

# U.S. Customs and Border Protection

## *General Notices*

### **ACCREDITATION AND APPROVAL OF SGS NORTH AMERICA, INC., AS A COMMERCIAL GAUGER AND LABORATORY**

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

**ACTION:** Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 12650 McManus Blvd, Suite 103, Newport News, VA 23602, has been approved to gauge and accredited to test petroleum and petroleum products and organic chemicals for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

[http://cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/commercial\\_gaugers/](http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/)

**DATES:** The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on May 07, 2008. The next triennial inspection date will be scheduled for May 2011.

**FOR FURTHER INFORMATION CONTACT:** Randall Breaux, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: September 16, 2008

IRA S. REESE,  
*Executive Director,*  
*Laboratories and Scientific Services.*

[Published in the Federal Register, September 23, 2008 (73 FR 54845)]



**ACCREDITATION AND APPROVAL OF SGS NORTH AMERICA, INC., AS A COMMERCIAL GAUGER AND LABORATORY**

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

**ACTION:** Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 2310 Highway 69 North, Nederland, TX 77627, has been approved to gauge and accredited to test petroleum and petroleum products and organic chemicals for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

[http://cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/commercial\\_gaugers/](http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/)

**DATES:** The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on March 28, 2008. The next triennial inspection date will be scheduled for March 2011.

**FOR FURTHER INFORMATION CONTACT:** Randall Breaux, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: September 16, 2008

IRA S. REESE,  
*Executive Director,*  
*Laboratories and Scientific Services.*

[Published in the Federal Register, September 23, 2008 (73 FR 54845)]

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### **ACCREDITATION AND APPROVAL OF AMSPEC SERVICES LLC, AS A COMMERCIAL GAUGER AND LABORATORY**

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

**ACTION:** Notice of accreditation and approval of Amspec Services LLC, as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Amspec Services LLC, 2841 Carolina Beach Rd. Suite 3B, Wilmington, NC 28412, has been approved to gauge and accredited to test petroleum and petroleum products and organic chemicals for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

[http://cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/commercial\\_gaugers/](http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/)

**DATES:** The accreditation and approval of Amspec Services LLC, as commercial gauger and laboratory became effective on June 05, 2008. The next triennial inspection date will be scheduled for June 2011.

**FOR FURTHER INFORMATION CONTACT:** Randall Breaux, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: September 16, 2008

IRA S. REESE,  
*Executive Director,*  
*Laboratories and Scientific Services.*

[Published in the Federal Register, September 23, 2008 (73 FR 54844)]

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### **ACCREDITATION AND APPROVAL OF SAYBOLT LP, AS A COMMERCIAL GAUGER AND LABORATORY**

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

**ACTION:** Notice of accreditation and approval of Saybolt LP, as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Saybolt LP, 2321 Burnett Blvd., Wilmington, NC 28401, has been approved to gauge and accredited to test petroleum and petroleum products and organic chemicals for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

[http://cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/commercial\\_gaugers/](http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/)

**DATES:** The accreditation and approval of Saybolt LP, as commercial gauger and laboratory became effective on June 04, 2008. The next triennial inspection date will be scheduled for June 2011.

**FOR FURTHER INFORMATION CONTACT:** Randall Breaux, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: September 16, 2008

IRA S. REESE,  
*Executive Director,*  
*Laboratories and Scientific Services.*

[Published in the Federal Register, September 23, 2008 (73 FR 54844)]

DEPARTMENT OF HOMELAND SECURITY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, DC, September 24, 2008*

The following documents of U.S. Customs and Border Protection (“CBP”), Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and CBP field offices to merit publication in the CUSTOMS BULLETIN.

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

**PROPOSED REVOCATION OF RULING LETTER AND  
PROPOSED REVOCATION OF TREATMENT RELATING TO  
THE TARIFF CLASSIFICATION OF CERTAIN “THREE  
WISE MEN” PORCELAIN FIGURINES**

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

**ACTION:** Notice of proposed revocation of a ruling letter and treatment relating to the classification of certain “Three Wise Men” porcelain figurines.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that CPB intends to revoke a ruling concerning the classification of certain “Three Wise Men” porcelain figurines un-

der the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CPB intends to revoke any treatment previously accorded by CPB to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

**DATE:** Comments must be received on or before November 7, 2008.

**ADDRESS:** Written comments are to be addressed to the Bureau of Customs and Border Protection, Office of International Trade, Regulations & Rulings, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue N.W., Washington, D.C. 20229. Submitted comments may be inspected at the offices of Customs and Border Protection, 799 9<sup>th</sup> Street, NW, Washington, D.C. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** Jacinto P. Juarez, Jr., Tariff Classification and Marking Branch: (202) 572-8752.

#### **SUPPLEMENTARY INFORMATION:**

##### **BACKGROUND**

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility**." These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the tariff classification of certain "Three Wise Men" porcelain figurines. Although in this notice, CBP is specifically refer-

ring to the revocation of New York Ruling Letter (NY) A87160, dated September 17, 1996 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during the notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

NY A87160 describes the merchandise as "three porcelain figurines, item number 97821, which depict the three wise men and measure approximately 11 inches in height". CBP classified the merchandise in subheading 6913.10.50, HTSUS, which provides for "Other ornamental ceramic articles of porcelain." It is now CBP's position that the merchandise is classified under subheading 9505.10.30, HTSUS, which provides for: "Festive, carnival or other entertainment articles, including magic tricks and practical joke articles; parts and accessories thereof: Articles for Christmas festivities and parts and accessories thereof: Nativity scenes and figures thereof."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is proposing to revoke NY A87160, and any other ruling not specifically identified, to reflect the classification of the subject merchandise according to the analysis contained in proposed Headquarters Ruling Letter (HQ) H026515, set forth as Attachment B to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

**DATED:** September 17, 2008

Gail A. Hamill for MYLES B. HARMON,  
*Director,*  
*Commercial and Trade Facilitation Division.*

Attachments

ATTACHMENT A

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
NY A87160  
September 17, 1996  
CLA-2-69:RR:NC:GI: 227 A87160  
CATEGORY: Classification  
TARIFF NO.: 6913.10.5000

MS. MICHELE SMITH  
SEARS, ROEBUCK AND CO.  
3333 Beverly Road, BC 204A  
Hoffman Estates, IL 60179

RE: The tariff classification of porcelain figurines from China.

DEAR MS. SMITH:

In your letter dated August 21, 1996, you requested a tariff classification ruling. Samples are being returned as requested.

The samples submitted consist of three porcelain figurines, item number 97821, which depict the three wisemen and measure approximately 11 inches in height. You claim that these items should be properly classified under subheading 9505.10.3000, Harmonized Tariff Schedule of the United States (HTS), which provides for nativity scenes and figures thereof. However, a nativity scene must include the characters of Joseph, Mary, and the Child and since the subject merchandise, consisting only of the three wisemen, lacks these essential figures, consideration of classification under subheading 9505.10.3000, HTS, is precluded.

The applicable subheading for these porcelain figurines, known as the three wisemen (item number 97821), will be 6913.10.5000, Harmonized Tariff Schedule of the United States (HTS), which provides for other ornamental ceramic articles of porcelain. The rate of duty will be free.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177). A copy of the ruling letter or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist George Kalkines at 212-466-5794.

ROGER J. SILVESTRI,  
*Director,*  
*National Commodity,*  
*Specialist Division.*



ATTACHMENT B

DEPARTMENT OF HOMELAND SECURITY,  
 U.S. CUSTOMS AND BORDER PROTECTION,  
 HQ H026515  
 CLA-2 OT:RR:CTF:TCM H026515 JPJ  
 CATEGORY: Classification  
 TARIFF NO.: 9505.10.30

MS. MICHELE SMITH  
 SEARS, ROEBUCK AND Co.  
 3333 Beverly Road, BC 204A  
 Hoffman Estates, IL 60179

Re: "Three Wise Men" Porcelain Figurines; Revocation of NY A87160

DEAR MS. SMITH:

This letter concerns New York Ruling letter ("NY") A87160, dated September 17, 1996, issued to you by the National Commodity Specialist Division, U.S. Customs and Border Protection (CBP). At issue in that ruling was the correct classification of "three porcelain figurines, item number 97821, which depict the three wise men and measure approximately 11 inches in height", under the Harmonized Tariff Schedule of the United States (HTSUS). We have reviewed NY A87160 and have found that it is incorrect. Our discussion on this matter is set forth below.

FACTS:

The "three wise men" figurines, item number 97821, are made of porcelain and measure approximately 11 inches in height.

ISSUE:

Whether the "three wise men" porcelain figurines are classified as festive articles of heading 9505, because they constitute figures of a nativity scene.

LAW AND ANALYSIS:

Classification of merchandise under the Harmonized Tariff Schedule of the United States (HTSUS) is governed by the General Rules of Interpretation (GRI). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied.

The HTSUS provisions under consideration are as follows:

6913	Statuettes and other ornamental ceramic articles: Of porcelain or china: Other:
6913.10.50	Other
*	*                   *                   *                   *                   *
9505	Festive, carnival or other entertainment articles, including magic tricks and practical joke articles; parts and accessories thereof:

9505.10 Articles for Christmas festivities and parts and accessories thereof:

9505.10.30 Nativity scenes and figures thereof

\* \* \* \* \*

Chapter 69 Note 2(k) states, in relevant part, that this chapter does not cover articles of Chapter 95. Therefore if we find that the instant merchandise is classified in heading 9505, the merchandise is excluded from classification in Chapter 69.

The Harmonized Commodity Description and Coding System Explanatory Notes (“EN’s”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN’s provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89–80, 54 Fed. Reg. 35127–28 (Aug. 23, 1989).

EN 95.05 (A)(2) states, in relevant part, that this heading covers “[a]rticles traditionally used at Christmas festivities, e.g., . . . nativity figures . . .”

In NY A87160, we stated that “a nativity scene must include the characters of Joseph, Mary, and the Child. . .” However, in HQ 952967, dated March 17, 1993, we classified figurines depicting three wise men, or Magi (Melchior, Kaspar, and Balthasar), along with a shepherd, sheep, donkey, cow and camel, but without “Joseph, Mary, and the Child”, in heading 9505, HTSUS, as festive articles.

From our internet research, we conclude that nativity scenes often include the crib or manger scene of Mary, Joseph, and the infant Jesus, as well as the Magi, as described in Matthew 2: 1–12. Hence, we find that HQ 952967 correctly states our position that “three wise men” figurines are “nativity figures” commonly and traditionally associated and used as part of nativity scenes at Christmas festivities. See also Headquarters Ruling Letter (HQ) 087894, dated December 4, 1990.

As such, the three wise men porcelain figurines are classified in heading 9505, HTSUS, as festive articles. Specifically, the instant porcelain figurines are figures of nativity scenes classified in subheading 9505.10.30, HTSUS. Pursuant to Chapter 69, Note 2(k), the instant merchandise is specifically excluded from Chapter 69.

**HOLDING:**

The three wise men porcelain figurines, item number 97821, are classified in subheading 9505.10.30, HTSUS, as “Festive, carnival or other entertainment articles, . . . : Articles for Christmas festivities and parts and accessories thereof: Nativity scenes and figures thereof.”

**EFFECT ON OTHER RULINGS:**

NY A87160, dated September 17, 1996, is hereby revoked.

MYLES B. HARMON,  
*Director,*  
*Commercial and Trade Facilitation Division.*

**PROPOSED MODIFICATION OF RULING LETTER AND  
PROPOSED REVOCATION OF TREATMENT RELATING TO  
THE TARIFF CLASSIFICATION OF CERTAIN PRINTED  
CIRCUIT BOARDS**

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

**ACTION:** Notice of proposed modification of a ruling letter and proposed revocation of treatment relating to tariff classification of certain printed circuit boards (PCBs) for electronic keyboards.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) proposes to modify one ruling letter relating to the tariff classification of certain PCBs for electronic keyboards under the Harmonized Tariff Schedule of the United States (HTSUS). CBP also proposes to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

**DATE:** Comments must be received on or before November 7, 2008.

**ADDRESS:** Written comments are to be addressed to Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue, N.W. (Mint Annex), Washington, D.C. 20229. Submitted comments may be inspected at Customs and Border Protection, 799 9<sup>th</sup> Street N.W., Washington, D.C. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

**FOR FURTHER INFORMATION CONTACT:** Greg Connor, Tariff Classification and Marking Branch: (202) 572–8749.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

On December 8, 1993, Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (hereinafter “Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the

trade community's responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625 (c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)(1)), this notice advises interested parties that CBP intends to modify a ruling letter pertaining to the tariff classification of certain PCBs for electronic keyboards. Although in this notice, CBP is specifically referring to the modification of New York Ruling Letter (NY) C88491, dated June 29, 1998 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

Similarly, pursuant to section 625 (c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)(2)), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action.

In NY C88491, set forth in Attachment A to this document, CBP determined that fifteen PCBs used in an electronic keyboard were classified in heading 8543, HTSUS, specifically subheading 8543.89.9695, HTSUSA (1998), which provides for, in pertinent part: "[e]lectrical machines and apparatus, having individual functions not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other: Other. . . Other".

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to modify NY C88491 and revoke or modify any other ruling not specifically identified, in order to reflect the proper classification of five of the fifteen PCBs subject to NY C88491 according to the analysis contained in proposed Headquarters Ruling Letter H015090, set forth as Attachment B to this document. Additionally, pursuant to 19 U.S.C.

1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions.

Before taking this action, consideration will be given to any written comments timely received.

**DATED:** September 17, 2008

Gail A. Hamill for MYLES B. HARMON,  
*Director,*  
*Commercial and Trade Facilitation Division.*

Attachments

ATTACHMENT A

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
NY C88491  
June 29, 1998  
CLA-2-92:RR:NC:2:227 C88491  
CATEGORY: Classification  
TARIFF NO.: 9207.10.0075; 8522.90.3500;  
8524.99.9000; 8543.89.9695

MR. DENNIS HECK  
YAMAHA CORPORATION OF AMERICA  
6600 Orangethorpe Ave.  
P.O. Box 6600  
Buena Park, CA 90622-6600

RE: The tariff classification of an electronic keyboard and parts from Japan.

DEAR MR. HECK:

In your letter dated June 2, 1998, you requested a tariff classification ruling.

The articles in question are described as follows:

1. PSR-8000 Portatone electronic keyboard valued over \$100.
2. 3.5 Floppy Disk Drive Subassembly, as a replacement part for the PSR-8000 Portatone, that is not capable of functioning with ADP machinery.
3. 3.5 Recorded Floppy Disk containing MIDI data software instructions.
4. 15 different printed Circuit Boards for the PSR-8000 Portatone which are populated with numerous integrated circuits and other apparatus.

The applicable subheading for the PSR-8000 Portatone electronic keyboard will be 9207.10.0075, Harmonized Tariff Schedule of the United States (HTS), which provides for other keyboard musical instruments, other than accordians, having one keyboard and valued over \$100. The rate of duty will be 5.7 percent ad valorem.

The applicable subheading for the Portatone floppy disk drive subassembly will be 8522.90.3500, HTS, which provides for parts and accessories suitable for use solely or principally with the apparatus of headings 8519 to 8521. The rate of duty will be 2.4 percent ad valorem.

The applicable subheading for the recorded floppy disk will be 8524.99.9000, HTS, which provides for records, tapes and other recorded media for sound or other similarly recorded phenomena, including matrices and masters for the production of records, but excluding products of Chapter 37: other; other: other.

The applicable subheading for the Portatone circuit breakers will be 8543.89.9695, HTS, which provides for other electrical machines and apparatus, . . . , not specified or included elsewhere in Chapter 85, HTS. The rate of duty will be 2.9 percent ad valorem. HQ 951064 and HQ 085891 noted,

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist George Kalkines at 212-466-5794.

ROBERT B. SWIERUPSKI,  
*Director,*  
*National Commodity,*  
*Specialist Division.*

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ATTACHMENT B

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ H015090  
**CLA-2 OT:RR:CTF:TCM H015090 GC**  
**CATEGORY:** Classification  
**TARIFF NO.:** 9209.94.8000

MR. DENNIS HECK  
YAMAHA CORPORATION OF AMERICA  
6600 Orangethorpe Avenue  
Buena Park, California 90620

**RE:** Tariff classification of printed circuit boards for electronic keyboards;  
Reconsideration of NY C88491

DEAR MR. HECK:

This is in reference to your letter, dated July 18, 2007, requesting Customs and Border Protection (CBP) modify New York Ruling (NY) C88491, dated June 29, 1998, as it relates to the classification of six printed circuit boards (PCBs). Your request was forwarded to this office for review.

**FACTS:**

The merchandise, which is the subject of NY C88491 included an electronic keyboard identified as the PSR-8000 Portatone; a 3.5 Floppy Disk Subassembly used as a replacement part for the PSR-8000 Portatone; a 3.5 Floppy Disk containing MIDI data software instructions; and 15 different PCBs for the PSR-8000 Portatone which are populated with numerous integrated circuits and other apparatus.

This ruling concerns only six of the 15 PCBs covered by NY C88491, which were found to be classifiable in subheading 8543.89.9695, of the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) (1998), which

provides for, in pertinent part: “[e]lectrical machines and apparatus, having individual functions not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other: Other . . . Other.”

The Digital Main (DM) Circuit Board (part number VZ030000) contains the main Central Processing Units (CPUs), various memory chips and numerous other active and passive components. You characterize the DM Circuit Board as the “motherboard” of the electronic keyboard. You have also requested that we reconsider the classification of the AM Circuit Board (part number VY890000), which is the amplifier PCB for the electronic keyboard. The Alternating Current (AC) Circuit Board (part number VY975600) is the AC PCB that converts the power supply from direct current (DC) to AC, which operates the electronic keyboard. The Main Keyboard (MK) Circuit Board (part number VI912000) is the PCB that operates the keyboard portion of the electronic keyboard. You also state that the PN1 and PN2 Circuit Boards (part numbers VY974800 and VY975100) control the various functions of the electronic keyboard.

You have proposed that the subject six PCBs are properly classifiable in subheading 9209.94.8000, HTSUSA, which provides for, in pertinent part: “[p]arts (for example, mechanisms for music boxes) and accessories (for example, cards, discs and rolls from mechanical instruments) of musical instruments . . . : [o]ther: [p]arts and accessories of musical instruments of heading 9207: [o]ther.

**ISSUE:**

Are the subject PCBs classifiable as parts of musical instruments or electronic apparatus?

**LAW AND ANALYSIS:**

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order. The HTSUS provisions under consideration here are as follows:

- 8543           Electrical machines and apparatus, having individual functions not specified or included elsewhere in this chapter; parts thereof:
- 8543.70           Other machines and apparatus:
  - Other:
  - Other:
- 8543.70.96           Other . . .
- 8543.70.9650           Other
  - \*           \*           \*

9209 Parts (for example, mechanisms for music boxes) and accessories (for example, cards, discs and rolls from mechanical instruments) of musical instruments; metronomes, tuning forks and pitch pipes of all kinds:

Other:

9209.94 Parts and accessories of musical instruments of heading 9207:

9209.94.8000 Other . . .

Note 1(b) to Chapter 92, HTSUS, states that the chapter does not cover, “[m]icrophones, amplifiers, loudspeakers, headphone, switches, stroboscopes or other accessory instruments, apparatus or equipment of chapter 85 or 90, for use with but not incorporated in or housed in the same cabinet as instruments of this chapter”. The applicability of the exclusion note requires a finding that the subject PCBs are apparatus of chapter 85 or 90, as well as a finding that the subject PCBs are not incorporated in or housed in the same cabinet as instruments of Chapter 92.

Heading 8543 provides for electrical apparatus, “having individual functions not specified or included elsewhere [in Chapter 85]”.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) may be utilized. The ENs, though not dispositive or legally binding, may provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. CBP believes the ENs should always be consulted. See T.D. 89–80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN 85.43 states that the appliances and apparatus of heading 8543, HTSUS, must have individual functions. Furthermore, “[t]he introductory provisions of [EN 84.79] concerning machines and mechanical appliances having individual functions apply, *mutatis mutandis*, to the appliances and apparatus of [heading 8543, HTSUS]. EN 84.79 states the following, in pertinent part:

For this purpose the following are to be regarded as having “individual functions”:

\* \* \*

- (B) Mechanical devices which cannot perform their function unless they are mounted on another machine or appliance, or are incorporated in a more complex entity, provided that this function:
  - (i) is distinct from that which is performed by the machine or appliance whereon they are to be mounted, or by the entity wherein they are to be incorporated, and
  - (ii) does not play an integral and inseparable part in the operation of such machine, appliance or entity.

The subject PCBs work with each other and the other components of the subject electronic keyboards to perform the function of playing music. As such, while they perform distinct functions (i.e. central processing, amplifying, power conversion, keyboard operation) within this context, the functions performed by the subject PCB’s are “integral and inseparable” with respect to the operation of an electronic keyboard. For instance, without the ability



to convert power from a direct current (the AC Circuit Board), the electric keyboard would not be able to perform the overall function of playing music. The same can be said for the distinct functions performed by the subject PCBs, such as amplification (AM Circuit Board), memory (DM Circuit Board) or keyboard operation (MK, PN1 and PN2 Circuit Boards ) functions. Consequently, the subject PCBs do not fit the terms of heading 8543, HTSUS, as having an individual function.

In accordance with Additional U.S. Rule of Interpretation 1(c), HTSUS, parts and accessories must be solely or principally used with the article with which they are classified. Consequently, before determining that the subject PCBs are classifiable in heading 9209, HTSUS, as “parts . . . of musical instruments of heading 9207”, we must determine whether they are solely or principally used as such.

In Headquarters Ruling Letter (HQ) 951064, dated March 30, 1992, we considered the tariff classification of “triggering systems for . . . electronic drums”, which would result in the production of sound by depressing a foot pedal. While the merchandise subject to HQ 951064 would be used with electronic drums, it was not “incorporated in or housed in” the electronic drums. As such, the “triggering systems” were excluded from Chapter 92 by Note 1(b). *See also* HQ 085891, dated February 14, 1990.

CBP held in NY C88491 that the PSR-8000 Portatone fits the terms of heading 9207, HTSUS, which provides for “[m]usical instruments, the sound of which is produced, or must be amplified, electrically (for example, organs, guitars, accordions)”. Parts, as defined by Additional U.S. Rule of Interpretation 1(c), of a musical instrument of heading 9207, HTUS, fall under heading 9209, HTSUS. The material that you submitted on the PSR-8000 Portatone indicate that the subject PCBs are incorporated into the electronic keyboard, and that the subject PCBs are fabricated to serve only their respective functions (keyboarding functions, amplification, memory and power conversion). Accordingly, the subject PCBs are considered “parts” for the purposes of Additional U.S. Rule 1(c) because their fabrication has limited their use in electronic keyboards. They are not excluded from Chapter 92 by Note 1(b) to Chapter 92, HTSUS, because they are not apparatus of Chapter 85 and because they are “incorporated in” the same cabinet as the electronic keyboard.

**HOLDING:**

By application of GRI 1 and Additional U.S. Rule of Interpretation 1(c), the DM Circuit Board (part number VZ030000), AM Circuit Board (part number VY890000), AC Circuit Board (part number VY975600), MK Circuit Board (part number VI912000) and the PN1 and PN2 Circuit Boards (part numbers VY974800 and VY975100) are classifiable in heading 9209, HTSUS, which provides for, in pertinent part: “[p]arts . . . of musical instruments . . .” The subject merchandise is specifically classifiable in subheading 9209.94.8000, HTSUSA, which provides for, in pertinent part: [p]arts . . . of musical instruments . . . : [o]ther: [p]arts and accessories of musical instruments of heading 9207: [o]ther. The column one, general rate of duty is 4.9 percent *ad valorem*.

Duty rates are provided for your convenience and subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at [www.usitc.gov](http://www.usitc.gov).

**EFFECT ON OTHER RULINGS:**

NY C88491, dated June 29, 1998 is hereby MODIFIED.

MYLES HARMON,  
*Director,*  
*Commercial and Trade Facilitation Division.*

**PROPOSED REVOCATION OF A RULING LETTER AND  
PROPOSED REVOCATION OF TREATMENT RELATING TO  
THE TARIFF CLASSIFICATION OF A SEAT HEATER  
ASSEMBLY FOR AUTOMOBILES**

**AGENCY:** Bureau of Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of proposed revocation of a tariff classification ruling letter and proposed revocation of treatment relating to the classification of a seat heater assembly for automobiles.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625 (c)), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is proposing to revoke a ruling letter relating to the tariff classification of a seat heater assembly under the Harmonized Tariff Schedule of the United States (HTSUS). CBP also proposes to revoke any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the intended actions.

**DATE:** Comments must be received on or before November 7, 2008.

**ADDRESS:** Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Commercial Trade and Regulations Branch, 1300 Pennsylvania Avenue, N.W., Mint Annex, Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9<sup>th</sup> Street N.W., Washington, D.C. during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** Richard Mojica, Tariff Classification and Marking Branch: (202) 572-8789.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

On December 8, 1993 Title VI, (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L.

103–182, 107 Stat. 2057) (hereinafter “Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625 (c)(1), Tariff Act of 1930 (19 U.S.C. § 1625 (c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke a ruling letter pertaining to the tariff classification of a seat heater assembly for automobiles. Although in this notice, CBP is specifically referring to the revocation of New York Ruling Letter (NY) N004869, issued on January 24, 2007 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

Similarly, pursuant to section 625 (c)(2), Tariff Act of 1930 (19 U.S.C. § 1625 (c)(2)), as amended by section 623 of Title VI, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer’s failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY N004869, CBP classified a seat heater assembly for automobiles under heading 9401, specifically in subheading 9401.90.1085, HTSUS, which provides for: “Seats, whether or not convertible into beds, and parts thereof: Parts: Of seats of a kind used for motor vehicles: Other.” Since the issuance of the ruling, CBP has determined

that the classification set forth in the cited ruling is incorrect. It is now CBP's position that the seat heater assembly is properly classified under heading 8543, specifically in subheading 8543.70.96, HTSUS, which provides for: "Electrical machines and apparatus having individual functions, not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N004869, dated January 24, 2007, and any other ruling not specifically identified, to reflect the proper classification of the seat heater assembly according to the analysis contained in proposed Headquarters Ruling Letter H035440, set forth as Attachment B to this document. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

**DATED:** September 18, 2008

Gail A. Hamill for MYLES B. HARMON,  
*Director,*  
*Commercial and Trade Facilitation Division.*

Attachments

**ATTACHMENT A**

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
**N004869**  
**January 24, 2007**  
**CLA-2-94:RR:NC:2:233**  
**CATEGORY: Classification**  
**TARIFF NO.: 9401.90.1085**

**MR. DAVE KRACKER**  
**KURABE AMERICA CORPORATION**  
**39111 West Six Mile Road**  
**Livonia, MI 48152**

**RE: The tariff classification of a seat heater assembly for automobiles from Vietnam.**

**DEAR MR. KRACKER:**

In your letter dated December 15, 2006, you requested a tariff classification ruling.

The submitted sample is a seat heater assembly for automobiles, Part Number SP 4729K. The item is not a seat but rather a pad that is installed into the seat itself. It is composed of insulated resistance wires that lie on top of a polyester base cloth. The wire itself is composed of copper alloy, the insulation is fluorine, and the wiring is adhered to the base cloth with polyethylene. Power to the wiring is

supplied by the product's polyvinylchloride (PVC) harness, which is plugged into an outlet in the automobile. The product is to be installed underneath the trim cover of automobile seats at your customers' production plants.

The applicable subheading for the seat heater assembly for automobiles will be 9401.90.1085, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Seats, whether or not convertible into beds, and parts thereof: Parts: Of seats of a kind used for motor vehicles, Other." The rate of duty will be Free.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on World Wide Web at <http://www.usitc.gov/tata/hts/>.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Lawrence Mushinske at 646-733-3036.

ROBERT B. SWIERUPSKI,  
Director,  
National Commodity Specialist Division.

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ATTACHMENT B

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ H035440  
CLA-2 OT: RR: CTF: TCM H035440 RM  
CATEGORY: Classification  
TARIFF NO.: 8543.70.96

MR. DAVE KRACKER  
KURABE AMERICA CORPORATION  
39111 West Six Mile Road  
Livonia, MI 48152

**RE:** Revocation of NY N004869; Classification of a Seat Heater Assembly for Automobiles

DEAR MR. KRACKER:

This letter is in reference to New York Ruling Letter ("NY") N004869, issued to Kurabe American Corporation on January 24, 2007, concerning the tariff classification of a seat heater assembly for automobiles. In that ruling, U.S. Customs and Border Protection ("CBP") classified the merchandise under heading 9401, Harmonized Tariff Schedule of the United States ("HTSUS"), as a part of a motor vehicle seat. We have reviewed NY N004869 and found it to be in error. For the reasons set forth below, we hereby revoke NY N004869.

**FACTS:**

In NY N004869, we described the merchandise as follows:

The submitted sample is a seat heater assembly for automobiles, Part Number SP 4729K. The item is not a seat but rather a pad that is installed into the seat itself. It is composed of insulated resistance wires that lie on top of a polyester base cloth. The wire itself is composed of copper alloy, the insulation is fluorine, and the wiring is adhered to the base cloth which is polyethylene. Power to the wiring is provided by the product's polyvinylchloride (PVC) harness, which is plugged into an outlet in the automobile. The product is to be installed underneath the trim cover of automobile seats at your customer's production plants.

**ISSUE:**

What is the correct tariff classification of the automobile seat heater assembly under the HTSUS?

**LAW AND ANALYSIS:**

The classification of merchandise under the HTSUS is governed by the General Rules of Interpretation ("GRIs"). GRI 1 provides, in part, that "for legal purposes, classification shall be determined according to terms of the headings and any relative section or chapter notes[.]" In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, GRIs 2 through 6 may then be applied, in order.

When interpreting and implementing the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") should be consulted. The ENs, although not dispositive nor legally binding, provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings at the international level. See T.D. 89-80, 54 Fed. Reg. 35127, 35128, (August 23, 1989).

The HTSUS provisions under consideration are as follows:

8543	Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof:
8543.70	Other machines and apparatus:
	Other:
	Other:
8543.70.96	Other . . .
9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof:
9401.90	Parts:
9401.90.10	Of seats of a kind used in motor vehicles . . .

Heading 9401, HTSUS, provides for "[s]eats (other than those of heading 94.02), whether or not convertible into beds, and parts thereof." The courts have considered the nature of "parts" under the HTSUS and two distinct though not inconsistent tests have resulted. See Bauerhin Technologies Limited Partnership, & John V. Carr & Son, Inc. v. United States, ("Bauerhin") 110 F.3d 774 ("We conclude that these cases are not inconsistent and must be read together." At 779)). The first, articulated in United States v. Willoughby Camera Stores, ("Willoughby Camera") 21 C.C.P.A. 322 (1933) re-

quires a determination of whether the imported item is “an integral, constituent, or component part, without which the article to which it is to be joined, could not function as such article.” At 324. The second test, discussed in *United States v. Pompeo*, (“Pompeo”) 43 C.C.P.A. 9 (1955) provides that a device may be a part of an article even though its use is optional and the article will function without it, if the device is dedicated solely for use with the article and, once installed, the article will not operate without it. Explaining further and using the reasoning in *United States v. Carl Zeiss, Inc.*, 24 C.C.P.A. 145, (concerning the classification of view finders for cameras) as an example, the court in *Pompeo* noted that, “[t]he court did not consider whether the involved finders were parts of cameras *in vacuo*, but whether they were parts of cameras when they were applied to their intended use on the cameras.” *Pompeo* 43 C.C.P.A. at 14.

Applying the test in *Pompeo* to this merchandise, we find that the seat heater assembly is not a “part” of a car seat. This is because whether or not the seat heater is applied to its specific use, the car seat still functions as a seat. Instead, we find that the seat heater is an “accessory”, as that term is defined in *Rollerblade, Inc., v. United States*, 116 F. Supp. 2d 1247 (Ct. Int'l Trade 2000), *aff'd*, 282 F.3d 1349, 1351 (C.A.F.C. 2002), because it is “‘of’ or ‘to’ the article . . . listed in the heading, not ‘of’ or ‘to’ the activity . . . for which the article is used.” In other words, the seat heater relates directly to the article “accessorized,” i.e., the car seat, by providing it with warmth. As heading 9401, HTSUS, does not provide for accessories, classification of the seat heater under that heading is precluded.

Heading 8543, HTSUS, provides for “[e]lectrical machines and apparatus, having individual functions, not specified or included elsewhere in [Chapter 85].” The ENs to heading 8479, HTSUS, (applied *mutatis mutandis* to heading 8543, HTSUS, (See EN 85.43)) define articles having “individual functions,” in relevant part, as:

(A) Mechanical devices, with or without motors or other driving force, whose function can be performed distinctly and independently of any other machine or appliance.

**Example:** Air humidification and dehumidification are individual functions because they can be performed by appliances operating independently of any other machine or appliance.

A separately presented air dehumidifier, even if designed to be mounted on an ozone generator falls, therefore, to be classified in this heading as having an individual function.

In this case, the heating function provided by the subject seat heater is an “individual function” because it can be performed independently of any other machine or appliance. In addition, the seat heater assembly is not provided for in any other heading of Chapter 85. As such, we find that it is classified in heading 8543, HTSUS, by the terms of that heading.

#### **HOLDING:**

By application of GRI 1, the seat heater assembly for automobiles is classified under heading 8543, specifically in subheading 8543.70.96, HTSUS, which provides for: “Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other.” The column one, general rate of duty is 2.6 percent *ad valorem*.

Duty rates are provided for convenience only and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at [www.usitc.gov](http://www.usitc.gov).

**EFFECT ON OTHER RULINGS:**

NY N004869, dated January 24, 2007, is hereby revoked.

MYLES B. HARMON,  
*Director,*  
*Commercial and Trade Facilitation Division.*