

U.S. Customs and Border Protection



PROPOSED REVOCATION OF RULING LETTER AND PROPOSED REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF BOOT UPPERS

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

ACTION: Notice of proposed revocation of one ruling letter and proposed revocation of treatment relating to tariff classification of boot uppers.

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 revoke New York Ruling Letter (NY) N110715, dated June 30, 2010, relating to the tariff classification of boot uppers 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 action.

DATES: Comments must be received on or before May 29, 2015.

ADDRESSES: Written comments are to be addressed to Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 10th Floor, 90 K St., N.E., Washington, D.C. 202291179. Submitted comments may be inspected at Customs and Border Protection, 10th 90 K St. N.E., Washington, D.C. 20229–1179 during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Tariff Classification and Marking Branch: (202) 325–0024

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 is proposing to revoke one ruling letter pertaining to the tariff classification of a boot upper. Although in this notice, CBP is specifically referring to the revocation of NY N110715, dated June 30, 2010 (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 proposes 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 N110715, CBP determined that one style of boot uppers was classified in heading 6406, HTSUS, specifically subheading 6406.10.90, HTSUS, as other parts of footwear.

Pursuant to 19 U.S.C. 1625(c)(1), CBP proposes to revoke NY N110715 and revoke or modify any other ruling not specifically identified, in order to reflect the proper classification of the boot uppers at issue in subheading 6406.10.40, HTSUS, as formed uppers, according to the analysis contained in proposed Headquarters Ruling Letter (HQ) H 165759, set forth as Attachment 8 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: April 9, 2015

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division
JACINTO JUAREZ

Attachments

[ATTACHMENT A]

N110715

June 30,2010

CLA-2-64:OT:RR:NC:4:447

CATEGORY: Classification

TARIFF NO.: 6406.10.90

MS. DONNA BADE
SANDLER, TRAVIS & ROSENBERG, P.A.
225 W. WASHINGTON ST.
SUITE 1550
CHICAGO, IL 60606

RE: The tariff classification of a footwear part from China.

DEAR MS. BADE:

In your letter dated June 15, 2010, you requested a tariff classification ruling on behalf of Red Wing Shoe Company, Inc.

A sample of a boot upper, style #43858, was submitted with your request. The upper consists of predominately man-made fiber textile materials with a sewn in "stroble sock" liner. There are four holes, each approximately 1 1/8-inch in diameter cut out of its rigid textile underfoot. Two of these holes are partially covered by adhesive tape. This upper will not be considered a "formed upper" because it has received only limited shaping resulting from plastic stiffener inserts and is unlasted, i.e. no part of it has been bent (lasted) inward to the horizontal.

The applicable subheading for the footwear upper, style #43858 will be 6406.10.90, Harmonized Tariff Schedule of the United States (HTSUS); which provides for parts of footwear (including uppers whether or not attached to soles other than outer soles) ... uppers and parts thereof, other than stiffeners ... other than formed uppers ... other. .. other. .. other. The rate of duty will be 4.5 percent ad valorem.

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 Stacey Kalkines at (646) 733-3042.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT B]

HQ H165759
 CLA-2 OT:RR:CTF:TCM H165759 CkG
 CATEGORY: Classification
 TARIFF NO.: 6406.10.40

MS. DONNA BADE
 SANDLER, TRAVIS & ROSENBERG, P.A.
 225 W. WASHINGTON ST.
 SUITE 1550
 CHICAGO, IL 60606

RE: Revocation of NY N110715; the tariff classification of a footwear upper from China.

DEAR MS. BADE:

This is in reference to New York Ruling Letter (NY) N110715, issued to you on June 30, 2010, on behalf of Red Wing Shoe Company. In NY N110715 CBP classified a boot upper, style #43858, in subheading 6406.10.90, HTSUS. We have reconsidered this decision, and find that it was incorrect.

FACTS:

At issue is a textile boot upper, style #43858. A sample was forwarded to this office for our review. The upper consists of predominately man-made fiber textile materials in a camouflage pattern. One layer of material is sewn to the bottom of the inner lining. Another, outer layer is sewn to the bottom of the upper. There are four holes, each approximately 1 1/8-inch in diameter cut out of the outer (bottom) layer of the upper. The inner layer of the upper is complete. Two of these holes are partially covered by adhesive tape. The other two holes remain open.

ISSUE:

Whether the instant boot uppers are classified as formed uppers in subheading 6406.10.40, HTSUS, or as other footwear uppers in subheading 6406.10.90, HTSUS.

LAW AND ANALYSIS:

The HTSUS provisions under consideration are as follows:

- 6406: Parts of footwear (including uppers whether or not attached to soles other than outer soles); removable insoles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof:
- 6406.10: Uppers and parts thereof, other than stiffeners:
- Formed uppers:
- Of textile materials:
- Other:
- 6406.10.40: Valued over \$12/pair
- Other:
- Other:
- Other:

6406.10.90:

Other...

* * * *

Additional U.S. Note 4 to Chapter 64 provides as follows:

- 4. Provisions of subheading 6406.10 for “formed uppers” cover uppers, with closed bottoms, which have been shaped by lasting, molding or otherwise but not by simply closing at the bottom.

* * * *

You argue that style # 43858 is classified in subheading 6406.10.90, HTSUS, and that the same style was also classified in subheading 6406.10.90, in NY L88785, dated February 15, 2006. However, we note that while the same merchandise was at issue in both rulings, the condition of the merchandise at time of importation was different. At issue in NY L88785 was the same boot upper, but with “an approximately 1-inch diameter hole that has been cut out of the sock bottom in the heel area of an otherwise closed underfoot.” In that case, the hole entirely pierced the bottom of the shoe and the sock liner. Similarly, in previous cases wherein CBP determined that footwear uppers were unformed because of substantial openings cut into the bottom of the upper, the holes punched completely through the material of the upper. *See e.g.* HQ 085573, dated December 28, 1989, HQ 085291, dated March 1, 1990, and HQ 087458, dated September 19, 1990.

In contrast, the perforations cut into the boot uppers at issue do not pierce the inner liner of the upper, and thus do not constitute “substantial openings” pursuant to the above-cited rulings. A closer analogue to the instant merchandise was classified as a formed upper of subheading 6406, HTSUS, in HQ W968401, dated February 6, 2007, and HQ H007658, dated January 10, 2008 (affirming HQ W968401). HQ W968401 described the merchandise therein as follows: “The sample upper has four circular perforations punched through its sock bottom ... The perforations are not complete holes because the complete circumference of each circle has not been cut. Rather, these perforations form circular flaps that remain attached to the stroble outsole ... None of the perforations or holes extend through the inner GORE-TEX® liners.” In HQ W968401, CBP concluded that “It remains our position that if the bottoms of uppers have substantial openings cut out of them, they are not closed and the uppers are not formed. However, the certain boot uppers at issue do not have a hole, or holes, cut out of them. Instead, the uppers have four perforations to which circular flaps remain attached, and the flaps are possibly covered by pieces of synthetic material (duct tape or similar) that hold the flaps securely in the perforated circles. As a result, we find that the certain uppers at issue do not have “substantial openings” and must be regarded as “formed uppers” provided for by subheading 6406.10, HTSUS.”

Pursuant to HQ W968401 and HQ H007658, we find that the holes in the instant uppers are not substantial openings. The instant boot uppers are therefore formed uppers under subheading 6406.10, specifically 6406.10.40, HTSUS.

HOLDING:

By application of GRI 1 and GRI 6, the instant boot uppers are classified in heading 6406, HTSUS, subheading 6406.10.40, HTSUS, which provides for “Parts of footwear (including uppers whether or not attached to soles other than outer soles); removable insoles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof: Uppers and parts thereof, other than stiffeners: Formed uppers: Of textile materials: Other: Valued over \$12/pair.” The 2015, column one, general rate of duty is 7.5%.

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 online at <http://www.usitc.gov/tata/hts/>.

EFFECT ON OTHER RULINGS:

NY N110715, dated June 30,2010 is hereby revoked.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**PROPOSED REVOCATION OF RULING LETTERS AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
THE TARIFF CLASSIFICATION OF CONTACT LENS
BUTTONS**

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

ACTION: Notice of proposed revocation of three ruling letters and proposed revocation of treatment relating to the classification of contact lens buttons.

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 CBP intends to revoke NY N035645, dated September 9, 2008, NY M80655, dated March 17, 2006, and NY J85736, dated June 23, 2003, concerning the tariff classification of contact lens blanks/buttons under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

DATES: Comments must be received on or before May 29, 2015.

ADDRESSES: Written comments are to be addressed to the U.S. Customs and Border Protection, Office of International Trade, Regulations & Rulings, Attn: Trade and Commercial Regulations Branch, 10th Floor, 90 K St. NE, Washington, DC 20229–1179. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Tariff Classification and Marking Branch: (202) 325–0024

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 amends 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 (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that CBP is proposing to revoke three ruling letters pertaining to the tariff classification of contact lens buttons. Although in this notice, CBP is specifically referring to New York Ruling (NY) N035645, dated September 9, 2008 (Attachment A), NY M80655, dated March 17, 2006 (Attachment B), and NY J85736, dated June 23, 2003 (Attachment C), 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.

In NY N035645, NY M80655, and NY J85736, CBP determined that various plastic buttons used in the production of finished contact lenses were classified in heading 9001, HTSUS, as contact lenses. It

is now CBP's position that the subject buttons are classified under heading 3926, HTSUS, as other articles of plastic.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N035645, NY M80655, and NY J85736, and any other ruling not specifically identified, to reflect the tariff classification of the subject merchandise according to the analysis contained in Proposed Headquarters Ruling Letter (HQ) H050836, set forth as Attachment D to this notice. 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: April 9, 2015

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division
JACINTO JUAREZ

Attachments

[ATTACHMENT A]

N035645

September 9, 2008

CLA-2-90:0T:RR:NC:1:114

CATEGORY: Classification

TARIFF NO.: 9001.30.0000

MR. ESTEBAN PEREZ
CIBA VISION PUERTO RICO, INC.
EL JIBARO INDUSTRIAL PARK LOTS 1 & 2
P.O. BOX 1360
CIDRA, PUERTO RICO 00739

RE: The tariff classification of contact lens blanks/buttons from United Kingdom

DEAR MR. PEREZ:

In your letter dated August 5, 2008, you requested a tariff classification ruling. A sample of the contact lens blanks/buttons was submitted with the ruling letter.

The imported plastic blanks, which you refer to as buttons, are used to manufacture Permalens contact lenses. The disc shaped lens buttons are made of Perfilcon A polymer and trimmed to 12.75 millimeter in diameter and 4.70 millimeter in thickness. Following importation, the contact lens buttons will undergo further manufacturing steps including but not limited to base and front curve cutting, polishing, cleaning, hydration and final packaging.

The applicable subheading for the contact lens blanks/buttons will be 9001.30.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for contact lenses. The rate of duty will be 2 percent ad valorem.

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 Barbara Kiefer at (646) 733-3019.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT B]

NY M80655

March 17, 2006

CLA-2-90:RR:NC:MM:114 M80655

CATEGORY: Classification

TARIFF NO.: 9001.30.0000

Ms. DEANNA WERBER
CONTAMAC US, INC.
GRAND VALLEY BUSINESS PLAZA
2214 SANFORD DRIVE, SUITE 87
GRAND JUNCTION, CO 81505

RE: The tariff classification of contact lens buttons from the United Kingdom

DEAR Ms. WERBER:

In your letter dated February 7, 2006, you requested a tariff classification ruling. Samples of Contamac Ltd. contact lens buttons were submitted with the ruling request.

The five styles of Contamac Ltd. contact lens buttons are identified in your letter as GM3F 58, GM3F 49, C38F Contaflex 38, C55F Contaflex 55, and Optimum range. The contact lens buttons are all similar in design and chemical formulation. The contact lens buttons are produced in a disc shape and are polymerized in a hot water bath. After manufacture, the buttons are ejected from the mold and are trimmed to a particular contact lens size. The diameter sizes range from 12mm to 22mm and the most common size is a 12mm diameter. The buttons come in various colors: blue, light blue, green, grey and clear.

You state in your letter that these buttons are not a primary form of plastic and that the only use for the contact lens buttons is in the production of finished contact lenses by finishing contact lens laboratories. The contact lens buttons are imported into the United States and sold to contact lens finishing laboratories. The finishing laboratories place the buttons into a CNC lathe. Then a base curve and a front curve are cut forming the finished device, a contact lens.

The applicable subheading for the contact lens buttons will be 9001.30.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for contact lenses. The rate of duty will be 2 percent ad valorem.

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 Barbara Kiefer at 646-733-3019.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT C]

NY J85736

June 23, 2003

CLA-2-90:RR:NC:MM: 114 J85736

CATEGORY: Classification

TARIFF NO.: 9001.30.0000

MS. DEANNA WERBER
CONTARNAC US INC.
623 GLACIER DRIVE
GRAND JUNCTION, CO 81503

RE: The tariff classification of contact lens buttons from United Kingdom

DEAR MS. WERBER:

In your letter dated June 5, 2003 you requested a tariff classification ruling.

The contact lens buttons are used to make Hybrid FS gas permeable (GP) contact lenses. The contact lens buttons are produced in a disc shape and are trimmed to 12mm in diameter, which is a particular contact lens size. The packaging is marked Hybrid FS 1077-50 Blue. The material used to produce the Hybrid FS is modified fluoro silicone acrylate. You state that the only use for the contact lens buttons is in the production of finished contact lenses. The contact lens finishing laboratories place the buttons into a CNC lathe and a base curve and a front curve are cut forming the finished device, a contact lens.

The applicable subheading for the contact lens will be 9001.30.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for contact lenses. The rate of duty will be 2 percent ad valorem.

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 importer Barbara Kiefer at 646-733-3019.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT D]

HQ H050836
CLA-2 OT:RR:CTF:TCM H050836 CkG
CATEGORY: Classification
TARIFF NO: 3926.90.99

MR. JOHN PELLEGRINI
MCGUIREWOODS LLP
1345 AVENUE OF THE AMERICAS
NEW YORK, NY 10105-0106

MS. DEANNA WERBER
CONTAMAC US, INC.
GRAND VALLEY BUSINESS PLAZA
2214 SANFORD DRIVE, SUITE 87
GRAND JUNCTION, CO 81505

RE: Revocation of NY N035645, NY M80655, and NY J85736; classification of contact lens buttons

DEAR MR. PELLEGRINI:

This is in response to your letter of January 27, 2009, on behalf of your client, CIBA Vision Puerto Rico, Inc., requesting the reconsideration of New York Ruling Letter (NY) N035645, issued on September 9, 2008. CBP ruled in this decision that contact lens blanks/buttons imported by CIBA Vision Puerto Rico, Inc. were classified in subheading 9001.30.00, HTSUS, as contact lenses. You believe that the correct classification of the subject contact lens buttons is in heading 3926, HTSUS, as "other" articles of plastic. A sample of the subject merchandise was included with the request.

We have reviewed NY N035645, and also rulings NY M80655 and NY J85736, issued to Contamac, Ltd. on March 17, 2006, and June 23, 2003, respectively. In NY M80655 and NY J85736, CBP determined that substantially similar merchandise was classified by application of GRI 2(a) in heading 9001, HTSUS, as unfinished contact lenses. For the reasons set forth below, we find that classification of the contact lens buttons at issue in heading 9001, HTSUS, was incorrect.

FACTS:

In NY N035645, the subject merchandise was described as follows:

The imported plastic blanks, which you refer to as buttons, are used to manufacture Permalens contact lenses. The disc shaped lens buttons are made of Perfilcon A polymer and trimmed to 12.75 millimeter in diameter and 4.70 millimeter in thickness. Following importation, the contact lens buttons will undergo further manufacturing steps including but not limited to base and front curve cutting, polishing, cleaning, hydration and final packaging.

A sample of the merchandise at issue in NY N035645 was sent to the CBP laboratory for examination (Lab report# SP201 00152). The examination concluded that the item did not produce an optical effect such as magnification, collimation, refraction, etc.

NY M80655 described the subject merchandise as follows:

The five styles of Contamac Ltd. contact lens buttons are identified in your letter as GM3F 58, GM3F 49, C38F Contaflex 38, C55F Contaflex 55, and Optimum range. The contact lens buttons are all similar in design and chemical formulation. The contact lens buttons are produced in a disc shape and are polymerized in a hot water bath. After manufacture, the buttons are ejected from the mold and are trimmed to a particular contact lens size. The diameter sizes range from 12mm to 22mm and the most common size is a 12mm diameter. The buttons come in various colors: blue, light blue, green, grey and clear. You state in your letter that these buttons are not a primary form of plastic and that the only use for the contact lens buttons is in the production of finished contact lenses by finishing contact lens laboratories. The contact lens buttons are imported into the United States and sold to contact lens finishing laboratories. The finishing laboratories place the buttons into a CNC lathe. Then a base curve and a front curve are cut forming the finished device, a contact lens.

The merchandise at issue in NY J85736 was described as follows:

The contact lens buttons are produced in a disc shape and are trimmed to 12mm in diameter, which is a particular contact lens size. The packaging is marked Hybrid FS 1077-50 Blue. The material used to produce the Hybrid FS is modified fluoro silicone acrylate. You state that the only use for the contact lens buttons is in the production of finished contact lenses. The contact lens finishing laboratories place the buttons into a CNC lathe and a base curve and a front curve are cut forming the finished device, a contact lens.

ISSUE:

Whether the subject merchandise is classified in heading 3926, HTSUS, as “other” articles of plastic, or heading 9001, HTSUS, as contact lenses.

LAW AND ANALYSIS:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the remaining GRIs 2 through 6.

GRI 2(a) provides that “any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfinished article has the essential character of the complete or finished article.”

The HTSUS provisions under consideration are as follows:

3926: Other articles of plastics and articles of other materials of headings 3901 to 3914:

3926.90: Other:

3926.90.99: Other

* * * * *

- 9001: Optical fibers and optical fiber bundles; optical fiber cables other than those of heading 8544; sheets and plates of polarizing material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass not optically worked:
- 9001.30.00: Contact lenses
- * * * * *

Note 2 to Chapter 39 provides in pertinent part, as follows:

2. This chapter does not cover:

- (u) Articles of chapter 90 (for example, optical elements, spectacle frames, drawing instruments);

* * * * *

The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System represent the official interpretation of the tariff at the international level. While neither legally binding nor dispositive, the ENs 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, 35128 (August 23, 1989).

The Explanatory Note to GRI 2 provides, in pertinent part, as follows:

- (II) The provisions of this Rule also apply to **blanks** unless these are specified in a particular heading. The term “**blank**” means an article, not ready for direct use, having the approximate shape or outline of the finished article or part, and which can only be used, other than in exceptional cases, for completion into the finished article or part (e.g., bottle preforms of plastics being intermediate products having tubular shape, with one closed end and one open end threaded to secure a screw type closure, the portion below the threaded end being intended to be expanded to a desired size and shape).

Semi-manufactures not yet having the essential shape of the finished articles (such as is generally the case with bars, discs, tubes, etc.) are not regarded as “blanks”.

EN 90.01 provides:

This heading covers:

...

- (D) **Optical elements of any material other than glass, whether or not optically worked, not permanently mounted** (e.g., elements of quartz (other than fused quartz), fluor spar, plastics or metal; optical elements in the form of cultured crystals of magnesium oxide or of the halides of the alkali or the alkaline-earth metals).

Optical elements are manufactured in such a way that they produce a required optical effect. An optical element does more than merely allow light (visible, ultraviolet or infrared) to pass through it, rather the passage of light must be altered in some way, for example, by

being reflected, attenuated, filtered, diffracted, collimated, etc.

...

The heading does not cover:

...

- (b) Mirrors of **heading 70.09**, i.e., glass mirrors not optically worked. Simple plane or even curved mirrors (e.g., shaving mirrors and mirrors for powder compacts) are therefore classified in heading 70.09.
- (c) Optical elements of glass of **heading 70.14**, i.e., elements not optically worked (generally moulded) (see Explanatory Note to heading 70.14).
- (d) Glasses of **heading 70.15**, not optically worked (e.g., blanks for contact lenses or for corrective spectacle lenses, for goggles, for protecting the dials of measuring instruments, etc.).

* * * * *

Note 2(u) to Chapter 39 excludes articles of Chapter 90 from classification in Chapter 39. Therefore, our analysis must begin with Chapter 90. There is no dispute that the instant articles are not contact lenses, but rather buttons used to manufacture contact lenses.

Thus, the issue to be addressed is whether the instant contact lens buttons have the “essential character” of completed or finished contact lenses and should, therefore, be classified pursuant to GRI 2(a) as if they were contact lenses in their completed or finished state. The General Rules of Interpretation do not define the phrase “essential character.” The meaning of this term in the context of GRI 2(a) may, however, be understood from an examination of the Explanatory Notes to GRI 2 (a).

The EN’s to GRI 2 (a) draw a distinction between a “blank” which possesses the essential character of an article and a “semi-manufacture[d]” item that does not have the essential character of an article. A “blank,” as defined in the EN, is an article “not ready for direct use, having the approximate shape or outline of the finished article or part, and which can only be used, other than in exceptional cases, for completion into the finished article or part.” “Semi-manufactures”, on the other hand, are items that do not yet have the essential shape or character of the finished articles. Examples of semimanufactures set forth in the EN’s are: “bars, discs, tubes, etc.” Semi-manufactures are not regarded as “blanks.”

We agree that the instant articles cannot be classified in heading 9001, HTSUS, because they lack the essential character of contact lenses classifiable in that heading. The buttons conform to the description of “blanks” in the EN to GRI 2(a) only insofar as they can only be used, other than in exceptional cases, for completion into finished contact lenses. However, in their imported condition, the buttons do not possess the essential shape or outline of a finished contact lens. There is nothing in the product as imported that is evocative of a contact lens. The buttons do not possess a single defining characteristic of contact lenses; they have no lens curvature, they cannot be placed in the eye, they are not optically worked, and they produce no optical effect as required by EN 90.01 (a requirement even for those optical elements

which are not optically worked). The buttons are thus semi-manufactures rather than blanks, as they lack the essential shape or character of the finished article. The ENs further note that discs are typically regarded as semi-manufactures rather than blanks, and there is no compelling reason to find an exception in this instance.

The buttons are not described by heading 9001, HTSUS, as lenses, because they lack the essential character of finished contact lenses. Additionally, the buttons are not optical elements of heading 9001, HTSUS, because they produce no optical effect. EN 90.01, in explaining the term “optical elements”, notes that optical elements are manufactured in such a way that they produce an optical effect which consists of more than merely allowing light to pass through it; passage of light must be altered in some way, for example, by being reflected, attenuated, filtered, diffracted, collimated, etc., regardless of whether or not they are optically worked. The CBP Laboratory Report confirms that the buttons do not produce any optical effect such as refraction, magnification, collimation or dispersion. As such, the subject merchandise is not an article of Chapter 90, and is not excluded from Chapter 39 by Note 2(u) to that Chapter.

The subject merchandise can be distinguished from unfinished contact lenses classified by CBP in heading 9001, HTSUS, in NY J89911, dated November 7, 2003, and NY H81137, dated May 25, 2001. NY J89911 and NY H81137 classified unfinished lenses in a more advanced stage of manufacture as contact lenses of heading 9001, HTSUS. In both cases, the lenses were already cut and shaped at the time of importation, but held inside a mold. After importation, the lenses were polished and hydrated, then removed from the mold. In their condition as imported, the merchandise already had the curvature of a lens and therefore the essential shape of the finished product. The lens curvature also produces an optical effect for the purposes of heading 9001, HTSUS.

HOLDING:

By application of GRI 1, the subject contact lens buttons are classified in heading 3926, specifically subheading 3926.90.99, HTSUS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other.” The 2015 column one, general rate of duty is 5.3% *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY N035645, dated September 9, 2008, NY M80655, dated March 17, 2006, and NY J85736, dated June 23, 2003, are hereby revoked.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**PROPOSED REVOCATION OF A RULING LETTER AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
THE TARIFF CLASSIFICATION OF MAKEDO KITS**

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

ACTION: Notice of proposed revocation of a ruling letter and proposed revocation of treatment relating to the tariff classification of Makedo kits.

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 U.S. Customs and Border Protection (CBP) proposes to revoke a ruling letter relating to the tariff classification of the Makedo kits 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.

DATES: Comments must be received on or before May 29, 2015.

ADDRESSES: Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K Street NE, 10th Floor, Washington, D.C. 20229–1177. Submitted comments may be inspected at the above address during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Beth Jenior, Tariff Classification and Marking Branch: (202) 325–0347.

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, amended (19 U.S.C. §1625 (c)(1)), this Notice advises interested parties that CBP intends to revoke a ruling letter pertaining to the tariff classification of the Makedo kits. Although in this Notice, CBP is specifically referring to the revocation of New York Ruling Letter (NY) N103196, dated May 20, 2010 (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 proposes 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 N103196, CBP determined that the Makedo kits were classified in heading 3926, HTSUS, which provides, in pertinent part, for "Other articles of plastics." It is now CBP's position that the Makedo kits are properly classified in heading 9503, HTSUS, which provides for "Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls, other toys; reduced-scale ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof."

Pursuant to 19 U.S.C. §1625(c)(1), CBP proposes to revoke NY N103196, and to revoke or to modify any other ruling not specifically identified, in order to reflect the proper classification of the Makedo kits according to the analysis contained in proposed Headquarters Ruling Letter (HQ) H122351, 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 similar transactions.

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

Dated: April 9, 2015

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N103196

May 20, 2010

CLA-2-39:0T:RR:NC:N4:421

CATEGORY: Classification

TARIFF NO.: 3926.90.9980

Ms. CECILIA BALAGUER
REEVES INTERNATIONAL INC.
14 INDUSTRIAL ROAD
PEQUANNOCK, NJ 07440

RE: The tariff classification of “Makedo” kits from China

DEAR Ms. BALAGUER:

In your letter dated April 22, 2010, you requested a tariff classification ruling.

The “Makedo” kits are intended to be used to create original projects using materials found around the home, such as cardboard boxes, plastic containers, egg cartons and fabric scraps. The primary components of the kits are connectors, hinges and a construction tool. The connectors are used to attach the found pieces and scraps together. Each connector consists of a ridged pin with a flat head and a clip that secures onto the ridges of the pin. When the clip is squeezed it releases the pin to allow reuse of both parts. The hinges have holes on each side so they can be secured with the pin and clip connector. The hinges, which can pivot freely or lock in place, can join or create a corner between two materials or can form a swiveling moving part. Each kit contains a construction tool made entirely of plastics that has a serrated blade on one side to safely cut materials such as cardboard and a point on the other to pierce holes. Each kit also includes an inspiration poster featuring project ideas.

There are two series of kits. The kits in the Makedo free play range consist of the plastic pin and clip connectors, hinges and one or more construction tools. A sample of Kit M1001 was included with your letter. The kit contains 30 pins, 30 clips, 8 hinges and 1 construction tool. Kit M1002 contains 74 pins, 74 clips, 20 hinges and 2 construction tools. Kit M2001 contains 100 pins, 100 clips, 25 hinges and 5 construction tools. Kit M2002 contains 300 pins, 300 clips, 75 hinges and 10 construction tools. The kits are packaged for retail sale in a cylindrical cardboard container.

The kits in the Makedo find and make range are similar to the kits in the free play range except they include themed stickers that can be used to decorate the craft projects. Kit M4001 is marketed as a “find & make a flower” kit, Kit M4002 is marketed as a “find & make a robot” kit, Kit M4003 is marketed as a “find & make a dollhouse” kit, Kit M4004 is marketed as a “find & make a car” kit and Kit M4005 is marketed as a “find & make a playhouse” kit. The kits are packaged for retail sale in a cardboard box.

The applicable subheading for the Makedo free play kits, M1001, M1002, M2001 and M2002, and the Makedo find and make kits, M4001, M4002, M4003, M4004 and M4005, will be 3926.90.9980, Harmonized Tariff Schedule of the United States (HTSUS), which provides for other articles of plastics, other. The rate of duty will be 5.3 percent ad valorem.

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/tatalhts/>.

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 Joan Mazzola at (646) 733-3023.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT B]

HQ H122351
CLA-2 OT:RR:CTF:TCM H122351 EGJ
CATEGORY: Classification
TARIFF NO.: 9503.00.00

KATHY MASTRACCHE
PROCUREMENT DIRECTOR
REEVES INTERNATIONAL
14 INDUSTRIAL ROAD
PEQUANNOCK, NJ07440

RE: Revocation of NY N 1 03196: Classification of “Makedo” Kits

DEAR Ms. MASTRACCHE:

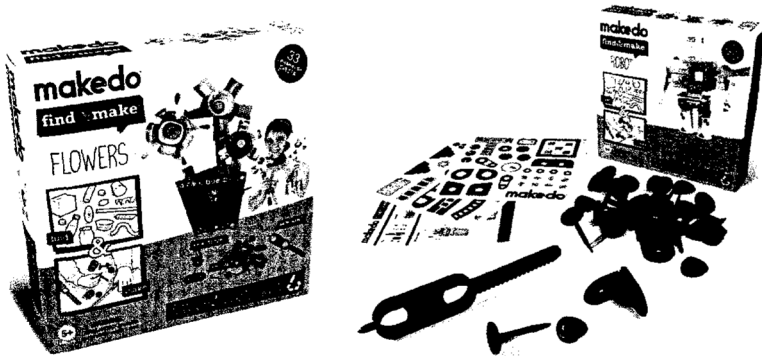
This is in response to your correspondence dated June 14, 2010, in which you requested reconsideration of New York Ruling Letter (NY) N1 03196, dated May 20, 2010, issued to you concerning the tariff classification of the “Makedo” kits. In NY N103196, U.S. Customs and Border Protection (CBP) classified the subject merchandise in heading 3926, HTSUS, as other articles of plastics. We have reviewed NY N103196 and find it to be in error. For the reasons set forth below, we hereby revoke NY N103196.

FACTS:

The subject merchandise is the “Makedo” series of construction kits. In NY N103196, the Makedo kits are described as follows:

The “Makedo” kits are intended to be used to create original projects using materials found around the home, such as cardboard boxes, plastic containers, egg cartons and fabric scraps. The primary components of the kits are connectors, hinges and a construction tool. The connectors are used to attach the found pieces and scraps together. Each connector consists of a ridged pin with a flat head and a clip that secures onto the ridges of the pin. When the clip is squeezed it releases the pin to allow reuse of both parts. The hinges have holes on each side so they can be secured with the pin and clip connector. The hinges, which can pivot freely or lock in place, can join or create a corner between two materials or can form a swiveling moving part. Each kit contains a construction tool made entirely of plastics that has a serrated blade on one side to safely cut materials such as cardboard and a point on the other to pierce holes. Each kit also includes an inspiration poster featuring project ideas.

According to your reconsideration request, the Makedo kits are marketed and advertised as “green” toys because children use them to construct different articles from found materials, such as cardboard, scrap paper, newspapers, Styrofoam cups, etc. Some Makedo kits include stickers to decorate the finished Project. Then Makedo kits were featured in the Earth-Friendly Product Zone at New York City’s 2010 Toy Fair. Also, the Makedo kits are sold in the toy sections of online retailers such as Walmart.com, Amazon.com and Ebay.com. The Makedo kits range in retail price from \$20 to \$60, depending upon the size of the kit. The Makedo Flowers kit has the following statement on its package: “Makedo is a reusable system for creating things from the stuff around you. It aims to inspire social change through playful creativity.” Pictures of sample Makedo kits are provided below:



ISSUE:

Are the Makedo kits classified as toys of heading 9503, HTSUS, or as other articles of plastics of heading 3926, HTSUS?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States (HTSUS) is made in accordance with the General Rules of Interpretation (GRI). 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 may then be applied.

The HTSUS headings under consideration are the following:

3926 Other articles of plastics and articles of other materials of headings 3901 to 3914:

* * *

9503 Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls, other toys; reduced-scale ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof:

* * *

Note 2(y) to Chapter 39 states that:

2. This chapter does not cover:

(y) Articles of chapter 95 (for example, toys, games, sports equipment)

* * *

Additional U.S. Rule of Interpretation 1(a), HTSUS, provides that:

1. In the absence of special language or context which otherwise requires:

(a) a tariff classification controlled by use (other than actual use) is to be determined in accordance with the use in the United

States at, or immediately prior to, the date of importation, of goods of that class or kind to which the imported goods belong, and the controlling use is the principal use.

* * *

The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System represent the official interpretation of the tariff at the international level. While neither legally binding nor dispositive, the ENs 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).

EN 95.03 states, in pertinent part:

D) Other toys.

This group covers toys intended essentially for the amusement of persons (children or adults)

These include:

(iii) Constructional toys (construction sets, building blocks, etc.).

(xviii) Educational toys (e.g., toy chemistry, printing, sewing and knitting sets).

Collections of articles, the individual items of which if presented separately would be classified in other headings in the Nomenclature, are classified in this heading when they are put up in a form clearly indicating their use as toys (e.g., instructional toys such as chemistry, sewing, etc., sets).

* * *

Note 2(y) to Chapter 39 excludes articles of Chapter 95 from classification in Chapter 39. If the Makedo kits are classifiable in Chapter 95, they cannot be classified in Chapter 39. As such, we will first determine whether the Makedo kits can be classified as toys of heading 9503, HTSUS.

Heading 9503 provides, in pertinent part, for “other toys.” In *Minnetonka Brands v. United States*, 110 F. Supp. 2d 1020, 1026 (Ct. Int’l Trade 2000) (“*Minnetonka*”), the U.S. Court of International Trade (CIT) determined that a toy must be designed and used principally for amusement and should not serve a utilitarian purpose. Thus, the CIT concluded that heading 9503, HTSUS, is a “principal use” provision within the meaning of Additional U.S. Rule of Interpretation 1(a) (AUSR 1(a)), HTSUS. *Id.*

Applying AUSR 1(a), the Makedo kits must belong to the same class or kind of goods which have amusement as a principal use, i.e. toys. In *United States v. Carborundum Co.*, 536 F.2d 373, 377 (1976), the U.S. Court of Customs and Patent Appeals stated that in order to determine whether an article is included in a particular class or kind of merchandise, the court must consider

a variety of factors, including: (1) the general physical characteristics of the merchandise; (2) the channels, class or kind of trade in which the merchandise moves (where the merchandise is sold); (3) the expectation of the ultimate purchasers; (4) the environment of the sale (i.e., accompanying accessories and marketing); (5) usage, if any, in the same manner as merchandise which defines the class; (6) the economic practicality of so using the import; and (7) the recognition in the trade of this use. *Id.* While these factors were developed under the Tariff Schedule of the United States (predecessor to the HTSUS), the courts have also applied them under the HTSUS. *See, e.g. Minnetonka*, 110 F. Supp. 2d 1020, 1027; *see also Aromont USA, Inc. v. United States*, 671 F.3d 1310 (Fed. Cir. 2012), *Essex Manufacturing, Inc. v. United States*, 30 C.I.T. 1 (2006).

In *Springs Creative Products Group v. United States*, 47 Cust. B. & Dec. 37, 131-146 (Sept. 4, 2013) (“*Springs Creative*”), the U.S. Court of International Trade (CIT) applied the *Carborundum* factors to determine the tariff classification of the Make-it-Yourself No-Sew Fleece Throw Kits (NSF throw kits). Except for scissors, the NSF throw kits contain all the materials needed to make a finished fleece throw blanket. *Id.* at 134. The CIT noted that the NSF throw kits are marketed with images and videos of an adult and child having fun while assembling the throw together. *Id.* at 136. The CIT stated that the NSF throw kits promote the development and education of young children by helping a child develop skills such as manual dexterity, cutting, tying and counting. *Id.* Also, the CIT pointed out that the NSF throw kits cost more than a finished fleece throw. *Id.* at 135. Finally, the CIT cited to the ENs to heading 95.03, which state that the heading includes constructional toys and educational toys, such as sewing and knitting sets. *Id.* at 140. The ENs further state that collections of articles, which are classifiable in different headings, are classified together when they are put up in a form clearly indicating their use as toys. *Id.* The CIT determined that the NSF throw kits were classifiable as toys of heading 9503, HTSUS, for the following reasons:

[T]he court finds the subject merchandise to be of the class or kind of merchandise whose principle use is amusement, diversion, or play, rather than the practicality of a fleece throw. The unique physical characteristics of the merchandise, the design and marketing of the merchandise as craft kits and as items of amusement (rather than as finished fleece throws or as fleece material), the expectation of the ultimate purchaser that these items will be used to create a fleece throw, the regular use of the merchandise by children for amusement purposes, the fact that the merchandise sells at a significant price premium to finished fleece throws, and other facts revealed at trial support this conclusion. *Id.*

Turning to the Makedo kits, the physical characteristics of the kits are that they consist of plastic hinges, connectors, clips, a kid-safe cutting tool, an inspiration poster, and sometimes stickers. With regard to the channels of trade, we note that Makedo kits are sold in the toy departments of large retailers. The Makedo kits range in retail price from \$20 to \$60, depending upon the size of the kit. This cost is likely much higher than the cost of the individual components, such as plastic hinges and stickers. The kits are marketed towards children to inspire creative thinking through play. The

goal is for children to combine the Makedo kit connectors with found materials to create crafts such as cardboard robots, newspaper flowers, scrap paper dollhouses, etc. The Makedo kits were featured at New York City's Toy Fair, which indicates that the trade recognizes their use as toys.

Like the NSF throw kits in *Springs Creative*, we find that the principal use of the Makedo kits is amusement. Children can spend hours building different types of crafts with the hinges and connectors. They can also decorate their creations with the stickers. CBP has classified similar creative craft kits as toys of heading 9503, HTSUS. See, e.g. NY 811972, dated July 19, 1995 (Make Your Own Fort kits), NY F80917, dated January 5, 2000 (Make Your Own Bubble Gum, Chocolate and Soap kits), and NY L81098, dated December 6, 2004 (Wood Craft Making Kits). As such, the Makedo kits are also classifiable as toys of heading 9503, HTSUS. Since the Makedo kits are classifiable in heading 9503, HSTUS, Note 2(y) to Chapter 39 excludes them from classification in Chapter 39.

HOLDING:

By operation of GRI 1, AUSR 1(a) and GRI 6, the Makedo kits are classifiable as toys in heading 9503, HTSUS, and are specifically provided for in subheading 9503.00.00, HTSUS, which provides for "Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls, other toys; reduced-scale ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof: Other." The 2015 column one, general rate of duty is free.

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.

EFFECT ON OTHER RULINGS:

NY N103196, dated May 20, 2010 is hereby revoked.

Sincerely,

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

GENERAL NOTICE**19 CFR PART 177****PROPOSED REVOCATION OF A RULING LETTER AND
MODIFICATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF THYMOGLOBULIN®**

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

ACTION: Notice of proposed revocation of a ruling letter and modification of treatment concerning the tariff classification of Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] Sterile Lyophilized Preparation from France.

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 CBP intends to revoke one ruling letter pertaining to the tariff classification of Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] Sterile Lyophilized Preparation, 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 proposed action.

DATES: Comments must be received on or before May 29, 2015.

ADDRESSES: Written comments (preferably in triplicate) are to be addressed to U.S. Customs and Border Protection, Office of Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at U.S. Customs and Border Protection, 90 K Street NE, 10th floor during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Lynne Robinson, Tariff Classification and Marking Branch, Regulations and Rulings, Office of International Trade, (202) 325–0067.

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 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 revoke one ruling letter pertaining to the classification of Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] Sterile Lyophilized Preparation. Although in this notice CBP is specifically referring to New York Ruling Letter (“NY”) L80355, dated October 28, 2004, (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 ones 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. This treatment may, among other reasons, be the result of the importer’s reliance on a ruling issued to a third party, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer’s or CBP’s previous interpreta-

tion of the Harmonized Tariff Schedule of the United States. 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 L80355 CBP classified Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] Sterile Lyophilized Preparation under subheading 3004.90.91, HTSUS, which provides for "Medicaments...consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses or in forms or packings for retail sale: Other: Other: Other." It is now CBP's position that Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] Sterile Lyophilized Preparation is properly classified under subheading 3002.10.01, HTSUS, which provides for "Antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes: Other."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is proposing to revoke NY L80355 and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letter H250457 (Attachment B). 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, we will give consideration to any written comments timely received.

Dated: April 9, 2015

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

NY L80355

October 28, 2004

CLA-2-30:RR:NC:2:238 L80355

CATEGORY: Classification

TARIFF NO.: 3004.90.9115

MR. RICHARD D'INNOCENZO
GENZYME CORPORATION
ONE KENDALL SQUARE
CAMBRIDGE, MA 02139

RE: The tariff classification of **Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] Sterile Lyophilized Preparation** from France

DEAR MR. D'INNOCENZO:

In your letter dated October 19, 2004, you requested a tariff classification ruling.

The subject product, Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] Sterile Lyophilized Preparation, is a medicament, for intravenous administration, put up in a package containing two 7 mL vials. Vial 1 contains a sterile, freeze-dried powder consisting of Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] (the active ingredient) mixed with several excipients. Vial 2 contains sterile water for injection (the diluent), which is used to reconstitute the freeze-dried powder in Vial 1. Thymoglobulin® [Antithymocyte Globulin (Rabbit)], is a purified, pasteurized, gamma immune globulin, obtained by immunization of rabbits with human thymocytes, containing cytotoxic antibodies directed against antigens expressed on human T-lymphocytes. Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] is indicated for the treatment of renal transplant acute rejection, in conjunction with concomitant immunosuppression.

The applicable subheading for Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] Sterile Lyophilized Preparation will be 3004.90.9115, Harmonized Tariff Schedule of the United States (HTS), which provides for "Medicaments ... consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale: Other: Other: Antineoplastic and immunosuppressive medicaments." The rate of duty will be free.

This merchandise may be subject to the requirements of the Federal Food, Drug, and Cosmetic Act, which is administered by the U.S. Food and Drug Administration. You may contact them at 5600 Fishers Lane, Rockville, Maryland 20857, telephone number 1888-443-6332.

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 Harvey Kuperstein at 646-733-3033.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT B]

HQ H250457

CLA-2 OT:RR:CTF:TCM H250457 LOR**CATEGORY:** Classification**TARIFF NO.:** 3002.10.02

MR. RICHARD D'INNOCENZO
INTERNATIONAL TRADE COMPLIANCE MANGER
GENZYME CORPORATION
500 KENDALL STREET
CAMBRIDGE, MA 02142

RE: Revocation of New York Ruling Letter L80355; classification of Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] Sterile Lyophilized Preparation, imported from France

DEAR MR. D'INNOCENZO,

This is in regard to New York Ruling Letter (NY) L80355, dated October 28, 2004, regarding the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] Sterile Lyophilized Preparation (“Thymoglobulin”). In NY L80355, U.S. Customs and Border Protection (CBP) classified the product, under heading 3004, HTSUS, as medicaments. We have determined that NY L80355 is in error because the merchandise at issue is specifically provided for in heading 3002, HTSUS, and is therefore, excluded from classification in heading 3004, HTSUS. Therefore, this ruling revokes NY L80355.

FACTS:

NY L80355 described Thymoglobulin® as follows:

[T]hymoglobulin® [Anti-thymocyte Globulin (Rabbit)] Sterile Lyophilized Preparation, is a medicament, for intravenous administration, put up in a package containing two 7 mL vials. Vial 1 contains a sterile, freeze-dried powder consisting of Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] (the active ingredient) mixed with several excipients. Vial 2 contains sterile water for injection (the diluent), which is used to reconstitute the freeze-dried powder in Vial1. Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)], is a purified, pasteurized, gamma immune globulin, obtained by immunization of rabbits with human thymocytes, containing cytotoxic antibodies directed against antigens expressed on human T-lymphocytes. Thymoglobulin® [Anti-thymocyte Globulin (Rabbit)] is indicated for the treatment of renal transplant acute rejection, in conjunction with concomitant immunosuppression.

The CBP Laboratory and Scientific Services Department (LSSD) report #NY20132148, dated November 15, 2013, states in pertinent part, the following:

The product is a mixture of immunoglobulins derived from a rabbit antiserum. It is consistent with the definitions provided in the EN¹ for serum globulins, blood fractions, and immunological products.

NY L80355 classified Thymoglobulin® under subheading 3004.90.9115, HTSUS (Annotated), which provides for “Medicaments (excluding goods of

¹ The Harmonized Commodity Description and Coding System Explanatory Notes (EN).

heading 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings: Other: Antineoplastic and immunosuppressive medicaments.”

ISSUE:

Are the subject modified immunological products, imported in single dosage vial form, properly classified under heading 3002, HTSUS, as “modified immunological products,” or heading 3004, HTSUS, as “medicaments ... put up in measured dose or in forms or packings for retail sale: Other: Other?”

LAW AND ANALYSIS:

Classification of goods under the 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 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 may then be applied.

The HTSUS provisions at issue are as follows:

- | | |
|------------|--|
| 3002 | Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions and modified immunological products, whether or not modified or obtained by means of biotechnological processes; vaccines, toxins, cultures of microorganisms (excluding yeasts) and similar products: |
| 3002.10.02 | Antisera, other blood fractions and immunological products, whether or not obtained by means of biotechnological processes ² : |
| *** | |
| 3004 | Medicaments (excluding goods of heading 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale: |
| 3004.90 | Other: |
| 3004.90.91 | Other |

Note 2 to Chapter 30, HTSUS (2002), states: “For the purposes of heading 3002, the expression ‘modified immunological products’ applies only to monoclonal antibodies (MASs), antibody fragments, antibody conjugates and antibody fragment conjugates.”

The Harmonized Commodity Description and Coding System Explanatory Notes (EN) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of the headings. It is CBP’s practice to consult, whenever possible, the terms of the ENs when interpreting the HTSUS. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

In 2004, the EN to Heading 30.02 stated, in pertinent part:

This heading covers:

² In 2002 the subheading at issue was 3002.10.01, HTSUS. Due to various changes in the tariff not pertinent in this analysis, the subheading at issue is now 3002.10.02, HTSUS.

- (C) Antisera and other blood fractions and modified immunological products.

These products include:

- (2) **Modified immunological products, whether or not obtained by means of biotechnological processes.** [Emphasis in original] Products whose antigen-antibody reaction corresponds to natural antisera and which are used for diagnostic or therapeutic purposes and for immunological tests are to be regarded as falling within this product group. They can be defined as follows:
- (a) **Monoclonal antibodies (MABs)**-specific immunoglobulins from selected and cloned hybridoma cells cultured in a culture medium or ascites.
 - (b) **Antibody fragments**-parts of an antibody protein obtained by means of specific enzymatic splitting.
 - (c) **Antibody and antibody fragment conjugates**-enzymes (e.g. alkaline phosphatase, peroxidase or betagalactosidase) or dyes (fluorescein) covalently bound to the protein structure are used for straightforward detection reactions.

* * *

The products of this heading remain classified here whether or not in measured doses or put up for retail sale and whether in bulk or in small packings.

Ruling NY L80355 classified Thymoglobulin® under heading 3004, HTSUS. However, the terms of this heading specifically excludes goods which can be classified under heading 3002, HTSUS. Therefore, if the subject merchandise can be properly classified under heading 3002, HTSUS, imported either in bulk or single-dose vials, it is precluded from classification under heading 3004, HTSUS.

Thymoglobulin® is a purified, pasteurized, gamma immune globulin. Based upon the literature provided during the U.S. Food and Drug Administration screening process, the product, which is obtained by the immunization of rabbits with human thymocytes, contains cytotoxic antibodies directed against antigens expressed on human T-lymphocytes. Human red blood cells are used in the manufacturing process to deplete cross-reactive antibodies to non-T-cell antigens.³ The product induces immune-suppression as a result of T-cell depletion and immune modulation in renal transplant patients. The imported good consists of one package containing two 7ml vials; with Vial1 consisting of Freeze-dried Thymoglobulin Formulation and Vial 2 consisting of Diluent (sterile water for Injection), which are combined prior to injection. The reconstituted preparation contains 5 mg/ml of Thymoglobulin, of which 90% is rabbit gamma immune globulin.

³ See, <http://www.fda.gov/downloads/BiologicsBloodVaccines/BloodBloodProducts/ApprovedProducts/LicensedProductsBLAs/FractionatedPlasmaProducts/UCM117134.pdf>.

Thymoglobulin® is an immunological product obtained from a biotechnical process (the immunization of rabbits with human thymocytes). It contains monoclonal antibodies (MABs), which are produced by the body's immune system for the function of recognizing, binding, and subsequently destroying infectious agents that display foreign antigens.⁴ MABs are used therapeutically to stimulate the immune system. Whereas MABs are specifically provided for in Note 2 to Chapter 3002, HTSUS, and Thymoglobulin® provides for the treatment of renal transplant acute rejection in conjunction with concomitant immune suppression, Thymoglobulin® is classified in heading 3002, HTSUS. It is excluded from classification in heading 3004, HTSUS.

Clarifications were made to the ENs of Heading 30.02 in 2007 and 2012, as well as to Note 2 to Chapter 30 in 2012.

EN 30.02(C)(2)(a) now reads, in pertinent part:

This heading covers:

- (C) Antisera, other blood fractions and immunological products, whether or not modified or obtained by means of biotechnological processes.

These products include:

- (2) Immunological products, whether or not modified or obtained by means of biotechnological processes.

Products used for diagnostic or therapeutic purposes and for immunological tests are to be regarded as falling within this product group. They can be defined as follows:

- (a) **Monoclonal antibodies (MAB)**-specific immunoglobulins from selected and cloned hybridoma cells cultured in a culture medium or ascites.
- (b) **Antibody fragments**-active parts of an antibody protein obtained by means of e.g., specific enzymatic splitting. This group includes inter alia single-chain (scFv) antibodies.
- (c) **Antibody conjugates and antibody fragment conjugates**-conjugates which contain at least one antibody or an antibody fragment ...

Note 2 to Chapter 30 now reads:

For the purposes of heading 3002, the expression “immunological products” applies to peptides and proteins (other than goods of heading 2937) which are directly involved in the regulation of immunological processes, such as monoclonal antibodies (MAB), antibody fragments, antibody conjugates and antibody fragment conjugates, interleukens, interferons (IFN), chemokines and certain tumor necrosis factors (TNF), growth factors (GF), hematopoietins and colony stimulating factors (CSF).

⁴ See, Stan K. Bardal, Jason E. Waecher & Douglas S. Martin, *Applied Pharmacology-Student Consult*, 217–218 (2011).

In 2002, as today, “modified immunological products” with regard specifically to immunological products, include MABs and antibody fragment conjugates (an antibody combined with a protein), are included in heading 3002, HTSUS.

Based on the foregoing, Thymoglobulin® is properly classified under heading 3002, HTSUS. It is excluded from classification under heading 3004, HTSUS.⁵

Thymoglobulin® is specifically provided for under subheading 3002.10.02, HTSUS, which provides for: “Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes; vaccines, toxins, cultures of micro-organisms (excluding yeasts) and similar products: Antisera, other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes”.

HOLDING:

By application of GRI 1, the subject merchandise is classified in subheading 3002.10.02, HTSUS, which provides for “... modified immunological products, whether or not obtained by means of biotechnological processes ... : Antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes”. The column one, general rate of duty is 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 the World Wide Web at www.usitc.gov

EFFECT ON OTHER RULINGS:

New York Ruling Letter L80355, dated October 28, 2004, is REVOKED.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

⁵ See also, HQ H128157, dated August 2, 2011 (classifying Campath®, a monoclonal antibody medicament under heading 3002, HTSUS), HQ H110419, dated August 2, 2011 (classifying Antegren®, a monoclonal antibody medicament under heading 3002, HTSUS), and HQ H110420, dated August 2, 2011 (classifying A vastin® and Herceptin®, monoclonal antibody medicaments under heading 3002, HTSUS), HQ H110421, dated August 2, 2011 (classifying Raptiva®, Rituxan®, and Xolair®, monoclonal antibody medicaments, under heading 3002, HTSUS), and lastly, HQ H207575, dated July 25, 2014 (classifying Amevive® (alefacept), Alefacept, monoclonal antibody medicaments, under heading 3002, HTSUS).

GENERAL NOTICE

19 CFR PART 177

REVOCATION OF RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF TRUCK TENTS

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security (DHS).

ACTION: Notice of revocation of three ruling letter and revocation of treatment concerning the tariff classification of “truck tents”.

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 CBP is revoking three ruling letters pertaining to the tariff classification of truck tents, under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed revocation was published on February 25, 2015, in Volume 49, Number 8, of the *Customs Bulletin*. No comments were received in response to the proposed notice.

EFFECTIVE DATE: This revocation is effective for merchandise entered or withdrawn from warehouse for consumption on or after June 29, 2015.

FOR FURTHER INFORMATION CONTACT: Emily Beline, Tariff Classification and Marking Branch, Regulations and Rulings, Office of International Trade, (202) 325–7799.

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 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)), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), a notice was published in the *Customs Bulletin*, Volume 49, Number 8, on February 25, 2015, proposing to revoke New York Ruling Letters (NY) NY F83566, dated March 27, 2000, NY H80029, dated April 26, 2001, and NY 818424, dated February 21, 1996, and proposing to revoke any treatment accorded to substantially identical transaction. No comments were received in response to the proposed action.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised 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 his agents for importations of merchandise subsequent to this notice.

In NY F83566, dated March 27, 2000, CBP classified a fiberglass and cloth carrier for the roof of a car under subheading 8708.29.5060, HTSUS, which provides for Parts and accessories of the motor vehicles of heading 8701 to 8705: Other parts and accessories of bodies (including cabs): Other: Other ... Other. In NY H80029, dated April 26, 2001, CBP classified a collapsible nylon tent with aluminum poles, called an "Adventure Truck Tent" under subheading 8708.29.5060, HTSUS. And, in NY 818424, dated February 21, 1996, CBP classified a plastic tent, used to cover the bed of a pickup truck so as to provide cover over a sleeping area in the truck bed under subheading 8708.29.5060 HTSUS. It is now CBP's position that these tents are properly classified under subheading 6306.22.9030, HTSUS which provides for tents: of synthetic fibers: Other, other.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY F83566, NY H80029, and NY 818424, and any other ruling not specifically identified in order to reflect the proper classification of the merchandise

pursuant to the analysis set forth in HQ 242603, Attachment B, to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated: April 9, 2015

MYLES B HARMON,
Director
Commercial and Trade Facilitation Division
GREG CONNOR

Attachments

HQB242603

April 3, 2015

CLA-2 OT:RR:CTF:TCM H242603 ERB
CATEGORY: Classification
TARIFF NO.: 6306.22.90

MR. RICHARD HASLACHER
LOFTY SHELTERS
444 LASSEN STREET #3
LOS ALTOS, CA 94022

MR. LEE B. CARGILL
ENEL COMPANY
1330 ORANGE AVENUE, SUITE 300
CORONADO, CA 92118

MR. SEAN CHEATHAM
SHARK ENTERPRISES
1008 E. MAIN STREET
NORMAN, OK 73071

RE: Revocation NY F83566; Revocation of NY H80029; Revocation of NY 818424; Tariff Classification of truck tents

DEAR SIRs:

This letter is in reference to New York Ruling Letter (NY) NY F83566, issued to Lofty Shelters on March 27, 2000, NY H80029, issued to ENEL Company on April 26, 2001, and NY 818424, issued to Shark Enterprises on February 21, 1996. Each regarded a truck tent and U.S. Customs and Border Protection's (CBP) classification of the merchandise in subheading 8708.29.5060, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Parts and accessories of the motor vehicles of headings 8701 to 8705: Other parts and accessories of bodies (including cabs): Other: Other ... Other." We have reviewed these three rulings and found them to be in error. For the reasons set forth below, we hereby revoke NY F83566, NY H80029, and NY 818424.

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, Stat. 2057), this notice advises interested parties that CBP is revoking three ruling letters concerning the classification of truck tents, under the HTSUS. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed revocation was published on February 25, 2015, Volume 49, Number 8, of the Customs Bulletin. No comments were received in response to the proposed notice.

FACTS:

In NY F83566 CBP stated the following:

You submitted fabric samples and brochures depicting various styles of a Fiberglass and Cloth Carrier for the Roof of a Car [sic]. This item opens up to provide a place to sleep above the ground. You state that you refer to it as a tent for marketed reasons but that it is not designed for use on the ground but rather to increase the functionality of a car or truck. The

products are designed to be used above the roof of a car. The Maggiolina, Columbus, and Over Camp models are designed for storage of camping equipment when in transit. The top must remain closed while in motion. There is a seal between the two fiberglass shells that keep water and dirt from entering. When the vehicle is parked a person can open the Maggiolina or Columbus, take out the ladder and camping gear and use it as a protected place to sleep.

In NY H80029 CBP stated the following:

You submitted photographs of the “Adventure Truck Tent”, that is made of Nylon. The collapsible tent poles are made of aluminum. You state that the tent, when not in use, fits in a small bag about 22 inches long and weighs about 11 lbs. The primary use of the tent is for use in the bed of a pick up truck.

In NY 818424 CBP stated the following:

The item is a plastic “tent” which is used to cover the bed of a pickup truck. It acts as a cover which affords a protected sleeping space in the truck bed. It cannot be used as a ground tent.

In each ruling CBP classified the subject merchandise under subheading 8708.29.5060, HTSUS, which provides for, “Parts and accessories of the motor vehicles of headings 8701 to 8705: Other parts and accessories of bodies (including cabs): Other: Other ... Other.”

ISSUE:

Whether truck tents are properly classified in heading 8708, HTSUS, which provides for “Parts and accessories of the motor vehicles ...”, or under heading 6306, HTSUS, which provides for “Tents”.

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States (HTSUS) is made in accordance with the General Rules of Interpretation (GRI). 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 may then be applied.

The HTSUS provisions under consideration are as follows:

8708	Parts and accessories of the motor vehicles of heading 8701 to 8705:

6306	Tarpaulins, awnings and sunblinds; tents; sails for boats, sailboards or landcraft; camping goods (con.):

Additional U.S. Rule of Interpretation 1(c) states, in relevant part:

In the absence of special language or context which otherwise requires

(c) a provision for parts of an article covers products solely or principally used as a part of such articles but a provision for “parts” or “parts and accessories” shall not prevail over a specific provision for such a part or accessory;

Note 3 to Section XVII reads, in relevant part:

3. References in Chapters 86 to 88 to “parts” or “accessories” do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.

The Harmonized Commodity Description and Coding System Explanatory Notes (EN) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding for dispositive, the ENs 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 (Aug. 23, 1989).

The EN 87.08 states:

This heading covers parts and accessories of the motor vehicles of heading 87.01 to 87.05, provided the parts and accessories fulfill both the following conditions:

- (i) They must be identifiable as being suitable for use solely or principally with the above mentioned vehicles; and
- (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

Parts and accessories of this heading include:

(A) Assembled motor vehicle chassis-frames (whether or not fitted with wheels but without engines) and parts thereof (side-members, braces, cross-members; suspension mountings; supports and brackets for the coachwork, engine, running-boards, battery or fuel tanks, etc.)

EN (III)(C)(4) to Section XVII, HTSUS, states, in relevant part:

(C) Parts and accessories covered more specifically elsewhere in the Nomenclature.

Parts and accessories, even if identifiable as for the articles of this Section, are excluded if they are covered more specifically by another heading elsewhere in the Nomenclature ...

The EN for heading 6306 states, in relevant part:

(4) Tents are shelters made of lightweight to fairly heavy fabrics of man-made fibres, cotton or blended textile materials, whether or not coated, covered or laminated, or of canvas. They usually have a single or double roof and sides or walls (single or double), which permit the formation of an enclosure. The heading covers tents of various sizes and shapes, e.g., marquees and tents for military, camping (including backpack tents), circus, beach use. They are classified in this heading, whether or not they are presented complete with their tent poles, tent pegs, guy ropes or other accessories.

In NY F83566, NY H80029, and NY 818424 CBP classified the subject merchandise in heading 8708, HTSUS, as “Parts ... of motor vehicles”. However, pursuant to Additional U.S. Rule of interpretation 1(c), and illustrated by EN (III)(C)(4) to Section XVII, if the truck tents are classifiable in heading 6306, HTSUS, then heading 8708, HTSUS, shall not prevail.

Thus, CBP’s analysis here begins with heading 6306, HTSUS. The U.S. Court of International Trade (CIT) discussed the scope of this heading in

Target Stores v. United States, No. 06–00444 (Ct. Int’l Trade Mar. 22, 2012). In analyzing subject gazebos as tents of heading 6306, HTSUS, or structures of heading 7308, HTSUS, the CIT referenced *Ero Industries, Inc. v. United States*, 24 CIT 1175, 118 F. Supp. 2d 1356 (Ct. Int’l Trade 2000), which cited the aforementioned ENs, as well as other lexicographic definitions of the term tent. Ultimately the CIT found that tents are a collapsible shelter of canvas or other material, stretched and sustained by poles, usually for camping outdoors (as by soldiers or vacationers); shelters supported by poles and fastened by cord to pegs driven into the ground; “shelter” as used in most definitions of “tent” refers to temporary structures used for protection against the elements. *Target Stores v. United States*, *supra*, at page 10, citing 24 CIT 1175, at 1185, 118 F. Supp. 2d at 1364.

In the instant case, the subject truck tents were designed and marketed as tents, to protect the users from the elements, and to provide temporary reprieve when the user wants outdoor shelter in connection with his or her vehicle. It meets the CIT’s definition noted above. The three tents at issue in their condition as imported and once assembled have walls which permit the formation of an enclosure. See EN 63.06 (4). That the subject tents are used on top of a truck or vehicle does not exclude it from heading 6306, HTSUS. This conclusion is consistent with prior CBP rulings. See NY N238613, dated March 5, 2013 (classifying a truck-bed tent from Canada as a tent in sub-heading 6306.22.9030, HTSUS); NY N064199, dated June 11, 2009 (classifying a truck tent from China as a tent under subheading 6306.22.9030, HTSUS), and NY A86554, dated August 16, 1996 (classifying a tent for an automotive vehicle from Taiwan as a tent under subheading 6306.22.9030, HTSUS).

If *arguendo*, the subject merchandise is not excluded from heading 8708, HTSUS, by operation of Additional U.S. Rule of Interpretation 1(c), the subject tents are still not “parts” of motor vehicles. 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. The first test, articulated in *United States v. Willoughby Camera Stores, (Willoughby Camera)* 21 C.C.P.A. 322 (1933), requires 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.” *Bauerhin*, 110 F.3d at 778 (quoting *Willoughby Camera*, 21 C.C.P.A. 322 at 324). The second test, set forth in *United States v. Pompeo*, 43 C.C.P.A. 9 (1955), states that “an imported item dedicated solely for use with another article is a ‘part’ of that article within the meaning of the HTSUS.” *Id.* at 779 (citing *Pompeo*, 43 C.C.P.A. 9 at 13). Under either line of cases, an imported item is not a part if it is “a separate and distinct commercial entity.” *Id.*

The subject tents are not designed or marketed as an integral, constituent or component part of the vehicle on which it is to be used. The tents are merely designed so as to take advantage of the shape of the vehicle, such that the combination of the tent and the vehicle creates a tented shelter. Furthermore, the truck tents at issue do have a separate and distinct commercial identity. They are not akin to the exemplars listed in the EN 87.08 (A), such

as side-members, braces, cross-members, suspension mountings, supports and brackets for the coachwork, engine, running-boards, battery or fuel tanks, which are all affixed into or attached onto the inner workings of a motor vehicle.

Neither are they “accessories” of motor vehicles. The U.S. Court of Appeals for the Federal Circuit (CAFC) addressed the scope of accessories in *Rollerblade, Inc. v. United States*, 282 F.3d 1349 (Fed. Cir. 2002). Citing *E.M. Chems v. United States*, 920 F.2d 910 (Fed. Cir. 1990). There, the CAFC noted that “an “accessory” must bear a direct relationship to the primary article that it accessorizes.” 282 F.3d at 1352. The truck tents at issue here do not directly affect the car or truck’s operation. As above in the parts analysis, the tents merely take advantage of the truck’s flat-bed to sit upon, it does not contribute to the safe and efficient operation of the truck, it is not necessary to enhance the truck or make it work. In fact, the truck must be parked or stopped, unmoving and not performing its essential function at a motor vehicle in order for the tents to work. It doesn’t act directly on the motor vehicle at all, the two articles (car and tent) operate independently of one another completely.

The tents are thus not “parts” nor are they “accessories” as it is understood by the HTSUS. The tents do not pass muster under EN (III)(C)(4) to Section XVII, HTSUS, which provides that parts and accessories are excluded from this heading if they are covered more specifically elsewhere in the nomenclature. This provision, read in concert with Additional U.S. Rule of Interpretation 1(c), is clear that an *eo nomine* provision in the HSTUS takes precedence over a parts or accessories provision. In sum, the subject truck tents fits within the provision for “tents” of heading 6306, HTSUS.

HOLDING:

Under the authority of GRI 1, and additional U.S. Rule of Interpretation 1(c), the subject truck tents are classified in heading 6306, HTSUS. They are specifically provided for in subheading 6306.22.90, HTSUS, which provides for “Tents: Of synthetic fibers: Other.” The column one general rate of duty is 8.8% *ad valorem*.

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 the internet at www.usitc.gov/tata/hts/.

EFFECT ON OTHER RULINGS:

NY F83566, dated March 27, 2000, NY H80029, dated April 26, 2001, and NY 818242, dated February 21, 1996 are hereby REVOKED.

In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

GREG CONNOR

ACCREDITATION AND APPROVAL OF INTERTEK USA, 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 Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc., has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of September 10, 2014.

DATES: *Effective Dates:* The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on September 10, 2014. The next triennial inspection date will be scheduled for September 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 1000 Port Carteret Dr., Building C, Carteret, NJ 07008, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Intertek USA, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
1	Vocabulary.
3	Tank gauging.
7	Temperature determination.
8	Sampling.
12	Calculations.
17	Maritime measurement.

Intertek USA, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-08	ASTM D-86	Standard test method for distillation of petroleum products at atmospheric pressure.
27-48	ASTM D-4052	Standard test method for density and relative density of liquids by digital density meter.
27-58	ASTM D-5191	Standard test method for vapor pressure of petroleum products (mini-method).
27-50	ASTM D-93	Standard test methods for flash point by Penske-Martens Closed Cup Tester.
27-07	ASTM D-4807	Standard Test Method for Sediment in Crude Oil by Membrane Filtration.
27-11.....	ASTM D-445	Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity).
Pending....	ASTM D-3606	Standard Test Method for Determination of Benzene and Toluene in Finished Motor and Aviation Gasoline by Gas Chromatography.
Pending....	ASTM D-5599	Standard Test Method for Determination of Oxygenates in Gasoline by Gas Chromatography and Oxygen Selective Flame Ionization Detection.
Pending....	ASTM D-5769	Determination of Benzene, Toluene, and Total Aromatics in Finished Gasolines by Gas Chromatography/Mass Spectrometry.
27-53	ASTM D-2709	Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge.
27-01	ASTM D-287	Standard test method for API gravity of crude petroleum and petroleum products (hydrometer method).
27-06	ASTM D-473	Standard test method for sediment in crude oils and fuel oils by the extraction method.
27-13	ASTM D-4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27-04	ASTM D-95	Standard test method for water in petroleum products and bituminous materials by distillation.
27-46	ASTM D-5002	Standard test method for density and relative density of crude oils by digital density analyzer.

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 *CBPGaugersLabs@cbp.dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories *<http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>*.

Dated: April 2, 2015.

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

[Published in the **Federal Register**, April 13, 2015 (80 FR 19676)]

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, pursuant to CBP regulations, that Saybolt, LP, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 7, 2014.

DATES: *Effective Dates:* The accreditation and approval of Saybolt, LP, as commercial gauger and laboratory became effective on August 7, 2014. The next triennial inspection date will be scheduled for August 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Saybolt, LP, 2321 Burnett Blvd., Wilmington, NC 28401, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Saybolt, LP is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
9	Density Determination.
12	Calculations.
17	Maritime measurement.

Saybolt, LP is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory

Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-02.....	D 1298.....	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27-06.....	D 473.....	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-08.....	D 86.....	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27-11.....	D 445.....	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Velocity).
27-13.....	D 4294.....	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27-48.....	D 4052.....	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-54.....	D 1796.....	Standard test method for water and sediment in fuel oils by the centrifuge method (Laboratory procedure).
29-02.....	D 3798.....	Standard Test Method for Analysis of p-Xylene by Gas Chromatography.
29-19.....	D 4128.....	Recommended Guidelines for the Analysis of Organic Chemicals and Mixtures by Gas Chromatography and Gas Chromatography/Mass Spectrometry.

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 *CBPGaugersLabs@cbp.dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: April 2, 2015.

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

ACCREDITATION OF NEXEO SOLUTIONS LLC, AS A COMMERCIAL LABORATORY

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

ACTION: Notice of accreditation of Nexeo Solutions LLC, as a commercial laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Nexeo Solutions LLC, has been accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of September 24, 2014.

DATES: *Effective Dates:* The accreditation of Nexeo Solutions LLC, as commercial laboratory became effective on September 24, 2014. The next triennial inspection date will be scheduled for September 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202– 344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 that Nexeo Solutions LLC, 1404 S. Houston Rd., Pasadena, TX 77502, has been accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12.

Nexeo Solutions LLC is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-01.....	D 287.....	API Gravity of crude Petroleum and Petroleum products (Hydrometer Method).
27-04.....	D 95	Standard test method for water in petroleum products and bitumous materials by distillation.
27-05.....	D 4928.....	Standard test method for water in crude oils by Coulometric Karl Fischer Titration.
27-06.....	D 473.....	Standard test method for sediment in crude oils and fuel oils by extraction method.
27-07.....	D 4807.....	Standard test method for sediment in crude oil by membrane filtration.

CBPL No.	ASTM	Title
27-08.....	D 86	Standard test method for distillation of petroleum products.
27-11.....	D 445.....	Standard test method of kinematic viscosity of transparent and opaque liquids.
27-13.....	D 4294.....	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27-48.....	D 4052.....	Standard test method for density and relative density of liquids by digital density meter.
27-50.....	D 93	Standard test method for flash point by Pensky Martin Closed Cup Tester.
29-01.....	D 3797.....	Test method for analysis of o-Xylene by Gas Chromatography.
29-02.....	D 3798.....	Test method for Analysis of p-Xylene by Gas Chromatography.

Anyone wishing to employ this entity to conduct laboratory analyses should request and receive written assurances from the entity that it is accredited by the U.S. Customs and Border Protection to conduct the specific test requested. Alternatively, inquiries regarding the specific test this entity is accredited 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 *CBPGaugersLabs@cbp.dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories*.

Dated: April 2, 2015.

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

[Published in the **Federal Register**, April 13, 2015 (80 FR 19678)]

**COPYRIGHT, TRADEMARK, AND TRADE NAME
RECORDATIONS**

(No. 3 2015)

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

SUMMARY: The following copyrights, trademarks, and trade names were recorded with U.S. Customs and Border Protection in March 2015. The last notice was published in the CUSTOMS BULLETIN April 8, 2015.

Corrections or updates may be sent to: Intellectual Property Rights Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street, NE., 10th Floor, Washington, D.C. 20229-1177.

FOR FURTHER INFORMATION CONTACT: LaVerne Watkins, Paralegal Specialist, Intellectual Property Rights Branch, Regulations & Rulings, Office of International Trade at (202) 325-0095.

CHARLES R. STEUART
*Chief, Intellectual Property Rights Branch
Regulations & Rulings
Office of International Trade*

CBP IPR RECORDATION — APRIL 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 08-00205	3/2/2015	11/28/2024	GARRETT	HONEYWELL INTERNATIONAL INC.	No
TMK 08-00875	3/3/2015	11/30/2024	H HUSQVARNA & CROWN DESIGN	HUSQVARNA AKTIEBOLAG	No
TMK 09-00259	3/24/2015	8/10/2025	INVICTA and Design	Invicta Watch Company of America, Inc.	No
TMK 09-00732	3/9/2015	7/9/2015	JUDITH LEIBER	JUDITH UEBER IP LLC	No
TMK 10-00050	3/16/2015	10/2/2024	SOLINGEN	INDUSTRIE-UND HANDELSKAMMER WUPPERTAL-SOLINGEN-REMSCHIED	No
TMK 10-00202	3/24/2015	6/15/2025	Design (Slash Pocket Design)	5.11, Inc.	No
TMK 10-00271	3/18/2015	4/18/2025	DHHS	DEPUY SYNTHES, INC.	No
TMK 10-00281	3/17/2015	3/10/2025	SYNTHES	DEPUY SYNTHES, INC.	No
TMK 10-01082	3/5/2015	6/8/2025	FIELD N' FOREST	Fleet Wholesale Supply Co., Inc.	No
TMK 11-00089	3/24/2015	5/19/2025	BRAXTON	Braxton Manufacturing Company, Inc.	No
TMK 11-00107	3/5/2015	3/21/2025	BLISS	BLISS WORLD LLC	No
TMK 11-00250	3/16/2015	8/25/2023	CCM	SPORT MASKA INC.	No
TMK 11-00355	3/16/2015	7/12/2025	S-WORKS	Specialized Bicycle Components, Inc.	No
TMK 11-00874	3/24/2015	5/1/2025	CLOROX & Diamond design	CLOROX COMPANY, THE	No
TMK 11-00973	3/6/2015	1/12/2020	JUICY	JUICY COUTURE, INC.	No
TMK 11-01306	3/20/2015	9/18/2022	Del Monte Quality and Shield Design	DEL MONTE FOODS, INC.	No
TMK 11-01256	3/5/2015	3/7/2025	NATURE'S RECIPE	BIG HEART PET BRANDS	No
TMK 11-01378	3/24/2015	9/11/2025	DESIGN ONLY; Single Blue Stripe	THE TORO COMPANY	No
TMK 12-00242	3/5/2015	5/15/2025	H2 Body Design	GENERAL MOTORS LLC	No

CBP IPR RECORDATION — APRIL 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 12-00494	3/24/2015	12/7/2024	BISSELL	BISSELL Homecare, Inc.	No
TMK 12-00503	3/24/2015	4/25/2024	Triangle Design (Open)	BISSELL HOME CARE INC	No
TMK 12-00466	3/24/2015	10/5/2024	Triangle Design	BISSELL HOME CARE, INC.	No
TMK 12-00724	3/16/2015	4/30/2025	FRUIT OF THE LOOM	Fruit of the Loom, Inc.	No
TMK 13-00255	3/17/2015	6/19/2025	LEATHERMAN	Leatherman Tool Group, Inc.	No
TMK 13-00345	3/10/2015	6/16/2024	HITACHI	(REGISTRANT) KABUSHIKI KAISHA HITACHI SEISAKUSHO DBA Hitachi, Ltd. CORPORATION JAPAN 6-6 Marunouchi 1-Chome, Chiyoda-ku Tokyo JAPAN	No
TMK 13-00866	3/16/2015	7/26/2025	HASTELLOY.	HAYNES INTERNATIONAL, INC.	No
TMK 14-00355	3/24/2015	3/7/2025	SKINFLASH	Parfums Christian Dior	No
TMK 14-00890	3/4/2015	6/8/2025	CADILLAC	GENERAL MOTORS LLC	No
TMK 15-00205	3/2/2015	5/25/2018	ALBERTO VO5	HIGH RIDGE BRANDS CO.	No
TMK 15-00214	3/4/2015	3/23/2025	LEVITS	Levi Strauss & Co.	No
TMK 15-00215	3/4/2015	9/5/2017	Alberto VO5	HIGH RIDGE BRANDS CO.	No
TMK 15-00206	3/2/2015	10/28/2017	VO5	HIGH RIDGE BRANDS CO.	No
TMK 15-00217	3/5/2015	4/17/2017	VO5	HIGH RIDGE BRANDS CO.	No
TMK 15-00218	3/5/2015	12/10/2023	VO5 SALON SERIES	PNC BANK, NATIONAL ASSOCIATION	No
TMK 15-00220	3/5/2015	7/19/2025	Zest & Design	HIGH RIDGE BRANDS CO.	No
TMK 15-00221	3/5/2015	7/29/2024	ZESTFULLY CLEAN	High Ridge Brands Co.	No

CBP IPR RECORDATION — APRIL 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 15-00219	3/5/2015	4/1/2023	2011	STI International, Inc.	No
COP 15-00054	3/2/2015	2/27/2035	'M' character (peanut)	Mars, Inc.	No
TMK 15-00207	3/4/2015	12/25/2017	GX	Honda Motor Co., Ltd.	No
TMK 15-00234	3/6/2015	2/29/2020	GCV	HONDA GIKEN KOGYO KABUSHIKI KAISHA TA HONDA MOTOR CO., LTD.	No
TMK 15-00208	3/4/2015	11/22/2016	FIT	HONDA GIKEN KOGYO KABUSHIKI KAISHA (Honda Motor Co., Ltd.)	No
TMK 15-00235	3/6/2015	1/9/2021	CBR	HONDA GIKEN KOGYO KABUSHIKI KAISHA	No
TMK 15-00236	3/7/2015	1/21/2024	CRF	Honda Giken Kogyo Kabushiki Kaisha (Honda Motor Co., Ltd.)	No
TMK 15-00209	3/4/2015	12/25/2022	HERO RC and Design	EGRANDBUY, INC.	No
TMK 15-00210	3/4/2015	3/28/2021	F5RZ-9F955-AB	Ford Motor Company	No
TMK 15-00237	3/7/2015	3/28/2021	3C3Z-6731-AA	Ford Motor Company	No
TMK 15-00211	3/4/2015	3/28/2021	F7TZ-12K073-B	Ford Motor Company	No
TMK 15-00238	3/7/2015	1/9/2018	F75Z-2001-AA	Ford Motor Company	No
TMK 15-00212	3/4/2015	1/9/2018	XL3Z-2200-AA	Ford Motor Company	No
TMK 15-00239	3/7/2015	8/30/2016	CR-V	HONDA MOTOR CO., LTD.	No

CBP IPR RECORDATION — APRIL 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 15-00256	3/12/2015	8/12/2022	ORGANIC VALLEY	COOPERATIVE REGIONS OF ORGANIC PRODUCER POOLS AKA CROPP COOPERATIVE	No
TMK 15-00213	3/4/2015	8/21/2023	RLX	Honda Motor Co., Ltd.	No
TMK 15-00240	3/7/2015	12/7/2020	TRANSTEC	Freudenberg-NOK General Partnership	No
TMK 15-00222	3/5/2015	4/26/2020	TRANSTEC (Stylized)	Freudenberg-NOK	No
TMK 15-00246	3/8/2015	1/23/2018	CORTECO & Design	CORTECO S.R.L.	No
TMK 15-00223	3/5/2015	4/20/2025	COPPER FIT	Ideavillage Products Corp.	No
TMK 15-00241	3/7/2015	7/1/2023	MDX	Honda Giken Kogyo Kabushiki Kaisha (Honda Motor Co., Ltd.)	No
TMK 15-00242	3/7/2015	10/10/2017	RDX	HONDA MOTOR CO., LTD.	No
TMK 15-00243	3/7/2015	4/21/2025	HONDA	HONDA GIKEN KOGYO KABUSHIKI KAISHA	No
TMK 15-00244	3/7/2015	6/23/2024	H & Design	Honda Giken Kogyo Kabushiki Kaisha	No
TMK 15-00247	3/8/2015	5/25/2024	FIREFLY	NWT Holdings LLC	No
TMK 15-00245	3/7/2015	2/3/2020	word mark HONDA	HONDA MOTOR CO., LTD.	No
TMK 15-00257	3/12/2015	3/2/2025	TLX	Honda Motor Co., Ltd.	No
TMK 15-00224	3/5/2015	8/28/2022	CIVIC	Honda Giken Kogyo Kabushiki Kaisha (Honda Motor Co., Ltd.)	No

CBP IPR RECORDATION — APRIL 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 15-00225	3/5/2015	5/18/2017	ODYSSEY	Honda Giken Kogyo Kabushiki Kaisha	No
TMK 15-00226	3/5/2015	12/4/2022	ILX	Honda Motor Co., Ltd.	No
TMK 15-00227	3/5/2015	12/7/2020	THE POWER OF DREAMS	Honda Motor Co., Ltd.	No
TMK 15-00228	3/5/2015	9/10/2024	TUMMY STUFFERS	Jay At Play International Hong Kong Limited DBA Jay At Play	No
TMK 15-00258	3/12/2015	5/4/2024	PROTAC HL	Streamlight, Inc.	No
TMK 15-00229	3/5/2015	3/8/2020	MUCINEX (Stylized)	RECKITT BENCKISER LLC	No
TMK 15-00216	3/4/2015	1/19/2015	System or Network Error.	(REGISTRANT) KFC Corporation CORPO-RATION DELAWARE Legal -Trademarks 1441 Gardiner Lane Louisville KEN-TUCKY 40213	No
TMK 15-00230	3/5/2015	10/3/2022	MUCINEX	Reckitt Benckiser LLC	No
TMK 15-00231	3/5/2015	12/2/2018	Snack & Play (Stylized)	Starr Kids Products, LLC	No
TMK 15-00232	3/5/2015	12/18/2017	TOOKS	TOOKS INTERNATIONAL LLC	No
TMK 15-00233	3/5/2015	10/24/2017	T (Stylized)	TOOKS INTERNATIONAL LLC	No
COP 15-00055	3/5/2015	11/16/2034	Lilac Unicorn Tummy Stuffer	Jay At Play International Hong Kong Limited	No
COP 15-00057	3/6/2015	11/16/2034	Brown Monkey Tummy Stuffer	Jay At Play International Hong Kong Limited	No

CBP IPR RECORDATION — APRIL 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
COP 15-00058	3/6/2015	11/16/2034	Red Ladybug Tummy Stuffer	Jay At Play International Hong Kong Limited	No
COP 15-00059	3/6/2015	11/16/2034	Tan Dog Tummy Stuffer	Jay At Play International Hong Kong Limited	No
COP 15-00060	3/6/2015	11/16/2034	Green Gator Tummy Stuffer	Jay At Play International Hong Kong Limited	No
COP 15-00056	3/6/2015	11/16/2034	Pink Cat Tummy Stuffer	Jay At Play International Hong Kong Limited	No
COP 15-00061	3/6/2015	11/17/2034	Giraffe Tummy Stuffer Wild Ones	Jay At Play International Hong Kong Limited	No
COP 15-00062	3/6/2015	11/17/2034	Cat Tummy Stuffer Wild Ones	Jay At Play International Hong Kong Limited	No
COP 15-00067	3/12/2015	3/11/2035	Bunny Tummy Stuffer Wild Ones.	Jay At Play International Hong Kong Limited	No
COP 15-00063	3/9/2015	11/17/2034	Plaid Monkey Tummy Stuffer Wild Ones	Jay At Play International Hong Kong Limited	No
COP 15-00068	3/12/2015	3/11/2035	Unicorn Tummy Stuffer Wild Ones.	Jay At Play International Hong Kong Limited	No
COP 15-00064	3/9/2015	11/17/2034	Blue Leopard Tummy Stuffer Wild Ones	Jay At Play International Hong Kong Limited	No

CBP IPR RECORDATION — APRIL 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
COP 15-00066	3/12/2015	3/11/2035	Dalmatian Tummy Stuffer Wild Ones.	Jay At Play International Hong Kong Limited	No
TMK 15-00248	3/9/2015	6/6/2022	MOSCOT ORIGINALS	Moscot Management Corp.	No
TMK 15-00250	3/9/2015	3/16/2025	Design (Cable Bracelet)	David Yurman IP LLC	No
TMK 15-00263	3/16/2015	5/26/2018	MOSCOT SPIRIT & Design	Moscot Management Corp.	No
TMK 15-00249	3/9/2015	7/13/2020	NIXODERM	Laboratories Cosquim S.A.	No
TMK 15-00264	3/16/2015	3/23/2025	LOCKERSTOCK	Aeropostale Procurement Company, Inc.	No
TMK 15-00277	3/17/2015	3/23/2025	BROOKLYN CALLING	Aeropostale Procurement Company, Inc.	No
TMK 15-00265	3/16/2015	3/23/2025	TOKYO DARLING	Aeropostale Procurement Company, Inc.	No
TMK 15-00251	3/11/2015	3/30/2025	PEBBLE	Pebble Technology, Corp.	No
TMK 15-00266	3/16/2015	6/3/2025	TRIPTECH 3D	Triptech LLC	No
TMK 15-00252	3/11/2015	3/23/2025	FREE STATE	Aeropostale Procurement Company, Inc.	No
TMK 15-00267	3/16/2015	3/23/2025	MAP TO MARS	Aeropostale Procurement Company, Inc.	No
TMK 15-00268	3/16/2015	3/23/2025	LORIMER	Aeropostale Procurement Company, Inc.	No
TMK 15-00269	3/16/2015	10/5/2021	LOGIC	LOGIC TECH	No
TMK 15-00255	3/11/2015	12/23/2024	DESIGN ONLY (Triple Heart Logo)	Aeropostale Procurement Company, Inc.	No
TMK 15-00270	3/16/2015	6/4/2024	LLD & Design	Aeropostale Procurement Company, Inc.	No
TMK 15-00253	3/11/2015	5/21/2024	DELSYM	RECKITT BENCKISER LLC	No
TMK 15-00271	3/16/2015	3/3/2023	WALLSCAPES	LTL Wholesale, Inc. DBA LTL Home Products, Inc.	No

CBP IPR RECORDATION — APRIL 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 15-00254	3/11/2015	2/27/2022	GROUND TECH	LTL WHOLESALE, INC. DBA LTL HOME PRODUCTS, INC.	No
TMK 15-00272	3/16/2015	4/14/2022	Indian Head logo	CHICAGO BLACKHAWK HOCKEY TEAM, INC.	No
COP 15-00069	3/16/2015	3/13/2035	SEA SHELL WITH SEA FLOWER WITH SUMMER COLOR.	KEVIN NOH	No
COP 15-00065	3/12/2015	1/4/2035	CHEVRON WITH CORAL COLOR SEA STAR	KEVIN NOH	No
COP 15-00070	3/16/2015	3/13/2035	BOW TIE WITH DIFFERENT PRINT INSIDE.	KEVIN NOH	No
TMK 15-00259	3/12/2015	4/7/2024	LIVE LOVE DREAM	Aeropostale Procurement Company, Inc.	No
TMK 15-00273	3/16/2015	11/19/2018	HD	TAISHAN TENGDA PLASTIC PRODUCTS CO., LTD	No
TMK 15-00260	3/12/2015	1/2/2023	+ADONIT	adonit LIMITED LIABILITY COMPANY	No
TMK 15-00274	3/16/2015	5/11/2024	LIVE LOVE DREAM	Aeropostale Procurement Company, Inc.	No
COP 15-00071	3/16/2015	3/13/2035	2001 Lacoste Crocodile.	Lacoste S.A.,	No
TMK 15-00262	3/12/2015	6/3/2025	PS ACTIVATE and Design	Aeropostale Procurement Company, Inc.	No
TMK 15-00261	3/12/2015	2/2/2025	BOCA	BOCA FOODS COMPANY	No
TMK 15-00275	3/16/2015	2/15/2019	ATHENOS	CHURNY COMPANY, INC.	No

CBP IPR RECORDATION — APRIL 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 15-00278	3/17/2015	5/19/2021	NOVACARE	SELECTMARK, INC. CORPORATION BY ASSIGNMENT;	No
TMK 15-00276	3/16/2015	7/7/2019	NOVACARE	SelectMark, Inc.	No
TMK 15-00279	3/17/2015	12/14/2024	INNOVATIVE IDEAS FOR EASIER LIV-ING	LTL Wholesale, Inc.	No
TMK 15-00182	3/23/2015	12/3/2022	PINECROFT	LTL HOME PRODUCTS, INC.	No
TMK 15-00280	3/17/2015	11/11/2022	SPECTRUM	LTL Wholesale, Inc. DBA LTL Home Products, Inc.	No
TMK 15-00283	3/23/2015	10/8/2024	5.11 RECON	5.11, Inc.	No
TMK 15-00281	3/17/2015	2/19/2024	ALWAYS BE READY	5.11, Inc.	No
TMK 15-00284	3/23/2015	7/1/2024	ALWAYS BE READY	5.11, Inc.	No
TMK 15-00294	3/23/2015	9/3/2024	VCOG	Trijicon, Inc.	No
TMK 15-00295	3/23/2015	11/14/2022	ETERNAL INK	Eternal Ink, Inc.	No
TMK 15-00296	3/23/2015	11/24/2024	HSP	CARBO CERAMICS INC.	No
TMK 15-00297	3/23/2015	11/14/2022	Eternal Ink Bringing You The Brightest Colors Period! and Design	Eternal Ink, Inc.	No
COP 15-00072	3/20/2015	8/20/2033	Katsumi with Fleshlight	Interactive Life Forms LLC	No
TMK 15-00304	3/24/2015	6/13/2017	RAVENS	Baltimore Ravens Limited Partnership	No
TMK 15-00285	3/23/2015	5/3/2025	CATALOGIC	CATALOGIC SOFTWARE, INC.	No

CBP IPR RECORDATION — APRIL 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 15-00286	3/23/2015	6/20/2017	B & Design (Raven Head)	Baltimore Ravens Limited Partnership Baltimore Football Company LLC (a Maryland LLC)	No
TMK 15-00287	3/23/2015	6/6/2025	APRES LONDEE	GUERLAIN INC.	No
TMK 15-00288	3/23/2015	6/6/2025	MITSOUKO	GUERLAIN INC.	No
TMK 15-00289	3/23/2015	3/16/2026	DESIGN ONLY	GUERLAIN, INC.	No
TMK 15-00290	3/23/2015	6/6/2025	L'HEURE BLEUE	GUERLAIN, INC.	No
TMK 15-00291	3/23/2015	3/22/2020	IDYLLE	Guerlain S.A.	No
TMK 15-00298	3/23/2015	11/7/2022	MTNAPPROACH	Backcountry Garage, LLC	No
TMK 15-00299	3/23/2015	3/2/2025	C-BOND SYSTEMS	C-Bond Systems, LLC	No
TMK 15-00300	3/23/2015	10/1/2024	COSMELIFT	EMPIRE 21, INC.	No
COP 15-00073	3/23/2015	3/23/2035	FOCUS T25 KIT.	Beachbody, LLC.	No
COP 15-00077	3/24/2015	11/30/2034	Table Lamp, Sand Chrome, Wood Accent	Anthony California, Inc.	No
COP 15-00074	3/23/2015	3/23/2035	Table Lamp, Night Light.	Anthony California, Inc.	No
COP 15-00076	3/24/2015	11/30/2034	Table Lamp, Night Light, Antique Bronze, Glass	Anthony California, Inc.	No
COP 15-00075	3/23/2015	3/23/2035	Poly Table Lamp, Red-Black, Chrome.	Anthony California, Inc.	No
TMK 15-00301	3/23/2015	6/3/2025	INSANITY THE ASYLUM & Design	BEACHBODY, LLC	No
TMK 15-00292	3/23/2015	6/6/2022	MOSCOT SUN	Mascot Management Corp.	No
TMK 15-00302	3/23/2015	9/24/2018	LEMTOASH	Mascot Management Corp.	No

CBP IPR RECORDATION — APRIL 2015

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 15-00293	3/23/2015	10/19/2021	MOSCOT	Mascot Management Corp.	No
TMK 15-00303	3/23/2015	2/16/2021	MOSCOT (Stylized)	Mascot Management Corp.	No
COP 15-00078	3/24/2015	3/24/2035	Bat Knife.	Panther Brands, Inc.	No
TMK 15-00307	3/25/2015	8/31/2021	VISUALED	IBA Lighting, LLC	No
TMK 15-00305	3/25/2015	8/13/2017	FC Bayern Munchen & Design	FC BAYERN MUNCHEN AG A JOINT STOCK COMPANY	No
TMK 15-00306	3/25/2015	6/24/2018	FC BAYERN	FC BAYERN MUNCHEN AG	No
COP 15-00079	3/25/2015	3/25/2035	Pocket Hose Packaging II.	Telebrands Corp	No
TMK 15-00308	3/25/2015	9/24/2024	POCKET HOSE	Telebrands Corp.	No
COP 15-00080	3/25/2015	2/22/2035	SUPER SMASH BROS. FOR Wii U	Nintendo of America Inc.	No
TMK 15-00309	3/26/2015	4/20/2025	Nikon (Stylized)	NIKON CORPORATION	No
TMK 15-00313	3/27/2015	11/10/2019	LRS	LEVI, RAY, & SHOUP, INC.	No
TMK 15-00312	3/26/2015	7/22/2017	LRS & Design	Levi, Ray & Shoup, Inc.	No
TMK 15-00311	3/26/2015	2/25/2019	49ERS	San Francisco Forty Niners, Limited	No
TMK 15-00310	3/26/2015	9/24/2018	SAN FRANCISCO 49ERS	Forty Niners Football Company LLC	No
TMK 15-00314	3/27/2015	6/8/2020	THIS IS A TEST	(REGISTRANT) 'IPRR'	No

Total Records: 185

Date as of: 4/08/2015

AGENCY INFORMATION COLLECTION ACTIVITIES:**Arrival and Departure Record (Forms I-94 and I-94W) and Electronic System for Travel Authorization**

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

ACTION: 30-Day notice and request for comments; Extension and revision of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: CBP Form I-94 (Arrival/Departure Record), CBP Form I-94W (Nonimmigrant Visa Waiver Arrival/Departure), and the Electronic System for Travel Authorization (ESTA). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours and a revision to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before May 18, 2015 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229-1177, at 202-325-0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (79 FR 73096) on December 9, 2014, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies

to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Arrival and Departure Record, Nonimmigrant Visa Waiver Arrival/Departure, and Electronic System for Travel Authorization (ESTA).

OMB Number: 1651–0111.

Form Number: I–94 and I–94W.

Abstract:

Background

CBP Forms I–94 (Arrival/Departure Record) and I–94W (Nonimmigrant Visa Waiver Arrival/Departure Record) are used to document a traveler’s admission into the United States. These forms are filled out by aliens and are used to collect information on citizenship, residency, passport, and contact information. The data elements collected on these forms enable the DHS to perform its mission related to the screening of alien visitors for potential risks to national security, and the determination of admissibility to the United States. The Electronic System for Travel Authorization (ESTA) applies to aliens traveling to the United States under the Visa Waiver Program (VWP) and requires that VWP travelers provide information electronically to CBP before embarking on travel to the United States. Travelers who are entering under the VWP in the air or sea environment, and who have a travel authorization obtained through ESTA, are not required to complete the paper Form I–94W.

Pursuant to an interim final rule published on March 27, 2013 in the **Federal Register** (78 FR 18457) related to Form I–94, CBP has partially automated the Form I–94 process. CBP now gathers data previously collected on the paper Form I–94 from existing automated

sources in lieu of requiring passengers arriving by air or sea to submit a paper I-94 upon arrival. Passengers can access and print their electronic I-94 via the Web site at www.cbp.gov/I94.

ESTA can be accessed at: <https://esta.cbp.dhs.gov>. Samples of CBP Forms I-94 and I-94W can be viewed at: <http://www.cbp.gov/document/forms/form-i-94-arrivaldeparture-record> and <http://www.cbp.gov/document/forms/form-i-94w-visa-waiver-arrivaldeparture-record>.

Recent and Proposed Changes

In response to the increasing concerns regarding national security, DHS used the emergency Paperwork Reduction Act process to strengthen the security of the VWP by adding data elements to ESTA and to Form I-94W. DHS determined that the addition of these new data elements improves the Department's ability to screen prospective VWP travelers while more accurately and effectively identifying those who pose a security risk to the United States and facilitates adjudication of ESTA applications.

The following data elements are either new elements that were approved in the emergency PRA submission or data elements that were collected previously that were changed from "optional" to "mandatory" on the ESTA application:

1. Other Names or Aliases	Mandatory.
2. Other Country of Citizenship	Mandatory.
3. If yes, passport number on additional citizenship passport	Optional.
4. Home Address	Mandatory.
5. Parents' Names	Mandatory.
6. Current or Previous Job Title	Optional.
7. Current or Previous Employer Name	Mandatory.
8. Current or Previous Employer Address	Mandatory.
9. Current or Previous Employer Telephone number	Optional.
10. Primary Email	Mandatory—was optional.
11. Primary Telephone Number	Mandatory—was optional.
12. U.S. Point of Contact Name	Mandatory.
13. U.S. Point of Contact Address	Mandatory.
14. U.S. Point of Contact Email	Mandatory.
15. U.S. Point of Contact Phone	Mandatory.
16. City of Birth	Mandatory.
17. National Identification Number	Mandatory.
18. Emergency Point of Contact Information Name	Mandatory.

19. Emergency Point of Contact Information Email.....	Mandatory.
20. Emergency Point of Contact Information Phone	Mandatory.
22. Do you have a current or previous employer?	Mandatory.
21. Is your travel to the U.S. occurring in transit to another country?.....	Mandatory.

For the following “mandatory” fields ESTA applicants are permitted to enter “unknown,” if they do not have or know the information, without impeding the submission of their ESTA application: City of Birth, Parents’ Names, National Identification Number, Emergency Contact Information, U.S. Point of Contact information, and Employer Address.

In accordance with guidance from the Centers for Disease Control and Prevention, CBP also proposes to revise the current question about diseases on ESTA and on Form I-94W as follows:

Currently approved question:

Do you have a physical or mental disorder; or are you a drug abuser or addict; or currently have any of the following diseases:

- Chancroid
- Gonorrhea
- Granuloma inguinale
- Leprosy, infectious
- Lymphogranuloma venereum
- Syphilis, infectious
- Active Tuberculosis

Proposed new question:

Do you have a physical or mental disorder; or are you a drug abuser or addict; or do you currently have any of the following diseases (communicable diseases are specified pursuant to section 361(b) of the Public Health Service Act):

- Cholera
- Diphtheria
- Tuberculosis, infectious
- Plague
- Smallpox

- Yellow Fever
- Viral Hemorrhagic Fevers, including Ebola, Lassa, Marburg, Crimean-Congo
- Severe acute respiratory illnesses capable of transmission to other persons and likely to cause mortality.

Current Actions: This submission is being made to extend the expiration date with a change to the burden hours based on updated estimates of the numbers of respondents. Specifically, the number of respondents for the I-94 Web site was decreased by 1,188,899 from 5,047,681 to 3,858,782; the number of respondents for the ESTA burden was increased by 920,000 from 22,090,000 to 23,010,000; and the number of respondents paying the ESTA fee was increased by 747,000 from 18,183,000 to 18,930,000.

There is also a proposed change to the question about diseases on ESTA and on Form I-94W as described in the Abstract section of this document. There are no changes to the information collected on Form I-94, or the I-94 Web site.

Type of Review: Extension (with change).

Affected Public: Individuals, Carriers, and the Travel and Tourism Industry.

Form I-94 (Arrival and Departure Record)

Estimated Number of Respondents: 4,387,550.

Estimated Time per Response: 8 minutes.

Estimated Burden Hours: 583,544.

Estimated Annual Cost to Public: \$26,325,300.

I-94 Web Site

Estimated Number of Respondents: 3,858,782.

Estimated Time per Response: 4 minutes.

Estimated Annual Burden Hours: 254,679.

Form I-94W (Nonimmigrant Visa Waiver Arrival/Departure)

Estimated Number of Respondents: 941,291.

Estimated Time per Response: 13 minutes.

Estimated Annual Burden Hours: 204,260.

Estimated Annual Cost to the Public: \$5,647,746.

Electronic System for Travel Authorization (ESTA)

Estimated Number of Respondents: 23,010,000.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 7,662,330.

Estimated Annual Cost to the Public: \$265,020,000.

Dated: April 13, 2015,

TRACEY DENNING,
Agency Clearance Officer,
U.S. Customs and Border Protection.

[Published in the **Federal Register**, April 16, 2015 (80 FR 20503)]