



# FAX Message

Consultancy Services Pty. Ltd.  
ABN 41 050 553 216

Email: [REDACTED]@powerhousesw.com.au  
Web Site: <http://www.powerhouse.au.com>

Date: 17<sup>th</sup> December, 03  
Attn: National Manager, Industry Branch  
Company: Australian Customs Service  
FAX No: (02) 6275 6376  
CC:  
From: [REDACTED]  
Regarding: Spectacle Frames  
No of Pages: 13 (including this page)

Bldg 2, 14A Baker St, Botany 2019  
P. O. Box 745, Mascot 1460  
Phone: (02) 9666 6911 ext-258  
FAX: (02) 9666 6922  
*A Totally Qualified Group  
Specialising in Customs,  
Consultancy & Forwarding*

- Urgent / Reply ASAP
- Please Comment / Review
- For Your Information

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Dear Sir or Madam,

On behalf of our client, ODMA Ltd please find enclosed 2 applications for TCO covering the above goods.

## 1. Product Use

The goods of these applications are spectacle frames used for the mounting of optical lenses.

## 2. Situation of Market

To the best of our knowledge, there are no products produced in Australia that would be considered capable of substituting for their function or use. Our client is of the opinion this product is unsuitable for the uses to which any locally produced goods are put, in any practical situation.

- 2.1 *Goods of these applications* As stated, the goods of these applications are no longer produced in Australia. Anyone requiring this type of product would need to import it from overseas.
- 2.2 *Goods produced in Australia:* To the best of our knowledge these goods are not currently being produced in Australia. This product has not been available from Australian manufacture, which would confirm that goods are not manufactured in Australia that would be substitutable for the goods of these applications.
- 2.3 *Inquiries made to locate Local Producers:* Please refer to "Attachment Question 5."

ADELAIDE BRISBANE MELBOURNE PERTH SYDNEY  
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Furthermore, the reason the subject goods are being imported from overseas is the fact that they could not be supplied from local manufacture.

**3. TCO Wording**

3.1 Given our opinion these goods would not be substitutable in their use/uses with any goods manufactured in Australia, our proposed TCO wording has been structured to isolate the goods imported by the applicant and to exclude any goods manufactured in Australia.

**4. Legislation**

4.1 When preparing these applications, our client examined the market for goods, which would be identified as "*Substitutable goods*" in line with section 269B.

As the goods of these applications have a specific use, as stated above, where their specific design features are essential, we can only identify them as having this sole function and therefore it is the opinion of the applicant that substitutable goods, for the goods of these applications, are not produced in Australia.

4.2 Taking the summary of the above into consideration, these applications are being made on the grounds that goods, as described in these applications would meet the "*core Criteria*" under section 269C.

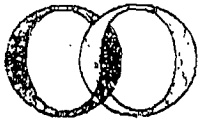
We trust this meets with your approval and should you require any further information please do not hesitate to contact the undersigned.

Yours faithfully,  
**POWERHOUSE CONSULTANCY SERVICES PTY LTD**



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0292557889



O D M A

OPTICAL DISTRIBUTORS AND MANUFACTURERS ASSOCIATION OF AUSTRALIA LIMITED

16 December 2003

ABN 31 001 783 071  
Level 22,  
259 George Street  
SYDNEY NSW 2000  
Australia  
Telephone:  
(02) 9255 7830  
Facsimile:  
(02) 9255 7889  
Email:  
odma@ozemail.com.au

s47F

Powerhouse Consultancy Services Pty Ltd  
Building 2  
14a Baker Street  
BOTANY NSW 2019

Dear s47F

**Re: Local Manufacture of Optical Frames**

The Optical Distributors & Manufacturers Association (ODMA) is the peak representative body of Importers, Wholesalers and Manufacturers of optical products in Australia i.e. prescription spectacle lenses, optical frames, sunglasses, testing equipment etc

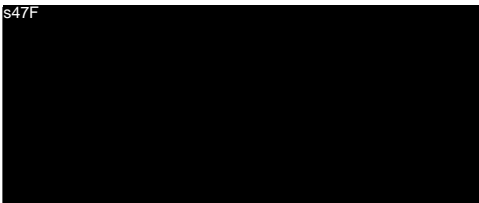
I am writing in support of ODMA members to provide the following information relating to the local manufacture of optical frames.

It is our understanding that duties only apply if it is established that there is an Australian manufacturer producing substitutable goods in the ordinary course of business. We understand that since the closure of Martin Wells and Engelhardt's manufacturing plants there is no manufacturer producing substitutable optical frames in the ordinary course of business.

We therefore are requesting that the Australian Customs Service approve the tariff concession order application to revoke the duty on optical frames.

Yours sincerely

s47F



**Executive Director**

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If this form was completed by a business with fewer than 20 employees, please provide an estimate of the time taken to complete this form.

Hours  Minutes

# APPLICATION FOR A TARIFF CONCESSION ORDER (TCO)

*The form should be read carefully before being completed*

- (a) Before lodging an application for a TCO, the applicant should determine whether a suitable TCO already exists. Information on existing TCOs is contained in the schedule of Concessional Instruments (SCI), a copy of which is available at each Regional Office of Customs. A TCO can be used by any importer.
- (b) An application will be date stamped on the day it is first received in Canberra by an officer of Customs. Receipt of an application will be acknowledged. Any resultant TCO will operate from the date of receipt. Instructions on how to lodge this form are provided at the end of this form.
- (c) Where an application is accepted as being a valid application, the identity of the applicant and of the importer for whom the applicant is acting will be published in the Gazette.
- (d) Section 269F of the Customs Act 1901 requires that a TCO application to be in writing, be in an "approved form", contain such information as the form requires, and be signed in the manner indicated in the form. This is the approved form for the purposes of that section.
- (e) Section 269FA of the Customs Act 1901 states "it is the responsibility of an applicant for a TCO to establish, to the satisfaction of the Chief Executive Officer (CEO), that, on the basis of:
- (i) all information that the applicant has, or can reasonably be expected to have; and
  - (ii) all inquiries that the applicant has made, or can reasonably be expected to make;
- there are reasonable grounds for asserting that the application meets the core criteria". The application is taken to meet the core criteria if, on the day of lodgement of the application, no substitutable goods were produced in Australia in the ordinary course of business.
- (f) Every question on the form must be answered. Failure to supply the information required by this form will result in rejection of the application (and in the loss of operative date).
- (g) Where the form provides insufficient space to answer a question, an answer may be provided in an attachment. The attachment should clearly identify the question to which it relates.
- (h) All information about inquiries into the production of substitutable goods must relate to the date the application is lodged with Customs.
- (i) Customs may require an applicant to substantiate, with documentary evidence, any information provided in the application form.
- (j) Further information on the Tariff Concession System is available in Part XVA of the Customs Act 1901, in the forward to the Schedule of Concessional Instruments, in the administrative guidelines in Volume 13 of the Australian Customs Service Manual, in Australian Customs Notice No. 98/19, on the internet at [www.customs.gov.au](http://www.customs.gov.au), by e-mailing [information@customs.gov.au](mailto:information@customs.gov.au) or by phoning the Customs Information Centre 1300 363 263.

## APPLICANT DETAILS (An agent/broker should provide details on the next page)

Applicant's Name ODMA Ltd		Australian Business Number (A.B.N.) 31 001 783 071	
Postal Address Level 22, 259 George Street, Sydney NSW 2000			
Applicant's Reference Frames " 1 "		Owner Code (if applicable) N/A	
Company Contact §47F		Position Held §47F	
Telephone Number 02 9255 §47F	Facsimile Number 02 9255 7889	E-mail Address odma@ozemail.com.au	

If you do not intend to use the TCO to import into Australia the goods the subject of the application, you must provide, in the section below, the identity of the importer for whom you are acting (refer to paragraph 269F(3)(c) of the Customs Act 1901).

## IMPORTER DETAILS

Importer's Name (If same as applicant, write "as above") "AS ABOVE"		A.B.N.	
Postal Address			
Importer's Reference		Owner Code	
Company Contact		Position Held	
Telephone Number		Facsimile Number	

05 096 10 9:50 B443 (JUN 2001)

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**AGENT/BROKER DETAILS (if applicable)**

Agent's Name Powerhouse Consultancy Services Pty Ltd	A.B.N. 41 050 553 216
Postal Address P.O. Box 745, Mascot NSW 1460	
Agent's Reference Frames "1"	Agency Contact §47F [REDACTED]@powerhousesw.com.au)
Telephone Number 02 9666 §47F [REDACTED]	Facsimile Number 02 9666 6922

**DESCRIPTION OF GOODS**

- (a) The description of the goods in the application will be used as the description of the goods in the TCO (if made).
- (b) The application should provide a full description of the goods, including the physical features of the goods or the various components of the goods. It should not describe the goods in terms of what they do.
- (c) In accordance with section 269SJ of the Customs Act 1901, the CEO must not make a TCO in respect of goods:
- described in terms other than in generic terms; or
  - described in terms of their intended end use; or
  - declared by the regulations to be goods to which a TCO should not be extended.
- Goods will be taken to be described in terms other than in generic terms if, for example, their description, either directly or by implication, indicates that they are goods of a particular brand or model, or that a particular part number applies to the goods.
- (d) Guidance on the drafting of the description of goods is contained in Volume 13 of the ACS Manual and in Australian Customs Notice No. 98/19.

**1 Describe the goods**

**FRAMES, SPECTACLE**

**ILLUSTRATIVE MATERIAL**

- 2 Attach technical, illustrative descriptive material and/or a sample to enable a full and accurate identification of the goods the subject of the application.**

**TARIFF CLASSIFICATION**

- 3 Identify the tariff classification (to 8 figure subheading level) 9003\_11\_00**  
**Identify the General Duty rate 5 %**  
 If a Tariff Advice for the goods has been sought or obtained, please provide the TA No. \_\_\_\_\_  
 or attach a copy.

**USES OF THE IMPORTED GOODS**

- 4 Describe ALL uses (including design uses) to which the goods can be put.**

As above

**SUBSTITUTABILITY OF LOCALLY PRODUCED GOODS**

- (a) A local manufacturer's goods are substitutable when they are put, or are capable of being put, to a use that corresponds with a use (including a design use) to which the goods the subject of the application can be put (subsection 269B(1) of the Customs Act 1901). Even if not identical, locally made goods may be substitutable.
- (b) In determining whether the uses of Australian produced goods correspond with the uses of the goods the subject of the application, the ability of the goods to compete with each other in any market is not relevant.
- (c) The applicant must provide written information as to the inquiries made to establish that there are reasonable grounds for believing that there are no producers of substitutable goods in Australia. The application must include a copy of the research material sourced and a copy of correspondence to, and replies from, potential local manufacturers or relevant industry associations. The application will be rejected if it fails to provide all written information as to the inquiries made.

**NOTE:** The Australian Customs Service suggests that potential local manufacturers should be given at least 10 working days to respond to inquiries concerning local manufacture.

**5 Provide details of the nature of ALL inquiries you have undertaken in order to establish that substitutable goods are not produced in Australia, and the results of those inquiries. Attach copies of all correspondence or directory searches, etc.**

Please refer: **"Attachment Question 5"**

**6 Provide any additional information in support of discharging your responsibility to establish that there are reasonable grounds for asserting that there are no substitutable goods produced in Australia in the ordinary course of business.**

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**PRESCRIBED ORGANISATIONS**

7 Have you made inquiries of a prescribed organisation to obtain advice about whether there are producers in Australia of substitutable goods?

YES  NO  If YES, attach a copy of the advice received.

Note that under subsection 269M(6) of the Customs Act 1901, the CEO may, despite section 16 of the Customs Administration Act 1985, give a copy of all, or of a part, of the application to a prescribed organisation.

**ADDITIONAL INFORMATION**

8 Provide any additional information in support of your application.

**DECLARATION**

I, §47F Position Held §47F

Company (if applicable)  
Powerhouse Consultancy Services Pty. Ltd.

declare that:

- 1 To the best of my knowledge and belief the information contained in this form is correct; and
- 2 I have the authority to act on behalf of the company/applicant; and
- 3 I agree, in submitting this form by electronic means (including facsimile) that, for the purposes of Sub-Section 14(3) of the Electronic Transactions Act, this application will be taken to have been lodged when it is first received by an officer of Customs, or if by e-mail, when it is first accessed by an officer of Customs, as specified in Sub-Section 269F(4) of the Customs Act.

Signature of Applicant/Agent/Broker §47F

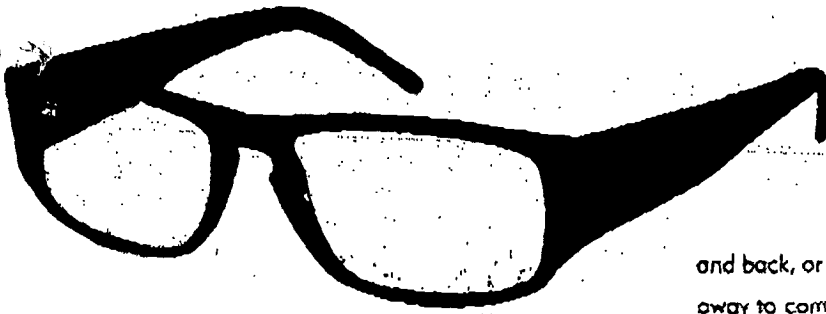
Date  
17/12/03

**NOTE: SECTION 234 OF THE CUSTOMS ACT 1901 PROVIDES THAT IT IS AN OFFENCE TO MAKE A STATEMENT TO AN OFFICER THAT IS FALSE OR MISLEADING IN A MATERIAL PARTICULAR.**

**WHEN THIS FORM HAS BEEN COMPLETED LODGE IT WITH CUSTOMS BY:**

- posting it by prepaid post to the National Manager, Tariff Branch  
Australian Customs Service  
Customs House  
5 Constitution Avenue  
CANBERRA ACT 2601  
or
- delivering it to the ACT Regional Office located at  
Customs House, Canberra  
or
- sending it by facsimile to (02) 6275 6376  
or
- e-mailing it to tarcon@connect.net.au.

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Dolce & Gabbana

## Odmafair

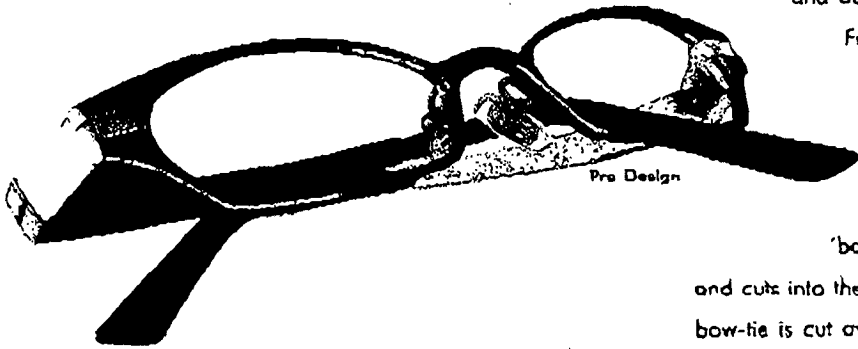
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Size does matter. Small frames have dominated collections in the past 12 months but the swing back to larger frames is gaining momentum.

Laminates varied, sometimes with contrasting front and back, or two or three-toned laminates with a bold front cutting away to complementary colours at the back.

Split temples on wedge-shaped frames were noticed in metal and acetate collections.

Funky geometric shapes provided some interest to buyers of rimless, which maintain their strong position in the Australian market.



Pro Design

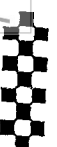
Dion Stanbury, an Adelaide optometrist, says a favourite shape at Odmafair was the 'bow-tie' in which the frame is wider at the temple and cuts into the nasal section of the frame. He warns that if the bow-tie is cut away too much, giving it an exaggerated look, it will not suit many people.



Face à Face

'Frames with a strong, rectangular look featured in many collections. I also spotted eye-shaped and oval frames, especially in women's collections where the softer shapes tend to be more flattering,' says Dion.

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**Attachment Question 5.**

Application Reference "Frames" "1" & "2"

**Details of inquiries undertaken.**

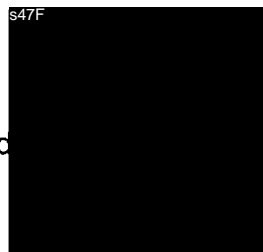
It is our opinion, substitutable goods are not manufactured in Australia. As such, any goods meeting the TCO description would need to be imported from overseas.

Please find attached statement from the Optical Distributors and Manufacturers Association of Australia Ltd confirming the following:

Since the closure of both Martin Wells and Engelhardt's Australian manufacturing plants, there is no longer any local production of substitutable goods in the ordinary course of business.

The above confirms our opinion, and as such, we are lodging this application on the grounds that substitutable goods are not manufactured in Australia.

Signed



Dated 17/12/03

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# FAX Message

Consultancy Services Pty. Ltd.  
ABN 41 050 553 216

Email: [redacted]@powerhousesw.com.au  
Web Site: <http://www.powerhouse.au.com>

Bldg 2, 14A Baker St, Botany 2019  
P. O. Box 745, Mascot 1460  
Phone: (02) 9666 6911 ext-258  
FAX: (02) 9666 6922  
*A Totally Qualified Group  
Specialising in Customs,  
Consultancy & Forwarding*

Date: 19<sup>th</sup> July, 04  
Attn: [redacted]  
Company: Australian Customs Service  
FAX No: (02) 6275 6376  
From: [redacted]  
Regarding: TC 0315725  
No of Pages: 3 (including this page)

- Urgent / Reply ASAP
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## "Commercial In Confidence"

Dear Sir,

Further to the publication of the decision to refuse the above application for TCO in Gazette No. 04/24 of 23<sup>rd</sup> June, 04, we are writing on behalf of our client ODMA Ltd to request reconsideration of this decision under Section 269SH of the Customs Act.

We do not accept the claims of the objector Optex Eyewear Pty Ltd, as we are of the opinion that the proposed wording is sufficient to protect any market they may serve.

Please find attached subsequent letter from Optex Eyewear Pty Ltd dated 16<sup>th</sup> July, 04, withdrawing their objection of 14<sup>th</sup> January, 04.

The reason for the delay in this response from Optex Eyewear Pty Ltd is due to the fact that ODMA could only organise to meeting with the objector in Dubbo recently.

Yours faithfully,  
**POWERHOUSE CONSULTANCY SERVICES PTY LTD**

[redacted signature block]

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ADELAIDE BRISBANE MELBOURNE PERTH SYDNEY  
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File TC 0315725, Page 2:

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This document is "Commercial In Confidence". The information is between Powerhouse, the ACS and ODMA and must not be disclosed to any person or organisation including any of your consultants without ODMA's prior written approval.

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16-JUL-2004 18:35

OPTEX

61 2 82494001

81 2 88820142

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# OPTEX EYEWEAR PTY. LTD.

A.B.N. 86 004 962 627  
33 HAWTHORN STREET,  
P.O. BOX 4066  
DUBBO EAST N.S.W. 2830  
AUSTRALIA

Phone 02 6882 1799  
Fax 02 6882 0142  
email: optex@bigpond.com

16TH july, 2004.

ODMA,  
Level 4, 3 Spring St.,  
SYDNEY NSW 2000

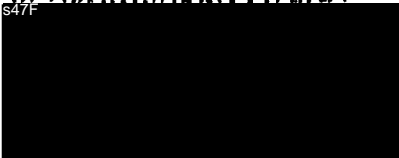
Dear Sirs,

We wish to advise that we are withdrawing our objection to the Tariff Concession Orders

TC(O)s 0315708 and 0315725.

Yours faithfully,

OPTEX EYEWEAR PTY. LTD.



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