

# U.S. Customs and Border Protection



## **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 that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Intertek USA, Inc., 78 Pleasant Ave., South Portland, ME 04106, has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

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

**DATES:** The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on August 18, 2009. The next triennial inspection date will be scheduled for August 2012.

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

Dated: March 26, 2010

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

[Published in the Federal Register, April 6, 2010 (75 FR 17428)]

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

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

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

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 11729 Port Road, Seabrook, TX 77586, has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

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

**DATES:** The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on September 16, 2009. The next triennial inspection date will be scheduled for September 2012.

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

Dated: March 26, 2010

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

[Published in the Federal Register, April 6, 2010 (75 FR 17428)]

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**REVOCATION AND MODIFICATION OF RULING LETTERS  
AND REVOCATION OF TREATMENT RELATING TO THE  
TARIFF CLASSIFICATION OF CERTAIN LIGHT-EMITTING  
DIODE (“LED”) MODULES**

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

**ACTION:** Notice of revocation and modification of ruling letters and revocation of treatment relating to the classification of certain LED modules.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625 (c)), this notice advises interested parties that U.S. Customs and Border Protection (“CBP”) is revoking two ruling letters and modifying two ruling letters relating to the tariff classification of LED modules 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 action was published in the *Customs Bulletin*, Volume 43, No. 50, on December 10, 2009. No comments were received in response to this notice.

**DATES:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after June 21, 2010.

**FOR FURTHER INFORMATION CONTACT:** Richard Mojica, Tariff Classification and Marking Branch, at (202) 325–0032.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 8, 1993, Title VI (“Customs Modernization”) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (hereinafter “Title VI”) became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary

compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the *Customs Bulletin*, Vol. 43, No. 50, on December 10, 2009, proposing to revoke or modify three ruling letters concerning the tariff classification of LED modules. As stated in the proposed notice, these revocations and modifications cover any rulings on this issue that may exist but have not been specifically identified. We have since identified one additional ruling letter on this issue which was not included in the proposed notice, namely NY K82130, dated January 15, 2004.

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.*, a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. §1625(c)(2)), as amended by section 623 of Title VI, CBP 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 its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In the aforementioned ruling letters, CBP classified certain LED modules under heading 8541, HTSUS, as "light-emitting diodes." We have reviewed those rulings and determined that the classification set forth therein is incorrect. It is now our position that the subject

modules are properly classified under heading 9405, HTSUS, as “Lamps ... not elsewhere specified or included.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY H87026 and NY 816502, modifying NY 817979 and NY K82130, and is revoking or modifying any other ruling not specifically identified, to reflect the proper classification of LED modules according to the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H024874 (Attachment A), HQ H024876 (Attachment B), HQ H024878 (Attachment C) and HQ H095035 (Attachment D). Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

Dated: March 31, 2010

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

Attachments

## [ATTACHMENT A]

HQ H024874

March 31, 2010

CLA-2 OT:RR:CTF:TCM H024874 RM

CATEGORY: Classification

TARIFF NO.: 9405.40.80

MR. NEIL R. TRENCHARD  
MANAGER, IMPORT-EXPORT OPERATIONS  
SIEMENS SHARED SERVICES, LLC  
186 WOOD AVENUE SOUTH  
ISELIN, NJ 08830

RE: Revocation of New York Ruling Letter H87026; Tariff Classification of Certain Light Emitting Diode Modules

DEAR MR. TRENCHARD:

This is in reference to New York Ruling Letter (“NY”) H87026, dated January 28, 2002, issued to you on behalf of Siemens Shared Services, LLC, concerning the tariff classification of certain light-emitting diode (“LED”) modules. In that ruling, U.S. Customs and Border Protection (“CBP”) classified the merchandise under heading 8541, Harmonized Tariff Schedule of the United States (“HTSUS”), as “light-emitting diodes.” We have reviewed NY H87026 and found it to be incorrect.

Pursuant to section 625I, Tariff Act of 1930 (19 U.S.C. §1625I), 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, 2186 (1993), notice of the proposed revocation was published on December 10, 2009, in the *Customs Bulletin*, Volume 43, No. 50. No comments were received in response to this notice.

**FACTS:**

The goods at issue are LED modules commercially known as the “EFFECTlight,” the “MARKERlight,” the “BACKlight,” and the “LINEARlight.” According to product literature submitted by the importer:

- (1) The EFFECTlight consists of a square plastic housing with a lens cover, ten LEDs mounted on a frame with anode and cathode leads extending below and covered by a clear epoxy dome (“LED bulbs”), and a printed circuit board (“PCB”). It is used to illuminate facades, walls or columns. Up to fourteen modules can be connected in sequence.
- (2) The MARKERlight consists of a round or square plastic housing, forty LED bulbs, and a PCB. It is used to illuminate walkways, steps, seats, etc.
- (3) The BACKlight consists of a chain of eight square plastic boards. Each square holds four LED bulbs and a PCB. It is used to illuminate signs. Up to three chains can be connected in sequence.

- (4) The LINEARlight consists of a plastic strip that holds thirty-two LED bulbs and a PCB. It is used to illuminate paths and signs. Up to three modules can be connected in sequence.

According to the importer, the LED modules must be integrated into housings containing heat sinks and lenses, and connected by wire to a power supply unit, in order to be used for their intended purpose.

**ISSUE:**

Whether the LED modules are classified under heading 8541, HTSUS, as “light emitting diodes” or under heading 9405, HTSUS, as “lamps ... not elsewhere specified or included.”

**LAW AND ANALYSIS:**

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

[a]ny 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:

- (C) Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes; mounted piezoelectric crystals; parts thereof:
- 8541.40 Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes:
- 8541.40.20 Light-emitting diodes (LED’s)  
\* \* \*
- 9405 Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included:
- 9405.40 Other electric lamps and lighting fittings:  
Other

Note 8 to Chapter 85, HTSUS, provides, in part:

For classification of the articles defined in this note, headings 8541 and 8542 shall take precedence over any other heading in the Nomenclature, except in the case of heading 8523, which might cover them by reference to, in particular, their function.

Note 1 to Chapter 9405, HTSUS, provides, in part:

This chapter does not cover:

## (C) Lamps or lighting fittings of chapter 85

The Harmonized Commodity Description and Coding System Explanatory Notes (“Ens”) constitute the official interpretation of the Harmonized System at the international level. While not 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 Ens to heading 8541, HTSUS, provide, in part:

**I LIGHT EMITTING DIODES**

Light emitting diodes ... are devices which convert electric energy into visible, infra-red or ultra-violet rays. They are used, e.g., for displaying or transmitting data in control systems.

The Ens to heading 9405, HTSUS, provide, in part:

**(I) LAMPS AND LIGHTING FITTINGS, NOT ELSEWHERE SPECIFIED OR INCLUDED**

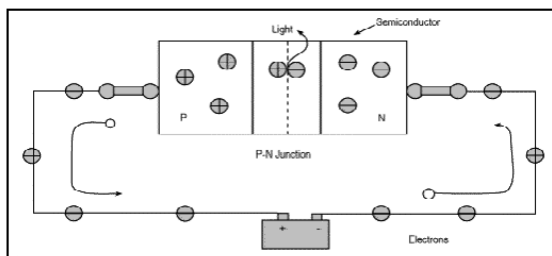
Lamps and lighting fittings of this group can be constituted or any material (**excluding** those material described in Note 1 to Chapter 71) and use any source of light (candles, oil, petrol, paraffin (or kerosene), gas, acetylene, electricity, etc). Electrical lamps and lighting fittings of this heading may be equipped with lamp-holders switches, flex and plugs, transformers, etc.

Heading 8541, HTSUS, provides, in part, for “light-emitting diodes.” The term “light-emitting diode” is not defined in the tariff. When a tariff term is not defined by the HTSUS or its legislative history, “the term’s correct meaning is its common meaning.” *Mita Copystar Am. v. United States*, 21 F.3d 1079, 1082 (Fed. Cir. 1994). The common meaning of a term used in commerce is presumed to be the same as its commercial meaning. *Simod Am. Corp. v. United States*, 872 F.2d 1572, 1576 (Fed. Cir. 1989). To ascertain the common meaning of a term, a court may consult “dictionaries, scientific authorities, and other reliable information sources” and “lexicographic and other materials.” *C.J. Tower & Sons v. United States*, 673 F.2d 1268, 1271 (CCPA 1982); *Simod*, 872 F.2d at 1576.

*The Oxford English Dictionary* defines the term “light-emitting diode” as “a semiconductor diode that emits light when a voltage is suitably applied.” See [www.oed.com](http://www.oed.com). *The McGraw-Hill Concise Encyclopedia of Science and Technology*, (5th Ed., 2005 at 1252) defines the term as “a rectifying semiconductor device which converts electrical energy into electromagnetic radiation.” The website of the Lighting Research Center, a university-based research organization devoted to lighting, describes the process as follows:

LEDs are semiconductor diodes, electronic devices that permit current to flow in only one direction. The diode is formed by bringing two slightly different materials to form a PN junction [Figure 1]. In a PN junction, the P side contains excess positive charge (“holes,” indicating the absence of electrons) while the N side contains excess negative charges (i.e., electrons).





When a forward voltage is applied to the semiconducting element forming the PN junction, electrons move from the N area toward the P area and holes move toward the N area. Near the junction, the electrons and holes combine. As this occurs, energy is released in the form of light that is emitted by the LED.

See John Bullock, *LED Lighting Systems* (May, 2003) available at <http://www.lrc.rpi.edu/researchAreas/leds.asp>.

In keeping with the common meaning of the term and the Ens, CBP has previously determined that the provision for LEDs in heading 8541, HTSUS, covers individual LEDs (*i.e.*, the semiconductor diodes without other components). See, *e.g.*, Headquarters Ruling Letter (“HQ”) H011693, dated December 18, 2007, HQ H010636, dated December 3, 2007, and HQ H003215, dated October 10, 2007. To that effect, in HQ 966401, concerning the classification of the “Epoch light,” a battery-operated LED floodlight, we stated that:

EN 85.41 only refers to a “Light-emitting diode or electroluminescent diode” alone or by itself. There is no mention of the diode with any other components or within any housing or any device such as the Epoch light. Because the Epoch light is a complete battery-operated floodlight, which contains an LED, it is beyond the scope of heading 8541, HTSUS and classification under this heading is, therefore, precluded.

Similar to the Epoch light, the instant modules consist of several LED bulbs mounted on a PCB and incorporated into housings along with other components. As such, the devices are beyond the scope of heading 8541, HTSUS.

Heading 9405, HTSUS, provides in relevant part for “Lamps and light fittings ... not elsewhere specified or included.” Relying on the common meaning of the term, CBP has previously determined that lamps are devices which provide an isolated source of heat or light. See HQ H042586, dated January 29, 2009 (fiber optic lamp), HQ 966952, dated August 18, 2004 (litecube), and HQ 965248, dated July 26, 2002 (bubble lights) (citing *The Random House College Dictionary* (1973) at 752 and *Webster’s New Collegiate Dictionary* (1979) at 639). Pursuant to GRI 2(a), heading 9405, HTSUS, includes incomplete lamps provided that, as entered, they possess the essential character of a complete lamp. The term “essential character” in the context of GRI 2(a) refers to “the attribute that serves to distinguish what an article is; that which is indispensable to the structure, core or condition of the good; the aggregate of distinctive component parts that establishes the iden-

tity of an article as what it is, its very essence.” See, e.g., HQ 967975, dated March 24, 2006.

As entered, the subject LED modules comprise the light source of complete lamps. When installed into housings adequate for their intended purpose, and connected to a power source by a power supply unit, they emit light. As such, we conclude that the modules possess the essential character of complete lamps. Therefore, as the goods are not specified elsewhere in the Nomenclature, they are classified by application of GRI 1 and GRI 2(a) under heading 9405, HTSUS, as lamps.

Inasmuch as the LED modules are not classified under heading 8541, HTSUS, Note 8 to Chapter 85, which gives priority to merchandise classifiable in heading 8541, HTSUS, does not apply.

**HOLDING:**

By application of GRI 1 and GRI 2(a), the EFFECTlight, MARKERlight, LINEARlight, and BACKlight are classified under heading 9405, HTSUS, specifically in subheading 9405.40.80, which provides in relevant part for “Lamps ... not elsewhere specified or included: Other electric lamps and light fittings: Other.” The 2009, column one, general rate of duty is 3.9 % *ad valorem*.

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

**EFFECT ON OTHER RULINGS:**

NY H87026, dated January 28, 2002, is hereby revoked.

*Sincerely,*

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*

## [ATTACHMENT B]

HQ H024876

March 31, 2010

CLA-2 OT:RR:CTF:TCM H024876 RM

CATEGORY: Classification

TARIFF NO.: 9405.40.80

MR. MIKE CHUN  
DELTA EXPRESS  
765 ROUTE 83  
HARTFORD CENTER, SUITE 122  
BESENVILLE, IL 60106

RE: Modification of New York Ruling Letter 817979; Tariff Classification of the “Light Circuit Module” and the “Point of Purchase Light Harness.”

DEAR MR. CHUN:

This is in reference to New York Ruling Letter (“NY”) 817979, dated January 26, 1996, issued to you on behalf of Buzztronics, Inc., concerning the tariff classification of certain light-emitting diode (“LED”) modules commercially known as the “Light Circuit Module” and the “Point of Purchase Light Harness.” In that ruling, U.S. Customs and Border Protection (“CBP”) classified the merchandise under heading 8541, Harmonized Tariff Schedule of the United States (“HTSUS”), in the provision for “light emitting diodes.” We have reviewed NY 817979 and found it to be incorrect. The classification of the other products described in the ruling is not affected by this decision.

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, 2186 (1993), notice of the proposed modification was published on December 10, 2009, in the *Customs Bulletin*, Volume 43, No. 50. No comments were received in response to this notice.

**FACTS:**

In NY 817979, CBP described the subject merchandise as follows:

The “light circuit module” consists of a battery operated [printed] circuit board [“PCB”], one inch in diameter. Two sets of electrical leads are affixed to the board and each set is connected to a tiny [LED]. A pin clasp is also soldered to the board, since the board is intended for incorporation into a promotional button.

\* \* \*

The “point of purchase light harness” consists of a printed circuit board with a variable speed switch and a mounted plastic battery holder, and five sets of electrical leads which are soldered to the board. An LED is soldered to the other end of each set of leads. This harness is used in promotional displays where flashing lights are used.

**ISSUE:**

Whether the Light Circuit Module and the Point of Purchase Light Harness are classified under heading 8541, HTSUS, as “light-emitting diodes,” or under heading 9405, HTSUS, as “lamps ...not elsewhere specified or included.”

**LAW AND ANALYSIS:**

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

The HTSUS provisions under consideration are as follows:

- |            |   |
|------------|---|
| 8541       | Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes; mounted piezoelectric crystals; parts thereof:                       |
| 8541.41    | Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes:   |
| 8541.40.20 | Light-emitting diodes (LED's)   |
|            | * * *   |
| 9405       | Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included: |
| 9405.41    | Other electric lamps and lighting fittings:   |
| 9405.40.80 | Other   |

Note 8 to Chapter 85, HTSUS, provides in part:

For classification of the articles defined in this note, headings 8541 and 8542 shall take precedence over any other heading in the Nomenclature, except in the case of heading 8523, which might cover them by reference to, in particular, their function.

Note 1 to Chapter 9405, HTSUS, provides in part:

This chapter does not cover:

(f) Lamps or lighting fittings of chapter 85

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While not 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 ENs to heading 8541, HTSUS, provide, in part:

**(C) LIGHT EMITTING DIODES**

Light emitting diodes ... are devices which convert electric energy into visible, infra-red or ultra-violet rays. They are used, e.g., for displaying or transmitting data in control systems.

The ENs to heading 9405, HTSUS, provide, in part:

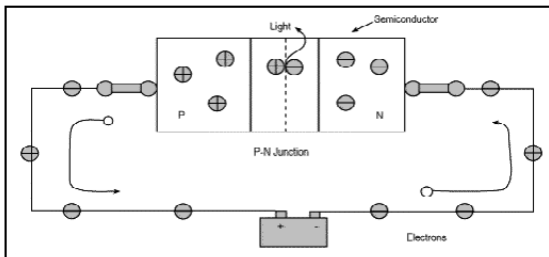
**(I) LAMPS AND LIGHTING FITTINGS, NOT  
ELSEWHERE SPECIFIED OR INCLUDED**

Lamps and lighting fittings of this group can be constituted of any material (**excluding** those material described in Note 1 to Chapter 71) and use any source of light (candles, oil, petrol, paraffin (or kerosene), gas, acetylene, electricity, etc). Electrical lamps and lighting fittings of this heading may be equipped with lamp-holders switches, flex and plugs, transformers, etc.

Heading 8541, HTSUS, provides, in part, for “light-emitting diodes.” The term “light-emitting diode” is not defined in the tariff. When a tariff term is not defined by the HTSUS or its legislative history, “the term’s correct meaning is its common meaning.” *Mita Copystar Am. v. United States*, 21 F.3d 1079, 1082 (Fed. Cir. 1994). The common meaning of a term used in commerce is presumed to be the same as its commercial meaning. *Simod Am. Corp. v. United States*, 872 F.2d 1572, 1576 (Fed. Cir. 1989). To ascertain the common meaning of a term, a court may consult “dictionaries, scientific authorities, and other reliable information sources” and “lexicographic and other materials.” *C.J. Tower & Sons v. United States*, 673 F.2d 1268, 1271 (CCPA 1982); *Simod*, 872 F.2d at 1576.

The *Oxford English Dictionary* defines the term “light-emitting diode” as “a semiconductor diode that emits light when a voltage is suitably applied.” See [www.oed.com](http://www.oed.com). *The McGraw-Hill Concise Encyclopedia of Science and Technology*, (5th Ed., 2005 at 1252) defines an LED as “a rectifying semiconductor device which converts electrical energy into electromagnetic radiation.” The website of the Lighting Research Center, a university-based research organization devoted to lighting, explains the process as follows:

LEDs are semiconductor diodes, electronic devices that permit current to flow in only one direction. The diode is formed by bringing two slightly different materials to form a PN junction [Figure 1]. In a PN junction, the P side contains excess positive charge (“holes,” indicating the absence of electrons) while the N side contains excess negative charges (*i.e.*, electrons).



When a forward voltage is applied to the semiconducting element forming the PN junction, electrons move from the N area toward the P area and holes move toward the N area. Near the junction, the electrons and holes combine. As this occurs, energy is released in the form of light that is emitted by the LED.

See John Bullow, *LED Lighting Systems* (May, 2003) available at <http://www.lrc.rpi.edu/researchAreas/leds.asp>.

In keeping with the common meaning of the term and the ENs, CBP has previously determined that the provision for LEDs in heading 8541, HTSUS, covers individual LEDs (*i.e.*, the semiconductor diodes without other components). See, *e.g.*, Headquarters Ruling Letter (“HQ”) H011693, dated December 18, 2007, HQ H010636, dated December 3, 2007, and HQ H003215, dated October 10, 2007. To that effect, in HQ 966401, concerning the classification of the “Epoch light,” a battery-operated LED floodlight, we stated that:

EN 85.41 only refers to a “Light-emitting diode or electroluminescent diode” alone or by itself. There is no mention of the diode with any other components or within any housing or any device such as the Epoch light. Because the Epoch light is a complete battery-operated floodlight, which contains an LED, it is beyond the scope of heading 8541, HTSUS and classification under this heading is, therefore, precluded.

Similar to the Epoch light, the instant modules consist mainly of LEDs mounted on a PCB with a battery-operated power supply unit. As such, the devices are beyond the scope of heading 8541, HTSUS.

Heading 9405, HTSUS, provides in relevant part for “Lamps and light fittings ... not elsewhere specified or included.” Relying on the common meaning of the term, CBP has previously determined that lamps are devices which provide an isolated source of heat or light. See HQ H042586, dated January 26, 2009 (fiber optic lamp), HQ 966952, dated August 18, 2004 (litecube), and HQ 965248, dated July 26, 2002 (bubble lights) (citing *The Random House College Dictionary* (1973) at 752 and *Webster’s New Collegiate Dictionary* (1979) at 639). The Light Circuit Module and Point of Purchase Light Harness satisfy the above definition of a lamp in that, as imported, they are stand-alone illumination devices. Therefore, as the merchandise is not specified elsewhere in the Nomenclature, it is classified pursuant to GRI 1 under heading 9405, HTSUS.\

Inasmuch as the devices are not classified under heading 8541, HTSUS, Note 8 to Chapter 85, which gives priority to merchandise classifiable under heading 8541, HTSUS, does not apply.

#### **HOLDING:**

By application of GRI 1, “Light Circuit Module” and “Point of Purchase Light Harness” are classified under heading 9405, HTSUS, specifically in subheading 9405.40.80, which provides in relevant part for “Lamps ... not elsewhere specified or included: Other electric lamps and light fittings: Other.” The 2009, column one, general rate of duty is 3.9 % *ad valorem*.

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

**EFFECT ON OTHER RULINGS:**

NY 817979, dated January 26, 1996, is hereby modified as it pertains to the products described as the Light Circuit Module and the Point of Purchase Light Harness. The classification of the other products described in that ruling remains unchanged.

*Sincerely,*

GAIL A. HAMILL

*For*

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*

## [ATTACHMENT C]

HQ H024878

March 31, 2010

CLA-2 OT:RR:CTF:TCM H024878 RM

CATEGORY: Classification

TARIFF NO.: 9405.40.80

Ms. PATRICIA A. FELL  
KLEIN INTERNATIONAL, LTD.  
PARKSIDE BUSINESS CENTER  
7970 S.W. CIRRUS DRIVE, BLDG. 13  
BEAVERTON, OR 97008

RE: Revocation of New York Ruling Letter 816502; Tariff Classification of an LED module from China

DEAR Ms. FELL:

This is in reference to New York Ruling Letter (“NY”) 816502, dated December 19, 1995, concerning the tariff classification of a light-emitting diode (“LED”) module. In that ruling, U.S. Customs and Border Protection (“CBP”) classified the merchandise under heading 8541, Harmonized Tariff Schedule of the United States (“HTSUS”), in the provision for “light-emitting diodes.” We have reviewed NY 816502 and found it to be incorrect.

Pursuant to section 6251, Tariff Act of 1930 (19 U.S.C. §16251), 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, 2186 (1993), notice of the proposed revocation was published on December 10, 2009, in the *Customs Bulletin*, Volume 43, No. 50. No comments were received in response to this notice.

**FACTS:**

In NY 816502, CBP described the product as follows:

The item described ... consists of two light-emitting diodes connected by coated wires to a module assembly power source with a switch. According to your letter, the item, as imported, is placed in merchandise manufactured in the United States as a component part to add a lighted feature to ... various holiday display ornaments.

**ISSUE:**

Whether the LED module is classified under heading 8541, HTSUS, as a “light-emitting diode,” or under heading 9405, HTSUS, as a “lamp ... not elsewhere specified or included.”

**LAW AND ANALYSIS:**

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



The HTSUS provisions under consideration are as follows:

- (C) Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes; mounted piezoelectric crystals; parts thereof:
- 8541.42 Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes:
- 8541.40.20 Light-emitting diodes (LED's)  
\* \* \*
- (C) Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included:
- 9405.42 Other electric lamps and lighting fittings:
- 9405.40.80 Other  
\* \* \*

Note 8 to Chapter 85, HTSUS, provides in part:

For classification of the articles defined in this note, headings 8541 and 8542 shall take precedence over any other heading in the Nomenclature, except in the case of heading 8523, which might cover them by reference to, in particular, their function.

Note 1 to Chapter 9405, HTSUS, provides in part:

This chapter does not cover:

- (f) Lamps or lighting fittings of chapter 85

The Harmonized Commodity Description and Coding System Explanatory Notes ("Ens") constitute the official interpretation of the Harmonized System at the international level. While not 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 Ens to heading 8541, HTSUS, provide, in part:

### I LIGHT EMITTING DIODES

Light emitting diodes ... are devices which convert electric energy into visible, infra-red or ultra-violet rays. They are used, *e.g.*, for displaying or transmitting data in control systems.

The Ens to heading 9405, HTSUS, provide, in part:

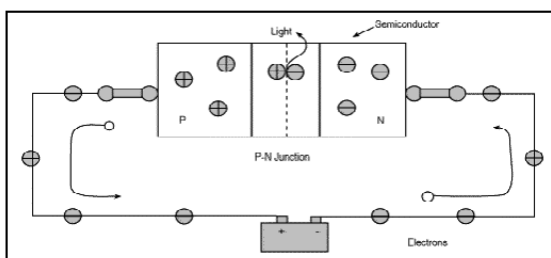
#### (I) LAMPS AND LIGHTING FITTINGS, NOT ELSEWHERE SPECIFIED OR INCLUDED

Lamps and lighting fittings of this group can be constituted or any material (**excluding** those material described in Note 1 to Chapter 71) and use any source of light (candles, oil, petrol, paraffin (or kerosene), gas, acetylene, electricity, etc). Electrical lamps and lighting fittings of this heading may be equipped with lamp-holders switches, flex and plugs, transformers, etc.

Heading 8541, HTSUS, provides, in part, for “light-emitting diodes.” The term “light-emitting diode” is not defined in the tariff. When a tariff term is not defined by the HTSUS or its legislative history, “the term’s correct meaning is its common meaning.” *Mita Copystar Am. v. United States*, 21 F.3d 1079, 1082 (Fed. Cir. 1994). The common meaning of a term used in commerce is presumed to be the same as its commercial meaning. *Simod Am. Corp. v. United States*, 872 F.2d 1572, 1576 (Fed. Cir. 1989). To ascertain the common meaning of a term, a court may consult “dictionaries, scientific authorities, and other reliable information sources” and “lexicographic and other materials.” *C.J. Tower & Sons v. United States*, 673 F.2d 1268, 1271 (CCPA 1982); *Simod*, 872 F.2d at 1576.

*The Oxford English Dictionary* defines the term “light-emitting diode” as “a semiconductor diode that emits light when a voltage is suitably applied.” See [www.oed.com](http://www.oed.com). *The McGraw-Hill Concise Encyclopedia of Science and Technology*, (5th Ed., 2005 at 1252) defines an LED as “a rectifying semiconductor device which converts electrical energy into electromagnetic radiation.” The website of the Lighting Research Center, a university-based research organization devoted to lighting, explains the process as follows:

LEDs are semiconductor diodes, electronic devices that permit current to flow in only one direction. The diode is formed by bringing two slightly different materials to form a PN junction [Figure 1]. In a PN junction, the P side contains excess positive charge (“holes,” indicating the absence of electrons) while the N side contains excess negative charges (*i.e.*, electrons).



When a forward voltage is applied to the semiconducting element forming the PN junction, electrons move from the N area toward the P area and holes move toward the N area. Near the junction, the electrons and holes combine. As this occurs, energy is released in the form of light that is emitted by the LED.

See John Bulow, *LED Lighting Systems* (May, 2003) available at <http://www.lrc.rpi.edu/researchAreas/leds.asp>.

In keeping with the common meaning of the term and the *Ens*, CBP has previously determined that the provision for LEDs in heading 8541, HTSUS, covers individual LEDs (*i.e.*, the semiconductor diodes without other components). See, *e.g.*, Headquarters Ruling Letter (“HQ”) H011693, dated December 18, 2007, HQ H010636, dated December 3, 2007, and HQ H003215, dated October 10, 2007. To that effect, in HQ 966401, concerning the classification of the “Epoch light,” a battery-operated LED floodlight, we stated that:

EN 85.41 only refers to a “Light-emitting diode or electroluminescent diode” alone or by itself. There is no mention of the diode with any other components or within any housing or any device such as the Epoch light. Because the Epoch light is a complete battery-operated floodlight, which contains an LED, it is beyond the scope of heading 8541, HTSUS and classification under this heading is, therefore, precluded.

Similar to the Epoch light, the instant LED module consists of LEDs connected by wires to a power supply unit. As such, the device is beyond the scope of heading 8541, HTSUS.

Heading 9405, HTSUS, provides in relevant part for “Lamps and light fittings ... not elsewhere specified or included.” Relying on the common meaning of the term, CBP has previously determined that lamps are devices which provide an isolated source of heat or light. See HQ H042586, dated January 29, 2009 (fiber optic lamp), HQ 966952, dated August 18, 2004 (litecube), and HQ 965248, dated July 26, 2002 (bubble lights) (citing *The Random House College Dictionary* (1973) at 752 and *Webster’s New Collegiate Dictionary* (1979) at 639). The subject LED module satisfies the above definition of a lamp in that, as imported, it is a stand-alone illumination device. Therefore, as the merchandise is not specified elsewhere in the Nomenclature, it is classified by application of GRI 1 under heading 9405, HTSUS.

Inasmuch as the device is not classified under heading 8541, HTSUS, Note 8 to Chapter 85, which gives priority to merchandise classifiable under heading 8541, HTSUS, does not apply.

**HOLDING:**

By application of GRI 1, the LED module is classified under heading 9405, HTSUS, specifically in subheading 9405.40.80, which provides in relevant part for “Lamps ... not elsewhere specified or included: Other electric lamps and light fittings: Other.” The 2009, column one, general rate of duty is 3.9 % *ad valorem*.

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

**EFFECT ON OTHER RULINGS:**

NY 816502, dated December 19, 1995, is hereby revoked.

*Sincerely,*

GAIL A. HAMILL

*for*

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*

## [ATTACHMENT D]

HQ H095035

March 31, 2010

CLA-2 OT:RR:CTF:TCM H095035 RM

CATEGORY: Classification

TARIFF NO.: 9405.40.80

MS. MARIA DA ROCHA  
D & D CUSTOMS BROKERAGE, INC.  
701 NEWARK AVE., SUITE LL1  
ELIZABETH, NJ 07208

RE: Modification of New York Ruling Letter K82130; Tariff Classification of a Handlebar LED Light Set

DEAR MS. DA ROCHA:

This is in reference to New York Ruling Letter (“NY”) K82130, dated January 15, 2004, issued to you on behalf of Flaquitz Enerprises Inc., concerning the tariff classification of a scooter and various accessories, including a handle bar light-emitting diode (“LED”) light set. In that ruling, U.S. Customs and Border Protection (“CBP”) classified the merchandise under heading 8541, Harmonized Tariff Schedule of the United States (“HTSUS”) as “light emitting diodes.” We have reviewed that ruling and found it to be partially incorrect.

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, 2186 (1993), notice of the proposed modification was published on December 10, 2009, in the *Customs Bulletin*, Volume 43, No. 50. No comments were received in response to this notice.

**FACTS:**

In NY K82130, CBP described the merchandise as:

A handlebar LED light set consisting of two orange LED lights that measure approximately ¼ inch in height and 2 inches in length that insert into each end of the handlebar. A built-in motion detector activates the lights when movement occurs, and shuts off the light when no movement is detected.

**ISSUE:**

Whether the handlebar LED light set is classified under heading 8541, HTSUS, as a “light-emitting diode,” or under heading 9405, HTSUS, as a “lamp ...not elsewhere specified or included.”

**LAW AND ANALYSIS:**

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

The HTSUS provisions under consideration are as follows:

- 8541 Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes; mounted piezoelectric crystals; parts thereof:
- 8541.43 Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes:
- 8541.40.20 Light-emitting diodes (LED's)  
\* \* \*
- 9405 Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included:
- 9405.43 Other electric lamps and lighting fittings:
- 9405.40.80 Other

Note 8 to Chapter 85, HTSUS, provides in part:

For classification of the articles defined in this note, headings 8541 and 8542 shall take precedence over any other heading in the Nomenclature, except in the case of heading 8523, which might cover them by reference to, in particular, their function.

Note 1 to Chapter 9405, HTSUS, provides in part:

This chapter does not cover:

(f) Lamps or lighting fittings of chapter 85

The Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") constitute the official interpretation of the Harmonized System at the international level. While not 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 ENs to heading 8541, HTSUS, provide, in part:

#### (C) LIGHT EMITTING DIODES

Light emitting diodes ... are devices which convert electric energy into visible, infra-red or ultra-violet rays. They are used, e.g., for displaying or transmitting data in control systems.

The ENs to heading 9405, HTSUS, provide, in part:

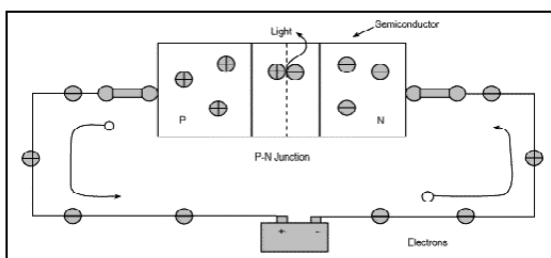
#### (IV) LAMPS AND LIGHTING FITTINGS, NOT ELSEWHERE SPECIFIED OR INCLUDED

Lamps and lighting fittings of this group can be constituted or any material (**excluding** those material described in Note 1 to Chapter 71) and use any source of light (candles, oil, petrol, paraffin (or kerosene), gas, acetylene, electricity, etc). Electrical lamps and lighting fittings of this heading may be equipped with lamp-holders switches, flex and plugs, transformers, etc.

Heading 8541, HTSUS, provides, in part, for “light-emitting diodes.” The term “light-emitting diode” is not defined in the tariff. When a tariff term is not defined by the HTSUS or its legislative history, “the term’s correct meaning is its common meaning.” *Mita Copystar Am. v. United States*, 21 F.3d 1079, 1082 (Fed. Cir. 1994). The common meaning of a term used in commerce is presumed to be the same as its commercial meaning. *Simod Am. Corp. v. United States*, 872 F.2d 1572, 1576 (Fed. Cir. 1989). To ascertain the common meaning of a term, a court may consult “dictionaries, scientific authorities, and other reliable information sources” and “lexicographic and other materials.” *C.J. Tower & Sons v. United States*, 673 F.2d 1268, 1271 (CCPA 1982); *Simod*, 872 F.2d at 1576.

The Oxford English Dictionary defines the term “light-emitting diode” as “a semiconductor diode that emits light when a voltage is suitably applied.” See [www.oed.com](http://www.oed.com). The McGraw-Hill Concise Encyclopedia of Science and Technology, (5th Ed., 2005 at 1252) defines an LED as “a rectifying semiconductor device which converts electrical energy into electromagnetic radiation.” The website of the Lighting Research Center, a university-based research organization devoted to lighting, explains the process as follows:

LEDs are semiconductor diodes, electronic devices that permit current to flow in only one direction. The diode is formed by bringing two slightly different materials to form a PN junction [Figure 1]. In a PN junction, the P side contains excess positive charge (“holes,” indicating the absence of electrons) while the N side contains excess negative charges (i.e., electrons).



When a forward voltage is applied to the semiconducting element forming the PN junction, electrons move from the N area toward the P area and holes move toward the N area. Near the junction, the electrons and holes combine. As this occurs, energy is released in the form of light that is emitted by the LED.

See John Bulow, *LED Lighting Systems* (May, 2003) available at <http://www.lrc.rpi.edu/researchAreas/leds.asp>.

In keeping with the common meaning of the term and the ENs, CBP has previously determined that the provision for LEDs in heading 8541, HTSUS, covers individual LEDs (i.e., the semiconductor diodes without other components). See, e.g., Headquarters Ruling Letter (“HQ”) H011693, dated December 18, 2007, HQ H010636, dated December 3, 2007, and HQ H003215, dated October 10, 2007. To that effect, in HQ 966401, concerning the classification of the “Epoch light,” a battery-operated LED floodlight, we stated that:

EN 85.41 only refers to a “Light-emitting diode or electroluminescent diode” alone or by itself. There is no mention of the diode with any other components or within any housing or any device such as the Epoch light. Because the Epoch light is a complete battery-operated floodlight, which contains an LED, it is beyond the scope of heading 8541, HTSUS and classification under this heading is, therefore, precluded.

Similar to the Epoch light, the device at issue consists of two LEDs and a motion detector. As such, it is beyond the scope of heading 8541, HTSUS.

Heading 9405, HTSUS, provides in relevant part for “Lamps and light fittings ... not elsewhere specified or included.” Relying on the common meaning of the term, CBP has previously determined that lamps are devices which provide an isolated source of heat or light. See HQ H042586, dated January 26, 2009 (fiber optic lamp), HQ 966952, dated August 18, 2004 (litecube), and HQ 965248, dated July 26, 2002 (bubble lights) (citing *The Random House College Dictionary* (1973) at 752 and *Webster’s New Collegiate Dictionary* (1979) at 639). The handlebar LED light set is a stand-alone illumination device. Therefore, as the merchandise is not specified elsewhere in the Nomenclature, it is classified pursuant to GRI 1 under heading 9405, HTSUS.

Inasmuch as the device is not classified under heading 8541, HTSUS, Note 8 to Chapter 85, which gives priority to merchandise classifiable under heading 8541, HTSUS, does not apply.

#### **HOLDING:**

By application of GRI 1, the handlebar LED light set is classified under heading 9405, HTSUS, specifically in subheading 9405.40.80, which provides in relevant part for “Lamps ... not elsewhere specified or included: Other electric lamps and light fittings: Other.” The 2009, column one, general rate of duty is 3.9 % *ad valorem*.

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

#### **EFFECT ON OTHER RULINGS:**

NY K82130, dated January 15, 2004, is hereby modified as it pertains to the classification of the handlebar LED light set. The classification of the other products described in that ruling remains unchanged.

*Sincerely,*

GAIL A. HAMILL

*for*

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*

**AGENCY INFORMATION COLLECTION ACTIVITIES:****Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers (CDSOA)**

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

**ACTION:** 60-Day Notice and request for comments; Revision of an existing collection of information: 1651-0086.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, U.S. Customs and Border (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Procedures. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments should be received on or before June 1, 2010, to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs and Border Protection, Attn.: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229-1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to U.S. Customs and Border Protection, Attn.: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229-1177, at 202-325-0265.

**SUPPLEMENTARY INFORMATION:** 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 (Public Law 104-13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:



**Title:** Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers (CDSOA)

**OMB Number:** 1651-0086

**Form Number:** 7401

**Abstract:** This collection of information is required to implement the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA). This Act prescribes the administrative procedures, including the time and manner, under which antidumping and countervailing duties assessed on imported products are distributed to affected domestic producers that petitioned for or supported the issuance of the order under which the duties were assessed. The amount of any distribution afforded to these domestic producers is based upon certain qualifying expenditures that they incur after the issuance of the order or finding. This distribution is known as the continued dumping and subsidy offset. The claims process for the CDSOA program is provided for in 19 CFR 159.61 and 159.63.

CBP Form 7401 captures the information from claimants that CBP needs to determine how the distributions are made. This form is published in the Federal Register in June of each year in order to inform claimants that they can make claims under the CDSOA program and also provide them with a copy of the form. The form can also be submitted electronically through [www.pay.gov](http://www.pay.gov).

In order to expedite the distribution process, CBP proposes to add two data elements to both the paper form and the electronic form, including: "Start Date of Qualifying Expenditures" and "End Date of Qualifying Expenditures".

**Current Actions:** This submission is being submitted to extend the expiration date with a revision to Form 7401 and to the on-line application.

**Type of Review:** Revision and extension of an existing information collection.

**Affected Public:** Businesses

**Estimated Number of Respondents:** 2000

**Estimated Time Per Respondent:** 1 hour

**Estimated Total Annual Burden Hours:** 2000

Dated: March 29, 2010

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

