

U.S. Customs and Border Protection



CLAIMS FOR LIQUIDATED DAMAGES; AMENDED GUIDELINES FOR THE ACCEPTANCE OF UNTIMELY PETITIONS AND MITIGATION OF CLAIMS

CBP DEC. 13-1

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

ACTION: General Notice.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (CBP) is amending its guidelines for cancellation and mitigation of claims for liquidated damages where petitioners are late in filing claims for relief. CBP considers petitions filed outside of the established regulatory time frames or after the expiration of any lawfully obtained extensions (see 19 CFR Part 172) to be “untimely” or “late.” This document also provides for a new calculation of mitigated amounts to be afforded in cases where petitions are filed late.

EFFECTIVE DATE: These guidelines are applicable to all liquidated damages claims for which a late petition is filed on or after January 9, 2013.

FOR FURTHER INFORMATION CONTACT: John Connors, Chief, Penalties Branch, Regulations and Rulings, Office of International Trade at (202) 325-0050.

SUPPLEMENTARY INFORMATION:

Background

In 1994, the mitigation guidelines governing the late or untimely (CBP uses the terms interchangeably) filing of petitions in liquidated damages claims were published in Treasury Decision (T.D.) 94-38 (see 28 *Cust. B. & Dec.* 428), and were updated and amended in 2002 by T.D. 02-20 (see 36 *Cust. B. & Dec.* 97). The late petition mitigation guidelines were promulgated to encourage settlement of liquidated damages claims prior to litigation by allowing the filing of petitions after regulatory time frames had expired but before legal collection action had begun. The most favorable mitigation terms would be

offered to those who timely filed a petition for relief. Consideration or acceptance of late-filed petitions was at the discretion of the Fines, Penalties, and Forfeitures (FP&F) Officer at the port where the claim was issued and the petition was filed.

Over time, CBP has seen an increase in untimely filed petitions. Accordingly, CBP has decided to amend its mitigation guidelines to limit the time period and circumstances in which late petitions will be considered or accepted. CBP has also chosen to change the formula through which late petition mitigation is calculated. Through this Notice, CBP is providing notice to the public in accordance with section 623 of the Tariff Act of 1930, as amended (19 U.S.C. § 1623). The mitigation guidelines are applicable only to petitions for relief and do not apply to offers in compromise submitted pursuant to 19 U.S.C. § 1617 and 19 CFR 161.5.

Regulatory Deadlines for Timely Petitions

Under existing regulatory authority, in order to be considered timely, petitions for relief in response to claims for liquidated damages must be filed:

- a. By bond principals within 60 days from the date of mailing of the notice of liquidated damages (see 19 CFR 172.3(b)) or any lawful extension thereof; or
- b. By sureties within 60 days of the demand for payment by CBP (see 19 CFR 172.4) or any lawful extension thereof.

When circumstances so warrant, extensions of the time period to file a petition may be granted by the FP&F Officer (FPFO) if such an extension of time is requested during the 60-day period available for timely filing a petition (see 19 CFR 172.3(c)).

Current Mitigation Guidelines Concerning Untimely Petitions

Under the current mitigation guidelines published by the above-noted Treasury Decisions, untimely petitions are accepted and reviewed at the discretion of the FPFO. No petitions are considered under the current mitigation guidelines on a claim that is filed after:

- a. The commencement of sanctioning action against the bond principal; or
- b. The issuance of a notice to show cause against the surety.

Under the current mitigation guidelines, if a petition is submitted late, the FPFO first considers the petition as though it had been filed on time and then determines the amount of mitigation that would

have been afforded had the petition been filed timely. That determination then becomes the base amount. Once the base amount has been determined, the FPF0 charges an additional amount in excess of the base amount. This additional amount is calculated by determining the number of calendar days that the petition is late and adding an additional 0.1 percent (.001) to the base amount for each day the petitioner is late in filing for relief. As originally published in T.D. 94–38, no additional amount added onto the base amount for a late petition could be less than \$100. In T.D. 02–20, the \$100 minimum was raised to \$400.

New Mitigation Guidelines Concerning Untimely Petitions

CBP is announcing new guidelines with regard to acceptance and consideration of late petitions in an attempt to tighten requirements so as to encourage the timely filing of petitions for relief and to promote timely resolution of liquidated damages claims. These new guidelines, as set forth herein, shall supersede and replace, in pertinent part, the existing guidelines concerning untimely petitions originally published in T.D. 94–38 and most recently amended and published in T.D. 02–20.

Untimely petitions will be accepted or considered only if the petitioner is able to demonstrate the existence of extraordinary circumstances that prevented the petitioner from filing a timely petition or timely seeking a lawful extension of time in which to file a petition. Extraordinary circumstances may include some intervening event beyond the petitioner’s control resulting in a justifiable inability to timely address or respond to the claim. The FPF0 will exercise his or her discretion in determining whether circumstances existed so as to warrant CBP’s consideration or acceptance of a late petition.

Subject to the exception noted below, no untimely petition will be accepted in any circumstance if it is filed:

- a. More than 180 days after the date of mailing of the notice of claim to the bond principal, or in the case of a surety, the date of mailing of the first demand on surety;
- b. After the petitioner has previously submitted a petition in the same case and/or been offered mitigation in the same case, and such mitigation amount was not paid within the prescribed period;
- c. After the claim has been referred to Office of Chief Counsel for collection action;
- d. After the commencement of sanctioning action against the bond principal; or
- e. After the issuance of a notice to show cause against a surety.

Exception: Irrespective of extraordinary circumstances, untimely petitions for relief of liquidated damages claims issued for: (1) the late filing of an entry summary; (2) the late payment of estimated duties (including late payment of duties under the periodic monthly statement test); (3) the late payment of passenger processing fees; or (4) late filing or late payment of reconciliation entries may be accepted without regard to the limitations expressed in paragraphs a and b above at any time prior to the circumstances described in paragraphs c through e above.

An untimely petition is not a supplemental petition described in 19 CFR 172.41. A supplemental petition, as described in 19 CFR 172.41, must be timely filed following a decision on an original petition filed in accordance with the established regulatory time frames. The rejection of an untimely petition does not constitute a “decision” for purposes of 19 CFR 172.41.

Petitions that are filed untimely and are not accepted for consideration will be rejected. A party responsible for a liquidated damages claim may submit an offer in compromise to CBP pursuant to 19 U.S.C. § 1617 and 19 CFR 161.5.

New Calculation of Mitigated Amounts Pursuant to Late Petitions

In calculating the mitigated amount on a late petition, CBP will first determine the base amount (i.e., the amount of mitigation that would have been afforded on a timely petition or the previously available option one amount). CBP will then determine the “additional mitigation amount” by multiplying the full assessed amount of the claim by 0.1 percent (.001) and then multiply by the number of days the petition is late (i.e., .001 times the number of days late times the full assessed claim amount.) The product will be the additional amount which will be added to the base amount to produce the mitigated amount applied to the untimely filed petition. In no case will the additional mitigated amount to be added to the base amount be less than \$400. [Mitigated Amount = base amount + (full assessed amount of claim times .001 times number of days petition is late)]. For example, a \$100,000 liquidated damages claim for which a petition is filed 30 days late will be mitigated to the amount provided by the guidelines plus an additional amount calculated by the new formula (30 days late x .001 = .03 x 100,000 = \$3,000 added charge.)

Exception for certain violations. For untimely petitions submitted in response to a claim for liquidated damages for: (1) the late filing of an entry summary; (2) the late payment of estimated duties (including late payment of duties under the periodic monthly statement

test); (3) late payment of passenger processing fees; or (4) late filing or late payment of reconciliation entries, the additional mitigated amount calculation will not use the actual liquidated damages assessed amount as described above. Rather the calculation will be based upon an “assessed amount” (for mitigation purposes only) of double the duties, taxes and fees or \$1,000, whichever is greater. In all cases, the minimum additional mitigated amount will be no less than \$400.

CBP will determine the “additional mitigation amount” in mitigation of these claims by multiplying two times the duties, taxes and fees (or \$1,000) due in payment by 0.1 percent (.001) and then multiply by the number of days the petition is late (i.e., .001 times the number of days late times the “assessed amount,” as referenced above.) For example, a late summary filing liquidated damages claim for which a petition is filed 30 days late and for which the summary had \$25,000 in estimated duties, taxes and fees will be mitigated to the amount provided by the guidelines plus an additional amount calculated by the new formula (30 days late x .001 = .03 x 50,000 [an amount equal to double the duties, taxes and fees] = \$1,500 added charge.)

Dated: December 7, 2012

DAVID V. AGUILAR
Deputy Commissioner
U.S. Customs and Border Protection

8 CFR Part 100

19 CFR Part 101

[Docket No. USCBP-2011-0017: CBP Dec. 12-22]

RIN 1651-AA93

CLOSING OF THE PORT OF WHITETAIL, MT

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This document amends the Department of Homeland Security (DHS) regulations pertaining to the field organization of U.S. Customs and Border Protection (CBP) to reflect the closure of the port of entry of Whitetail, Montana. The change is part of CBP's

continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

DATES: *Effective Date:* January 25, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Kaplan, Office of Field Operations, U.S. Customs and Border Protection, (202) 325-4543, or by email at *Roger.Kaplan@dhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On August 24, 2011, CBP published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (76 FR 52890), proposing to close the port of entry of Whitetail, Montana, and amend the lists of CBP ports of entry to reflect the change. The primary reason for the proposed closure was the Canada Border Services Agency's (CBSA) closure of its adjacent port of entry of Big Beaver, Saskatchewan, Canada, on April 1, 2011. As set forth in the NPRM, other factors were the limited usage of the port; the locations of the alternative ports of entry of Raymond, Montana, and Scobey, Montana; and the analysis of the net benefit of the port closure, including the cost of necessary renovations were the port to remain open.

II. Analysis of Comments

A. Comments Received

CBP received four public comments in response to the NPRM. One commenter supports the closure of Whitetail and three commenters are opposed.

The commenter who supports the proposed closure of the port of Whitetail believes that the costs of operating the port and maintaining the surrounding area are too high considering the low usage. This commenter points out that, using the figures provided in the NPRM for 2007 to 2009, with the annual crossing average of 1,261 cars and 57 trucks and the port's total annual operating cost of \$492,000, it currently costs the taxpayers of the United States in excess of \$373 for each vehicle to cross at Whitetail. This commenter thinks that these costs are not warranted considering the limited increase in time and mileage that crossers would incur if the port of Whitetail were closed. Additionally, this commenter claims the closure of the port would have no effect on cross border commerce because there are currently no commercial carriers processed at the port. This commenter also asserts that basing any increase in travel time resulting from the proposed closure on the distance from the port of Whitetail

to the alternate ports of Raymond and Scobey was not realistic, as the actual increase in mileage would be much less considering the more likely points of origin and destination.

The other three commenters opposed the proposed closure, citing the disruptions the closure would cause them. Two commenters said that the increased travel time would cause them to discontinue their frequent trips from Canada to the United States to buy goods and visit shops and restaurants. Another commenter stated that the closure would increase the cost to the commenter to move hay bales between the commenter's farms in Canada and Montana. This commenter also surmised that the closure could be detrimental to other Canadian and Montanan agricultural producers.

B. CBP Response

With regard to the comment about increased travel time, CBP acknowledged in the NPRM that using the distance between the ports may overstate the cost of the closure to travelers. However, CBP does not collect data on these travelers' points of origin and destination. Thus, CBP based the analysis on the assumption that the closure would create a detour adding 1 hour and 40 miles to each crosser's trip. The actual additional time and mileage U.S. travelers may incur to drive to an alternate port may be less.

With regard to the comments about usage and cost, as discussed in the NPRM, the port of Whitetail is one of CBP's least trafficked ports and has processed an average of less than 4 vehicles per day for the last 4 years. From 2007 to 2009, Whitetail averaged only 1,318 cars and trucks a year. More recently, in fiscal year 2011, southbound traffic dropped to less than 960 vehicles, with almost all of the decrease in southbound traffic occurring after CBSA closed the port of Big Beaver to northbound traffic in April 2011. The commercial traffic is even lower. In fiscal year 2011 CBP processed only 24 commercial vehicles at the port of Whitetail. This was a significant decrease from the already low annual average of about 60 commercial vehicles between 2007 and 2009. Notwithstanding this very low usage, as explained in the NPRM, CBP would incur substantial costs in order to keep the port open. In addition to the nearly \$500,000 annual operational budget, CBP would need to construct a replacement facility, an estimated \$8 million cost, because the current facility does not have the infrastructure to meet modern operational, safety, and technological demands for ports of entry. Although CBP regrets the disruptions to personal and business routines that some individuals will experience due to the closure of Whitetail, CBP cannot justify the above-referenced costs for so few vehicles.

III. Conclusion

After consideration of the comments received, the low usage of the port, the locations of the alternative ports of entry, and the analysis of the net benefit of the port closure, including the cost of necessary renovations were the port to remain open, CBP is closing the port of entry of Whitetail, Montana. The lists of CBP ports of entry at 8 CFR 100.4(a) and 19 CFR 101.3(b)(1) are being amended to reflect the change.

CBP is working with the Montana Department of Transportation and CBSA to identify the permanent barrier and signage necessary to prevent entry and reroute traffic to nearby ports of entry. CBP expects that any impact on the environment and any costs incurred for this purpose will be minimal. If necessary, CBP will conduct appropriate environmental studies in the course of decommissioning and prior to facility demolition.

IV. Congressional Notification

On September 28, 2010, the Commissioner of CBP notified Congress of CBP's intention to close the port of entry at Whitetail, Montana, fulfilling the congressional notification requirements of 19 U.S.C. 2075(g)(2) and section 417 of the Homeland Security Act (6 U.S.C. 217).

V. Regulatory Requirements

A. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a). Accordingly, this final rule is signed by the Secretary of Homeland Security.

B. Executive Orders 12866 and 13563

This rule is not a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563, and has not been reviewed by the Office of Management and Budget under that order. Nevertheless, CBP provided its assessment of the benefits and costs of this regulatory action in the NPRM and CBP adopts the NPRM's economic analysis for this final rule without any change.

In summary, if the port of entry of Whitetail, Montana remained open, it would need significant renovation to meet current safety and security standards, which CBP estimates would cost approximately \$8 million. Whitetail also costs CBP approximately \$500,000 in yearly operating expenses to pay for staff and utilities. If Whitetail closed, travelers would need to find an alternative crossing. As alter-

native crossings would require travelers to travel additional miles, CBP estimates travelers would incur an additional \$104,000 annually in additional driving time and mileage costs if the Whitetail crossing was not available. In addition, if Whitetail was closed, CBP would incur a onetime cost of \$158,000 in closure expenses. Thus, the net benefit of the Whitetail closure is about \$8.2 million the first year and \$396,000 each year after that.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires federal agencies to examine the impact a rule would have on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

Because CBP does not collect data on the number of small businesses that use the port of Whitetail, we cannot estimate how many would be affected by this rule. However, an average of less than four vehicles crossed into the United States at Whitetail each day even before closure of the Canadian port of Big Beaver further reduced traffic. Commercial traffic is even lower—an average of fewer than 60 commercial vehicles crossed at Whitetail each year from 2007 to 2009, with only 24 commercial vehicles crossing in fiscal year 2011. The assessment of the benefits and costs of this regulatory action included in the NPRM concluded that the total cost of the rule to the public is about \$104,000 a year, even assuming the longest possible detour for all traffic. DHS does not believe that this cost rises to the level of a significant economic impact. DHS thus believes that this rule will not have a significant economic impact on a substantial number of small entities. DHS did not receive any comments contradicting this finding. Accordingly, DHS certifies that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

E. Executive Order 13132

The rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

List of Subjects

8 CFR Part 100

Organization and functions (Government agencies).

19 CFR Part 101

Customs duties and inspection, Customs ports of entry, Exports, Imports, Organization and functions (Government agencies).

Amendments to DHS Regulations

For the reasons set forth above, DHS amends part 100 of title 8 of the Code of Federal Regulations and part 101 of title 19 of the Code of Federal Regulations as set forth below.

8 CFR CHAPTER 1—AMENDMENTS

PART 100—STATEMENT OF ORGANIZATION

- 1. The authority citation for part 100 continues to read as follows:
Authority: 8 U.S.C. 1103; 8 CFR part 2.

§ 100.4 [Amended]

- 2. The list of ports in § 100.4(a) is amended by removing “Whitetail, MT” from the list of Class A ports of entry under District No. 30—Helena, Montana.

19 CFR CHAPTER 1—AMENDMENTS

PART 101—GENERAL PROVISIONS

- 3. The general authority citation for part 101 and the specific authority citation for section 101.3 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a. Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

§ 101.3 [Amended]

■ 4. The list of ports in § 101.3(b)(1) is amended by removing, under the state of Montana, the entry “Whitetail” from the “Ports of entry” column and removing the corresponding entry “E.O. 7632, June 15, 1937 (2 FR 1245).” from the “Limits of port” column.

Dated: December 20, 2012.

JANET NAPOLITANO,
Secretary of Homeland Security.

[Published in the Federal Register, December 26, 2012 (77 FR 75823)]



**REOPENING OF APPLICATION PERIOD FOR
PARTICIPATION IN THE AIR CARGO ADVANCE
SCREENING (ACAS) PILOT PROGRAM**

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: General notice.

SUMMARY: On October 24, 2012, U.S. Customs and Border Protection (CBP) published a notice in the **Federal Register** that announced the formalization and expansion of the Air Cargo Advance Screening (ACAS) pilot program and a 30 day application period (until November 23, 2012) for new participants. This document announces that CBP is reopening the application period for 15 days. The ACAS pilot is a voluntary test in which participants submit a subset of the required advance air cargo data to CBP at the earliest point practicable prior to loading of the cargo onto the aircraft destined to or transiting through the United States.

DATES: CBP is reopening the application period to accept applications from new ACAS pilot participants until January 8, 2013. Comments concerning any aspect of the announced test may be submitted at any time during the test period.

ADDRESSES: Applications to participate in the ACAS pilot must be submitted via email to *CBPCCS@cbp.dhs.gov*. Written comments concerning program, policy, and technical issues may be submitted via email to *CBPCCS@cbp.dhs.gov*.

FOR FURTHER INFORMATION CONTACT: Regina Park, Cargo and Conveyance Security, Office of Field Operations, U.S. Customs & Border Protection, via email at *regina.park@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

On October 24, 2012, CBP published a general notice in the **Federal Register** (77 FR 65006, corrected in 77 FR 65395¹) announcing that CBP is formalizing and expanding the ACAS pilot to include other eligible participants in the air cargo environment. The ACAS pilot revises the time frame for transmission by pilot participants of a subset of mandatory advance electronic information for air cargo. CBP regulations implementing the Trade Act of 2002 require advance information for air cargo to be submitted no later than the time of departure of the aircraft for the United States (from specified locations) or four hours prior to arrival in the United States for all other locations. See 19 CFR 122.48a.

The ACAS pilot is a voluntary test in which participants agree to submit a subset of the required 19 CFR 122.48a data elements (ACAS data) at the earliest point practicable prior to loading of the cargo onto the aircraft destined to or transiting through the United States. The ACAS data is used to target high-risk air cargo. The results of the ACAS pilot will help determine the relevant data elements, the time frame within which data should be submitted to permit CBP to effectively target, identify and mitigate any risk with the least impact practicable on trade operations, and any other related procedures and policies.

Reopening of Application Period

In the notice announcing the ACAS pilot, CBP stated that applications from new ACAS pilot participants would be accepted until November 23, 2012. However, CBP received a number of requests for extensions for submitting applications. CBP also experienced technical difficulties with the email box set up for the ACAS pilot, and therefore CBP may not have received all submitted applications. Any applicants who have not received a response from CBP will need to resubmit their applications. Accordingly, CBP is reopening the application period until January 8, 2013.

Anyone interested in participating in the ACAS pilot should refer to the notice published in the **Federal Register** on October 24, 2012, for additional application information and eligibility requirements.

¹ The **Federal Register** corrected the email address under the **ADDRESSES** heading from “*CBPCCS@cbpdhs.gov*” to “*CBPCCS@cbp.dhs.gov*” on October 26, 2012.

Dated: December 19, 2012.

DAVID MURPHY,
*Acting Assistant Commissioner,
Office of Field Operations.*

[Published in the Federal Register, December 26, 2012 (77 FR 76064)]



GENERAL NOTICE

19 CFR PART 177

PROPOSED REVOCATION OF RULING LETTERS AND PROPOSED REVOCATION OF TREATMENT RELATING TO CLASSIFICATION OF MP3 PLAYER DOCKING STATIONS WITH BUILT-IN RADIOS

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

ACTION: Notice of proposed revocation of fourteen ruling letters and treatment relating to the classification of MP3 docking stations with built-in radios.

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 proposes to revoke fourteen rulings concerning the classification of MP3 player docking stations with built-in radios under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP proposes to revoke any treatment previously accorded by CPB to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

DATES: Comments must be received on or before February 8, 2013.

ADDRESSES: Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulation and Rulings, Attention: Trade and Commercial Regulations Branch, 799 9th Street, N.W., 5th Floor Washington, D.C. 20229–1179. Comments submitted may be inspected at 799 9th St. N.W. 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: Tamar Anolic,
Tariff Classification and Marking Branch: (202) 325-0036.

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 (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 proposes to revoke fourteen rulings pertaining to the classification of MP3player docking stations with built-in radios. Although in this notice CBP is specifically referring to New York Ruling Letters (NY) R02550, dated September 15, 2005 (Attachment A); NY R03835, dated May 4, 2006 (Attachment B); NY M84663, dated July 12, 2006 (Attachment C); NY N010738, dated May 18, 2007 (Attachment D); NY N015651, dated August 31, 2007 (Attachment E); NY N024500, dated March 19, 2008 (Attachment F); NY N047842, dated January 9, 2009 (Attachment G); NY N092825, dated February 17, 2010 (Attachment H); NY N092831, dated February 17, 2010 (Attachment I); NY N092834, dated February 17, 2010 (Attachment J); NY N021097, dated January 16, 2008 (Attachment K); NY M86676, dated September 20, 2006 (Attachment L); NY R04615, dated August 17, 2006 (Attachment M); and NY N007861, dated March 20, 2007 (Attachment N), this notice covers any rulings on this merchandise which may exist but have not been specifically identi-

fied. CBP has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. This notice will cover any rulings on this merchandise that may exist but have not been specifically identified. 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 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, 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 his agents for importations of merchandise subsequent to this notice.

In NY R02550, NY R03835, NY M84663, NY N010738, NY N015651, NY N024500, NY N047842, NY N092825, NY N092831, NY N092834, NY N021097, NY M86676, NY R04615, and NY N007861, CBP ruled that subject MP3 player docking stations with built-in radios were classified in subheading 8527.91.60, HTSUS, which provides for "Reception apparatus for radiotelephony, radiotelegraphy or radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other radiobroadcast receivers, including apparatus capable of receiving also radiotelephony or radiotelegraphy: Combined with sound recording or reproducing apparatus: Other: Other: Other." These rulings are incorrect because the subject docking stations with radios do not contain sound recording or reproducing apparatus. As a result, models of the subject merchandise that are capable of operating without an external source of power, are classified in one of two subheadings based on whether they are valued not over \$40, incorporate a clock or auto-timer, are not in combination with any other articles, and are not designed for motor vehicle installation. If they meet all of the elements, they are classified in subheading 8527.19.10, HTSUS, which provides for "Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Radiobroadcast receivers capable of operating without an external source of power: Other: Valued not over \$40 each, incorporating a clock or clock-timer, not in combination with any other article, and not designed for motor vehicle installation." Models of the subject merchandise that are valued over

\$40 or do not meet any one of the other criteria are classified in subheading 8527.19.50, HTSUS, which provides for “Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Radiobroadcast receivers capable of operating without an external source of power: Other: Other.”

Models of the subject MP3 player docking stations that are incapable of operating without an external source of power are classified in two different subheadings, depending on the value of the merchandise: subheading 8527.92.10, HTSUS, which provides for “Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Not combined with sound recording or reproducing apparatus but combined with a clock: Valued not over \$40 each”; or subheading 8527.90.50, HTSUS, which provides for “Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Not combined with sound recording or reproducing apparatus but combined with a clock: Other.”

Pursuant to 19 U.S.C. 1625(c)(1), CBP proposes to revoke NY R02550, NY R03835, NY M84663, NY N010738, NY N015651, NY N024500, NY N047842, NY N092825, NY N092831, NY N092834, NY N021097, NY M86676, NY R04615, and NY N007861, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in Proposed Headquarters Ruling Letter H216719. (*see* Attachment “O” to this document). Additionally, pursuant to 19 U.S.C. 1625©(2), CBP proposes 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: November 16, 2012

IEVA K. O’ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

HQ H216719

CLA-2 OT:RR:CTF:TCM HQ H216719 TNA

CATEGORY: Classification

TARIFF NO.: 8527.19.10; 8527.19.50; 8527.92.10;
8527.92.50

Ms. AASHA B. DESLOGE
BEST BUY CORPORATE CAMPUS
7601 PENN AVENUE
SOUTH RICHFIELD, MN 55423

RE: Revocation of NY R02550; Classification of docking stations with built-in radios for MP3 players

DEAR Ms. DESLOGE:

This letter is in reference to New York Ruling Letter (“NY”) R02550, issued to Best Buy on September 15, 2005, concerning the tariff classification of a docking station with an AM/FM digital radio designed for an MP3 player.

There, U.S. Customs and Border Protection (“CBP”) classified the merchandise under subheading 8527.31.60, Harmonized Tariff Schedule of the United States (“HTSUS”), as “Reception apparatus for radiotelephony, radiotelegraphy or radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other radiobroadcast receivers, including apparatus capable of receiving also radiotelephony or radiotelegraphy: Combined with sound recording or reproducing apparatus: Other: Other ... Other.”¹

This letter also concerns NY R03835, dated May 4, 2006, NY M84663, dated July 12, 2006, NY N010738, dated May 18, 2007, NY N015651, dated August 31, 2007, NY N024500, dated March 19, 2008, NY N047842, dated January 9, 2009, NY N092825, dated February 17, 2010, NY N092831, dated February 17, 2010, NY N092834, dated February 17, 2010, NY N021097, dated January 16, 2008, NY M86676, dated September 20, 2006, NY R04615, dated August 17, 2006, and NY N007861, dated March 20, 2007. These rulings classified similar merchandise either in subheading 8527.31.60, HTSUS (the predecessor to current subheading 8527.91.60, HTSUS), the current subheading 8527.91.60, HTSUS, or in subheading 8527.13.60, HTSUS, which provides for “Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Radiobroadcast receivers capable of operating without an external source of power: Other apparatus combined with sound recording or reproducing apparatus: Other: Other.”

We have reviewed these rulings and found them to be in error. For the reasons set forth below, we hereby revoke NY R02550, NY R03835, NY M84663, NY N010738, NY N015651, NY N024500, NY N047842, NY N092825, NY N092831, NY N092834, NY N021097, NY M86676, NY R04615, and NY N007861.

FACTS:

The subject merchandise consists of clock radios with either AM/FM capability or simply FM capability. They incorporate a digital clock with an alarm

¹ We note that subheading 8527.31.60, HTSUS, which appeared in the 2005 tariff schedule, is now subheading 8527.91.60 of the 2012 HTSUS. As a result, we will consider subheading 8527.91.60, HTSUS, in this ruling.

and a docking station for an iPod music player or other MP3 player, all in the same housing. Users can play music from the MP3 player, either through MP3 players specifically designed for the docking station, or through a patch cord for MP3 players not designed for the docking station. The radio receiver also acts as a battery charger for the iPod or other MP3 player. Some models of the subject merchandise incorporate speakers; others do not.

In addition, the radios of the docking stations of NY R03835, NY N010738, NY N015651, NY N024500, NY N047842, NY N092825, NY N092831, NY N092834, NY N021097, and NY N007861 are incapable of operating without an external source of power. The docking stations of NY R02550, NY M84663, NY M86676, and NY R04615 are either battery-operated or contain back-up batteries.

Lastly, NY N021097 classified item number A017JA00162, which requires an external source of power and contains a telephone featuring a 16 digit caller ID/number Liquid Crystal Display (LCD) Screen, a 50 incoming call memory, 3 one-touch dialing memory, 10 two-touch dialing memory, a dual-caller ID system, a ringer and volume control, and a mute, flash, and redial function. Thus, in addition to a radio and iPod charging function, this item also allows a user to make and receive telephone calls.

ISSUE:

Whether the subject docking stations with built-in radios for MP3 players contain sound recording or reproducing apparatus?

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 GRI may then be applied. GRI 6 requires that the classification of goods in the subheadings of headings shall be determined according to the terms of those subheadings, any related sub-heading notes and *mutatis mutandis*, to the GRIs 1 through 5.

The HTSUS provisions under consideration are as follows:

- 8527 Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock:
 - Radiobroadcast receivers capable of operating without an external source of power:
 - 8527.13 Other apparatus combined with sound recording or reproducing apparatus:
 - Other:
 - 8527.13.60 Other:
 - * * *
 - 8527.19 Other:

8527.19.10	Valued not over \$40 each, incorporating a clock or clock-timer, not in combination with any other article, and not designed for motor vehicle installation
8527.19.50	Other * * *
	Other:
8527.91	Combined with sound recording or reproducing apparatus: Other:
8527.91.60	Other: * * *
8527.92	Not combined with sound recording or reproducing apparatus but combined with a clock:
8527.92.10	Valued not over \$40 each
8527.92.50	Other

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. While not legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System 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 to heading 85.27 provides, in pertinent part:

The sound radio-broadcasting apparatus falling in this heading must be for the reception of signals by means of electro-magnetic waves transmitted through the ether without any line connection.

This group includes:

- (1) Domestic radio receivers of all kinds (table models, consoles, receivers for mounting in furniture, walls, etc., portable models, receivers, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock)....
- (5) Stereo systems (hi-fi systems) containing a radio receiver, put up in sets for retail sale, consisting of modular units in their own separate housing, e.g., in combination with a CD player, a cassette recorder, an amplifier with equaliser, loudspeakers, etc. The radio receiver gives the system its essential character.

In beginning our analysis, we note that that it is not in dispute that the subject merchandise is described by the terms of heading 8527, HTSUS.²

² Although the classification of the subject merchandise is not in dispute at the heading level, we note that heading 8527, HTSUS, does not fully describe the subject merchandise because it does not describe the docking stations' charging function. Nonetheless, the subject merchandise is classified in heading 8527, HTSUS, at GRI 1 via Note 3 to Section XVI, HTSUS, which provides that composite machines are classified by their principal function. In the present case, the principal function of the subject docking stations is the radio, not the charging function. Consistent with EN 85.27, CBP has long held that the radio receiver in similar merchandise imparts the essential character. *See, e.g., NY L84968*, dated May 23, 2005; *NY N209467*, dated March 20, 2012; among others.

Thus, the issue is at the 6-digit heading level, and focuses on the question of whether the subject docking stations with radios contain sound recording or reproducing devices.

We note that although the term “sound recording or reproducing device” is not defined in EN 85.27, it is defined by EN 85.19. In light of the fact that sound recording or reproducing apparatus of heading 8519, HTSUS, may be incorporated into products of heading 8527, HTSUS, we find EN 85.19 to be instructive in this particular matter. EN 85.19 provides, in pertinent part, that:

Generally, sound is recorded onto or reproduced from an internal storage device or media (e.g., magnetic tape, optical media, semiconductor media or other media of heading 85.23).

Sound recording apparatus modify a recording medium so that **sound reproducing apparatus** can subsequently reproduce the original sound-wave (speech, music, etc.). This includes recording based on the receipt of a sound-wave or by other methods, e.g., by recording data sound files, downloaded from an Internet page or a compact disc by an automatic data processing machine, onto the internal memory (e.g., flash memory) of a digital audio device (e.g., MP3 player). Devices which record sound as digital code generally are not capable of reproducing sound unless they incorporate a means for converting the recording from digital code to an analogue signal.

We note that this definition is in accordance with definitions of dictionaries and other lexicographic sources. For example, the Oxford English Dictionary defines “record” as “of a machine, instrument or device: to set down (a message, reading, etc.) in some permanent form.” See www.oed.com. The Oxford English Dictionary defines “reproduce” as “To relay (sound originating elsewhere) or replay (sound recorded on another occasion) by electrical or mechanical means.... To produce again in the form of a copy.” See www.oed.com. In addition, the McGraw-Hill Encyclopedia of Science and Technology defines “sound recording” as “the technique of entering sound, especially music, on a storage medium for playback at a subsequent time.” McGraw-Hill Concise Encyclopedia of Science and Technology, 6th Ed., 2009 at 2197. This encyclopedia defines “sound-reproducing systems,” in pertinent part, as:

Systems that attempt to reconstruct some or all of the audible dimensions of an acoustic event that occurred elsewhere. A sound-reproducing system includes the functions of capturing sounds with microphones, manipulating those sounds using elaborate electronic mixing consoles and signal processors, and then storing the sounds for reproduction at later times and different places.

Id. at 2197.

In the present case, each model of the subject merchandise consists of a radio and docking station in the same housing. The docking stations allow the user to play music from an iPod or other MP3 player. The music, which is stored on the MP3 player, is transmitted to the speakers for broadcasting. In the models of the subject merchandise which do not contain speakers, the docking station can be plugged into a set of speakers, thereby also acting as a conduit between the music player and the speakers. In neither instance does the docking station actually record or reproduce the music passing

through it because it does not retain a copy of this music anywhere on the docking station. For instance, the docking station would not be able to play the music again at a later time if the MP3 player were removed. To the contrary, it is the iPod or other MP3 player that acts as a sound recording or reproducing device, because they retain copies of the music for subsequent playback. As a result, the docking stations with built-in radios cannot be said to be sound recording or reproducing apparatus. As such, they cannot be classified in subheading 8527.91, HTSUS.

Certain models of the subject merchandise are either battery-operated or contain a back-up battery. As such, they are capable of operating without an external power source. Thus, these models are described by the terms of subheading 8527.19, HTSUS, which provides for "Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Radiobroadcast receivers capable of operating without an external source of power: Other." At the 8-digit level, this subheading contains breakouts for merchandise based on its value on entry. As a result, if the subject merchandise is valued at less than \$40, incorporates a clock or clock timer, is not in combination with any other article, and is not designed for motor vehicle installation, it is classified in subheading 8527.19.10, HTSUS; otherwise, it is classified in subheading 8527.19.50, HTSUS.

Other models of the subject merchandise are incapable of operating without an external power source. As such, they are precluded from classification in subheading 8527.19, HTSUS. Subheading 8527.92, HTSUS, provides for "Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Not combined with sound recording or reproducing apparatus but combined with a clock." The subject merchandise is described by the terms of this subheading. At the 8-digit level, this subheading contains breakouts for merchandise based on its value on entry. As a result, if the subject merchandise is valued at less than \$40, it is classified in subheading 8527.92.10, HTSUS; if it is valued at over \$40, it is classified in subheading 8527.90.50, HTSUS.

Lastly, NY N021097 classified item number A017JA00162, a docking station that is distinguishable from the rest of the models at issue because it contains a telephone and multiple functions unique to the telephone. In that sense, it is similar to the merchandise at issue in HQ 086939, dated August 9, 1990, where CBP classified a combination telephone/clock/radio. There, CBP considered this device to be a composite machine of Note 3 to Section XVI, HTSUS. Unable to determine the principal function, CBP used GRI 3(c) to classify the combination telephone, clock, and radio in heading 8527, HTSUS. Similarly, in the present case, a consumer is likely to purchase this type of docking station as much for the telephone as for its charging function and speakers. Otherwise, a consumer could easily buy any one of the myriad docking stations without a telephone. As a result, we use GRI 3(c) to classify item number A017JA00162 in subheading 8527.92, HTSUS. If it is valued at less than \$40, it is classified in subheading 8527.92.10, HTSUS; if it is valued at over \$40, it is classified in subheading 8527.90.50, HTSUS.

HOLDING:

Under the authority of GRI 1 via Note 3 to Section XVI, HTSUS, and GRI 6, the subject iPod docking stations are classified in heading 8527. Models of

the subject merchandise that are capable of operating without an external source of power (i.e., the merchandise of NY R02550, NY M84663, NY M86676, and NY R04615), are classified in one of two subheadings based on whether they are valued not over \$40, incorporate a clock or auto-timer, are not in combination with any other articles, and are not designed for motor vehicle installation. If they meet all of the elements, they are classified in subheading 8527.19.10, HTSUS, which provides for “Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Radiobroadcast receivers capable of operating without an external source of power: Other: Valued not over \$40 each, incorporating a clock or clock-timer, not in combination with any other article, and not designed for motor vehicle installation.” The 2012 column one general rate of duty is free.

Models of the subject merchandise that are valued over \$40 or do not meet any one of the other criteria are classified in subheading 8527.19.50, HTSUS, which provides for “Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Radiobroadcast receivers capable of operating without an external source of power: Other: Other.” The 2012 column one general rate of duty is 3% *ad valorem*.

Models of the subject merchandise that are incapable of operating without an external source of power and include a clock (i.e., the merchandise of NY R03835, NY N010738, NY N015651, NY N024500, NY N047842, NY N092825, NY N092831, NY N092834, and NY N007861) are classified in subheading 8527.92, HTSUS. At the eight-digit level, they are classified in two different subheadings, depending on the value of the merchandise at the time of entry. If they are valued at less than \$40, they are classified in subheading 8527.92.10, HTSUS, which provides for “Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Not combined with sound recording or reproducing apparatus but combined with a clock: Valued not over \$40 each.” The 2012 column one general rate of duty is free. If they are valued at over \$40, they are classified in subheading 8527.92.50, HTSUS, which provides for “Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Not combined with sound recording or reproducing apparatus but combined with a clock: Other.” The 2012 column one general rate of duty is 3% *ad valorem*.

At GRI 3(c), item number A017JA00162 (the subject of NY N021097) is classified in subheading 8527.92, HTSUS. If it is valued at less than \$40, it is classified in subheading 8527.92.10, HTSUS. The 2012 column one general rate of duty is free. If it is valued at over \$40, it is classified in subheading 8527.90.50, HTSUS. The 2012 column one general rate of duty is 3% *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 R02550, dated September 15, 2005, NY R03835, dated May 4, 2006, NY M84663, dated July 12, 2006, NY N010738, dated May 18, 2007, NY

N015651, dated August 31, 2007, NY N024500, dated March 19, 2008, NY N047842, dated January 9, 2009, NY N092825, dated February 17, 2010, NY N092831, dated February 17, 2010, NY N092834, dated February 17, 2010, NY N021097, dated January 16, 2008, NY M86676, dated September 20, 2006, NY R04615, dated August 17, 2006, and NY N007861, dated March 20, 2007 are REVOKED.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

NY R02550

September 15, 2005

CLA-2-85: RR: NC: 1:108 R02550

CATEGORY: Classification

TARIFF NO.: 8527.31.6080

MS. AASHA B. DESLOGE
BEST BUY CORPORATE CAMPUS
7601 PENN AVENUE SOUTH
RICHFIELD, MN 55423

RE: The tariff classification of AM/FM radio from China.

DEAR MS. DESLOGE:

In your letter dated September 9, 2005 you requested a tariff classification ruling.

The item in question is an AM/FM digital clock radio denoted as the iH5 model. This radio incorporates a digital clock with an alarm and a docking station for an iPod MP3 player. The user can play recorded music through the radio from various iPod MP3 players either designed specifically for the docking station or with a patch cord for other branded MP3 players. The fully functional AM/FM radio receiver also acts as a battery charger for the iPod unit. The AM/FM radio operates with an external source of power with only a battery back-up feature.

The applicable subheading for the iH5 AM/FM digital clock radio will be 8527.31.6080, Harmonized Tariff Schedule of the United States (HTS), which provides for Reception apparatus for radiotelephony, radiotelegraphy or radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other radiobroadcast receivers, including apparatus capable of receiving also radiotelephony or radiotelegraphy: Combined with sound recording or reproducing apparatus: Other: Other ... Other. The rate of duty will be free.

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

A copy of the ruling 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 Michael Contino at 646-733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT B]

NY R03835

May 4, 2006

CLA-2-85: RR: NC: 1:108 R03835

CATEGORY: Classification

TARIFF NO.: 8527.31.6080

MR. PETER WEINRAUCH
IMPORT COMMODITY GROUP, LTD.
131 EAST MERRICK ROAD
VALLEY STREAM, NY 11580

RE: The tariff classification of AM/FM radio/docking station from China.

DEAR MR. WEINRAUCH:

In your letter dated April 28, 2006 you requested a tariff classification ruling.

The item in question is an AM/FM clock radio combined with a docking station designed exclusively for an I-Pod. The user can listen to radiobroadcasts of both AM and FM channels and can play recorded music files from an I-pod that is inserted into the docking station. All music is heard through the internal speakers. The device also incorporates a digital alarm clock. The radio can only operate with an external source of power but has a battery back up for the alarm clock.

The applicable subheading for the AM/FM clock radio/docking station will be 8527.31.6080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Reception apparatus for radiotelephony, radiotelegraphy or radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other radiobroadcast receivers, including apparatus capable of receiving also radiotelephony or radiotelegraphy; Combined with sound recording or reproducing apparatus: Other: Other ... Other. The rate of duty will be free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Michael Contino at 646-733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT C]

NY M84663

July 12, 2006

CLA-2-85:RR:NC:1:108 M84663

CATEGORY: Classification

TARIFF NO.: 8527.31.6080

MR. JACK D. MLAWSKI
GALVIN & MLAWSKI
ATTORNEYS AT LAW
470 PARK AVENUE SOUTH
STE. 200 – SOUTH TOWER
NEW YORK, NY 10016

RE: The tariff classification of a digital clock FM radio from China.

DEAR MR. MLAWSKI:

In your letter dated June 30, 2006, on behalf of JVC Americas Corporation, you requested a tariff classification ruling.

The subject merchandise, based on the submitted information, is a FM clock radio, model number RA-P10, in a boom box-type case. This radio incorporates a digital clock with alarm, speakers, AC adapter, and docking station for an iPod MP3 player (not included). It is noted that the user can play recorded music through the radio from an iPod MP3 player, which would be specifically designed for the docking station. The subject merchandise can operate through batteries; it also can function through an external source of power, which can then act as a battery charger for iPods. It is stated that this article also contains an LCD for displaying the channels of the FM radio, time, alarm function, and temperature. It is also stated that this article has buttons for presetting channels and controlling volume of the FM radio, as well as control buttons for such functions in regard to the music selection of the iPod. It is noted that a remote control may be imported for operating the above functions.

The applicable subheading for this digital clock FM radio will be 8527.31.6080 Harmonized Tariff Schedule of the United States (HTSUS), which provides for Reception apparatus for radiotelephony, radiotelegraphy or radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other radiobroadcast receivers, including apparatus capable of receiving also radiotelephony or radiotelegraphy: Combined with sound recording or reproducing apparatus: Other: Other ... Other. The rate of duty will be free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Michael Contino at 646-733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT D]

N010738

May 18, 2007

CLA-2-85:RR:E:NC:1:108

CATEGORY: Classification

TARIFF NO.: 8527.91.60

Ms. JOANNE BOEDICKER
C.H. POWELL COMPANY
4477 WOODSON ROAD
SUITE 123
St. LOUIS, MO 63134

RE: The tariff classification of a digital AM/FM stereo radio iPod docking station with remote control and several AM/FM radio home music systems from China.

DEAR Ms. BOEDICKER:

In your letter dated May 3, 2007, on behalf of DPI Inc., you requested a tariff classification ruling.

The items in question are referred to as iLIVE models iHT3817DT, iHMD8817DT, iHD818-TBD, and iHMD8818RF. All these items are not capable of operating without an external source of power. Model iHT3817DT is a digital tune AM/FM radio incorporating an iPod docking system. This device functions as a complete radiobroadcast receiver by playing broadcast channels. It also enables the user to insert an iPod and play downloaded music from the iPod through the radio speakers. This apparatus is retailed-packed, at the time of importation, with a remote control; this combination would be considered a set for tariff classification purposes, noting that the AM/FM radio receiver with an iPod docking station imparts the essential character.

Models iHMD8817DT, iHD818-TBD, and iHMD8818RF are home music systems with AM/FM radios, iPod docking stations, and DVD/CD players. Models iHD818-TBD and iHMD8818RF also contain clocks. These all-in-one systems play music from AM/FM radios, iPods, or CDs and play videos from iPods or DVDs. In their condition as imported, these receivers will be packaged for retail sale with remote controls and speakers. All of the aforementioned articles are prima facie classifiable in different headings. It is the opinion of this office, that each system would be considered a set for tariff classification purposes, in noting that the AM/FM radio receiver with built-in iPod docking station and CD/DVD player imparts the essential character. Together, each enables the user to access audio/video entertainment with neither the function of audio entertainment nor the function of visual entertainment performing the principal function. Therefore, in accordance with General Rule of Interpretation 3(c), classification will be in the heading (in this instance, 8527, HTS) which occurs last in numerical order among those which equally merit consideration.

The applicable subheading for the digital AM/FM stereo radio iPod docking station with remote control and the AM/FM radio home music systems will be 8527.91.60, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing

apparatus or a clock: Other: Combined with sound recording or reproducing apparatus: Other: Other. The rate of duty will be Free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Lisa Cariello at (646)733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT E]

N015651

August 31, 2007

CLA-2-85:RR:E:NC:1:108

CATEGORY: Classification

TARIFF NO.: 8527.91.6080

MR. DENNIS HECK
YAMAHA CORPORATION OF AMERICA
6600 ORANGETHORPE AVE.
BUENA PARK, CA 90277

RE: The tariff classification of a radio broadcasting receiver from Malaysia.

DEAR MR. HECK:

In your letter dated August 13, 2007, you requested a tariff classification ruling.

The merchandise subject to this ruling is a radio broadcasting receiver, which is referred to as the "YSP-4000 Yamaha Sound Projector." This apparatus is a home entertainment system that consists of forty 1-9/16 inch speakers and two 4-3/4 inch woofers, a 42 channel digital amplifier, a built-in FM tuner, a high-definition multimedia interface (HDMI), various inputs and outputs, and an iPod docking station. All components are housed in the same enclosure, which should be mounted below a wall-mounted flat panel television monitor. In addition, this receiver is XM satellite radio ready. Furthermore, this system is not capable of operating without an external source of power.

In its condition as imported, the radio broadcasting receiver will be packaged for retail sale with a remote control. This combination would be considered a set for tariff classification purposes with the radio broadcasting receiver imparting the essential character.

The applicable subheading for this radio broadcasting receiver will be 8527.91.6080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Combined with sound recording or reproducing apparatus: Other: Other: Other. The rate of duty will be Free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Lisa Cariello at 646-733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT F]

N024500

March 19, 2008

CLA-2-85:OT:RR:NC:N1:108

CATEGORY: Classification

TARIFF NO.: 8527.91.6080

MR. LEE SILBERZAHN
SONY ELECTRONICS INC.
1 SONY DRIVE
PARK RIDGE, NJ 07656-8003

RE: The tariff classification of an AM/FM clock radio with a built-in iPod docking station from China.

DEAR MR. SILBERZAHN:

In your letter dated March 7, 2008, you requested a tariff classification ruling.

The merchandise in question is an AM/FM clock radio with a built-in iPod docking station, which is referred to as model "ICF-C1IP." The ICF-C1IP is a clock radio that contains a digital AM/FM tuner with 10 FM station preset and 5 AM station preset capabilities, built-in stereo speakers, a built-in iPod docking station, an auxiliary audio input, and various clock and alarm functions. It weighs approximately 4 pounds and has dimensions of 11 13/16th inches wide X 5 1/6th inches in height and 5 1/2 inches in depth. When an iPod is connected, a user can control and select music stored on the iPod by using the jog dial on the clock radio's control panel. The supplied remote control can be used in place of the jog dial. The radio is not capable of operating without an external source of power; however, there is an optional battery backup power system for the clock mechanism.

In its condition as imported, model ICF-C1IP is packaged for retail sale with a remote control, a battery, an antenna, a manual, and a warranty card. This combination would be considered a set for tariff classification purposes with the clock radio, containing a built-in iPod docking station, imparting the essential character.

The applicable subheading for model ICF-C1IP will be 8527.91.6080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Combined with sound recording or reproducing apparatus: Other: Other. The rate of duty will be Free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Lisa Cariello at 646-733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT G]

N047842

January 9, 2009

CLA-2-85:OT:RR:E:NC:1:108

CATEGORY: Classification

TARIFF NO.: 8527.91.6080

MS. ELISABETH FORREST
PLANTRONICS
345 ENCINAL STREET
SANTA CRUZ, CA 95060

RE: The tariff classification of a wireless home audio system from China.

DEAR MS. FORREST:

In your letter dated December 23, 2008, you requested a tariff classification ruling.

The merchandise under consideration is the Altec Lansing M812 Wireless Home Audio System. This system consists of an FM transmitter/receiver base for an iPod with a built-in FM tuner, an FM antenna, a wireless speaker, a plastic iPod adapter, a remote control, a power supply for the transmitter/receiver base, an AC power cord, an audio cable, and a user's guide. The FM transmitter/receiver base functions as a complete radiobroadcast receiver by playing FM broadcast channels through the wireless speaker. This FM transmitter/receiver base also features a universal dock for an iPod and plays downloaded music from the iPod through the wireless speaker. Furthermore, this FM transmitter/receiver base contains an auxiliary input port to connect to an MP3 player, a laptop, a CD player, a DVD player, and other audio devices. The IR remote can control the iPod, the FM radiobroadcast receiver, and the speaker functions, and also includes learning capabilities for controlling auxiliary devices. It is the opinion of this office that the essential character of this set is imparted by the transmitter/receiver base.

The applicable subheading for the Altec Lansing M812 Wireless Home Audio System will be 8527.91.6080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Combined with sound recording or reproducing apparatus: Other: Other: Other. The rate of duty will be Free.

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

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

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

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT H]

N092825

February 17, 2010

CLA-2-85:OT:RR:NC:N1:108

CATEGORY: Classification

TARIFF NO.: 8527.91.60

Ms. JEAN LEE
JWIN ELECTRONICS
2 HARBOR PARK DRIVE
PORT WASHINGTON, NY 11050

RE: The tariff classification of an alarm clock radio receiver with a built-in iPod docking station and a separate bed shaker, as well as other related accessories, from China.

DEAR Ms. LEE:

In your letter dated January 28, 2010, you requested a tariff classification ruling.

The subject merchandise, based on the information obtained, consists of the iLuv™ iMM153 FM alarm clock radio receiver with a display panel and a built-in iPod docking station. Based on the internal circuitry, this docking station can not only charge an iPod but can also enable this apparatus to play music via the radio receiver's built-in speaker technology; this device is also designed for an auxiliary line input for any audio device with a 3.5 mm jack. It is also packaged for connection with a separate round-shaped bed shaker, which is designed to be placed on the bed to awaken a deep sleeper. This device, which cannot operate without an external source of power, is stated to be valued under \$40 each.

It is noted that this alarm clock radio receiver, having a built-in iPod docking station, with a separate bed shaker will be imported in a retail-packed condition with related accessories. This merchandise is considered to be a set for tariff classification purposes, with the essential character being imparted by the radio receiver with the built-in iPod docking station.

It is stated that this merchandise should be classified in subheading 8527.92.1000, Harmonized Tariff Schedule of the United States, HTSUS, which provides for Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Not combined with sound recording or reproducing apparatus but combined with a clock: Valued not over \$40 each. However, since this merchandise is combined with a sound-reproducing apparatus, it is found to be classified in a more specific subheading.

The applicable subheading for this merchandise will be 8527.91.60, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Combined with sound recording or reproducing apparatus: Other: Other. The rate of duty will be Free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Lisa Cariello at (646) 733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT I]

N092831

February 17, 2010

CLA-2-85:OT:RR:NC:N1:108

CATEGORY: Classification

TARIFF NO.: 8527.91.60

Ms. JEAN LEE

JWIN ELECTRONICS

2 HARBOR PARK DRIVE

PORT WASHINGTON, NY 11050

RE: The tariff classification of an alarm clock radio receiver with built-in dual-docking stations from China.

DEAR Ms. LEE:

In your letter dated January 28, 2010, you requested a tariff classification ruling.

The subject merchandise, based on the information obtained, consists of the iLuv™ iMM173 FM alarm clock radio receiver, with a display panel, that incorporates dual-docking stations for an iPod and iPhone (not included). Based on the internal circuitry, these built-in docking stations can not only charge an iPod and iPhone but can also enable either of these apparatuses to play music via the radio receiver's built-in speaker technology. This device is also designed for an auxiliary line input for any audio device with a 3.5 mm jack. This device, which cannot operate without an external source of power, is stated to be valued under \$40 each.

It is stated that this merchandise should be classified in subheading 8527.92.1000, Harmonized Tariff Schedule of the United States, HTSUS, which provides for Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Not combined with sound recording or reproducing apparatus but combined with a clock: Valued not over \$40 each. However, since this merchandise is combined with a sound-reproducing apparatus, it is found to be classified in a more specific subheading.

The applicable subheading for this merchandise will be 8527.91.60, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Combined with sound recording or reproducing apparatus: Other: Other. The rate of duty will be Free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Lisa Cariello at (646) 733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

*Director**National Commodity Specialist Division*

[ATTACHMENT J]

N092834

February 17, 2010

CLA-2-85:OT:RR:NC:N1:108

CATEGORY: Classification

TARIFF NO.: 8527.91.60

MS. JEAN LEE
JWIN ELECTRONICS
2 HARBOR PARK DRIVE
PORT WASHINGTON, NY 11050

RE: The tariff classification of an alarm clock radio receiver with built-in dual-docking stations from China.

DEAR MS. LEE:

In your letter dated January 28, 2010, you requested a tariff classification ruling.

The subject merchandise, based on the information obtained, consists of the iLuv™ iMM183 FM alarm clock radio receiver, with a display panel, that incorporates dual-docking stations for an iPod and iPhone (not included). Based on the internal circuitry, these built-in docking stations can not only charge an iPod and iPhone but can also enable either of these apparatuses to play music via the radio receiver's built-in speaker technology. This device, which also functions as a weather band radio with an alert system, is designed for an auxiliary line input for any audio device with a 3.5 mm jack. This device, which cannot operate without an external source of power, is stated to be valued under \$40 each.

It is stated that this merchandise should be classified in subheading 8527.92.1000, Harmonized Tariff Schedule of the United States, HTSUS, which provides for Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Not combined with sound recording or reproducing apparatus but combined with a clock: Valued not over \$40 each. However, since this merchandise is combined with a sound-reproducing apparatus, it is found to be classified in a more specific subheading.

The applicable subheading for this merchandise will be 8527.91.60, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Combined with sound recording or reproducing apparatus: Other: Other. The rate of duty will be Free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Lisa Cariello at (646) 733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT K]

N021097

January 16, 2008

CLA-2-85:OT:RR:E:NC:N1:108

CATEGORY: Classification

TARIFF NO.: 8527.91.6080

MR. TROY D. CRAGO
ATICO INTERNATIONAL USA, INC.
501 SOUTH ANDREWS AVENUE
FORT LAUDERDALE, FL 33301

RE: The tariff classification of an AM/FM alarm clock radio with an iPod connector and a telephone from China.

DEAR MR. CRAGO:

In your letter dated December 17, 2007, you requested a tariff classification ruling.

The merchandise in question is an AM/FM alarm clock radio with iPod connector and a telephone, which is referred to as "item number A017JA00162." The clock radio has the internal circuitry to power and charge an iPod and can hold 32 preset FM stations with digital readout and tuning. The telephone features a 16 digit caller ID/number Liquid Crystal Display (LCD) Screen, a 50 incoming call memory, 3 one-touch dialing memory, 10 two-touch dialing memory, a dual-caller ID system, a ringer and volume control, and a mute, flash, and redial function. This item is designed, as a multi-functional device, to provide radio broadcasts and pre-recorded audio via an iPod, and line telephony. In addition, this merchandise can only operate with an external source of power.

In its condition as imported, item number A017JA00162 is packaged for retail sale with a remote control. This combination would be considered a set for tariff classification purposes with the clock radio and telephone combination imparting the essential character.

The applicable subheading for this merchandise will be 8527.91.6080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Combined with sound recording or reproducing apparatus: Other: Other: Other. The rate of duty will be Free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Lisa Cariello at 646-733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT L]

NY M86676

September 20, 2006

CLA-2-85: RR: NC: 1:108 M86676

CATEGORY: Classification

TARIFF NO.: 8527.13.6080

MS. BARB KIDD
FEDEx TRADE NETWORKS
6730 MIDDLEBELT ROAD
ROMULUS, MI 48174

RE: The tariff classification of AM/FM radio from China.

DEAR MS. KIDD:

In your letter dated September 13, 2006 you requested a tariff classification ruling.

The item in question (sample provided) is a battery operated AM/FM clock radio that incorporates an Ipod docking station. This portable radio can be used in various locations including the bath or shower. It enables the user to access and listen to radiobroadcast programming and also one can attach an Ipod or MP3 player for listening of prerecorded music.

The applicable subheading for the AM/FM clock radio with an Ipod docking station will be 8527.13.6080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Reception apparatus for radiotelephony, radiotelegraphy or radio broadcasting, whether or not combined in the same housing, with sound recording or reproducing apparatus or a clock: Radiobroadcast receivers capable of operating without an external source of power, including apparatus capable of receiving also radiotelephony or radiotelegraphy: Other apparatus combined with sound recording or reproducing apparatus: Other ... Other The rate of duty will be free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Michael Contino at 646-733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT M]

NY R04615

August 17, 2006

CLA-2-85: RR: NC: 1:108 R04615

CATEGORY: Classification

TARIFF NO.: 8527.13.6080

MR. TROY CRAGO
ATICO INTERNATIONAL USA, INC.
501 SOUTH ANDREWS AVENUE
FORT LAUDERDALE, FL 33301

RE: The tariff classification of a clock radio from China.

DEAR MR. CRAGO:

In your letter dated August 14, 2006 you requested a tariff classification ruling.

The item in question is a battery operated FM clock radio combined with an iPod connector. It is denoted as model number A017GA00123. The iPod docking connector enables the user to insert an iPod that will play stored music through the speakers of the clock radio. It also serves as a charging device for the iPod. The radio is a functional radiobroadcast receiver that provides audio radio broadcasts for listening. It should be noted that this clock radio also functions from an external source of power.

The applicable subheading for the clock radio with iPod docking connector will be 8527.13.6080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Reception apparatus for radiotelephony, radiotelegraphy or radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Radiobroadcast receivers capable of operating without an external source of power, including apparatus capable of receiving also radiotelephony or radiotelegraphy: Other apparatus combined with sound recording or reproducing apparatus: Other: Other ... Other. The rate of duty will be free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Michael Contino at 646-733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT N]

N007861

March 20, 2007

CLA-2-85: RR: NC: 1:108

CATEGORY: Classification

TARIFF NO.: 8527.91.6080

MR. JAMES F. O'HARA
STEIN SHOSTAK SHOSTAK POLLACK & O'HARA, LLP
865 SOUTH FIGUEROA STREET
SUITE 1388
LOS ANGELES, CA 90017

RE: The tariff classification of an Audio-Video Receiver set from Malaysia.

DEAR MR. O'HARA:

In your letter dated February 28, 2007, on behalf of Pioneer Electronics USA, Inc. of Long Beach, California, you requested a tariff classification ruling.

The item in question is a Pioneer brand Audio-Video Receiver, which is denoted as model VSX-1017TXV. This receiver functions as an amplifier, a FM/AM tuner, a surround-sound processor, and an audio/video input-output selector. In addition, it is iPod ready since it has an integrated iPod docking station. Recorded music is played through the receiver from the iPod and song title, artist, etc. are shown on the receiver display. Furthermore, the iPod's battery is charged when connected to the receiver. Model VSX-1017TXV is not capable of operating without an external source of power.

In its condition as imported, the receiver will be packaged for retail sale with the following: a remote control, a FM antenna, an AM antenna, an operational manual, and a warranty card. This combination would be considered a set for tariff classification purposes with the audio-video receiver imparting the essential character.

Although you suggested in your letter that this Pioneer receiver should be classified under subheading 8527.31.6080, it should be noted that effective for this merchandise entered on or after February 3rd of 2007, the classification has been changed to 8527.91.6080.

The applicable subheading for the Audio-Video Receiver set, model VSX-1017TXV, will be 8527.91.6080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Combined with sound recording or reproducing apparatus: Other: Other. The rate of duty will be Free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Lisa Cariello at 646-733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT O]

HQ H216719

CLA-2 OT:RR:CTF:TCM HQ H216719 TNA

CATEGORY: Classification

TARIFF NO.: 8527.19.10; 8527.19.50;
8527.92.10; 8527.92.50

MS. AASHA B. DESLOGE
BEST BUY CORPORATE CAMPUS
7601 PENN AVENUE
SOUTH RICHFIELD, MN 55423

RE : Revocation of NY R02550; Classification of docking stations with built-in radios for MP3 players

DEAR MS. DESLOGE:

This letter is in reference to New York Ruling Letter (“NY”) R02550, issued to Best Buy on September 15, 2005, concerning the tariff classification of a docking station with an AM/FM digital radio designed for an MP3 player.

There, U.S. Customs and Border Protection (“CBP”) classified the merchandise under subheading 8527.31.60, Harmonized Tariff Schedule of the United States (“HTSUS”), as “Reception apparatus for radiotelephony, radiotelegraphy or radiobroadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other radiobroadcast receivers, including apparatus capable of receiving also radiotelephony or radiotelegraphy: Combined with sound recording or reproducing apparatus: Other: Other ... Other.”¹

This letter also concerns NY R03835, dated May 4, 2006, NY M84663, dated July 12, 2006, NY N010738, dated May 18, 2007, NY N015651, dated August 31, 2007, NY N024500, dated March 19, 2008, NY N047842, dated January 9, 2009, NY N092825, dated February 17, 2010, NY N092831, dated February 17, 2010, NY N092834, dated February 17, 2010, NY N021097, dated January 16, 2008, NY M86676, dated September 20, 2006, NY R04615, dated August 17, 2006, and NY N007861, dated March 20, 2007. These rulings classified similar merchandise either in subheading 8527.31.60, HTSUS (the predecessor to current subheading 8527.91.60, HTSUS), the current subheading 8527.91.60, HTSUS, or in subheading 8527.13.60, HTSUS, which provides for “Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Radiobroadcast receivers capable of operating without an external source of power: Other apparatus combined with sound recording or reproducing apparatus: Other: Other.”

We have reviewed these rulings and found them to be in error. For the reasons set forth below, we hereby revoke NY R02550, NY R03835, NY M84663, NY N010738, NY N015651, NY N024500, NY N047842, NY N092825, NY N092831, NY N092834, NY N021097, NY M86676, NY R04615, and NY N007861.

¹ We note that subheading 8527.31.60, HTSUS, which appeared in the 2005 tariff schedule, is now subheading 8527.91.60 of the 2012 HTSUS. As a result, we will consider subheading 8527.91.60, HTSUS, in this ruling.

FACTS:

The subject merchandise consists of clock radios with either AM/FM capability or simply FM capability. They incorporate a digital clock with an alarm and a docking station for an iPod music player or other MP3 player, all in the same housing. Users can play music from the MP3 player, either through MP3 players specifically designed for the docking station, or through a patch cord for MP3 players not designed for the docking station. The radio receiver also acts as a battery charger for the iPod or other MP3 player. Some models of the subject merchandise incorporate speakers; others do not.

In addition, the radios of the docking stations of NY R03835, NY N010738, NY N015651, NY N024500, NY N047842, NY N092825, NY N092831, NY N092834, NY N021097, and NY N007861 are incapable of operating without an external source of power. The docking stations of NY R02550, NY M84663, NY M86676, and NY R04615 are either battery-operated or contain back-up batteries.

Lastly, NY N021097 classified item number A017JA00162, which requires an external source of power and contains a telephone featuring a 16 digit caller ID/number Liquid Crystal Display (LCD) Screen, a 50 incoming call memory, 3 one-touch dialing memory, 10 two-touch dialing memory, a dual-caller ID system, a ringer and volume control, and a mute, flash, and redial function. Thus, in addition to a radio and iPod charging function, this item also allows a user to make and receive telephone calls.

ISSUE:

Whether the subject docking stations with built-in radios for MP3 players contain sound recording or reproducing apparatus?

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 GRI may then be applied. GRI 6 requires that the classification of goods in the subheadings of headings shall be determined according to the terms of those subheadings, any related sub-heading notes and *mutatis mutandis*, to the GRIs 1 through 5.

The HTSUS provisions under consideration are as follows:

8527 Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock:

Radiobroadcast receivers capable of operating without an external source of power:

8527.13 Other apparatus combined with sound recording or reproducing apparatus:

Other:

8527.13.60 Other:

* * *

8527.19 Other:

8527.19.10	Valued not over \$40 each, incorporating a clock or clock-timer, not in combination with any other article, and not designed for motor vehicle installation
8527.19.50	Other
	* * *
	Other:
8527.91	Combined with sound recording or reproducing apparatus:
	Other:
8527.91.60	Other:
	* * *
8527.92	Not combined with sound recording or reproducing apparatus but combined with a clock:
8527.92.10	Valued not over \$40 each
8527.92.50	Other

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. While not legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System 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 to heading 85.27 provides, in pertinent part:

The sound radio-broadcasting apparatus falling in this heading must be for the reception of signals by means of electro-magnetic waves transmitted through the ether without any line connection.

This group includes:

- (1) Domestic radio receivers of all kinds (table models, consoles, receivers for mounting in furniture, walls, etc., portable models, receivers, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock)....
- (5) Stereo systems (hi-fi systems) containing a radio receiver, put up in sets for retail sale, consisting of modular units in their own separate housing, e.g., in combination with a CD player, a cassette recorder, an amplifier with equaliser, loudspeakers, etc. The radio receiver gives the system its essential character.

In beginning our analysis, we note that that it is not in dispute that the subject merchandise is described by the terms of heading 8527, HTSUS.²

² Although the classification of the subject merchandise is not in dispute at the heading level, we note that heading 8527, HTSUS, does not fully describe the subject merchandise because it does not describe the docking stations' charging function. Nonetheless, the subject merchandise is classified in heading 8527, HTSUS, at GRI 1 via Note 3 to Section XVI, HTSUS, which provides that composite machines are classified by their principal function. In the present case, the principal function of the subject docking stations is the radio, not the charging function. Consistent with EN 85.27, CBP has long held that the radio receiver in similar merchandise imparts the essential character. *See, e.g., NY L84968*, dated May 23, 2005; *NY N209467*, dated March 20, 2012; among others.

Thus, the issue is at the 6-digit heading level, and focuses on the question of whether the subject docking stations with radios contain sound recording or reproducing devices.

We note that although the term “sound recording or reproducing device” is not defined in EN 85.27, it is defined by EN 85.19. In light of the fact that sound recording or reproducing apparatus of heading 8519, HTSUS, may be incorporated into products of heading 8527, HTSUS, we find EN 85.19 to be instructive in this particular matter. EN 85.19 provides, in pertinent part, that:

Generally, sound is recorded onto or reproduced from an internal storage device or media (e.g., magnetic tape, optical media, semiconductor media or other media of heading 85.23).

Sound recording apparatus modify a recording medium so that **sound reproducing apparatus** can subsequently reproduce the original sound-wave (speech, music, etc.). This includes recording based on the receipt of a sound-wave or by other methods, e.g., by recording data sound files, downloaded from an Internet page or a compact disc by an automatic data processing machine, onto the internal memory (e.g., flash memory) of a digital audio device (e.g., MP3 player). Devices which record sound as digital code generally are not capable of reproducing sound unless they incorporate a means for converting the recording from digital code to an analogue signal.

We note that this definition is in accordance with definitions of dictionaries and other lexicographic sources. For example, the Oxford English Dictionary defines “record” as “of a machine, instrument or device: to set down (a message, reading, etc.) in some permanent form.” See www.oed.com. The Oxford English Dictionary defines “reproduce” as “To relay (sound originating elsewhere) or replay (sound recorded on another occasion) by electrical or mechanical means.... To produce again in the form of a copy.” See www.oed.com. In addition, the McGraw-Hill Encyclopedia of Science and Technology defines “sound recording” as “the technique of entering sound, especially music, on a storage medium for playback at a subsequent time.” McGraw-Hill Concise Encyclopedia of Science and Technology, 6th Ed., 2009 at 2197. This encyclopedia defines “sound-reproducing systems,” in pertinent part, as:

Systems that attempt to reconstruct some or all of the audible dimensions of an acoustic event that occurred elsewhere. A sound-reproducing system includes the functions of capturing sounds with microphones, manipulating those sounds using elaborate electronic mixing consoles and signal processors, and then storing the sounds for reproduction at later times and different places.

Id. at 2197.

In the present case, each model of the subject merchandise consists of a radio and docking station in the same housing. The docking stations allow the user to play music from an iPod or other MP3 player. The music, which is stored on the MP3 player, is transmitted to the speakers for broadcasting. In the models of the subject merchandise which do not contain speakers, the docking station can be plugged into a set of speakers, thereby also acting as a conduit between the music player and the speakers. In neither instance

does the docking station actually record or reproduce the music passing through it because it does not retain a copy of this music anywhere on the docking station. For instance, the docking station would not be able to play the music again at a later time if the MP3 player were removed. To the contrary, it is the iPod or other MP3 player that acts as a sound recording or reproducing device, because they retain copies of the music for subsequent playback. As a result, the docking stations with built-in radios cannot be said to be sound recording or reproducing apparatus. As such, they cannot be classified in subheading 8527.91, HTSUS.

Certain models of the subject merchandise are either battery-operated or contain a back-up battery. As such, they are capable of operating without an external power source. Thus, these models are described by the terms of subheading 8527.19, HTSUS, which provides for "Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Radiobroadcast receivers capable of operating without an external source of power: Other." At the 8-digit level, this subheading contains breakouts for merchandise based on its value on entry. As a result, if the subject merchandise is valued at less than \$40, incorporates a clock or clock timer, is not in combination with any other article, and is not designed for motor vehicle installation, it is classified in subheading 8527.19.10, HTSUS; otherwise, it is classified in subheading 8527.19.50, HTSUS.

Other models of the subject merchandise are incapable of operating without an external power source. As such, they are precluded from classification in subheading 8527.19, HTSUS. Subheading 8527.92, HTSUS, provides for "Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Not combined with sound recording or reproducing apparatus but combined with a clock." The subject merchandise is described by the terms of this subheading. At the 8-digit level, this subheading contains breakouts for merchandise based on its value on entry. As a result, if the subject merchandise is valued at less than \$40, it is classified in subheading 8527.92.10, HTSUS; if it is valued at over \$40, it is classified in subheading 8527.90.50, HTSUS.

Lastly, NY N021097 classified item number A017JA00162, a docking station that is distinguishable from the rest of the models at issue because it contains a telephone and multiple functions unique to the telephone. In that sense, it is similar to the merchandise at issue in HQ 086939, dated August 9, 1990, where CBP classified a combination telephone/clock/radio. There, CBP considered this device to be a composite machine of Note 3 to Section XVI, HTSUS. Unable to determine the principal function, CBP used GRI 3(c) to classify the combination telephone, clock, and radio in heading 8527, HTSUS. Similarly, in the present case, a consumer is likely to purchase this type of docking station as much for the telephone as for its charging function and speakers. Otherwise, a consumer could easily buy any one of the myriad docking stations without a telephone. As a result, we use GRI 3(c) to classify item number A017JA00162 in subheading 8527.92, HTSUS. If it is valued at less than \$40, it is classified in subheading 8527.92.10, HTSUS; if it is valued at over \$40, it is classified in subheading 8527.90.50, HTSUS.

HOLDING:

Under the authority of GRI 1 via Note 3 to Section XVI, HTSUS, and GRI 6, the subject iPod docking stations are classified in heading 8527. Models of the subject merchandise that are capable of operating without an external source of power (i.e., the merchandise of NY R02550, NY M84663, NY M86676, and NY R04615), are classified in one of two subheadings based on whether they are valued not over \$40, incorporate a clock or auto-timer, are not in combination with any other articles, and are not designed for motor vehicle installation. If they meet all of the elements, they are classified in subheading 8527.19.10, HTSUS, which provides for “Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Radiobroadcast receivers capable of operating without an external source of power: Other: Valued not over \$40 each, incorporating a clock or clock-timer, not in combination with any other article, and not designed for motor vehicle installation.” The 2012 column one general rate of duty is free.

Models of the subject merchandise that are valued over \$40 or do not meet any one of the other criteria are classified in subheading 8527.19.50, HTSUS, which provides for “Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Radiobroadcast receivers capable of operating without an external source of power: Other: Other.” The 2012 column one general rate of duty is 3% *ad valorem*.

Models of the subject merchandise that are incapable of operating without an external source of power and include a clock (i.e., the merchandise of NY R03835, NY N010738, NY N015651, NY N024500, NY N047842, NY N092825, NY N092831, NY N092834, and NY N007861) are classified in subheading 8527.92, HTSUS. At the eight-digit level, they are classified in two different subheadings, depending on the value of the merchandise at the time of entry. If they are valued at less than \$40, they are classified in subheading 8527.92.10, HTSUS, which provides for “Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Not combined with sound recording or reproducing apparatus but combined with a clock: Valued not over \$40 each.” The 2012 column one general rate of duty is free. If they are valued at over \$40, they are classified in subheading 8527.92.50, HTSUS, which provides for “Reception apparatus for radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Other: Not combined with sound recording or reproducing apparatus but combined with a clock: Other.” The 2012 column one general rate of duty is 3% *ad valorem*.

At GRI 3(c), item number A017JA00162 (the subject of NY N021097) is classified in subheading 8527.92, HTSUS. If it is valued at less than \$40, it is classified in subheading 8527.92.10, HTSUS. The 2012 column one general rate of duty is free. If it is valued at over \$40, it is classified in subheading 8527.90.50, HTSUS. The 2012 column one general rate of duty is 3% *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 R02550, dated September 15, 2005, NY R03835, dated May 4, 2006, NY M84663, dated July 12, 2006, NY N010738, dated May 18, 2007, NY N015651, dated August 31, 2007, NY N024500, dated March 19, 2008, NY N047842, dated January 9, 2009, NY N092825, dated February 17, 2010, NY N092831, dated February 17, 2010, NY N092834, dated February 17, 2010, NY N021097, dated January 16, 2008, NY M86676, dated September 20, 2006, NY R04615, dated August 17, 2006, and NY N007861, dated March 20, 2007 are REVOKED.

Sincerely,

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

**REVOCAION OF RULING LETTERS AND REVOCAION
OF TREATMENT RELATING TO THE ELIGIBILITY OF
GOODS FOR DUTY-FREE TREATMENT UNDER
SUBHEADING 9801.00.25**

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

ACTION: Notice of revocation of two ruling letters and revocation of treatment relating to the eligibility of goods for duty-free treatment under subheading 9801.00.25, HTSUS.

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) is revoking two ruling letters relating to the eligibility of goods for duty-free treatment under subheading 9801.00.25, of the Harmonized Tariff Schedule of the United States (HTSUS). CBP also is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice proposing these actions and inviting comments on their correctness were published in the Customs Bulletin, Volume 46, Number 34, on August 15, 2012. No comments were received.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after March 11, 2013.

FOR FURTHER INFORMATION CONTACT: Karen Greene, Valuation and Special Programs Branch: (202) 325–0041.

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)), notice proposing to revoke New York Ruling Letter (NY) N163660, dated May 16, 2011, and NY N069900, dated August 5, 2009, was published on August 15, 2012, in Volume 46, Number 3, of the Customs Bulletin. CBP received no comments in response to this notice. Although in this notice CBP is specifically referring to NY N163660 and NY N069900, this notice covers any rulings on this merchandise which may exist but has 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 decisions or protest review decision) on the merchandise subject to this notice should have advise CBP during the notice period.

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 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 not 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 action.

In NY N163660, set forth respectively as Attachment A to this document, CBP held that tires reimported for repair, upgrade, or exchange are eligible for duty-free treatment under subheading 9801.00.25, HTSUS. We have reviewed the ruling and determined that the analysis is not correct. It is now our position that tires reimported for upgrade would not be eligible for duty-free treatment under subheading 9801.00.25, HTSUS. Tires reimported for repair or exchange would only be eligible for duty-free treatment under subheading 9801.00.25, HTSUS, if the tires were delivered not conforming to sample or specifications.

Similarly, in NY N069900, set forth respectively as Attachment B to this document, CBP held that cameras, lenses, lithium batteries, battery chargers, battery packs, and battery plates that are reim-

ported for repair, exchange, or upgrade under warranty were eligible for duty-free treatment upon reimportation in subheading 9801.00.25. It is now our position that cameras and camera accessories reimported for upgrade would not be eligible for duty-free treatment under subheading 9801.00.25, HTSUS. Cameras and camera accessories reimported for repair or exchange would only be eligible for duty-free treatment under subheading 9801.00.25, HTSUS, if the goods were delivered in a condition not conforming to sample or specification.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY N163660 and N069900 and any other ruling not specifically identified, in order to reflect the proper interpretation of subheading 9801.00.25, HTSUS according to the analysis contained in HQ H173817 and H209471 set forth as Attachments C and D 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.

Dated: November 16, 2012

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

NY N163660

May 16, 2011

CLA-2-40:OT:RR:NC:N1:106

CATEGORY: Classification

TARIFF NO.: 4011.10, 4011.20, 9801.00.2500

MR. BRET HOLDER SIMON
GLUCK & KANE, LLP
1700 BROADWAY
NEW YORK, NY 10019

RE: The tariff classification of tires returned to the US from Canada.

DEAR MR. HOLDER:

In your letter dated April 28, 2011, you requested a tariff classification ruling on behalf of your client, Bridgestone Americas Tire Operations, LLC.

You state that tires, made in various countries are imported by Bridgestone Americas Tire Operations, LLC. You further state that he applicable sub-heading for the tires will be either 4011.10, Harmonized Tariff Schedule of the United States (HTSUS), which provides for new pneumatic tires, of rubber: of a kind used on motor cars or 4011.20, HTSUS, which provides for new pneumatic tires, of rubber: of a kind used on buses or trucks; when imported into the US as new by Bridgestone Americas Tire Operations, LLC.

You further state that the tires will be exported to Canada from the US and on some occasions returned to the US for repair, upgrade or exchange. The tires will not have been advanced in condition or value in Canada.

In such cases, if all necessary requirements concerning documentation and identification of the tires that are returned to the US from Canada are satisfied at the port at the time of importation, the special classification provision of 9801.00.2500 which provides for articles, previously imported, with respect to which the duty was paid upon such previous importation if (1) exported within three years after the date of such previous importation, (2) reimported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, (3) reimported for the reason that such articles do not conform to sample or specifications, and (4) reimported by or for the account of the person who imported them into, and exported them from, the United States. This special provision allows for a free rate of duty.

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 Mark Palasek at (646) 733-3013.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT B]

NY N069900

August 5, 2009

CLA-2-98:OT:RR:E:NC:1:108

CATEGORY: Classification

TARIFF NO.: 9801.00.25

MR. JEFERSON PERIN
RED.COM, INC.
20291 VALENCIA CIRCLE
LAKE FOREST, CA 92630

RE: The tariff classification of articles previously imported into the United States from Singapore, Japan, Great Britain, and Malta, which were exported from the United States and returned for repair, exchange, or upgrade.

DEAR MR. PERIN:

In your letter dated July 24, 2009, you requested a tariff classification ruling.

The merchandise in question is cameras, lenses, lithium batteries, battery charges, battery packs, and battery plates. All of items listed above are imported and kept in inventory in the United States for distribution to various customers worldwide. The cameras, lenses, batteries, and accessories that are defective or require upgrade are returned to Red.Com, Inc. in the United States for repair, upgrade, or exchange at no additional cost, when under warranty. The inventory method used is FIFO (first in – first out) and the inventory turnover is thirty days. While in the possession of the final consignee abroad, the merchandise is not advanced in value or improved in condition by any process of manufacture or other means. As per the information provided, this dutiable merchandise was imported and then exported, and duty was paid on the first importation. If they meet the requirements found in 19 CFR 10.8a, which needs to be substantiated, the applicable subheading for the cameras, lenses, batteries, etc., will be 9801.00.25, Harmonized Tariff Schedule of the United States (HTSUS), which provides for the duty-free entry of: articles, previously imported, with respect to which the duty was paid upon such previous importation if (1) exported within three years after the date of such previous importation, (2) reimported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, (3) reimported for the reason that such articles do not conform to sample or specification, and (4) reimported by or for the account of the person who imported them into, and exported them from the United States.

In addition to meeting all the requirements set forth in subheading 9802.00.25, certain documents must be filed in connection with the entry of articles claimed to be free of duty under HTSUS subheading 9801.00.25:

A declaration by the person abroad who received and is returning the merchandise to the United States, which contains the following information and statements: a description of the merchandise; the name and address of the U.S. exporter from whom the merchandise was received; a statement that the merchandise has not been advanced in value or improved in condition by any process of manufacture or other means; and the name and address of the consignee in the United States to whom the merchandise is being returned

because it does not conform to sample or specifications and the reasons why it does not conform to sample or specifications; and

A declaration by the owner, importer, consignee, or agent, which contains the following information and statements: a description of the merchandise; a statement that the merchandise was previously imported into the United States that also identifies the port, entry number, date of entry, name and address of the importer and that the duty was paid at that time; a statement that the merchandise was exported from the United States that also identifies the port of exportation, the date of exportation, the name of the exporter and that the merchandise was exported without benefit of drawback; a statement that identifies who the articles are being reimported by or for the account of; and a statement that the attached declaration from the foreign shipper (which identifies the foreign shipper) is correct in every respect.

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 Lisa Cariello at (646) 733-3014.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT C]

HQ H173817

November 16, 2012

OT:RR:CTF:VS H173817 KSG

MR. BRET HOLDER
SIMON, GLUCK & KANE LLP
1700 BROADWAY
NEW YORK, NY 10019

RE: Revocation of NY N163660; subheading 9801.00.25; not conforming due to sample or specifications; tires

DEAR MR. HOLDER:

This is in reference to New York ruling letter (“NY”) N163660, dated May 16, 2011, regarding the eligibility of imported tires for duty-free treatment under subheading 9801.00.25, of the Harmonized Tariff Schedule of the United States (“HTSUS”). In NY N163660, CBP held that tires reimported for repair, upgrade or exchange are eligible for duty-free treatment under subheading 9801.00.25, HTSUS, if documentary requirements are met. Upon review of NY N163660, CBP has determined that it is incorrect.

Pursuant to section 625©(1), Tariff Act of 1930 (19 U.S.C. 1625©(1)), as amended by section 623 of Title VI, of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), notice of the proposed action was published on August 15, 2012, in Volume 46 , Number 34, of the Customs Bulletin. No comments were received in response to this notice.

FACTS:

New pneumatic radial and bias tires are imported into the U.S. and any duties owing are paid by Bridgestone. Certain tires are exported to Canada where they do not undergo processing or any manufacture. Bridgestone Americas Tire Operations LLC (“Bridgestone”) reimports some tires for repair due to defect or damage, upgrade, or for exchange. The exact reason for the exchange of each reimported tire is not given. Bridgestone would submit the appropriate documentation required by 19 CFR 10.8a.

You state that the tires are classified in subheadings 4011.10 and 4011.20, HTSUS.

ISSUE:

Whether the reimported tires described above are eligible for duty-free treatment under subheading 9801.00.25, HTSUS.

LAW AND ANALYSIS:

Section 141.2 of the Customs Regulations (19 CFR 141.2) provides that dutiable merchandise imported and afterward exported, even though duty thereon may have been paid on the first importation, is liable to duty on every subsequent importation into the Customs territory of the United States unless exempt by law.

Subheading 9801.00.25, HTSUS, provides for the duty-free treatment of:

[a]rticles, previously imported, with respect to which the duty was paid upon such previous importation if (1) exported within three years after

the date of such previous importation, (2) reimported without having advanced in value or improved in condition by any process of manufacture or other means while abroad, (3) reimported for the reason that such articles do not conform to sample or specifications, and (4) reimported by or for the account of the person who imported them into, and exported them from, the United States.

We assume for the purposes of this ruling that paragraphs (1), (2), and (4) are satisfied in this case. In order to qualify for duty-free treatment under subheading 9801.00.25, HTSUS, there must be some tangible evidence that the returned merchandise does not conform to “sample or specifications.”

The application of this provision is clear where the failure to meet specifications relates to the physical nature of the goods such as a shipment which includes the wrong style number, the wrong size, the wrong color, or defective workmanship. In Headquarters Ruling Letter (“HRL”) 558746, dated January 6, 1995, Customs held that alarm and security equipment which was defective due to mishandling during delivery failed to conform to specification and was entitled to duty-free treatment under subheading 9801.00.25, HTSUS, upon reimportation into the United States. By contrast, in HRL 559298, dated February 7, 1996, Customs held that goods which were returned that physically conformed to contract specifications but which did not comply with other terms of the contract, such as the quantity of the merchandise or timeliness of delivery were not eligible for duty-free treatment under subheading 9801.00.25, HTSUS. In HRL 560421, dated August 20, 1997, Customs held that merchandise reimported for repair but subsequently returned without repair due to the costliness of repair was not eligible for duty-free treatment under subheading 9801.00.25, HTSUS. CBP concluded in this ruling that the importer must be able to submit evidence that the goods were reimported because they do not conform to specifications. In HRL 562057, dated August 27, 2002, CBP held that a vacuum pump reimported because it did not work properly was not eligible for duty-free treatment under subheading 9801.00.25, HTSUS, because no evidence was submitted to establish that the pump was delivered in a defective condition.

The issue presented is whether the tires reimported for repair, upgrade or exchange would be considered reimported for the reason that such articles do not conform to sample or specifications.

Bridgestone did not submit evidence to establish that any of the tires did not conform to sample or specification. The reimported goods include tires reimported for upgrade or exchange that may conform to sample or specification. Subheading 9801.00.25, HTSUS, is only available for goods that do not conform to sample or specification. Goods that need repair or are exchanged because they do not conform to sample or specification are covered by this provision where the importer submits appropriate documentation to show non-conformance with sample or specification. However, goods that are upgraded or exchanged due to lack of demand or other rationale are not considered as failing to conform to sample or specification. Therefore, we find that tires reimported for upgrade would not be eligible for duty-free treatment under subheading 9801.00.25, HTSUS. Further, tires reimported for repair or exchange are only eligible for duty-free treatment under subheading 9801.00.25, HTSUS, if those tires failed to conform to sample or specification and the importer, upon their return, submits sufficient documentation to demonstrate that the goods do not conform to sample specification.

HOLDING:

Tires reimported for upgrade or exchange due to lack of demand are not eligible for duty-free treatment under subheading 9801.00.25, HTSUS. The importer must establish that the goods did not conform to sample or specification and the documentary requirements set forth in 19 CFR 10.8 must be satisfied.

EFFECT ON OTHER RULINGS:

NYN163660, dated May 16, 2011, is revoked. In accordance with 19 U.S.C. 1625©, this ruling will become effective 60 days after its publication in the Customs Bulletin.

Sincerely,

MYLES B. HARMON,

Director

Commercial & Trade Facilitation Division

[ATTACHMENT D]

HQ H209471

November 16, 2012

OT:RR:CTF:VS H209471 KSG

MR. JEFFERSON PERIN
20291 VALENCIA CIRCLE
LAKE FOREST, CA 92630

RE: Revocation of NY N069900; Subheading 9801.00.25; Not conforming due to sample or specifications; Cameras

DEAR MR. PERIN:

This is in reference to New York Ruling Letter (“NY”) N069900, dated August 5, 2009, regarding the eligibility of imported cameras, lenses, batteries, battery chargers, battery packs, and battery plates for duty-free treatment under subheading 9801.00.25, of the Harmonized Tariff Schedule of the United States (“HTSUS”). In NY N069900, CBP held that cameras and accessories reimported for repair, upgrade or exchange are eligible for duty-free treatment under subheading 9801.00.25, HTSUS, if documentary requirements are met. Upon review of NY N069900, CBP has determined that it is incorrect.

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, of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), notice of the proposed action was published on August 15, 2012, in Volume 46 , Number 34, of the Customs Bulletin. No comments were received in response to this notice.

FACTS:

Red.com imports cameras, lithium batteries, battery chargers, battery packs, and battery plates, which are kept in inventory for worldwide distribution. Duty is paid on the goods on the initial importation. Goods that are defective or require upgrade are returned to Red.com in the U.S. for repair, upgrade, or exchange when under warranty. The goods are not advanced in value or improved in condition abroad.

ISSUE:

Whether reimported cameras and accessories described above are eligible for duty-free treatment under subheading 9801.00.25, HTSUS.

LAW AND ANALYSIS:

Section 141.2 of the Customs Regulations (19 CFR 141.2) provides that dutiable merchandise imported and afterward exported, even though duty thereon may have been paid on the first importation, is liable to duty on every subsequent importation into the Customs territory of the United States unless exempt by law.

Subheading 9801.00.25, HTSUS, provides for the duty-free treatment of:

[a]rticles, previously imported, with respect to which the duty was paid upon such previous importation if (1) exported within three years after the date of such previous importation, (2) reimported without having advanced in value or improved in condition by any process of manufacture

or other means while abroad, (3) reimported for the reason that such articles do not conform to sample or specifications, and (4) reimported by or for the account of the person who imported them into, and exported them from, the United States.

We assume for the purposes of this ruling that paragraphs (1), (2), and (4) are satisfied in this case. In order to qualify for duty-free treatment under subheading 9801.00.25, HTSUS, there must be some tangible evidence that the returned merchandise does not conform to "sample or specifications."

The application of this provision is clear where the failure to meet specifications relates to the physical nature of the goods such as a shipment which includes the wrong style number, the wrong size, the wrong color, or defective workmanship. In Headquarters Ruling Letter ("HRL") 558746, dated January 6, 1995, Customs held that alarm and security equipment which was defective due to mishandling during delivery failed to conform to specification and was entitled to duty-free treatment under subheading 9801.00.25, HTSUS, upon reimportation into the United States. By contrast, in HRL 559298, dated February 7, 1996, Customs held that goods which were returned that physically conformed to contract specifications but which did not comply with other terms of the contract, such as the quantity of the merchandise or timeliness of delivery were not eligible for duty-free treatment under subheading 9801.00.25, HTSUS. In HRL 560421, dated August 20, 1997, Customs held that merchandise reimported for repair but subsequently returned without repair due to the costliness of repair was not eligible for duty-free treatment under subheading 9801.00.25, HTSUS. CBP concluded in this ruling that the importer must be able to submit evidence that the goods were reimported because they do not conform to specifications. In HRL 562057, dated August 27, 2002, CBP held that a vacuum pump reimported because it did not work properly was not eligible for duty-free treatment under subheading 9801.00.25, HTSUS, because no evidence was submitted to establish that the pump was delivered in a defective condition.

The issue presented is whether cameras and accessories reimported for repair, upgrade or exchange would be considered reimported for the reason that such articles do not conform to sample or specifications.

Red.com did not submit evidence to establish that any of the cameras or accessories did not conform to sample or specification. The reimported goods include goods reimported for upgrade or exchange that may conform to sample or specification. Goods that need repair or are exchanged because they are physically defective are covered by this provision where the importer submits appropriate documentation to show physical defect or non-conformance with sample or specification. However, goods that are upgraded or exchanged due to lack of demand or other rationale are not considered to constitute a lack of conformance to sample or specification. Therefore, we find that cameras and accessories reimported for upgrade would not be eligible for duty-free treatment under subheading 9801.00.25, HTSUS. Further, cameras and accessories reimported for repair or exchange are only eligible for duty-free treatment under subheading 9801.00.25, HTSUS, if those goods as exported failed to conform to sample or specification and the importer, upon their return, submits sufficient documentation to demonstrate that the goods do not conform to sample or specification.

HOLDING:

Cameras and accessories reimported for upgrade or exchange due to lack of demand are not eligible for duty-free treatment under subheading 9801.00.25, HTSUS. Cameras and accessories not conforming to sample or specification that are reimported for repair or exchange are eligible for duty-free treatment under subheading 9801.00.25, HTSUS, provided the documentary requirements set forth in 19 CFR 10.8a are satisfied.

EFFECT ON OTHER RULINGS:

NY N069900, dated August 5, 2009, is 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 & Trade Facilitation Division

AGENCY INFORMATION COLLECTION ACTIVITIES:**Declaration for Free Entry of Unaccompanied Articles**

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

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Declaration for Free Entry of Unaccompanied Articles (Form 3299). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13).

DATES: Written comments should be received on or before February 25, 2013, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177.

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, 799 9th Street NW., 5th 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 (Pub. L. 104–13). 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 cost burden 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 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: Declaration for Free Entry of Unaccompanied Articles

OMB Number: 1651-0014

Form Number: Form 3299

Abstract: 19 U.S.C. 1498 provides that when personal and household effects enter the

United States but do not accompany the owner or importer on his/her arrival in the country, a declaration is made on CBP Form 3299, Declaration for Free Entry of Unaccompanied Articles. The information on this form is needed to support a claim for duty-free entry for these effects. This form is provided for by 19 CFR 148.6, 148.52, 148.53 and 148.77. CBP Form 3299 is accessible at: http://forms.cbp.gov/pdf/CBP_Form_3299.pdf.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to CBP Form 3299.

Type of Review: Extension (without change).

Affected Public: Businesses and Individuals.

Estimated Number of Respondents: 150,000.

Estimated Number of Total Annual Responses: 150,000.

Estimated Time per Response: 45 minutes.

Estimated Total Annual Burden Hours: 112,500.

Dated: December 20, 2012.

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

[Published in the Federal Register, December 26, 2012 (77 FR 76063)]