

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C. 20436

In the Matter of )  
)  
)

CERTAIN RECORDABLE COMPACT DISCS )  
AND REWRITABLE COMPACT DISCS )

Inv. No. 337-TA-474

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**NOTICE OF COMMISSION DECISION NOT TO REVIEW  
AN INITIAL DETERMINATION TERMINATING THE INVESTIGATION AS TO  
EIGHT RESPONDENTS ON THE BASIS OF A CONSENT ORDER;  
ISSUANCE OF CONSENT ORDER**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") terminating the above-captioned investigation as to eight respondents on the basis of a consent order.

**FOR FURTHER INFORMATION CONTACT:** Clara Kuehn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3012. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**SUPPLEMENTARY INFORMATION:**

The Commission instituted the above-captioned investigation on July 26, 2002, based on a complaint filed by U.S. Philips Corporation of Tarrytown, NY ("complainant") alleging violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain recordable compact discs and rewritable compact discs by reason of infringement of claims of six U.S. patents. 67 Fed. Reg. 48948 (2002). The notice of investigation identified 19 respondents. On

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August 14, 2002, the ALJ issued an ID granting the motion to intervene as respondents of Princo Corporation of Hsin-Chu, Taiwan, and Princo America Corporation of Fremont, CA. That ID was not reviewed by the Commission.

On October 4, 2002, eight respondents (STI Certified Products, Inc.; U.S. DigitalMedia, Inc.; PNY Technologies, Inc.; Tiger Direct, Inc.; Bregusa Micro International LLC; Symmetry Group, Inc.; NewEgg.Com, Inc.; and Xtraplus Corporation) filed a joint motion to terminate the investigation as to themselves on the basis of a consent order. On October 17, 2002, complainant filed a response stating that it does not oppose the motion. On October 22, 2002, the Commission investigative attorney filed a response supporting the motion. On October 29, 2002, the ALJ issued an ID (Order No. 6) granting the joint motion. No petitions for review of the ID were filed.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Marilyn R. Abbott', is written in a cursive style.

Marilyn R. Abbott  
Secretary to the Commission

Issued: November 25, 2002

UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C.

In the Matter of

CERTAIN RECORDABLE COMPACT  
DISCS AND REWRITABLE COMPACT  
DISCS

Investigation No. 337-TA-474

CONSENT ORDER

The United States International Trade Commission (the "Commission") on July 22, 2002, instituted the above-captioned Investigation (the "Investigation") under Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), based upon the allegations contained in the Complaint filed by U.S. Philips Corporation ("Philips"), which allege, *inter alia*, unfair acts and unlawful acts in the importation into the United States, the sale for importation into the United States, and the sale within the United States after importation of certain recordable compact discs ("CD-Rs") and rewritable compact discs ("CD-RWs") by reason of infringement of claims 1, 5, and 6 of the U.S. Letter Patent 4,807,209; claim 11 of U.S. Patent 4,962,493; claims 1-3 of U.S. Letters Patent 4,972,401; claims 1, 3, and 4 of U.S. Letters Patent 5,023,856; claims 1-6 of U.S. Letters Patent 4,999,825; and claims 20, 23-34 of U.S. Letters Patent 5,418,764 (collectively, "the Asserted Claims of the Patents in Suit") by the named Respondents, including the Respondents covered by this Consent Order Stipulation: STI Certified Products, Inc.; U.S. Digital Media, Inc.; PNY Technologies, Inc.; Tiger Direct, Inc.; Bregusa Micro International LLC; Symmetry Group, Inc.; NewEgg.Com, Inc.; and Xtraplus Corporation (hereinafter "Consent Order Respondents").

Consent Order Respondents have executed a Consent Order Stipulation in which they all individually agree to the entry of this Consent Order and to all waivers and other provisions as required by Rule 210.21(c) of the Commission's Rules of Practice and Procedures (19 C.F.R. § 210.21(c)), and Consent Order Respondents have filed a Motion for Termination of Investigation as to all Consent Order Respondents. In particular, Consent Order Respondents have stipulated as follows:

A. Consent Order Respondents acknowledge and admit that the Commission has *in rem* jurisdiction over imported CD-Rs and CD-RWs covered by the Asserted Claims of the Patents in Suit, including those CD-Rs and CD-RWs identified in the Complaint filed by Philips in this Investigation; Consent Order Respondents also admit for purposes of this Consent Order Stipulation and Consent Order that the Commission has in *personam* jurisdiction over all Consent Order Respondents.

B. Philips is the Complainant in this investigation and is a corporation organized under the laws of the State of Delaware having its principal place of business at 580 West Plains Road, Tarrytown, New York, 10591.

C.1. STI Certified Products, Inc. is a corporation organized and existing under the laws of the State of California having a principal place of business at 42982 Osgood Road, Fremont, California 94539. In this Consent Order, "STI Certified Products, Inc." shall refer to STI Certified Products, Inc. and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of STI Certified Products, Inc.

C.2. U.S. Digital Media, Inc. is a corporation organized and existing under the laws of the State of Nevada having a principal place of business at 21430 North 20<sup>th</sup> Avenue, Phoenix, Arizona 85027. In this Consent Order, "U.S. DigitalMedia, Inc." shall refer to U.S. DigitalMedia, Inc. and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of U.S. DigitalMedia, Inc..

C.3. Bregusa Micro International LLC is a limited liability company registered in the State of California having a principal place of business at 22622 Lambert Street, Suite 306, Lake Forest, California 92630. In this Consent Order, "Bregusa Micro International LLC" shall refer to Bregusa Micro International LLC and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of Bregusa Micro International LLC.

C.4. PNY Technologies, Inc. is a corporation organized and existing under the laws of Delaware having its principal place of business at 299 Webro Road, Parsippany, New Jersey 07054-0128. In this Consent Order, "PNY Technologies, Inc." shall refer to PNY Technologies, Inc. and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in

conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of PNY Technologies, Inc.

C.5. Tiger Direct, Inc. is a corporation organized and existing under the laws of the State of Florida having its principal place of business at 7795 West Flagler Street, Suite 35, Miami, Florida 33144. In this Consent Order, "Tiger Direct, Inc." shall refer to Tiger Direct, Inc. and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of Tiger Direct, Inc.

C.6. Symmetry Group, Inc. is a corporation organized and existing under the laws of the State of New York having its principal place of business at 11-27 44<sup>th</sup> Road, Long Island City, New York 11101. In this Consent Order, "Symmetry Group, Inc." shall refer to Symmetry Group, Inc. and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of Symmetry Group, Inc.

C.7. NewEgg.Com, Inc. is a corporation organized and existing under the laws of the State of California having its principal place of business at 132 South 6<sup>th</sup> Avenue, La Puente, California 91746-3026. In this Consent Order, "NewEgg.Com, Inc." shall refer to NewEgg.Com, Inc. and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they

are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of NewEgg.Com, Inc.

C.8. Xtraplus Corporation is a corporation organized and existing under the laws of the State of California having its principal place of business at 38929 Cherry Street, Newark, California 94560. In this Consent Order, "Xtraplus Corporation" shall refer to Xtraplus Corporation and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of Xtraplus Corporation.

D. For purposes of this Consent Order (i) a "Licensed Manufacturer" means a manufacturer (a) licensed under United States Letters Patent Nos. 4,807,209; 4,962,493; 4,972,401; 5,023,856; 4,999,825; and 5,418,764 by Philips to manufacture and dispose of CD-Rs and/or CD-RWs, (b) that is in full compliance with its obligations under the license agreement with Philips, and (ii) an "Unlicensed Manufacturer" means any CD-R or CD-RW manufacturer that is not a Licensed Manufacturer. For the purposes of this Consent Order, any manufacturer listed as a "CERTIFIED" CD-R Disc and/or CD-RW Disc licensee on Philips's licensing website ([www.licensing.philips.com](http://www.licensing.philips.com)) on the date STI places an order for CD-Rs or CD-RWs made by that manufacturer is to be regarded as being a Licensed Manufacturer.

E. Each Consent Order Respondent shall, upon issuance by the Commission of the Consent Order, cease and desist from directly or indirectly importing, ordering, distributing, exporting, or otherwise transferring or having transferred into the United States, or selling, offering for sale, distributing, marketing, or advertising in the United States, imported CD-Rs

and CD-RWs that are covered by the Patents in Suit and manufactured by Unlicensed Manufacturers, including the CD-Rs and CD-RWs identified in the Complaint.

F. The Consent Order will terminate the Investigation with respect to each Consent Order Respondent.

F. Each Consent Order Respondent expressly waives all rights to seek judicial review or otherwise challenge or contest the validity of the Consent Order entered by the Commission pursuant to the accompanying Consent Order Stipulation.

G. Enforcement, modification, and revocation of this Consent Order will be carried out pursuant to Subpart I of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210, Subpart I). In determining whether any Consent Order Respondent is in violation of this Consent Order, the Commission may infer facts adverse to it if it fails to provide adequate or timely information. The Commission may impose upon any entity that violates the Consent Order a penalty of not more than the greater of \$100,000 or twice the domestic value of any articles entered or sold for each day on which the Consent Order is violated, or any other amount permitted pursuant to the civil penalty provisions for violation of a Commission order under 19 U.S.C. § 1337. The Commission's assessment of any such penalty shall have the force of a judgment and liability for payment of such penalty shall accrue upon administrative assessment by the Commission.

H. Each Consent Order Respondent will cooperate with and will not seek to impede by litigation or other means the Commission's efforts to gather information under Subpart I of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210, Subpart I) and shall permit reasonable inspection during the course of discovery in the investigation by Complainant to confirm compliance with this consent order.

I. The Consent Order shall not apply with respect to any of the Asserted Claims of the Patents in Suit that has expired or been found or adjudicated invalid or unenforceable by the Commission or a court or agency of competent jurisdiction, provided that such finding or judgment has become final and nonreviewable.

J. Each Consent Order Respondent agrees not to seek to challenge the validity or enforceability of the Asserted Claims of the Patents in Suit in any administrative or judicial proceeding to enforce the Consent Order.

K. Except as otherwise provided in the Consent Order, the accompanying Consent Order Stipulation, the Complaint, and the Notice of Investigation may be used in construing the Consent Order; provided, however, that any agreements, understandings, representations, or interpretations not contained in the accompanying Consent Order Stipulation or the Commission Decision accompanying the Consent Order may not be used to vary the terms of the Consent Order.

L. In addition to such reporting requirements as may be contained in the Consent Order, the Commission may require information to be submitted by each Consent Order Respondent pursuant to Subpart I of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 10, Subpart I).

M. The accompanying Consent Order Stipulation and the Consent Order are in the public interest.

N. The signing of this Consent Order is for settlement purposes only and does not constitute an admission by any Respondent that an unfair act has been committed under 19 U.S.C. § 1337.

NOW, THEREFORE, the Commission issues the following Consent Order:

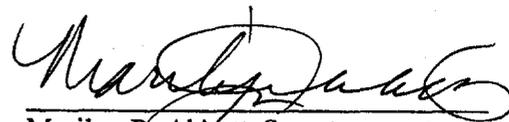
1. Upon entry of this Consent Order, each Consent Order Respondent shall immediately cease and desist from directly or indirectly importing, ordering, distributing or otherwise transferring or having transferred into the United States, or selling, offering for sale, distributing, marketing, exporting, or advertising in the United States, imported CD-Rs and CD-RWs covered by the Asserted Claims of the Patents in Suit and manufactured by Unlicensed Manufacturers, including the CD-Rs and CD-RWs identified in the Complaint.
2. Each Consent Order Respondent shall be precluded from seeking judicial review or otherwise challenging or contesting the validity of this Consent Order.
3. Each Consent Order Respondent shall cooperate with and shall not seek to impede by litigation or other means the Commission's efforts to gather information under Subpart I of the Commission's Rules of Practice and Procedures (19 C.F.R. Part 210, Subpart I) and shall permit reasonable inspection during the course of discovery in the investigation by Complainant to confirm compliance with this consent order.
4. Each Consent Order Respondent shall not seek to challenge, and is precluded from making any challenges to, the validity or enforceability of the Asserted Claims of the Patents in Suit in any administrative or judicial proceeding brought to enforce the Consent Order.
5. When all of the Patents in Suit have expired, this Consent Order shall become null and void.
6. If any of the Asserted Claims of the Patents in Suit is hereafter held invalid or unenforceable by a court or agency of competent jurisdiction, in a final decision, and all rights to appeal have been either waived or exhausted, this Consent Order shall become null and void only as to such invalid or unenforceable claim.

7. This Investigation is hereby terminated with respect to the following Consent Order Respondents: STI Certified Products, Inc.; U.S. Digital Media, Inc.; PNY Technologies, Inc.; Tiger Direct, Inc.; Bregusa Micro International LLC; Symmetry Group, Inc.; Jacsonic Group; TKO Media, Inc; J&E Enterprises; NewEgg.Com, Inc.; QTC Computer Systems, Inc.; and Xtraplus Corporation. The foregoing Consent Order Respondents are hereby dismissed as named Respondents in this Investigation; provided, however, that enforcement, modification, or revocation of this Consent Order shall be carried out pursuant to Subpart I of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210, Subpart I). In determining whether any Consent Order Respondent is in violation of this Consent Order, the Commission may infer facts adverse to it if it fails to provide adequate or timely information. The Commission may impose upon any entity that violates this Consent Order a penalty of not more than the greater of \$100,000 or twice the domestic value of any articles entered or sold for each day on which the Consent Order is violated or any other amount permitted pursuant to the civil penalty provisions for violation of a Commission order under 19 U.S.C. § 1337. The Commission's assessment of any such penalty shall have the force of a judgment and liability for payment of such penalty shall accrue upon administrative assessment by the Commission.

8. The entry of this Consent Order does not constitute a determination as to a violation of 19 U.S.C. § 1337 by any Consent Order Respondent.

Dated: Nov. 25, 2002

BY ORDER OF THE COMMISSION

  
Marilyn R. Abbott, Secretary

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL DETERMINATION TERMINATING THE INVESTIGATION AS TO EIGHT RESPONDENTS ON THE BASIS OF A CONSENT ORDER: ISSUANCE OF CONSENT ORDER**, was served upon the following parties via first class mail and air mail, where necessary on November 25, 2002.



Marilyn R. Abbott, Secretary  
U.S. International Trade Commission  
500 E Street, SW - Room 112  
Washington, DC 20436

**ON BEHALF OF COMPLAINANT U.S.  
PHILIPS CORPORATION::**

Margaret K. Pfeiffer, Esq.  
SULLIVAN AND CROMWELL  
1701 Pennsylvania Avenue, NW  
Washington, DC 20006-5805

James T. Williams, Esq.  
SULLIVAN AND CROMWELL  
125 Broad Street  
New York, NY 10004-2498

**ON BEHALF OF TIGERDIRECT, INC.:**

Michael Quinn, Esq.  
Gibbons, Del Deo, Dolan, Griffinger  
and Vecchione, P.C.  
One Pennsylvania Plaza, 37<sup>th</sup> Floor  
New York, New York 10119-3701

**ON BEHALF OF GIGASTORAGE  
CORPORATION TAIWAN AND  
GIGASTORAGE CORPORATION USA AND  
LINBERG ENTERPRISE INC.:**

Alexander J. Hadjis, Esq.  
Fish and Richardson, PC  
1425 K Street, NW - 11<sup>th</sup> Floor  
Washington, DC 20005

**ON BEHALF OF INTERVENOR PRINCO  
CORPORATION AND PRINCO AMERICA  
CORPORATION:**

Alexander J. Hadjis, Esq.  
Fish and Richardson, PC  
1425 K Street, NW - 11<sup>th</sup> Floor  
Washington, DC 20005

**ON BEHALF OF TKO MEDIA, INC., AND  
JACSONIC GROUP:**

Philip J. Anderson, Esq.  
Anderson and Morishita, LLC  
2725 s. Jones Blvd, Suite 102  
Las Vegas, NV 89146

**ON BEHALF OF NON-PARTY RICOH  
CORPORATION:**

Robert T. Greig, Esq.  
Cleary, Gottlieb, Steen and Hamilton  
One Liberty Plaza  
New York, NY 10006

Sara D. Schotland, Esq.  
W. Richard Bidstrup, Esq.  
Cleary, Gottlieb Steen and Hamilton  
2000 Pennsylvania Avenue, NW  
Washington, DC 20006

**Certain Recordable Compact Discs and  
Rewritable Company Discs**

**Certificate of Service**

**Page Two**

**ON BEHALF PNY TECHNOLOGIES INC.:**

David W. Opderbeck, Esq.  
**McCarter and English, LLP**  
Four Gateway Center  
100 Mulberry Street  
Newark, New Jersey 07101-0652

**ON BEHALF OF SYMMETRY GROUP, INC.:**

Steven J. Armstrong, Esq.  
**MA and Associates**  
605 Third Avenue, 15<sup>th</sup> Floor  
New York, New York 10158

**ON BEHALF OF U.S. DIGITALMEDIA, INC.,  
AND STI CERTIFIED PRODUCTS, INC.:**

Lyle B. Vander Schaaf, Esq.  
**White and Case**  
601 Thirteenth Street, NW  
Suite 600 North  
Washington, DC 20005

**RESPONDENTS:**

**ACME PRODUCTION INDUSTRIES**  
Room B & C, 7/F, Tai Chi Factory Building  
25-29 Kok Cheung Street  
Tai Kok Tsui, Kowloon, Hong Kong

**BREGUSA MICRO INTERNATIONAL LLC**  
22622 Lambert Street, Suite 306  
Lake Forest, California 92630

**DIGITAL STORAGE TECHNOLOGY CO.,  
LTD.**

42 Kung 4 Road  
Linkou 2<sup>nd</sup> Industrial park  
Taipei Hsien, Taiwan

**DISCSDIRECT.COM**  
2165 South Bascom Avenue  
Campbell, California 95008

**KINGPRO MEDIATEK INC.**  
No. 28, Chung Cheng 1<sup>st</sup> Street  
Yung Kang City, 71042

Tainan Hsien, Taiwan

**NEWEGG.COM, INC.**  
132 South 6<sup>th</sup> Avenue  
La Puente, CA 91746-3026

**QTC COMPUTER SYSTEMS, INC**  
1374 East Edinger Avenue  
Santa Ana, California 92705

**J&E ENTERPRISES, INC.**  
7900 San Fernando Road, #B1  
Sun Valley, California 91352

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C.1. STI Certified Products, Inc. is a corporation organized and existing under the laws of the State of California having a principal place of business at 42982 Osgood Road, Fremont, California 94539. In this Consent Order, "STI Certified Products, Inc." shall refer to STI Certified Products, Inc. and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of STI Certified Products, Inc.

C.2. U.S. Digital Media, Inc. is a corporation organized and existing under the laws of the State of Nevada having a principal place of business at 21430 North 20<sup>th</sup> Avenue, Phoenix, Arizona 85027. In this Consent Order, "U.S. DigitalMedia, Inc." shall refer to U.S. DigitalMedia, Inc. and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of U.S. DigitalMedia, Inc..

C.3. Bregusa Micro International LLC is a limited liability company registered in the State of California having a principal place of business at 22622 Lambert Street, Suite 306, Lake Forest, California 92630. In this Consent Order, "Bregusa Micro International LLC" shall refer to Bregusa Micro International LLC and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of Bregusa Micro International LLC.

C.4. PNY Technologies, Inc. is a corporation organized and existing under the laws of Delaware having its principal place of business at 299 Webro Road, Parsippany, New Jersey 07054-0128. In this Consent Order, "PNY Technologies, Inc." shall refer to PNY Technologies, Inc. and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in

conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of PNY Technologies, Inc.

C.5. Tiger Direct, Inc. is a corporation organized and existing under the laws of the State of Florida having its principal place of business at 7795 West Flagler Street, Suite 35, Miami, Florida 33144. In this Consent Order, "Tiger Direct, Inc." shall refer to Tiger Direct, Inc. and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of Tiger Direct, Inc.

C.6. Symmetry Group, Inc. is a corporation organized and existing under the laws of the State of New York having its principal place of business at 11-27 44<sup>th</sup> Road, Long Island City, New York 11101. In this Consent Order, "Symmetry Group, Inc." shall refer to Symmetry Group, Inc. and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of Symmetry Group, Inc.

C.7. NewEgg.Com, Inc. is a corporation organized and existing under the laws of the State of California having its principal place of business at 132 South 6<sup>th</sup> Avenue, La Puente, California 91746-3026. In this Consent Order, "NewEgg.Com, Inc." shall refer to NewEgg.Com, Inc. and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they

are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of NewEgg.Com, Inc.

C.8. Xtraplus Corporation is a corporation organized and existing under the laws of the State of California having its principal place of business at 38929 Cherry Street, Newark, California 94560. In this Consent Order, "Xtraplus Corporation" shall refer to Xtraplus Corporation and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by paragraph E, *infra*, for, with, or otherwise on behalf of Xtraplus Corporation.

D. For purposes of this Consent Order (i) a "Licensed Manufacturer" means a manufacturer (a) licensed under United States Letters Patent Nos. 4,807,209; 4,962,493; 4,972,401; 5,023,856; 4,999,825; and 5,418,764 by Philips to manufacture and dispose of CD-Rs and/or CD-RWs, (b) that is in full compliance with its obligations under the license agreement with Philips, and (ii) an "Unlicensed Manufacturer" means any CD-R or CD-RW manufacturer that is not a Licensed Manufacturer. For the purposes of this Consent Order, any manufacturer listed as a "CERTIFIED" CD-R Disc and/or CD-RW Disc licensee on Philips's licensing website ([www.licensing.philips.com](http://www.licensing.philips.com)) on the date STI places an order for CD-Rs or CD-RWs made by that manufacturer is to be regarded as being a Licensed Manufacturer.

E. Each Consent Order Respondent shall, upon issuance by the Commission of the Consent Order, cease and desist from directly or indirectly importing, ordering, distributing, exporting, or otherwise transferring or having transferred into the United States, or selling, offering for sale, distributing, marketing, or advertising in the United States, imported CD-Rs

and CD-RWs that are covered by the Patents in Suit and manufactured by Unlicensed Manufacturers, including the CD-Rs and CD-RWs identified in the Complaint.

F. The Consent Order will terminate the Investigation with respect to each Consent Order Respondent.

F. Each Consent Order Respondent expressly waives all rights to seek judicial review or otherwise challenge or contest the validity of the Consent Order entered by the Commission pursuant to the accompanying Consent Order Stipulation.

G. Enforcement, modification, and revocation of this Consent Order will be carried out pursuant to Subpart I of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210, Subpart I). In determining whether any Consent Order Respondent is in violation of this Consent Order, the Commission may infer facts adverse to it if it fails to provide adequate or timely information. The Commission may impose upon any entity that violates the Consent Order a penalty of not more than the greater of \$100,000 or twice the domestic value of any articles entered or sold for each day on which the Consent Order is violated, or any other amount permitted pursuant to the civil penalty provisions for violation of a Commission order under 19 U.S.C. § 1337. The Commission's assessment of any such penalty shall have the force of a judgment and liability for payment of such penalty shall accrue upon administrative assessment by the Commission.

H. Each Consent Order Respondent will cooperate with and will not seek to impede by litigation or other means the Commission's efforts to gather information under Subpart I of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210, Subpart I) and shall permit reasonable inspection during the course of discovery in the investigation by Complainant to confirm compliance with this consent order.

I. The Consent Order shall not apply with respect to any of the Asserted Claims of the Patents in Suit that has expired or been found or adjudicated invalid or unenforceable by the Commission or a court or agency of competent jurisdiction, provided that such finding or judgment has become final and nonreviewable.

J. Each Consent Order Respondent agrees not to seek to challenge the validity or enforceability of the Asserted Claims of the Patents in Suit in any administrative or judicial proceeding to enforce the Consent Order.

K. Except as otherwise provided in the Consent Order, the accompanying Consent Order Stipulation, the Complaint, and the Notice of Investigation may be used in construing the Consent Order; provided, however, that any agreements, understandings, representations, or interpretations not contained in the accompanying Consent Order Stipulation or the Commission Decision accompanying the Consent Order may not be used to vary the terms of the Consent Order.

L. In addition to such reporting requirements as may be contained in the Consent Order, the Commission may require information to be submitted by each Consent Order Respondent pursuant to Subpart I of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 10, Subpart I).

M. The accompanying Consent Order Stipulation and the Consent Order are in the public interest.

N. The signing of this Consent Order is for settlement purposes only and does not constitute an admission by any Respondent that an unfair act has been committed under 19 U.S.C. § 1337.

NOW, THEREFORE, the Commission issues the following Consent Order:

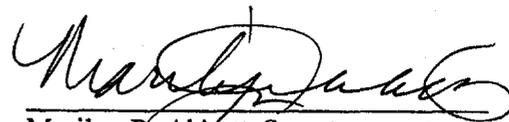
1. Upon entry of this Consent Order, each Consent Order Respondent shall immediately cease and desist from directly or indirectly importing, ordering, distributing or otherwise transferring or having transferred into the United States, or selling, offering for sale, distributing, marketing, exporting, or advertising in the United States, imported CD-Rs and CD-RWs covered by the Asserted Claims of the Patents in Suit and manufactured by Unlicensed Manufacturers, including the CD-Rs and CD-RWs identified in the Complaint.
2. Each Consent Order Respondent shall be precluded from seeking judicial review or otherwise challenging or contesting the validity of this Consent Order.
3. Each Consent Order Respondent shall cooperate with and shall not seek to impede by litigation or other means the Commission's efforts to gather information under Subpart I of the Commission's Rules of Practice and Procedures (19 C.F.R. Part 210, Subpart I) and shall permit reasonable inspection during the course of discovery in the investigation by Complainant to confirm compliance with this consent order.
4. Each Consent Order Respondent shall not seek to challenge, and is precluded from making any challenges to, the validity or enforceability of the Asserted Claims of the Patents in Suit in any administrative or judicial proceeding brought to enforce the Consent Order.
5. When all of the Patents in Suit have expired, this Consent Order shall become null and void.
6. If any of the Asserted Claims of the Patents in Suit is hereafter held invalid or unenforceable by a court or agency of competent jurisdiction, in a final decision, and all rights to appeal have been either waived or exhausted, this Consent Order shall become null and void only as to such invalid or unenforceable claim.

7. This Investigation is hereby terminated with respect to the following Consent Order Respondents: STI Certified Products, Inc.; U.S. Digital Media, Inc.; PNY Technologies, Inc.; Tiger Direct, Inc.; Bregusa Micro International LLC; Symmetry Group, Inc.; Jacsonic Group; TKO Media, Inc; J&E Enterprises; NewEgg.Com, Inc.; QTC Computer Systems, Inc.; and Xtraplus Corporation. The foregoing Consent Order Respondents are hereby dismissed as named Respondents in this Investigation; provided, however, that enforcement, modification, or revocation of this Consent Order shall be carried out pursuant to Subpart I of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210, Subpart I). In determining whether any Consent Order Respondent is in violation of this Consent Order, the Commission may infer facts adverse to it if it fails to provide adequate or timely information. The Commission may impose upon any entity that violates this Consent Order a penalty of not more than the greater of \$100,000 or twice the domestic value of any articles entered or sold for each day on which the Consent Order is violated or any other amount permitted pursuant to the civil penalty provisions for violation of a Commission order under 19 U.S.C. § 1337. The Commission's assessment of any such penalty shall have the force of a judgment and liability for payment of such penalty shall accrue upon administrative assessment by the Commission.

8. The entry of this Consent Order does not constitute a determination as to a violation of 19 U.S.C. § 1337 by any Consent Order Respondent.

Dated: Nov. 25, 2002

BY ORDER OF THE COMMISSION

  
Marilyn R. Abbott, Secretary

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL DETERMINATION TERMINATING THE INVESTIGATION AS TO EIGHT RESPONDENTS ON THE BASIS OF A CONSENT ORDER: ISSUANCE OF CONSENT ORDER**, was served upon the following parties via first class mail and air mail, where necessary on November 25, 2002.



Marilyn R. Abbott, Secretary  
U.S. International Trade Commission  
500 E Street, SW - Room 112  
Washington, DC 20436

**ON BEHALF OF COMPLAINANT U.S.  
PHILIPS CORPORATION::**

Margaret K. Pfeiffer, Esq.  
SULLIVAN AND CROMWELL  
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Washington, DC 20006-5805

James T. Williams, Esq.  
SULLIVAN AND CROMWELL  
125 Broad Street  
New York, NY 10004-2498

**ON BEHALF OF TIGERDIRECT, INC.:**

Michael Quinn, Esq.  
Gibbons, Del Deo, Dolan, Griffinger  
and Vecchione, P.C.  
One Pennsylvania Plaza, 37<sup>th</sup> Floor  
New York, New York 10119-3701

**ON BEHALF OF GIGASTORAGE  
CORPORATION TAIWAN AND  
GIGASTORAGE CORPORATION USA AND  
LINBERG ENTERPRISE INC.:**

Alexander J. Hadjis, Esq.  
Fish and Richardson, PC  
1425 K Street, NW - 11<sup>th</sup> Floor  
Washington, DC 20005

**ON BEHALF OF INTERVENOR PRINCO  
CORPORATION AND PRINCO AMERICA  
CORPORATION:**

Alexander J. Hadjis, Esq.  
Fish and Richardson, PC  
1425 K Street, NW - 11<sup>th</sup> Floor  
Washington, DC 20005

**ON BEHALF OF TKO MEDIA, INC., AND  
JACSONIC GROUP:**

Philip J. Anderson, Esq.  
Anderson and Morishita, LLC  
2725 s. Jones Blvd, Suite 102  
Las Vegas, NV 89146

**ON BEHALF OF NON-PARTY RICOH  
CORPORATION:**

Robert T. Greig, Esq.  
Cleary, Gottlieb, Steen and Hamilton  
One Liberty Plaza  
New York, NY 10006

Sara D. Schotland, Esq.  
W. Richard Bidstrup, Esq.  
Cleary, Gottlieb Steen and Hamilton  
2000 Pennsylvania Avenue, NW  
Washington, DC 20006

**Certain Recordable Compact Discs and  
Rewritable Company Discs**

**Certificate of Service**

**Page Two**

**ON BEHALF PNY TECHNOLOGIES INC.:**

David W. Opderbeck, Esq.  
**McCarter and English, LLP**  
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100 Mulberry Street  
Newark, New Jersey 07101-0652

**ON BEHALF OF SYMMETRY GROUP, INC.:**

Steven J. Armstrong, Esq.  
**MA and Associates**  
605 Third Avenue, 15<sup>th</sup> Floor  
New York, New York 10158

**ON BEHALF OF U.S. DIGITALMEDIA, INC.,  
AND STI CERTIFIED PRODUCTS, INC.:**

Lyle B. Vander Schaaf, Esq.  
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Suite 600 North  
Washington, DC 20005

**RESPONDENTS:**

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25-29 Kok Cheung Street  
Tai Kok Tsui, Kowloon, Hong Kong

**BREGUSA MICRO INTERNATIONAL LLC**  
22622 Lambert Street, Suite 306  
Lake Forest, California 92630

**DIGITAL STORAGE TECHNOLOGY CO.,  
LTD.**

42 Kung 4 Road  
Linkou 2<sup>nd</sup> Industrial park  
Taipei Hsien, Taiwan

**DISCSDIRECT.COM**  
2165 South Bascom Avenue  
Campbell, California 95008

**KINGPRO MEDIATEK INC.**  
No. 28, Chung Cheng 1<sup>st</sup> Street  
Yung Kang City, 71042

Tainan Hsien, Taiwan

**NEWEGG.COM, INC.**  
132 South 6<sup>th</sup> Avenue  
La Puente, CA 91746-3026

**QTC COMPUTER SYSTEMS, INC**  
1374 East Edinger Avenue  
Santa Ana, California 92705

**J&E ENTERPRISES, INC.**  
7900 San Fernando Road, #B1  
Sun Valley, California 91352