is an issue under the authority of the Federal Trade Commission ("FTC"). We suggest that you contact the FTC, Division of Enforcement, 6th and Pennsylvania Avenue, NW, Washington, DC 20508, on the propriety of markings indicating that articles are made in the United States.

HOLDING:

Based on the facts provided, the programming operations performed in the United States impart the essential character to Artista's 7 Series Ethernet

switches. As such, the switches will be considered products of the United States for purposes of U.S. Government procurement.

Notice of this final determination will be given in the Federal Register, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the Federal Register Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

SANDRA L. BELL,

Executive Director

*Regulations and Rulings Office of
International Trade*

[Published in the Federal Register, October 7, 2011 (76 FR 62431)]

