

U.S. Customs and Border Protection



19 CFR PART 177

REVOCATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF A CERTAIN CASE FOR BABY WIPES

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

ACTION: Notice of revocation of one ruling letter and revocation of treatment relating to the tariff classification of a certain case for baby wipes.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking one ruling letter concerning tariff classification of a certain case for baby wipes under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 50, No. 10, on March 9, 2016. One comment was received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 22, 2016.

FOR FURTHER INFORMATION CONTACT: George Aduhene, Tariff Classification and Marking Branch, Regulations and Rulings, Office of International Trade, at (202) 325–0184.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the *Customs Bulletin*, Vol. 50, No. 10, on March 9, 2016 proposing to revoke one ruling letter pertaining to the tariff classification of a certain case for baby wipes. As stated in the proposed notice, this action will cover New York Ruling Letter (“NY”) N247516, dated November 19, 2013, as well as any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In NY N247516, CBP classified a certain case for baby wipes in heading 4202, HTSUS, specifically in subheading 4202.99.90 of the Harmonized Tariff Schedule of the United States (HTSUS), which

provides, in pertinent part, for other bags and containers, other, other, other. CBP has reviewed NY N247516 and has determined the ruling letter to be in error. It is now CBP's position that the fillable case for baby wipes are properly classified, by operation of GRIs 1 and 6, in heading 4202, HTSUS, specifically in subheading 4202.92.90, HTSUS, which provides, in pertinent part, for other containers and cases, with outer surface of plastic sheeting or textiles materials, other, other, other.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N247516 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H257222, set forth as Attachment "A" to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: April 25, 2016

GREG CONNOR

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachment

HQ H257222

April 25, 2016

CLA-2 OT:RR:CTF:TCM H257222 GA

CATEGORY: Classification

TARIFF NO.: 4202.92.90 HTSUS

MR. DONALD STEIN
GREENBERG TRAURIG, LLP
2101 L STREET, N.W., SUITE 1000
WASHINGTON, D.C. 20037

RE: Tariff classification of certain case for baby wipes; reconsideration of NY N247516

DEAR MR. STEIN:

In New York Ruling Letter (NY) N247516, U.S. Customs and Border Protection (CBP), issued to your client, Kimberly-Clark Corporation, Inc. on November 19, 2013, a certain refillable plastic case for baby wipes was classified under subheading 4202.99.9000 of the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), which provides, in pertinent part, for other bags and containers, other, other, other. We have since reviewed NY 247516 and find it to be in error with respect to the description of the subject merchandise and the classification of the case for baby wipes.

On March 9, 2016, 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, notice of the proposed action was published in the *Customs Bulletin* Vol. 50, No. 10. CBP received one comment in support of the notice of revocation from the importer whose merchandise was at issue in NY N247516. In its comment, the importer noted that the proposed revocation as correct because the case for baby wipes at issue was made of plastic sheeting, not molded plastic.

FACTS:

According to NY N247516, a sample of the instant merchandise was submitted to CBP for classification. The ruling described the subject merchandise as a style G066 two-piece case for baby wipes. The first component is a molded plastic case that is specially shaped and fitted to contain a package of baby wipes. The case opens into halves that snap together on one side. The front of the case has a slide closure for dispensing the wipes. The second component is textile case that is shaped and fitted to contain the molded plastic case. The two components together form a composite good, General Rule Interpretation 3(b) of the Harmonized Tariff Schedule of the United States (HTSUS) noted. The ruling indicated the essential character of the merchandise is imparted by the molded plastic case. This description of the subject merchandise was inaccurate description of the sample you submitted, thereby resulting in a misclassification of the subject merchandise.

In your reconsideration request, dated February 19, 2014, you pointed out the error in description and clarified that the subject merchandise is a case that is specially shaped and fitted to contain a package of by baby wipes. It is constructed of plastic sheeting material. The case features a wrist strap, an integral extruded closure, and a flip-top for dispensing the wipes. It is of a

durable construction and suitable for repetitive use. Upon visual inspection of the sample you resubmitted, CBP confirms this description of the subject merchandise.

ISSUE:

What is the proper classification under the HTSUS for the subject merchandise?

LAW AND ANALYSIS:

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

There is no dispute that the subject merchandise is provided for under heading 4202, HTSUS. Pursuant to GRI 6, each subheading within heading 4202, HTSUS, are considered in order to determine which best describes the merchandise in question.

The subheadings under consideration in this case are subheading 4202.92, HTSUS, which provides, in pertinent part, for other containers or cases, with outer surface of sheeting plastics and subheading 4202.99, HTSUS, which covers other containers and cases. There is no dispute that the sample description in ruling NY N247516 was inaccurate. The sample merchandise is not of molded plastic; it is of plastic sheeting. There is no textile in the sample submitted. Furthermore, the sample merchandise is a one-piece case, not a two-piece case. Therefore, the subject merchandise is properly classified under subheading 4202.92, HTSUS, and therefore cannot be classified under the residual subheading 4202.99, HTSUS.

HOLDING:

By application of GRIs 1 and 6, the case for baby wipes is classifiable under heading 4202, HTSUS, and specifically provided for in subheading 4202.92.90, HTSUS, which provides, in pertinent part for other containers or cases, with outer surface of sheeting of plastic. The column one, general rate of duty is 17.6 percent *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY N247516, dated November 19, 2013, is hereby REVOKED.

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

Sincerely,

GREG CONNOR

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



**PROPOSED REVOCATION OF TWO RULING LETTERS
AND REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF NON-STRUCTURAL
LAMINATED FIBERBOARD CEILING, WALL, AND
FLOORING PANELS**

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

ACTION: Notice of proposed revocation of two ruling letters and revocation of treatment relating to the tariff classification of non-structural laminated fiberboard ceiling, wall, and flooring panels.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke two ruling letters concerning tariff classification of non-structural laminated fiberboard ceiling, wall, and flooring panels under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATES: Comments must be received on or before July 22, 2016.

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

FOR FURTHER INFORMATION CONTACT: Laurance W. Frierson, Tariff Classification and Marking Branch, Regulations and Rulings, Office of International Trade, at (202) 325-0371.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is proposing to revoke two ruling letters pertaining to the tariff classification of non-structural laminated fiberboard ceiling, wall, and flooring panels. Although in this notice, CBP is specifically referring to New York Ruling Letters (“NY”) N235680, dated December 20, 2012 (Attachment A), and NY N238576, dated March 22, 2013 (Attachment B), this notice covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the two identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. §1625(c)(2)), as amended by section 623 of Title VI, CBP is proposing

to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In ruling letters NY N235680 and N238576, CBP classified non-structural laminated fiberboard ceiling, wall, and flooring panels in heading 4411, HTSUS, which provides for "Fiberboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances." CBP has reviewed ruling letters NY N235680 and N238576 and has determined the ruling letters to be in error. It is now CBP's position that non-structural laminated fiberboard ceiling, wall, and flooring panels are properly classified, by operation of GRI 1, under heading 4418, HTSUS, which provides for "Builders' joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes."

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke ruling letters NY N235680 and N238576 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter ("HQ") H242050, set forth as Attachment C to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: April 27, 2016

GREG CONNOR

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N235680

December 20, 2012

CLA-2-44:OT:RR:NC:2:230

CATEGORY: Classification

TARIFF NO.: 4411.92.4000

MR. ADRIAN BOSLOOPER
AIR TIGER EXPRESS (USA) INC.
149-09 183RD STREET
SPRINGFIELD GARDENS, NY 11413

RE: The tariff classification of fiberboard ceiling and wall planks from China

DEAR MR. BOSLOOPER:

In your letter dated October 10, 2012, you requested a tariff classification ruling on behalf of your client, Halstead New England Corporation. The ruling was returned to you for additional information which was resubmitted to this office on November 21, 2012.

The ruling was requested on ceiling and wall planks which are identified as "Toptile Woodgrain Ceiling and Wall Planks". A representative sample and product literature was submitted for our examination.

The panels consist of a wood fiberboard laminated on both surfaces with paper layers. The top or face surface consists of a paper layer which has a decorative design printed on it. The bottom or back surface is covered with a balancing paper. The panels are tongued and grooved along the edges and ends. You state in your letter that the fiberboard is manufactured by the "wet production process" and has a density of 0.88 g/cm³. The marketing materials provided indicate that the "Toptile" product will be imported in Nominal 48" (L) x 5" (W) x 8mm thick planks.

The applicable subheading for the fiberboard ceiling and wall planks will be 4411.92.4000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Fiberboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances: Other: Of a density exceeding 0.8g/cm3: Other: Other: Other. The rate of duty will be 6 percent ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Laurel Duvall at (646) 733-3035.

Sincerely,

THOMAS J. RUSSO

Director

National Commodity Specialist Division

[ATTACHMENT B]

N238576

March 22, 2013

CLA-2-44:OT:RR:NC:2:230

CATEGORY: Classification

TARIFF NO.: 4411.13.2000; 4411.14.2000

MR. DANIEL LANG
LND DEVELOPMENT, INC.
2903 THAYER DRIVE
WAXHAW, NC 28173

RE: The tariff classification of laminate fiberboard flooring planks from Germany and China

DEAR MR. LANG:

In your letter dated January 29, 2013, you requested a tariff classification ruling.

The ruling was requested on two fiberboard “laminated flooring” planks. Representative samples were submitted for our review and will be retained for reference.

Both flooring panels measure approximately 195mm wide; the German panel measures 6mm in thickness, and the Chinese panel 11.5mm. You do not indicate the lengths in which either panel will be imported. Both panels are composed of wood fiberboard that has been laminated with melamine impregnated paper layers on both surfaces. The top surface includes a decorative wood grain printed paper and is finished with aluminum oxide. The fiberboard is produced by the dry production process, during which dried wood fibers are injected with resin and wax and blown into a dryer. The resulting fibers are pressed into a mat, subjected to high heat and pressure, and trimmed. The fiberboard, having a density of greater than 0.8g/cm³, is sanded on both sides prior to the addition of the paper layers. The laminate fiberboard flooring is tongued and grooved on the edges and ends with an interlocking profile.

As you note, the manufacturing of wood fiber by the dry production process is a distinguishing characteristic of medium density fiberboard (MDF). This point is consistent with the description of MDF set forth in the Explanatory Notes to the Harmonized System (ENs).

In your letter, you argue that the correct classification of the instant products is 4418.90.46, Harmonized Tariff Schedule of the United States (HTSUS), in accordance with *Faus Group, Inc. vs. United States (“Faus”)*, Slip Op 2008-1605. However, Faus referenced goods that were entered into the commerce of the United States prior to 2006; on February 3, 2007, tariff subheadings in heading 4411, HTSUS, which were added with the specific intent of covering “laminated” fiberboard flooring, such as the instant products, became effective. Classification within these subheadings is consistent with Legal Note 4 to Chapter 44, HTSUS, which states “Products of heading 4410, 4411 or 4412 may be worked to form the shapes provided for in respect of the articles of heading 4409, curved, corrugated, perforated, cut or formed to shapes other than square or rectangular or submitted to any other operation provided it does not give them the character of articles of other headings.” Tongue and groove shaping is specifically noted in the language of heading 4409, HTSUS.

The applicable subheading for the German laminate fiberboard flooring product will be 4411.13.2000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for: Fiberboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances: Medium density fiberboard (MDF): Of a thickness exceeding 5mm but not exceeding 9mm: Other: Tongued, grooved or rabbetted continuously along any of its edges and dedicated for use in the construction of walls, ceilings or other parts of buildings: Laminated boards bonded in whole or in part, or impregnated, with synthetic resins. The rate of duty will be 1.9 cents per kilogram plus 1.5 percent ad valorem.

The applicable subheading for the Chinese laminate fiberboard flooring products will be 4411.14.2000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for: Fiberboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances: Medium density fiberboard (MDF): Of a thickness exceeding 9mm: Other: Tongued, grooved or rabbetted continuously along any of its edges and dedicated for use in the construction of walls, ceilings or other parts of buildings: Laminated boards bonded in whole or in part, or impregnated, with synthetic resins. The rate of duty will be 1.9 cents per kilogram plus 1.5 percent ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Laurel Duvall at (646) 733-3035.

Sincerely,

THOMAS J. RUSSO

Director

National Commodity Specialist Division

[ATTACHMENT C]

HQ H242050
CLA-2 OT:RR:CTF:TCM H242050 LWF
CATEGORY: Classification
TARIFF NO.: 4418.90.46

MR. LEONARD L. FLEISIG
WILLCOX & SAVAGE, P.C.
WELLS FARGO CENTER
440 MONTICELLO AVE.
SUITE 2200
NORFOLK, VA 23510

RE: Revocation of New York Ruling Letter (NY) N235680, dated December 20, 2012, and NY N238576, dated March 22, 2013; Classification of non-structural laminated fiberboard ceiling, wall, and flooring panels

DEAR MR. FLEISIG:

This letter is in reference to New York Ruling Letter (NY) N235680, issued to your client, Halstead New England Corporation (“Halstead”), on December 20, 2012, concerning the tariff classification of non-structural laminated fiberboard ceiling and wall panels under the Harmonized Tariff Schedule of the United States (HTSUS). In ruling letter NY N235680, U.S. Customs and Border Protection (CBP) classified the fiberboard ceiling and wall panels under heading 4411, HTSUS, which provides for “Fiberboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances.” CBP has reviewed ruling letter NY N235680 and determined that the ruling is incorrect.

CBP has also reviewed ruling letter NY N238576, dated March 22, 2013, concerning the tariff classification of non-structural laminated flooring panels, and has similarly determined the ruling to be in error. Accordingly, for the reasons set forth below, CBP is revoking ruling letters NY N235680 and N238576.

FACTS:

The merchandise at issue consists of entries of non-structural laminated fiberboard ceiling, wall, and flooring panels (the “laminated fiberboard panels”). Specifically, in ruling letter NY N235680, CBP addressed the classification of ceiling and wall panels identified as “Toptile Woodgrain Ceiling and Wall Planks; in ruling letter NY N238576, CBP addressed the classification of two styles of flooring panels.

In ruling letter NY N235680, CBP provided the following description of the ceiling and wall panels:

The panels consist of a wood fiberboard laminated on both surfaces with paper layers. The top or face surface consists of a paper layer which has a decorative design printed on it. The bottom or back surface is covered with a balancing paper. The panels are tongue and grooved along the edges and ends... [T]he fiberboard is manufactured by the “wet production process” and has a density of .88 g/cm³. The marketing materials provided indicate that the “Toptile” product will be imported in Nominal 48” (L) x 5” (W) x 8mm thick planks.

In ruling letter NY N238576, CBP provided the following description of the flooring panels:

Both flooring panels measure approximately 195mm wide; the German panel measures 6mm in thickness, and the Chinese panel 11.5mm... Both panels are composed of wood fiberboard that has been laminated with melamine impregnated paper layers on both surfaces. The top surface includes a decorative wood grain printed paper and is finished with aluminum oxide. The fiberboard is produced by the dry production process, during which dried wood fibers are injected with resin and wax and blown into a dryer. The resulting fibers are pressed into a mat, subjected to high head and pressure, and trimmed. The fiberboard, having a density of greater than 0.8g/cm³, is sanded on both sides prior to the addition of the paper layers. The laminate fiberboard flooring is tongued and grooved on the edges and ends with an interlocking profile.

* * * * *

ISSUE:

Whether the non-structural laminated fiberboard ceiling, wall, and flooring panels are classified under heading 4411, HTSUS, as fiberboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances, or under heading 4418, HTSUS, as builders' joinery and carpentry of wood, including cellular wood panels and assembled flooring panels.

LAW AND ANALYSIS:

Merchandise imported into the United States is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation (GRIs) and, in the absence of special language or context which requires otherwise, by the Additional U.S. Rules of Interpretation. The GRIs and the Additional U.S. Rules of Interpretation are part of the HTSUS and are to be considered statutory provisions of law for all purposes.

GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any relative section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in their appropriate order.

The HTSUS provisions under consideration are as follows:

- 4411 Fiberboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances:
- 4418 Builders' joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes:

* * * * *

Note 4 to Chapter 44, HTSUS, states as follows:

- 4. Products of heading 4410, 4411 or 4412 may be worked to form the shapes provided for in respect of the articles of heading 4409, curved, corrugated, perforated, cut or formed to shapes other than square or rectangular or submitted to any other operation provided it does not give them the character of articles of other headings.

* * * * *

The Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") constitute the official interpretation of the Harmonized System

at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The ENs to heading 44.18, HS, provide, in relevant part, as follows:

This heading applies to woodwork, including that of wood marquetry or inlaid wood, used in the construction of any kind of building, etc., in the form of assembled goods or as recognizable unassembled pieces (e.g., prepared with tenons, mortises, dovetails or other similar joints for assembly), whether or not with their metal fittings such as hinges, locks, etc.

The articles of this heading may be made of ordinary wood or of particle board or similar board, fibreboard, laminated wood or densified wood (see Note 3 to this Chapter).

[...]

This heading also covers **solid blocks, strips, friezes, etc., assembled into flooring panels (including parquet panels) or tiles**, with or without borders. It also includes flooring panels or tiles consisting of blocks, strips, friezes, etc., assembled on a support of one or more layers of wood, known as “**multilayer**” **parquet flooring panels**. The top layer (wear layer) is commonly made from two or more rows of strips making up the panel. These panels or tiles may be tongued and grooved at the edges to facilitate assembly. (Emphasis original).

* * * * *

In its request for reconsideration of ruling letter NY N235680, Halstead asserts that the non-structural laminated fiberboard ceiling and wall panels at issue in NY N235680 are properly classified under heading 4418, HTSUS. In support of its position, Halstead states that the physical characteristics of the ceiling and wall panels are “virtually identical” to certain laminated fiberboard flooring panels that were previously classified under heading 4418, HTSUS, by the U.S. Court of Appeal for the Federal Circuit (CAFC). See *Faus Group, Inc. v. United States*, 581 F.3d 1369 (Fed. Cir. 2009). Accordingly, Halstead asserts that ruling letter NY N235680 should be revoked and that CBP should classify its non-structural laminated fiberboard panels under heading 4418, HTSUS, in accord with the guidance provided by the CAFC in *Faus*.

In *Faus*, the CAFC addressed the question of whether certain laminated flooring panels were properly classified as “fiberboard” under heading 4411, HTSUS, or as “builders’ joinery” under heading 4418, HTSUS. See *Faus*, 581 F.3d at 1369. Similar to the fiberboard panels at issue in ruling letters NY N242050 and N238576, the laminated flooring panels in *Faus* consisted of a fiberboard core with a color photograph overlay on each panel to simulate the appearance of a natural wood product. *Faus*, 581 F.3d at 1370. Likewise, the CAFC described the panels as non-structural finished articles designed to be installed by end users over a structural subfloor. *Id.* Each panel possessed tongue-and-groove joints along its edges to facilitate assembly with other like flooring panels. *Id.*

As an initial matter, the CAFC in *Faus* determined that the laminated flooring panels were *prima facie* classifiable under heading 4418, HTSUS, as “builders’ joinery,” based on the U.S. Court of International Trade’s (CIT) definition of the heading terms, “builders” and “joinery.” *Faus*, 581 F.3d at 1372. Specifically, the CAFC adopted the CIT’s definition of “builders’ joinery” in heading 4418, HTSUS, to mean “already joined pieces of wood or wood products capable of being joined with joints that function as non-structural elements of a building and are used as finishing for the interior of a building.” *Id.* (quoting *Faus Group, Inc. v. United States*, 358 F. Supp. 2d 1244, 28 Ct. Int’l Trade 1879 (Ct. Int’l Trade 2004)).

The CAFC noted that although the plain language of heading 4418, HTSUS, states that builders’ joinery “includ[es] cellular wood panels and assembled parquet panels,” the heading text does not indicate that heading 4418 is limited only to those specific exemplars. *Faus*, 581 F.3d at 1372 (stating “[N]othing in heading 4418 suggests that it applies only to products that are not described by the language of other provisions.”). Accordingly, because the plain language of heading 4418, HTSUS, does not exclude laminated flooring panels from classification under heading 4418, the CAFC upheld the CIT’s determination that the flooring panels were *prima facie* classifiable under heading 4418, HTSUS. *Id.* at 1373.

Having concluded that the laminated flooring panels were *prima facie* classifiable under heading 4418, HTSUS, the CAFC next accepted—for the sake of argument—that the flooring panels were also *prima facie* classifiable under heading 4411, HTSUS.¹ *Faus*, 581 F.3d at 1373. Consequently, because the Court considered the merchandise to be *prima facie* classifiable under both headings 4418 and 4411, HTSUS, the CAFC observed that classification must be determined by application of GRI 3(a), which require the Court to look to the Nomenclature provision with requirements that are more difficult to satisfy and that describe the article with the greatest degree of accuracy and certainty. *Id.*

According to GRI 3(a), when a product is *prima facie* classifiable under two or more headings, “[t]he headings which provides the most specific description shall be preferred to headings providing a more general description.” For example, in *Orlando Food Corp. v. United States*, 140 F.3d 1437 (Fed. Cir. 1998), the CAFC compared heading 2103, HTSUS, which covers preparations for sauces, with heading 2002, HTSUS, which covers prepared and preserved tomatoes, and concluded that heading 2103 was “more difficult to satisfy,” because producing a preparation for a sauce necessarily involves some degree of processing. *Faus*, 581 F.3d at 1374 (citing *Orlando Food*, 140 F.3d at 1441–42). By contrast, the CAFC noted that heading 2002, HTSUS, requires only minimal processing. *Id.* Consequently, because the requirements of

¹ The CAFC noted that if it were to determine that the laminated flooring panels were not *prima facie* classifiable under heading 4411, HTSUS, such a determination would leave heading 4418, HTSUS, as the only possible classification of the merchandise. *Faus*, 581 F.3d at 1373.

heading 2103, HTSUS, were more difficult to satisfy, the CAFC in *Orlando Food* held that heading 2103 provided a more specific product description than heading 2002, HTSUS, and was therefore preferred for the purposes of classification under GRI 3(a). *Id.*

Similar to the CAFC's analysis in *Orlando Food*, the Court in *Faus* determined that the plain language of heading 4418, HTSUS, describes articles with greater specificity than heading 4411, HTSUS, and was therefore more difficult to satisfy than heading 4411. Specifically, the CAFC observed that in order to be classified under heading 4418, HTSUS:

[I]t is necessary that the raw material (fiberboard or other wood-based material) be processed so that there can be a joining of pieces, or so that products are created that are capable of being joined. In contrast, while fiberboard that has undergone some processing may under Note 4 still come within heading 4418, processing is not a requirement for classification in [heading 4411], which by its plain language includes raw fiberboard. *Faus*, 581 F.3d at 1374.

Consequently, the CAFC noted that while heading 4418, HTSUS, may embrace a number of different products, the uses of those products are rather limited. *Faus*, 581 F.3d at 1374.

By contrast, the terms of heading 4411, HTSUS, are not limited at all by use, and the CAFC concluded that because heading 4411, HTSUS, covers a large variety of both unprocessed and processed fiberboard products—whereas heading 4418, HTSUS, covers only processed products for use as non-structural elements in the construction of buildings, heading 4418 is the more specific of the two headings. *Faus*, 581 F.3d at 1374. Accordingly, by application of GRI 3 (a), the CAFC classified the laminated flooring panels under heading 4418, HTSUS, because the heading is more specific than heading 4411, HTSUS. *Id.* at 1374–75.

In accord with the definition of “builders’ joinery” set forth by the CAFC in *Faus*, CBP finds that the laminated fiberboard panels at issue in ruling letters NY N242050 and N238576 are properly described as “already joined pieces of wood or wood products capable of being joined with joints that function as non-structural elements of a building and are used as finishing for the interior of a building.” See *Faus*, 581 F.3d at 1372. Similar to the laminated flooring panels in *Faus*, the instant laminated fiberboard ceiling, wall, and flooring panels each consist of non-structural wood fiberboard that has been laminated with paper on both surfaces of the fiberboard core. The paper laminated to the top surface of each panel features a decorative design overlay to simulate the appearance of natural wood. The fiberboard panels are tongue-and-grooved along the edges and ends of the panels to create an interlocking profile that facilitates the assembly with other like ceiling, wall, or flooring panels. Accordingly, CBP finds that the instant laminated panels are substantially similar to the merchandise at issue in *Faus* and that the ceiling, wall, and flooring panels are *prima facie* classifiable under heading 4418, HTSUS, as builders’ joinery.

Consistent with CAFC's analysis in *Faus*, CBP has similarly assumed—for the sake of argument—that the ceiling, wall, and flooring panels are also

classifiable *prima facie* under heading 4411, HTSUS. See *Faus*, 581 F.3d at 1373. There, the CAFC instructed that classification between headings 4418 and 4411, HTSUS, should be determined by application of GRI 3(a), *i.e.* the heading which provides the most specific description of the merchandise. *Id.* Thus, under the CAFC's decision in *Faus*, because heading 4418, HTSUS, encompasses a narrower range of items and uses than heading 4411, HTSUS, it is the more specific of the two headings. *Id.* Consequently, by application of GRI 3 (a), CBP finds that the instant non-structural laminated fiberboard ceiling, wall, and flooring panels are properly classified under heading 4418, HTSUS.

HOLDING:

By application of GRI 3(a), the non-structural laminated fiberboard ceiling and wall panels at issue in ruling letter NY N235680 are classified under heading 4418, HTSUS, specifically in subheading 4418.90.46, which provides for "Builders' joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes: Other: Other." The 2016 column one, general rate of duty is 3.2% *ad valorem*.

By application of GRI 3(a), the non-structural laminated fiberboard flooring panels at issue in ruling letter NY N238576 are classified under heading 4418, HTSUS, specifically in subheading 4418.90.46, which provides for "Builders' joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes: Other: Other." The 2016 column one, general rate of duty is 3.2% *ad valorem*.

Duty rates are provided for you convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the Internet at <http://hts.usitc.gov/>.

EFFECT ON OTHER RULINGS:

Ruling letters NY N235680, dated December 20, 2012, and NY N238576, dated March 22, 2013 are hereby **REVOKED** in accordance with the above analysis.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

CC: Daniel Lang
LND Development, Inc.
2903 Thayer Drive
Waxhaw, NC 28173

19 CFR PART 177**MODIFICATION OF ONE RULING LETTER AND
REVOCACTION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF CEREAL BARS**

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

ACTION: Notice of modification of one ruling letter, and of revocation of treatment relating to the tariff classification of cereal bars.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is modifying one ruling letter concerning tariff classification of cereal bars under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is modifying any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 50, No. 10, on March 9, 2016. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 22, 2016.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Tariff Classification and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0024.

SUPPLEMENTARY INFORMATION:**BACKGROUND**

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (“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 commu-

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the *Customs Bulletin*, Vol. 50, No. 10, on March 9, 2016, proposing to modify one ruling letter pertaining to the tariff classification of cereal bars. As stated in the proposed notice, this action will cover New York Ruling Letter ("NY") N211715, dated April 27, 2012, as well as any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In NY N211715, CBP classified the Kellogg's Frosted Flakes Bar and the Kellogg's Froot Loops Bar in heading 1704, HTSUS, specifically in subheading 1704.90.35, HTSUS, which provides for "Sugar confectionery (including white chocolate), not containing cocoa: Other: Confections or sweetmeats ready for consumption: Other: Other." CBP has reviewed NY N211715 and has determined the ruling letter to be in error with respect to the classification of the Frosted Flakes Bar. It is now CBP's position that the Frosted flakes Bar is properly classified, by operation of GRI 1, in heading 1806, HTSUS, specifically in subheading 1806.32.90, HTSUS, which pro-

vides for “Chocolate and other food preparations containing cocoa: Other, in blocks, slabs or bars: Not filled: Other: Other.”

Pursuant to 19 U.S.C. §1625(c)(1), CBP is modifying NY N211715 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter (“HQ”) H269530, set forth as Attachment “A” to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: April 27, 2016

JACINTO JUAREZ
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H269530

April 27, 2016

CLA-2 OT:RR:CTF:TCM H269530 CkG

CATEGORY: Classification

TARIFF NO: 1806.32.90

MS. PAMALA STURHAN
U.S. FOREIGN TRADE COMPLIANCE MANAGER
KELLOGG COMPANY
67 W. MICHIGAN AVENUE
BATTLE CREEK, MI 49016

Re: Modification of NY N211715; classification of Kellogg's cereal bars

DEAR MS. STURHAN,

This is in response to your request of August 4, 2014, for the reconsideration of New York Ruling Letter (NY) N211715, dated April 27, 2012, contesting Customs and Border Protection's (CBP) classification of the Kellogg's Frosted Flakes Bar in heading 1704, HTSUS, as sugar confectionery. In NY N211715, two Kellogg's cereal bars, the Froot Loops Bar and the Frosted Flakes Bar, were classified in heading 1704, HTSUS. You claim that the Kellogg's Frosted Flakes Bar is classified in heading 1806, HTSUS, heading 1904, HTSUS, or alternatively in heading 2106, HTSUS. You do not contest the classification of the Froot Loops Bar. We have reviewed NY N211715 and have determined that it is incorrect with regard to the classification of the Frosted Flakes Bar.

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, notice proposing to modify NY N211715 was published on March 9, 2016, in Volume 50, Number 10 of the Customs Bulletin. No comments were received in response to this notice.

FACTS:

In NY N211715, the Frosted Flakes Bars were described as follows:

The Frosted Flakes Bar consists of corn flakes shaped in bar form with a chocolate flavored coating on the bottom of the bar. The cereal bar is packaged in a foil wrapping, decorated with the Kellogg's Frosted Flakes logo and has a net weight of 21 grams. It is said to contain 35–75 percent corn flakes, 15–25 percent chocolate flavored coating (cocoa content is less than 6 percent), 3–9 percent glucose, 3–9 percent high fructose corn syrup, 2–6 percent glucose solids, 2–6 percent soybean and palm oil, 2–6 percent sugar, 2–6 percent dextrose and less than 2 percent of the following: invert sugar, natural flavor, nonfat milk, tricalcium phosphate, sorbitol, glycerin, color added, soy lecithin, vitamin C (ascorbic acid), maltodextrin, wheat starch, vitamin E (alpha tocopherol), vitamin B1 (thamin mononitrate), vitamin B6 (pyridoxine hydrochloride) and BHT.

Based on additional information provided by Kellogg, the total cocoa content of the Frosted Flakes Bar is approximately 1.5% by weight on a defatted basis, and it contains approximately 26% of added sugars and sweeteners in the form of ingredients such as glucose and high fructose corn syrup.

ISSUE:

Whether the Frosted Flakes Bar is classified in heading 1704, HTSUS, as sugar confectionery; in heading 1806, HTSUS, as a food preparation containing cocoa; in heading 1904, HTSUS, as a cereal product; or in heading 2106, HTSUS, as a food preparation not elsewhere specified or included.

LAW AND ANALYSIS:

Classification of goods under the HTSUS is governed by the General Rules of Interpretation (GRI's). GRI 1 provides that "classification shall be determined according to the terms of the headings and any relative section or chapter notes, and, provided such headings or notes do not otherwise require, according to the remaining GRI's." In other words, classification is governed first by the terms of the headings of the tariff and any relative section or chapter notes.

The HTSUS provisions at issue are as follows:

- 1704: Sugar confectionery (including white chocolate), not containing cocoa:
- 1704.90: Other:
Confections or sweetmeats ready for consumption:
Other:
- 1704.90.35: Other....
* * * *
- 1806: Chocolate and other food preparations containing cocoa:
Other, in blocks, slabs or bars:
- 1806.32: Not filled:
Other:
- 1806.32.90: Other.....
* * * *
- 1904: Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, cornflakes); cereals (other than corn (maize)) in grain form or in the form of flakes or other worked grains (except flour, groats and meal), pre-cooked or otherwise prepared, not elsewhere specified or included:
- 1904.10.00: Prepared foods obtained by the swelling or roasting of cereals or cereal products....
- 2106: Food preparations not elsewhere specified or included:
2106.90: Other...
* * * *

Note 1 to Chapter 17 provides as follows:

1. This Chapter does not cover :

Sugar confectionery containing cocoa (heading 18.06);

The Legal Notes to Chapter 18 provide as follows:

This Chapter does not cover the preparations of heading 04.03, 19.01, 19.04, 19.05, 21.05, 22.02, 22.08 30.03, or 30.04.

Heading 18.06 includes sugar confectionery containing cocoa and, subject to Note 1 to this Chapter, other food preparations containing cocoa.

Note 3 to Chapter 19 provides as follows:

Heading 1904 does not cover preparations containing more than 6 percent by weight of cocoa calculated on a totally defatted basis or completely coated with chocolate or other food preparations containing cocoa of heading 1806 (heading 1806).

* * * *

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

The General Explanatory Notes to Chapter 17 provide, in pertinent part, as follows:

The Chapter **does not include** :

Sugar confectionery containing cocoa or chocolate (**other than** white chocolate) in any proportion, and sweetened cocoa powders (**heading 18.06**).

Sweetened food preparations of **Chapter 19, 20, 21 or 22**.

The General EN to Chapter 18 provides, in pertinent part, as follows:

This Chapter covers cocoa (including cocoa beans) in all forms, cocoa butter, fat and oil and preparations containing cocoa (in any proportion), **except** :

...

Food preparations of flour, groats, meal, starch or malt extract, containing less than 40 % by weight of cocoa calculated on a totally defatted basis, and food preparations of goods of headings 04.01 to 04.04 containing less than 5 % by weight of cocoa calculated on a totally defatted basis, of **heading 19.01**.

Swelled or roasted cereals containing not more than 6 % by weight of cocoa calculated on a totally defatted basis (**heading 19.04**).

(e) Pastry, cakes, biscuits and other bakers' wares, containing cocoa (**heading 19.05**).

...

EN 18.06 provides, in pertinent part, as follows:

The heading also includes all sugar confectionery containing cocoa in any proportion (including chocolate nougat), sweetened cocoa powder, chocolate powder, chocolate spreads, and, in general, all food preparations containing cocoa (other than those excluded in the General Explanatory Note to this Chapter).

The EN to heading 19.04 provides, in pertinent part, as follows:

Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes).

This group covers a range of food preparations made from cereal grains (maize, wheat, rice, barley, etc.) which have been made crisp by swelling

or roasting. They are mainly used, with or without milk, as breakfast foods. Salt, sugar, molasses, malt extract, fruit or cocoa (see Note 3 and the General Explanatory Note to this Chapter), etc., may have been added during or after their manufacture.

...

The heading also excludes :

Prepared cereals coated or otherwise containing sugar in a proportion which gives them the character of sugar confectionery (heading 17.04).

Preparations containing more than 6 % by weight of cocoa calculated on a totally defatted basis or completely coated with chocolate or other food preparations containing cocoa of heading 18.06 (heading 18.06).

* * * *

In NY N211715, dated April 27, 2012, CBP classified the Frosted Flakes Bar in heading 1704, HTSUS, as sugar confectionery. You argue that the Frosted Flakes Bar is not classified in heading 1704, HTSUS, because it contains cocoa and because the Explanatory Notes to Chapter 17 exclude “Sweetened food preparations of Chapter 19, 20, 21 or 22” from classification in Chapter 17. You argue that it is properly classified in either heading 1904, HTSUS, as “prepared foods obtained by the swelling or roasting of cereals or cereal products”, or, if CBP determines that it has the character of confectionery, in heading 1806, HTSUS, as “other food preparations containing cocoa.” Alternatively, you suggest classification in heading 2106, HTSUS, as a food preparation not elsewhere specified or included.

Heading 1704, HTSUS, provides for “Sugar confectionery (including white chocolate), *not containing cocoa*” (emphasis added). Note 1 to Chapter 17 reiterates that Chapter 17 does not include “sugar confectionery containing cocoa (heading 18.06)”, and the EN to heading 17.04 further elaborates that heading 1704, HTSUS, excludes “Sugar confectionery containing cocoa or chocolate (other than white chocolate) *in any proportion*, and sweetened cocoa powders (heading 18.06).” (emphasis added). The classification of sugar confectionery containing cocoa is directed to heading 1806, HTSUS. Thus, in order for the Frosted Flakes Bar to be classified in heading 1704, HTSUS, it must be “sugar confectionery” within the meaning of the heading, and it must not contain cocoa or chocolate.

The term “confectionery” is not defined in the HTSUS. However, CBP has adopted the meaning of the term given by the United States Customs Court (now the Court of International Trade) in *Leaf Brands, Inc. v. United States*, (“*Leaf Brands*”) 70 Cust. Ct. 66 (1973).¹ The Court defined “confectionery” as the “many kinds of sweet-tasting articles which are eaten as such for their taste and flavor without further preparation and which are usually sold in confectionery outlets.” *Id.* at 71. Further, the Court found that whether an article is confectionery is determined by its chief use as a confection, which

¹ This case was decided under the Tariff Schedules of the United States (TSUS). Decisions by the courts interpreting the TSUS are not deemed dispositive under the HTSUS. However, on a case-by-case basis, prior decisions should be considered instructive in interpreting the HTSUS, particularly where the nomenclature previously interpreted in those decisions remains unchanged and no dissimilar interpretation is required by the text of the HTSUS. See House Conference Report No. 100-576, dated April 20, 1998, on the Omnibus

may be evidenced by its character and design and the manner in which it is sold (i.e., through candy brokers, in confectionery outlets), rather than by its shape and texture.² *Id.* at 72. Following *Leaf Brands*, CBP has consistently taken the position that a confection is a product that, in its condition as imported, is ready for consumption at retail as a confectionery and is marketed as such; it is not an ingredient of another food product. *See, e.g.*, HQ 086101, dated February 27, 1990 (peanut flavored chips), HQ 085206, dated February 23, 1990 (white chocolate in 5 kg blocks), HQ 955580, dated July 30, 2002, and HQ 965211, dated August 1, 2002 (chocolate fish).

As the instant product is no longer in production, we cannot ascertain the manner in which it is sold or marketed. However, we can ascertain from the ingredients, specifically the high proportion of added sugars, that the Frosted Flakes Bar has the character of confectionery. The aforementioned ingredients collectively comprise more than 26% of the Frosted Flakes Bar, without counting the additional sugar present in the frosted flakes and chocolate coating (Frosted Flakes cereal is stated to contain 10 g of sugar per 29 grams of cereal, but the sugar in the chocolate coating is not broken down by amount). Thus, the Frosted Flakes Bar has the character of a sugar confectionery.

The Kellogg's Frosted Flakes Bar contains roughly 1.5% cocoa on a defatted basis. Although the total cocoa content of the bar is low, the heading text and ENs to heading 1704, HTSUS, are clear that any amount of cocoa is sufficient to exclude a product of sugar confectionery from this heading. Thus, although the Frosted Flakes Bar has the character of sugar confectionery, we agree that because it contains cocoa, it cannot be classified in heading 1704, HTSUS.

You suggest that the Frosted Flakes Bar is classified in either heading 1806, HTSUS, heading 1904, HTSUS, or heading 2106, HTSUS. Note 1 to Chapter 17 and Note 2 to Chapter 18 direct the classification of sugar confectionery containing cocoa to heading 1806, HTSUS. The Frosted Flakes Bar, as a sugar confectionery containing cocoa, is thus classified in heading 1806, HTSUS, and not heading 1904, HTSUS. Note 3 to Chapter 19 confirms that "heading 19.04 does not cover preparations containing more than 6% by weight of cocoa calculated on a totally defatted basis or completely coated with chocolate or other food preparations containing cocoa of heading 18.06 (18.06)" (emphasis added). Thus, because the Frosted Flakes Bar has the character of sugar confectionery, it is excluded from classification as a food preparation of Chapter 19 or heading 1904, HTSUS. *See also*, HQ H200575, dated April 16, 2012. Because the Frosted Flakes Bar is specifically provided for in heading 1806, HTSUS, it cannot be classified in heading 2106, HTSUS.

By comparison, CBP has consistently classified snack bars containing cocoa in heading 1806, HTSUS. *See, e.g.*, NY N041325, dated October 29, 2008 (Kashi Cherry Dark Chocolate granola bar); NY N028269, dated May 16, 2008 (Sesame & Peanuts with Chocolate Bar), NY M80106, dated February 8, 2006 (protein and energy bars); NY L89983, dated February 7, 2006

Trade and Competitiveness Act of 1988 (P.L. 100-418). In this instance, we consider *Leaf Brands v. United States*, 70 Cust. Ct. 66 (1973), to be instructive because it involves the interpretation of the identical tariff term "confectionery".

² The concept of "chief use" which stemmed from the TSUS, has been superseded by the concept of "principal use" contained in Additional U.S. Rule of Interpretation 1(a), HTSUS.

(Crispy Rice with Chocolate bar); and NY J83776, dated May 27, 2003 (“banana & muesli with chocolate” bar).

HOLDING:

Pursuant to GRIs 1 and 6, the Kellogg’s Frosted Flakes Bar is classified in heading 1806, HTSUS, specifically subheading 1806.32.90, HTSUS, which provides for “Chocolate and other food preparations containing cocoa: Other, in blocks, slabs or bars: Not filled: Other: Other.” The 2016, column one, general rate of duty is 6% *ad valorem*.

EFFECT ON OTHER RULINGS:

NY N211715, dated April 27, 2012, is hereby modified.

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

Sincerely,

JACINTO JUAREZ

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



**PROPOSED REVOCATION OF ONE RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF CERTAIN PLASTIC
RAINWEAR**

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

ACTION: Notice of proposed revocation of one ruling letter and revocation of treatment relating to the tariff classification of certain plastic rainwear.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke one ruling letter concerning tariff classification of unlined jacket and trousers under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATES: Comments must be received on or before July 22, 2016.

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

FOR FURTHER INFORMATION CONTACT: Grace A. Kim, Value and Special Programs Branch, Regulations and Rulings, Office of Trade, at (202) 325-7941.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the tariff classification of certain plastic rainwear. Although in this notice, CBP is specifically referring to NY N247420, dated November 26, 2013 (Attachment A), this notice covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified.

No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the notice period.

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

In NY N247420, CBP classified rainwear consisting of an unlined jacket and a pair of trousers in heading 3926, HTSUS, specifically in subheading 3926.20.60, HTSUS, which provides for “[o]ther articles of plastics and articles of other materials of headings 3901 to 3914: Articles of apparel and clothing accessories (including gloves, mittens and mitts): Other: Plastic rainwear, including jackets, coats, ponchos, parkas and slickers, featuring an outer shell of polyvinyl chloride plastic with or without attached hoods, valued not over \$10 per unit.” CBP has reviewed NY N247420 and has determined the ruling letter to be in error. It is now CBP's position that the unlined jacket and trousers are properly classified, by operation of GRI 1, in heading 6210, HTSUS, specifically in subheading 6210.10.90, HTSUS, which provides for “[g]arments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907: Of fabrics of heading 5602 or 5603: Other: Other: Other.”

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N247420 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ H268945, set forth as Attachment B to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: May 3, 2016

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

Attachments

[ATTACHMENT A]

NY N247420

November 26, 2013

CLA-2-39:OT:RR:NC:N:N3

CATEGORY: Classification

TARIFF NO.: 3926.20.6000

MR. RICH CHIBA
FROGG TOGGS
131 SUNDOWN DRIVE
ARAB, AL 35976

RE: The tariff classification of plastic rainwear from China.

DEAR MR. CHIBA:

In your letter dated October 29, 2013, you requested a tariff classification ruling. The sample will be returned to you, as requested.

Style UL12104Y-04 consists of an unlined jacket and a pair of trousers. The garments are composed of polyurethane plastic material with a backing of non-woven polypropylene fabric. The jacket has a full front opening, zipper closure with overlapping flap, hood, long sleeves with elasticized cuffs and a hemmed bottom. The trousers feature an elasticized waist and hemmed bottoms.

Chapter 56 Note 3(c) states that "Headings 5602 and 5603 cover respectively felt and nonwovens, impregnated, coated, covered or laminated with plastics or rubber whatever the nature of these materials (compact or cellular). Headings 5602 and 5603 do not, however, cover: (c) Plates, sheets or strip of cellular plastics or cellular rubber combined with felt or nonwovens, where the textile material is present merely for reinforcing purposes (chapter 39 or 40)." The non-woven backing for style UL12104Y-04 is used merely for reinforcing the polyurethane plastic. Therefore, the jacket and trousers are considered made of plastic material of Chapter 39.

The applicable subheading for the jacket of style UL12104Y-04 will be 3926.20.6000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for which provides for Other articles of plastics and articles of other materials 3901 to 3914: Articles of apparel and clothing accessories (including gloves, mittens and mitts): Other: Plastic rainwear, including jackets, coats, ponchos, parkas and slickers, featuring an outer shell of polyvinyl chloride plastic with or without attached hoods, valued not over \$10 per unit. The rate of duty will be free.

The applicable subheading for the trousers of style UL12104Y-04 will be 3926.20.6000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for which provides for Other articles of plastics and articles of other materials 3901 to 3914: Articles of apparel and clothing accessories (including gloves, mittens and mitts): Other: Plastic rainwear, including jackets, coats, ponchos, parkas and slickers, featuring an outer shell of polyvinyl chloride plastic with or without attached hoods, valued not over \$10 per unit. 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 Rosemarie Hayward at (646) 733-3064.

Sincerely,

GWENN KLEIN KIRSCHNER

Acting Director

National Commodity Specialist Division

[ATTACHMENT B]

HQ H268945

CLA-2 OT:RR:CTF:TCM H268945 GaK

CATEGORY: Classification

TARIFF NO: 6210.10.90

MR. RICH CHIBA
FROGG TOGGS
131 SUNDOWN DRIVE
ARAB, AL 35976

RE: Revocation of NY N247420; Classification of plastic rainwear from China

DEAR MR. CHIBA:

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered New York Ruling Letter (“NY”) N247420, which was issued to Frogg Toggs on November 26, 2013. In NY N247420, CBP classified an unlined jacket and a pair of trousers (“merchandise”) under subheading 3926.20.60, Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for: “[o]ther articles of plastics and articles of other materials of headings 3901 to 3914: Articles of apparel and clothing accessories (including gloves, mittens and mitts): Other: Plastic rainwear, including jackets, coats, ponchos, parkas and slickers, featuring an outer shell of polyvinyl chloride plastic with or without attached hoods, valued not over \$10 per unit.” We have reviewed NY N247420 and found it to be incorrect. For the reasons set forth below, we are revoking this ruling.

FACTS:

In NY N247420, the merchandise was described as follows:

Style UL12104Y-04 consists of an unlined jacket and a pair of trousers. The garments are composed of polyurethane plastic material with a backing of non-woven polypropylene fabric. The jacket has a full front opening, zipper closure with overlapping flap, hood, long sleeves with elasticized cuffs and a hemmed bottom. The trousers feature an elasticized waist and hemmed bottoms.

On March 18, 2015, CBP submitted a swatch of fabric from the trouser to the CBP Laboratories and Scientific Services (“CBP Laboratory”) for analysis to determine the composition of the fabric for Style UL12104Y-04. The CBP Laboratory used CBPL 35–07 method to analyze the composition of the fabric and concluded that the swatch was “composed of a textile coated on one surface with a non-cellular plastic material.”

ISSUE:

Whether the merchandise is classified as “[o]ther articles of plastics and articles of other materials of headings 3901 to 3914”, under heading 3926, HTSUS, or as “[g]arments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907”, under heading 6210, HTSUS.

LAW AND ANALYSIS:

Merchandise imported into the United States is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation (“GRIs”) and, in the absence of special language or context which requires otherwise, by the Additional U.S. Rules of Interpretation. The GRIs and the Additional U.S. Rules of Interpretation are part of the HTSUS and are to be considered statutory provisions of law for all purposes. GRI 1 requires that classification be determined first 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 heading and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

The HTSUS headings at issue are as follows:

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

6210 Garments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907:

Note 3(c) to Chapter 56, HTSUS states:

Headings 56.02 and 56.03 cover respectively felt and nonwovens, impregnated, coated, covered or laminated with plastics or rubber whatever the nature of these materials (compact or cellular).

Heading 56.03 also includes nonwovens in which plastics or rubber forms the bonding substance.

Headings 56.02 and 56.03 do not, however, cover: . . .

(c) Plates, sheets or strip of cellular plastics or cellular rubber combined with felt or nonwovens, where the textile material is present merely for reinforcing purposes (Chapter 39 or 40).

In NY 247420, and following Note 3(c) to Chapter 56, HTSUS, CBP concluded that the nonwoven backing for Style UL12104Y-04 was used merely for reinforcement of the polyurethane plastic. Therefore, the jacket and trousers were considered made of plastic material of Chapter 39, HTSUS. However, an analysis of the fabric swatch from Style UL12104Y-04 by the CBP Laboratory revealed that the garment is constructed from non-cellular (compact) plastic. As such, we now believe that the garments are not excluded from Chapter 56 by Note 3 (c) to Chapter 56, and are composed of fabric of Chapter 56. Therefore, we find that under GRI 1, the jacket and trousers are described by heading 6210, HTSUS, which provides for “[g]arments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907”.

HOLDING:

Under the authority of GRIs 1 and 6, the jacket and trousers are provided for in heading 6210, HTSUS, specifically in subheading 6210.10.90, HTSUS, which provides for, “[g]arments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907: Of fabrics of heading 5602 or 5603: Other: Other: Other.” The column one general rate of duty is 16% ad valorem.

EFFECT ON OTHER RULINGS:

NY 247420, dated November 26, 2013, is hereby REVOKED.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division


19 CFR PART 177**WITHDRAWAL OF PROPOSED REVOCATION OF ONE
RULING LETTER AND PROPOSED REVOCATION OF
TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF A WINE BOTTLE BAG**

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

ACTION: Withdrawal of notice of revocation of proposed revocation of one ruling letter and proposed revocation of treatment relating to the tariff classification of certain wine bottle bags.

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), Customs and Border Protection (CBP) proposed to revoke one ruling letter relating to the tariff classification of wine bottle bags under the Harmonized Tariff Schedule of the United States (HTSUS). CBP also proposed to revoke any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 47, No. 28, on July 3, 2013. No comments were received in response to the notice. However, we have determined that the classification of the subject merchandise of that ruling was correct and the ruling will not be revoked.

EFFECTIVE DATE: This action is effective immediately.

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

SUPPLEMENTARY INFORMATION:**BACKGROUND**

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

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the *Customs Bulletin*, Vol. 47, No. 28, on July 3, 2013, proposing to revoke New York Ruling Letter (NY) N025633, dated April 14, 2008, which classified a wine bottle shopping bag in subheading 4202.92.30, HTSUS, as “travel, sports and similar bags, with outer surface of textile materials, other, of man-made fibers, other.” In the notice of July 3, 2013, we proposed to classify the wine bag in subheading 4202.92.90, HTSUS, as an other type of bag. Though no comments were received in response to this notice, we have determined that the classification of the wine bottle bag in subheading 4202.92.30, HTSUS, is correct.

Pursuant to 19 U.S.C. § 1625(c), and 19 C.F.R. § 177.7(a), which states, in relevant part, that “[n]o ruling letter will be issued...in any instance in which it appears contrary to the sound administration of the Customs and related laws to do so,” CBP is withdrawing its proposed revocation of NY N025633.

Dated: May 3, 2016

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

**PROPOSED REVOCATION OF ONE RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF HOSPITAL PATIENT TOPS
AND SHORTS**

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

ACTION: Notice of proposed revocation of one ruling letter and revocation of treatment relating to the tariff classification of hospital patient tops and shorts.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke one ruling letter concerning tariff classification of hospital patient tops and shorts under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATES: Comments must be received on or before July 22, 2016.

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

FOR FURTHER INFORMATION CONTACT: Tatiana Salnik Matherne, Tariff Classification and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325-0351.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the tariff classification of hospital patient tops and shorts. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) N257998, dated November 4, 2014 (Attachment A), this notice covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the notice period.

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

In NY N257998, CBP classified the subject hospital patient tops in heading 6206, HTSUS, specifically in subheading 6206.40.30, HTSUS, which provides for “Women’s or girls’ blouses, shirts and shirt-blouses: Of man-made fibers: Other: Other,” and the subject shorts in heading 6204, HTSUS, specifically subheading 6204.63.35,

HTSUS, which provides for “Women’s or girls’ suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): Trousers, bib and brace overalls, breeches and shorts: Of synthetic fibers: Other: Other: Other: Other: Other.” CBP has reviewed NY N257998 and has determined this ruling letter to be in error. It is now CBP’s position that the subject hospital patient tops and shorts are properly classified, by operation of GRIs 1 and 6, in heading 6404, HTSUS. Specifically, the tops are classified in subheading 6204.23.0055, HTSUS, which provides for “Women’s or girls’ ... ensembles...: Ensembles: Of synthetic fibers: Other: Blouses and shirts: Other.” The shorts are classified in subheading 6404.23.0045, HTSUS, which provides for “Women’s or girls’ ... ensembles...: Ensembles: Of synthetic fibers: Other: Shorts.”

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N257998 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H262283, set forth as Attachment B to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: May 3, 2016

JACINTO JUAREZ
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

NY N257998

November 4, 2014

CLA-2-62:OT:RR:NC:N3:360

CATEGORY: Classification

TARIFF NO.: 6206.40.3030; 6204.63.3532

MS. JENNIFER SCOTT
EXPEDITORS INTERNATIONAL OF WASHINGTON, INC.
21318 64TH AVE. SOUTH
KENT, WA 98032

RE: The tariff classification of a top and a pair of shorts from China

DEAR MS. SCOTT:

In your letter dated October 2, 2014 you requested a tariff classification ruling on behalf of your client, Medical Apparel LLC. Your samples will be returned as requested.

The submitted unisex hospital patient top is constructed from 65% polyester and 35% cotton woven fabric. The top features a V-shaped front and back neckline, short sleeves, a left chest pocket, and a full front opening secured by a double row of snap closures. The garment is attached at the shoulders by three snap closures. The submitted pair of unisex hospital patient shorts is constructed from 65% polyester and 35% cotton woven fabric. The shorts feature an elasticized waistband in the back and a tunnel draw string tightening at the front. Both sides of the shorts are joined together by a single row of four snap closures.

The applicable subheading for the top will be 6206.40.3030, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Women's or girls' blouses, shirts and shirt-blouses: Of man-made fibers: Other: Other: Other: Women's. The rate of duty will be 26.9 percent ad valorem.

The applicable subheading for shorts will be 6204.63.3532, HTSUS, which provides for Women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): Trousers, bib and brace overalls, breeches and shorts: Of synthetic fibers: Other: Other: Other: Other: Other: Shorts: Women's. The rate of duty will be 28.6 percent ad valorem.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the 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 Kimberly Rackett via email at kimberly.rackett@cbp.dhs.gov.

Sincerely,

GWENN KLEIN KIRSCHNER

Director

National Commodity Specialist Division

[ATTACHMENT B]

HQ H262283
CLA-2 OT:RR:CTF:TCM H262283 TSM
CATEGORY: Classification
TARIFF NO.: 6204.23.0045; 6204.23.0055.

MR. DOUG E STOKES
MEDICAL APPAREL LLC
22029 44TH P1 S
KENT, WA 98032

RE: Revocation of NY N257998; Classification of unisex hospital patient tops and shorts

DEAR MR. STOKES:

This letter is in response to your request for reconsideration of New York Ruling Letter (NY) N257998, issued to Medical Apparel LLC on November 4, 2014, concerning the tariff classification of unisex hospital patient tops and shorts. In that ruling, U.S. Customs and Border Protection (“CBP”) classified the subject tops under subheading 6206.40.30, Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for “Women’s or girls’ blouses, shirts and shirt-blouses: Of man-made fibers: Other: Other.” Furthermore, CBP classified the subject shorts under subheading 6204.63.35, HTSUS, which provides for “Women’s or girls’ suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): Trousers, bib and brace overalls, breeches and shorts: Of synthetic fibers: Other: Other: Other: Other: Other.” For the reasons set forth below we hereby revoke NY N257998.

FACTS:

NY N257998, issued to Medical Apparel LLC on November 4, 2014, describes the subject merchandise as follows:

The submitted unisex hospital patient top is constructed from 65% polyester and 35% cotton woven fabric. The top features a V-shaped front and back neckline, short sleeves, a left chest pocket, and a full front opening secured by a double row of snap closures. The garment is attached at the shoulders by three snap closures. The submitted pair of unisex hospital patient shorts is constructed from 65% polyester and 35% cotton woven fabric. The shorts feature an elasticized waistband in the back and a tunnel draw string tightening at the front. Both sides of the shorts are joined together by a single row of four snap closures.

You explain that the subject tops and shorts, designed only for hospital use, are manufactured as one unit and are not sold separately. In your request for reconsideration, you provided additional facts. You submitted copies of the marketing materials and invoices showing that the subject tops and shorts are packaged and sold together as single units in one bag, thus confirming that they are not sold separately.

In addition, you submitted samples of the tops and shorts at issue for our examination.

ISSUE:

What is the correct classification of the hospital patient tops and shorts under the HTSUS?

LAW AND ANALYSIS:

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

In addition, in interpreting the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS at the international level. *See* T.D. 89–80, 54 Fed. Reg. 35127 (August 23, 1989).

The HTSUS provisions under consideration are as follows:

6206	Women's or girls' blouses, shirts and shirt-blouses: * * *
6204	Women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): * * *
6204	Women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): * * *
6207	Men's or boys singlets and other undershirts, underpants, briefs, nightshirts, pajamas, bathrobes, dressing gowns and similar articles * * *
6208	Women's or girls' singlets and other undershirts, slips, petticoats, briefs, panties, nightdresses, pajamas, negligees, bathrobes, dressing gowns and similar articles * * *
6211	Track suits, ski-suits and swimwear; other garments * * *

In a letter dated November 21, 2014, you argued that the subject merchandise should be classified as a two piece gown set, under one of the following: (1) heading 6207, HTSUS, which provides for "Men's or boys' singlets and other undershirts, underpants, briefs, nightshirts, pajamas, bathrobes, dressing gowns and similar articles"; (2) heading 6208, HTSUS, which provides for "Women's or girls' singlets and other undershirts, slips, petticoats, briefs, panties, nightdresses, pajamas, negligees, bathrobes, dressing gowns and similar articles"; or (3) heading 6211, HTSUS, which provides for "Track suits, ski-suits and swimwear; other garments."

You argued that the subject tops are not women's or girls' garments. You further argued that the tops are more like sleepwear/pajamas, and that they are intended for use only within a hospital setting. Moreover, you stated that the subject tops contain a pocket with an opening behind, which is specifically designed to hold a medical device such as a Telemetry or a Jackson Pratt Drain, and openings in the chest area that accommodate electrical wires that connect to monitor pads on the chest. In addition, you claimed that the subject tops were designed with many snaps for convenience during patient examinations, during MRI tests, CAT scans, x-rays, and for easy application of defibrillator pads for cardiac resuscitation, as well as during surgeries.

You also alleged that the subject shorts, designed to accompany the above-discussed tops, are not similar to the items provided for in subheading 6204.63.35, HTSUS. You claimed that the leg on the shorts was constructed to cover a Foley catheter leg bag, and that the shorts have a double row of four sets of plastic snaps, which help to accommodate different sized patients.

In NY N257998, the top was classified in heading 6206, HTSUS, a provision for women's shirts, and the shorts were classified in heading 6204, HTSUS, a provision for women's shorts.

You believe that the garments were confused for women's or girls' work/street/everyday clothing that is worn in public and professional everyday settings. However, this is not the case. The classification of garments within chapter 62, HTSUS, is governed, in relevant part, by Note 8 to Chapter 62, which provides that:

Garments of this chapter designed for left over right closure at the front shall be regarded as men's or boy's garments, and those designed for right over left closure at the front as women's or girls' garments. These provisions do not apply where the cut of the garment clearly indicates that it is designed for one or other of the sexes.

Garments which cannot be identified as either men's or boy's garments or as women's or girls' garments are to be classified in the headings covering women's or girls' garments.

We have examined the tops, and they are designed for right over left closure at the front. You confirm that the tops are unisex garments, and based upon our examination, we agree that the cut of the garment does not clearly indicate that it is designed for one or other of the sexes. Therefore, for purposes of classification in chapter 62, HTSUS, and pursuant to Note 8 to chapter 62, the tops are considered women's or girls' garments. We reach a similar conclusion regarding the shorts. We have examined the shorts and they cannot be identified as either men's or boy's garments or as women's or girls' garments. You confirm that the shorts are unisex garments. Therefore, for purposes of classification in chapter 62, HTSUS, and pursuant to Note 8 to chapter 62, the shorts are considered women's or girls' garments. Since the tops and shorts are not described as men's or boys garments, they cannot be classified under heading 6207, which is a provision for "Men's or boys singlets and other undershirts, underpants, briefs, nightshirts, pajamas, bathrobes, dressing gowns and similar articles."

Next, you argue that the top is not a "regular" shirt of heading 6206, HTSUS. Instead, you argue it is more like sleepwear, dressing gowns, or pajamas. You note the different design and construction features of the top, including a rear pocket designed to hold medical devices, including post-operative drains for collecting bodily fluids from surgical sites. You note

openings in the front chest area designed to accommodate electrical wires used to connect to monitor pads on the chest, and to accommodate heart monitors and post-operative drains. You also note both garments were designed with plastic snaps to accommodate equipment used in a variety of medical examinations and procedures. You argue the shorts are not “regular” shorts of heading 6204, HTSUS. You note the shorts were designed and constructed to conceal a Foley catheter leg bag. You also note the double rows of plastic snaps to accommodate proper sizing, and that they do not have pockets or a fly opening. You also note that a hospital logo is embroidered on both the top and shorts. You conclude that the top and shorts are medical sleepwear/dressing “gowns” for patient use during hospital stays. As such, you propose classification of both garments under heading 6208, HTSUS, as women’s or girls’ pajamas or dressing gowns.

In a recent Informed Compliance Publication (ICP), CBP provided, in pertinent part, the following guideline for classification of garments having multiple uses, to include sleeping.

Certain garments are also marketed as having multiple uses that may include sleeping. Such garments would not be classified as sleepwear, but in the specific headings for the named articles.

See, CBP Informed Compliance Publication on Classification: Apparel Terminology under the HTSUS, June 2008. As you have indicated, the subject tops and shorts have been designed and are marketed for multiple uses, such as for patient examinations, and medical tests and procedures, they are not classified as pajamas in heading 6207, HTSUS, or heading 6208, HTSUS. *But see* NY N245694, dated September 26, 2013 (classifying men’s pants, designed and marketed to be worn only for sleeping, in heading 6207, HTSUS); NY N120470, dated September 24, 2010 (classifying men’s sleepwear in heading 6207, HTSUS); NY N256458, dated September 12, 2014 (classifying women’s two-piece pajama sets in heading 6208, HTSUS); and NY K87386, dated July 21, 2004 (classifying women’s pajama sets in heading 6208, HTSUS).

However, we do agree with your argument that both garments should be classified together under a single heading. Note 14 to Section XI, provides:

Unless the context otherwise requires, textile garments of different headings are to be classified in their own headings even if put up in sets for retail sale.

The submitted upper and lower garments would normally be classified separately. As per the terms of Note 14, to be classified together as a single article, there must be a heading and a subheading which specifically provides for those garments under a single classification.

Heading 6204, HTSUS, covers “Women’s or girls’ suits, ensembles. . . and shorts (other than swimwear). Subheading 6204.23.00, HTSUS, specifically provides for ensembles of synthetic fibers. Both garments are constructed from 65% polyester and 35% cotton woven fabric. Note 2(A) to Section XI and Subheading Note 2 to Section XI, when read together, require that textile garments containing two or more textile materials be classified according to that material which predominates by weight.

The term “ensemble” as defined in Note 3(b) to chapter 62, HTSUS, provides as follows:

For the purposes of headings 6203 and 6204:

The term “ensemble” means a set of garments (other than suits and articles of heading 6207 or 6208) composed of several pieces made up in identical fabric, put up for retail sale, and comprising:

- one garment designed to cover the upper part of the body, with the exception of waistcoats which may also form a second upper garment, and
- one or two different garments, designed to cover the lower part of the body and consisting of trousers, bib and brace overalls, breeches, shorts (other than swimwear), a skirt or a divided skirt.

All of the components of an ensemble must be of the same fabric construction, style, color and composition; they also must be of corresponding or compatible size...

The above requirements for an ensemble make it clear that where the top and bottom portions are not identical in all material aspects, the garments are precluded from the ensemble classification. To qualify as an ensemble the subject merchandise must consist of a set of garments composed of several pieces made up in identical fabric, style, color, compatible size and put up for retail sale. Based upon our examination of the garments, we conclude that they are made of the identical fabric, are the same in color, composition and size, and are put together for retail sale.

Therefore, pursuant to Note 3(b) to Chapter 62, both the top and the shorts are described as a women’s or girls’ ensemble. They are described by heading 6204, HTSUS. As such, since the top and shorts are classified in heading 6204, HTSUS, they cannot be classified in heading 6211, HTSUS, which is a provision for, in relevant part, “other garments.”

HOLDING:

By application of GRIs 1 and GRI 6, the tops and shorts are classified as ensembles under heading 6204, HTSUS, and subheading 6204.23.00, HTSUS, which provides for “Women’s or girls’ ... ensembles...: Ensembles: Of synthetic fibers.”

The tops are classified in subheading 6204.23.0055, HTSUS, which provides for “Women’s or girls’ ... ensembles...: Ensembles: Of synthetic fibers: Other: Blouses and shirts: Other.” The 2016, column one rate of duty will be 26.9% *ad valorem*. This is the rate that would apply if the garments were entered separately and classified in subheading 6206.40.3030, HTSUS.

The shorts are classified in subheading 6404.23.0045, HTSUS, which provides for “Women’s or girls’ ... ensembles...: Ensembles: Of synthetic fibers: Other: Shorts.” The 2016, column one rate of duty will be 28.6% *ad valorem*. This is the rate that would apply if the garments were entered separately, and classified in subheading 6204.63.3532, HTSUS.

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 N257998, dated November 4, 2014, is REVOKED.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



**PROPOSED REVOCATION OF FOUR RULING LETTERS
AND REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF PLANT MOVERS**

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

ACTION: Notice of proposed revocation of four ruling letters, and revocation of treatment relating to the tariff classification of plant movers.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke New York Ruling Letters (“NY”) N024680, dated March 19, 2008, N024678, dated March 19, 2008, N012582, dated June 14, 2007, and N012026, dated June 4, 2007, concerning the tariff classification of plant movers under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATES: Comments must be received on or before July 22, 2016.

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

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Tariff Classification and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0024.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (“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 public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is proposing to revoke four ruling letters pertaining to the tariff classification of plant movers. Although in this notice, CBP is specifically referring to New York Ruling Letters (“NY”), N024680, dated March 19, 2008 (Attachment A), N024678, dated March 19, 2008 (Attachment B), N012582, dated June 14, 2007 (Attachment C), and N012026, dated June 4, 2007 (Attachment D), this notice covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the four rulings identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. §1625(c)(2)), as amended by section 623 of Title VI, CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this notice period. An import-

er's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY N024680, NY N024678, NY N012582, and NY N012026, CBP classified various plant movers in heading 8716, HTSUS, specifically in subheading 8716.80.50, HTSUS, which provides for "Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof: Other vehicles: Other."

CBP has reviewed NY N024680, NY N024678, NY N012582, and NY N012026 and has determined the ruling letters to be in error. It is now CBP's position that the subject plant movers are properly classified, by operation of GRI 1, in heading 9403, HTSUS, specifically in subheading 9403.20.00, HTSUS, which provides for "Other furniture and parts thereof: Other metal furniture."

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N024680, NY N024678, NY N012582, and NY N012026, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter ("HQ") H271824, set forth as Attachment E to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: May 3, 2016

JACINTO JUAREZ

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

NY N024680

March 19, 2008

CLA-2-87:OT:RR:E:NC:N1:101

CATEGORY: Classification

TARIFF NO.: 8716.80.5090

TROY D. CRAGO,
IMPORT SPECIALIST
ATICO INTERNATIONAL USA, INC.
501 SOUTH ANDREWS AVENUE
FT. LAUDERDALE, FL 33301-2831

RE: The tariff classification of plant dolly from China

DEAR MR. CRAGO,

In your letter dated March 13, 2008, you requested a tariff classification ruling.

The item under consideration is a wheeled dolly used to facilitate the movement of a potted plant. You have identified the item as a Cast Iron Pot Mover (Item # A026BA00102).

The Cast Iron Pot Mover is approximately 10 inches in diameter and uses three plastic wheels set in a triangular shape along the bottom.

The applicable classification subheading for the Cast Iron Pot Mover (Item # A026BA00102) will be 8716.80.5090, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "...other vehicles, not mechanically propelled; ... parts thereof: Other vehicles: Other: Other: Other". The rate of duty will be 3.2%.

Duty rates are provided for your convenience and are subject to change. The text of the most recent Harmonized Tariff Schedule of the United States and the accompanying duty rates are provided on the 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 Richard Laman at 646-733-3017.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT B]

N024678

March 19, 2008

CLA-2-87:OT:RR:E:NC:N1:101

CATEGORY: Classification

TARIFF NO.: 8716.80.5090

TROY D. CRAGO,
IMPORT SPECIALIST
ATICO INTERNATIONAL USA, INC.
501 SOUTH ANDREWS AVENUE F
FT. LAUDERDALE, FL 33301-2831

RE: The tariff classification of plant dolly from China

DEAR MR. CRAGO,

In your letter dated March 13, 2008, you requested a tariff classification ruling.

The item under consideration is a wheeled dolly used to facilitate the movement of a potted plant. You have identified the item as an Iron Pot Mover (Item # A026BA00098).

The Iron Pot Mover is approximately 14 inches in diameter and uses four plastic wheels set in a square shape along the bottom.

The applicable classification subheading for the Iron Pot Mover (Item # A026BA00098) will be 8716.80.5090, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "...other vehicles, not mechanically propelled; ... parts thereof: Other vehicles: Other: Other: Other". The rate of duty will be 3.2%.

Duty rates are provided for your convenience and are subject to change. The text of the most recent Harmonized Tariff Schedule of the United States and the accompanying duty rates are provided on the 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 Richard Laman at 646-733-3017.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT C]

N012582

June 14, 2007

CLA-2-87:RR:E:NC:N1:101

CATEGORY: Classification

TARIFF NO.: 8716.80.5090

PAUL R. ANUSCHAT,
IMPORT COMPLIANCE CONSULTANT
GEORGE S. BUSH & CO., INC.
600 N.W. NAITO PARKWAY
PORTLAND, OR 97209-3701

RE: The tariff classification of wheeled dolly from China or Taiwan

DEAR MR. ANUSCHAT,

In your letter dated June 8, 2007, you requested a tariff classification ruling on behalf of Fred Meyer, Inc. of Portland, Oregon.

The item concerned is a Vinyl Dolly (Style # 22028). You state in your Ruling Request that the dolly will be used to facilitate movement of large potted plants and will be utilized as permanent stands when the plants are stationary. The Dolly is made of concentric, vinyl-coated steel wire-spoked rings with three wheels.

The applicable classification subheading for the Vinyl Dolly (Style # 22028) will be 8716.80.5090, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “... other vehicles, not mechanically propelled ...: Other vehicles: Other: Other: Other”. The rate of duty will be 3.2%.

Duty rates are provided for your convenience and are subject to change. The text of the most recent Harmonized Tariff Schedule of the United States and the accompanying duty rates are provided on the 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 Richard Laman at 646-733-3017.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT D]

N012026

June 4, 2007

CLA-2-87:RR:E:NC:N1:101

CATEGORY: Classification

TARIFF NO.: 8716.80.5090

CHRISTOPHER J. SMITH
IKEA WHOLESALÉ, INC.
100 IKEA DRIVE
WESTAMPTON, NJ 08060-5112

RE: The tariff classification of dollies from China and Vietnam

DEAR MR. SMITH,

In your letter dated May 25, 2007, you requested a tariff classification ruling.

The items concerned are two dollies, identified as Ikea Beta Plant Mover (# 40069403), made in China, and Ikea BJURA-N Plant Mover (# 50069940), made in Vietnam.

The Ikea Beta Plant Mover is described as an 11 ¾" circular dolly made of galvanized steel. The Beta Plant Mover is designed to ease the movement of large potted plants. The Beta Plant Mover can move a maximum load of 110 lbs.

The Ikea BJURA-N Plant Mover is described as a 14 ½" x 14 ½" square dolly made of solid Acacia wood and polyamide plastic. The BJURA-N Plant Mover is designed to ease the movement of large potted plants. The BJURA-N Plant Mover can move a maximum load of 110 lbs.

The applicable classification subheading for Ikea Beta Plant Mover (# 40069403) and Ikea BJURA-N Plant Mover (# 50069940) will be 8716.80.5090, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "... other vehicles, not mechanically propelled ... : Other vehicles: Other: Other: Other". The rate of duty will be 3.2%.

Duty rates are provided for your convenience and are subject to change. The text of the most recent Harmonized Tariff Schedule of the United States and the accompanying duty rates are provided on the 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 Richard Laman at 646-733-3017.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT E]

HQ H271824
CLA-2 OT:RR:CTF:TCM H271824 CkG
CATEGORY: Classification
TARIFF NO: 9403.20.00

TROY D. CRAGO
IMPORT SPECIALIST
ATICO INTERNATIONAL USA, INC.
501 SOUTH ANDREWS AVENUE
FT. LAUDERDALE, FL 33301-2831

RE: Revocation of NY N024680, NY N024678, NY N012582, and NY N012026; tariff classification of cast iron plant mover

DEAR MR. CRAGO:

This is in reference to New York Ruling Letter (NY) N024680, dated March 19, 2008, concerning the classification of a “cast iron pot mover.” In NY N024680, CBP classified the Cast Iron Pot Mover in heading 8716, HTSUS, as a non-mechanically propelled vehicle. Since the issuance of that ruling, Customs and Border Protection (CBP) has reviewed the classification and has determined that the cited ruling is in error. We hereby revoke NY N024680, as well as three other rulings classifying substantially similar articles in heading 8716, HTSUS: NY N024678, dated March 19, 2008; NY N012582, dated June 14, 2007; and NY N012026, dated June 4, 2007.

FACTS:

In NY N024680, the article in question was described as follows:

The item under consideration is a wheeled mover used to facilitate the movement of a potted plant. You have identified the item as a Cast Iron Pot Mover (Item # A026BA00102).

The Cast Iron Pot Mover is approximately 10 inches in diameter and uses three plastic wheels set in a triangular shape along the bottom.

ISSUE:

Whether the instant cast iron plant mover is classified in heading 8716, HTSUS, as “other vehicles, not mechanically propelled”, or in heading 9403, HTSUS, as “other furniture.”

LAW AND ANALYSIS:

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

The HTSUS provisions under consideration are as follows:

- 8716: Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof:
8716.80: Other vehicles:

8716.80.50: Other...
 9403: Other furniture and parts thereof:
 9403.20.00: Other metal furniture...

* * * *

Note 2 to Chapter 94 provides as follows:

2. The articles (other than parts) referred to in headings 94.01 to 94.03 are to be classified in those headings only if they are designed for placing on the floor or ground.

* * * *

The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System represent the official interpretation of the tariff at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The EN to heading 8716 provides, in pertinent part, as follows:

This heading covers a group of **non-mechanically** propelled vehicles (**other than** those of the preceding headings) equipped with one or more wheels and constructed for the transport of goods or persons. It also includes non-mechanical vehicles not fitted with wheels (e.g., sledges, special sleds running on timber trackways).

The vehicles of this heading are designed to be towed by other vehicles (tractors, lorries, trucks, motorcycles, bicycles, etc.), to be pushed or pulled by hand, to be pushed by foot or to be drawn by animals.

The heading includes :

...

(B) **Hand- or foot-propelled vehicles.**

This group includes:

...

- (2) Wheelbarrows, luggage-trucks, hopper-trucks and tipping-trucks.
- (3) Food carts, buffet movers (**other than** the type falling in **heading 94.03**), of a kind used in railway stations.
- (4) Hand-carts, e.g., for waste disposal

...

This heading does not cover:

...

- (b) Small wheeled-containers (e.g., wheeled-baskets) of basketwork, metal, etc., not incorporating a chassis, of a kind used in shops (classification according to their constituent material).

The General EN to Chapter 94 provides, in relevant part, as follows:

For the purposes of this Chapter, the term “furniture” means:

- (A) Any “movable” articles (not included under other more specific headings of the Nomenclature), which have the essential characteristic that they are constructed for placing on the floor or ground, and which are used, mainly with a utilitarian purpose, to equip private dwellings, hotels, theatres, cinemas, offices, churches, schools, cafés, restaurants, laboratories, hospitals, dentists’ surgeries, etc., or ships, aircraft, railway coaches, motor vehicles, caravan-trailers or similar means of transport. (It should be noted that, for the purposes of this Chapter, articles are considered to be “movable” furniture even if they are designed for bolting, etc., to the floor, e.g., chairs for use on ships). Similar articles (seats, chairs, etc.) for use in gardens, squares, promenades, etc., are also included in this category....

Headings 94.01 to 94.03 cover articles of furniture of any material (wood, osier, bamboo, cane, plastics, base metals, glass, leather, stone, ceramics, etc.). Such furniture remains in these headings whether or not stuffed or covered, with worked or unworked surfaces, carved, inlaid, decoratively painted, fitted with mirrors or other glass fitments, or on castors, etc.

EN 94.03 provides, in relevant part, as follows:

This heading covers furniture and parts thereof, not covered by the previous headings. It includes furniture for general use (e.g., cupboards, show-cases, tables, telephone stands, writing-desks, escritoirs, book-cases, and other shelved furniture (including single shelves presented with supports for fixing them to the wall), etc.), and also furniture for special uses.

The heading includes furnitures for :

- (1) **Private dwellings, hotels, etc.** , such as : cabinets, linen chests, bread chests, log chests; chests of drawers, tallboys; pedestals, plant stands; dressing-tables; pedestal tables; wardrobes, linen presses; hall stands, umbrella stands; side-boards, dressers, cupboards; food-safes; bedside tables; beds (including wardrobe beds, camp-beds, folding beds, cots, etc.); needlework tables; stools and foot-stools (whether or not rocking) designed to rest the feet, fire screens; draught-screens; pedestal ashtrays; music cabinets, music stands or desks; play-pens; serving movers (whether or not fitted with a hot plate)

* * * *

In NY N024680, CBP classified a “cast iron pot mover” used to store, display and move potted plants in heading 8716, HTSUS. Heading 8716, HTSUS, provides for “other vehicles, not mechanically propelled”. The Explanatory Note to heading 8716 clarifies that this heading includes vehicles designed to be pushed or pulled by hand or feet, such as wheelbarrows, food carts and buffet movers (other than the type falling in heading 94.03), of a kind used in railway stations, and hand carts.

Unlike the exemplars listed in EN 87.16 however, the instant plant mover is not principally designed for the transport of goods or persons. The plant mover is designed primarily for the storage and display of articles (plants),

and home décor. Although the mover clearly aids in the transport of any article placed on its surface, the mover has no means of securing any articles being transported, and without any handle, it is difficult to manoeuvre. Thus, it is impractical to use the mover primarily for the transport of goods. Additionally, unlike the exemplars listed in the EN 87.16, the mover lacks any kind of chassis or frame. As such, it falls outside the scope of heading 8716, HTSUS (as indicated by the exclusion of carts having the character of furniture of heading 9403, HTSUS, from item (B)(3) in the 87.16 EN).

CBP has classified similar items as articles of furniture of heading 9403, HTSUS, in past rulings. *See e.g.*, NY N087856, dated December 23, 2009; NY 895256, dated March 10, 1994. The General EN to Chapter 94 defines “furniture” as “any ‘movable’ articles (not included under other more specific headings of the Nomenclature), which have the essential characteristic that they are constructed for placing on the floor or ground, and which are used, mainly with a utilitarian purpose, to equip private dwellings...).... Similar articles (seats, chairs, etc.) for use in gardens, squares, promenades, etc., are also included in this category.”

As a movable article designed for placing on the floor or ground to equip private dwellings, the instant article meets the definition of furniture laid out in the General EN to Chapter 94. Furthermore, as noted in the Explanatory Note for heading 9403, HTSUS, “furniture” of this heading includes a number of similar items, such as plant and music stands, and serving movers. Like a plant stand, the plant mover is a platform for display of potted plants. Unlike a typical plant stand, it is not stationary and lacks a base or leg. However, we consider the mover to be *ejusdem generis* with plant stands—like a plant stand, and like furniture in general, it has both a decorative and utilitarian function—it is an ornate decorative platform which holds and displays a plant and allows the plant to be easily moved around. Thus, the instant plant mover is classified in heading 9403, HTSUS.

HOLDING:

By application of GRI 1, the cast iron pot mover is classified in heading 9403, HTSUS, and is specifically provided for in subheading 9403.20.00, HTSUS, which provides for “Other furniture and parts thereof: Other metal furniture.” The 2016, column one, general rate of duty is Free.

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

EFFECT ON OTHER RULINGS:

NY N024680, NY N024678, NY N012582, and NY N012026, are hereby revoked.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**PROPOSED MODIFICATION OF A RULING LETTER AND
REVOCAION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF A PRINTED ARTWORK
FROM CHINA**

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

ACTION: Notice of proposed modification of one ruling letter and revocation of treatment relating to the tariff classification of a printed artwork from China.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to modify one ruling letter concerning tariff classification of a printed artwork from China under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATES: Comments must be received on or before July 22, 2016.

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

FOR FURTHER INFORMATION CONTACT: George Aduhene, Tariff Classification and Marking Branch, Regulations and Rulings, Office of International Trade, at (202) 325–0184.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP is proposing to modify one ruling letter pertaining to the tariff classification of a printed artwork from China. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) N260772, dated January 29, 2015 (Attachment A), this notice covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the notice period.

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

In NY N265121, CBP classified a printed artwork from China, identified by item number 61957101D, in heading 4911, HTSUS, specifically in subheading 4911.91.2020, HTSUSA, which provides for “Other printed matter, including printed pictures and photographs: Other: Pictures, designs and photographs: Printed not over 20 years

at time of importation: Other: Lithographs on paper or paperboard: Not over 0.51 mm in thickness: Posters.” NY N265121 also classified four other products which were identified as item number 2917969, item number 42386101D, item number kc-2014-shine, and item number 0412080C. CBP has reviewed NY N265121 and has determined the ruling letter to be in error with respect to item number 61957101D. The classification of the four other products remains unmodified. It is now CBP’s position that the printed artwork from China, identified as item number 61957101D, is properly classified, by operation of GRI 1, in heading 4911, HTSUS, specifically in sub-heading 4911.91.2040, HTSUSA, which provides for “Other printed matter, including printed pictures and photographs: Other: Pictures, designs and photographs: Printed not over 20 years at time of importation: Other: Lithographs on paper or paperboard: Not over 0.51 mm in thickness: Other.”

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to modify N265121 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H265036, set forth as Attachment B to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: May 3, 2016

GREG CONNOR

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N260772

January 29, 2015

CLA-2-49:OT:RR:NC:N4: 234

CATEGORY: Classification

TARIFF NO.: 4911.91.2020; 4911.99.6000;
4911.99.8000

SHIRLEY SCHMIDT
 PIER 1 IMPORTS
 100 PIER 1 PLACE, LEVEL 11
 FORT WORTH, TEXAS 76102

RE: The tariff classification of a Printed Artwork from China.

DEAR MS. SCHMIDT:

In your letter dated January 9, 2015 you requested a tariff classification ruling.

Item number 61957101D is a picture with a lattice design. The lattice design is lithographically printed on paper that is .25mm thick. The paper is then glued to a 1.25mm medium-density fiberboard surface (MDF) and coated with acrylic gel to give it a textured appearance. The item measures approximately 11.88 inches in width by 1.25 inches in diameter by 11.88 in height.

Item number 2917969 is wall art. It consists of 6 wooden squares printed with letters that form the word "Family". The letters are lithographically printed on paper that is .2mm thick. Each piece of paper is glued to a 1.5 cm thick pine wood square measuring approximately 10 inches by 10 inches. The finished item measures approximately 48 inches in width by 14 inches in height. The company provided a material breakdown indicating that the item is composed of 95% pine wood, 4% paper and 1% paint.

Item number 42386101D is a printed picture with a multi colored design and the words "Imagination is more important than knowledge". The frame is made of pine wood. The artwork is printed using a lithographic process on a canvas measuring .45 mm thick. The item measures approximately 35 inches in width by 1½ inches in diameter by 35 inches in height.

Item number kc-2014-shine is wall art. The words "Today you will SHINE" are printed on paper that is glued to a medium-density fiberboard (MDF) surface which has been sectioned into four slates that are attached together horizontally by a wooden bar across the back. The item measures approximately 9 inches in width by 9 inches in height. The company provided written information indicating that the item is composed of 98% medium-density fiberboard, 1% paper and 1% metal.

Item number 0412-080C is a printed picture with a black and green design and the word "Inspire" printed at the bottom. This entire picture was printed onto a sheet of canvas, and then stretched around wooden frame. The thickness of the canvas on its own is approximately 0.125mm, and the printing does not use a lithographic process. The item measures approximately 16 inches in width by 1 inch in diameter by 12 inches in height.

The applicable subheading for item number 61957101D will be 4911.91.2020, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Other printed matter, including printed pictures and photographs: Other: Pictures, designs and photographs: Printed not over 20

years at time of importation: Other: Lithographs on paper or paperboard: Not over 0.51 mm in thickness: Posters. The rate of duty will be Free. The applicable subheading for item numbers 2917969 and 4286101D will be 4911.99.6000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Other printed matter, including printed pictures and photographs: Other: Other: Other: Printed on paper in whole or in part by a lithographic process. The rate of duty will be Free.

The applicable subheading for item numbers kc-2014-shine and 0412-080C will be 4911.99.8000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Other printed matter, including printed pictures and photographs: Other: 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 Albert Gamble at Albert.Gamble@dhs.gov.

Sincerely,

GWENN KLEIN KIRSCHNER

Director

National Commodity Specialist Division

[ATTACHMENT B]

HQ H265036
CLA-2 OT:RR:CTF:TCM H265036 GA
CATEGORY: Classification
TARIFF NO.: 4911.91.2040

Ms. SHIRLEY SCHMIDT
TRADE AND PRODUCT COMPLIANCE MANAGER
PIER 1 IMPORTS
100 PIER 1 PLACE LEVEL 11
FORT WORTH, TX 76102

RE: Modification of NY N260772; Classification of a printed artwork from China

DEAR Ms. SCHMIDT:

This letter concerns New York Ruling Letter (NY) N260772, dated January 29, 2015, issued to Pier 1 Imports concerning the classification of a printed artwork from China under the Harmonized Tariff Schedule of the United States (HTSUS). In N260772, U.S. Customs and Border Protection (CBP) classified a picture with a lattice design identified as item number 61957101D in subheading 4911.91.2020, HTSUSA, which provides for “Other printed matter, including printed pictures and photographs: Other: Pictures, designs and photographs: Printed not over 20 years at time of importation: Other: Lithographs on paper or paperboard: Not over 0.51 mm in thickness: Posters.” CBP also classified a wall art identified as item number 2917969 and a printed picture with a multi colored design and the words “Imagination is more important than knowledge” identified as item number 42386101D in subheading 4911.99.6000, HTSUSA, which provides for “Other printed matter, including printed pictures and photographs: Other: Other: Other: Printed on paper in whole or in part by a lithographic process.” Furthermore, CBP also classified a wall art identified as item number kc-2014-shine and a printed picture with a black and green design and the word “Inspire” printed at the bottom, identified as item number 0412-080C in subheading 4911.99.8000, HTSUSA, which provides for ‘Other printed matter, including printed pictures and photographs: Other: Other: Other: Other.’”

We have reviewed NY N260772 and find the portion that relates to the classification of item number 61957101D to be in error. The classification of item number 2917969, item number 42386101D, item number kc-2014-shine, and item number 0412-080C remains unmodified. For the reasons set forth below, we hereby modify N260772.

FACTS:

In NY N260772, CBP described the subject merchandise as follows:

Item number 61957101D is a picture with a lattice design. The lattice design is lithographically printed on paper that is .25mm thick. The paper is then glued to a 1.25mm medium-density fiberboard surface (MDF) and coated with acrylic gel to give it a textured appearance. The item measures approximately 11.88 inches in width by 1.25 inches in diameter by 11.88 in height

ISSUE:

What is the proper classification of the printed artwork from China?

LAW AND ANALYSIS:

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

The HTSUS provisions under considerations are as follows:

4911	Other printed matter, including printed pictures and photographs: Other:
4911.91	Pictures, designs and photographs: Printed not over 20 years at time of importation: Other:
	Lithographs on paper or paperboard:
4911.91.20	Not over 0.51 mm in Thickness. . .
4911.91.2020	Posters:
4911.91.2040	Other:
	* * * * *

Heading 4911, HTSUS, provides for other printed matter including printed pictures and photographs. This heading includes pictures and photographs printed by lithography. There is no dispute that the instant merchandise is classifiable under subheading 4911.91, HTSUS. However, importer disagrees with CBP with the 10 digit level tariff which classifies the merchandise as a “poster” under subheading 4911.91.2020, HTSUSA. The instant merchandise does not appear to fit the meaning of a “poster.” The *Meriam-Webster* dictionary defines a “poster” as “a bill or placard for posting often in a public place; especially: one that is decorative or pictorial,” or “a sheet bearing an announcement for posting in a public place.” <http://www.merriam-webster.com/dictionary/posters>

The paper with the printed lithograph is not over 0.51 mm in thickness and the printed lattice design is permanently mounted onto a wooden board (medium-density fiberboard surface) that is 1.25 inches in thickness. The subject merchandise is not a “poster,” under subheading 4911.91.2020, HTSUSA. Therefore, it is properly provided for under subheading 4911.91.2040, HTSUSA.

HOLDING:

By application of GRIs 1 and 6, we find that the picture with a lattice design identified as item number 61957101D is classified in subheading 4911.91.2040, HTSUSA, which provides for “Other printed matter, including printed pictures and photographs: Other: Pictures, designs and photographs:

Printed not over 20 years at time of importation: Other: Lithographs on paper or paperboard: Not over 0.51 mm in thickness: Other.” The duty rate is “Free.”

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

EFFECT ON OTHER RULINGS:

NY N260772, dated January 29, 2015 is hereby MODIFIED.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



**RECEIPT OF APPLICATION FOR “LEVER-RULE”
PROTECTION**

AGENCY: Customs & Border Protection, Department of Homeland Security.

ACTION: Notice of receipt of application for “Lever-rule” protection.

SUMMARY: Pursuant to 19 CFR §133.2(f), this notice advises interested parties that Customs & Border Protection (CBP) has received an application from Fidia Farmaceutici S.p.A. and Fidia Pharma USA Inc. (hereinafter “Fidia”) seeking “Lever-rule” protection for a federally registered and recorded trademark.

FOR FURTHER INFORMATION CONTACT: Alaina van Horn, Intellectual Property Rights Branch, Regulations and Rulings, Office of Trade, (202) 325–0083.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to 19 CFR §133.2(f), this notice advises interested parties that CBP has received an application from Fidia seeking “Lever-rule” protection. Protection is sought against the importation of certain pharmaceutical preparations for treatment of bone joint disorders that bear the following Fidia trademark: “HYALGAN” (U.S. Trademark Registration No. 1,420,772; CBP Recordation No. TMK 15–01065). In the event that CBP determines the pharmaceutical preparations under consideration are physically and materially different from the Fidia pharmaceutical preparations authorized for sale in the United States, CBP will publish notice in the *Customs Bulletin*, pursuant to 19 CFR §133.2(f), indicating that the above-referenced trademark is entitled to “Lever-rule” protection with re-

spect to those physically and materially pharmaceutical preparations for treatment of bone joint disorders.

Dated: June 2, 2016

CHARLES R. STEUART,
Chief
Intellectual Property Rights Branch
Regulations and Rulings, Office of Trade

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

(No. 5 2016)

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

SUMMARY: The following copyrights, trademarks, and trade names were recorded with U.S. Customs and Border Protection in May 2016. The last notice was published in the CUSTOMS BULLETIN on June 8, 2016.

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

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

CHARLES R. STEUART
Chief,
Intellectual Property Rights Branch
Regulations & Rulings

CBP IPR RECORDATION — MAY 2016

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
COP 16-00086	05/06/2016	05/06/2036	CIZE	Beachbody, LLC.	No
COP 16-00087	05/06/2016	05/06/2036	Size Weight Loss Series.	Beachbody, LLC.	No
COP 16-00088	05/06/2016	05/06/2036	Size Newborn Ultra Absorbent Diapers, 36 Count.	KAS Direct, LLC.	No
COP 16-00089	05/06/2016	05/06/2036	Fragrance Free Face, Hand & Baby Wipes, 100 Wipes.	KAS Direct, LLC.	No
COP 16-00090	05/06/2016	05/06/2036	Size 6 Ultra Absorbent Diapers 20 Count.	KAS Direct, LLC.	No
COP 16-00091	05/06/2016	05/06/2036	Size 5 Ultra Absorbent Diapers, 23 Count.	KAS Direct, LLC.	No
COP 16-00092	05/06/2016	05/06/2036	Size 4 Ultra Absorbent Diapers, 27 Count.	KAS Direct, LLC.	No
COP 16-00093	05/06/2016	05/06/2036	Natural Insect Repellant, 2 oz. .	KAS Direct, LLC.	No
COP 16-00094	05/06/2016	05/06/2036	Fragrance Free Foaming Hand Sanitizer, 16 oz.	KAS Direct, LLC.	No
COP 16-00095	05/06/2016	05/06/2036	Mineral-Based Sunscreen 50 SPF, 2 oz. .	KAS Direct, LLC.	No
COP 16-00096	05/06/2016	05/06/2036	Diaper Rash Cream, 4 oz.	KAS Direct, LLC.	No
COP 16-00097	05/06/2016	05/06/2036	Size 1 Ultra Absorbent Diapers, 40 Count.	KAS Direct, LLC.	No
COP 16-00098	05/06/2016	05/06/2036	Moisturizing Daily Lotion with Sunscreen SPF15 Chamomile Verbena.	KAS Direct, LLC.	No
COP 16-00099	05/09/2016	05/09/2036	ANIMAL CROSSING	Nintendo of America Inc.	No
COP 16-00100	05/09/2016	05/09/2036	WARIO amiibo Figure and Commercial Packaging.	Nintendo of America Inc.	No
COP 16-00101	05/16/2016	05/16/2036	RED COPPER Packaging.	Telebrands Corp	No
COP 16-00102	05/16/2016	05/16/2036	1 Gallon Round Bottle Drawing.	Goldwell Enterprises, Inc.	No
COP 16-00103	05/16/2016	05/16/2036	1 Gallon Square Bottle Drawing.	Goldwell Enterprises, Inc.	No
COP 16-00104	05/18/2016	05/18/2036	5 PACK PACKAGING INSERT CARD.	Bliss Lingerie Corp.	No

CBP IPR RECORDATION — MAY 2016

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
COP 16-00105	05/20/2016	05/20/2036	Shopkins Series 1 Collector's Guide.	Moose Creative Management Pty Ltd.	No
COP 16-00106	05/20/2016	05/20/2036	Shopkins Series 2 Collector's Guide.	Moose Creative Management Pty Ltd.	No
COP 16-00107	05/20/2016	05/20/2036	Shopkins Series 4 Characters (2-D)	Moose Creative Management Pty Ltd.	No
COP 16-00108	05/23/2016	05/23/2036	Shopkins Series 3 Collector's Guide	Moose Creative Management Pty Ltd.	No
COP 16-00109	05/25/2016	05/25/2036	POKKEN TOURNAMENT	The Pokemon Company	No
TMK 02-00087	05/03/2016	05/04/2026	CIRCLE DESIGN WITH SMALLER INTERNAL CIRCLE	MOVADO LLC	No
TMK 02-00087	05/03/2016	05/04/2026	CIRCLE DESIGN WITH SMALLER INTERNAL CIRCLE	MOVADO LLC	No
TMK 02-00089	05/09/2016	09/24/2026	Design Only	MOVADO LLC	No
TMK 02-00089	05/09/2016	09/24/2026	Design Only	MOVADO LLC	No
TMK 04-00271	05/23/2016	05/20/2026	DKNY	GABRIELLE STUDIO, INC.	No
TMK 04-00271	05/23/2016	05/20/2026	DKNY	GABRIELLE STUDIO, INC.	No
TMK 04-00940	05/24/2016	06/01/2018	ZENITH	ZENITH ELECTRONICS LLC	No
TMK 04-00940	05/24/2016	06/01/2018	ZENITH	ZENITH ELECTRONICS LLC	No
TMK 05-00747	05/03/2016	04/09/2025	CARTIER	CARTIER INTERNATIONAL A.G.	No
TMK 05-00747	05/03/2016	04/09/2025	CARTIER	CARTIER INTERNATIONAL A.G.	No
TMK 05-00924	05/16/2016	07/13/2026	GILLETTE	GILLETTE COMPANY, THE CORPORATION	No
TMK 05-00924	05/16/2016	07/13/2026	GILLETTE	GILLETTE COMPANY, THE CORPORATION	No
TMK 06-00196	05/16/2016	06/25/2023	ROCK & REPUBLIC	R&R APPAREL COMPANY, LLC	No
TMK 06-00196	05/16/2016	06/25/2023	ROCK & REPUBLIC	R&R APPAREL COMPANY, LLC	No

CBP IPR RECORDATION — MAY 2016

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 06-00543	05/24/2016	03/26/2026	ATLANTA FALCONS	ATLANTA FALCONS FOOTBALL CLUB, LLC	No
TMK 06-00543	05/24/2016	03/26/2026	ATLANTA FALCONS	ATLANTA FALCONS FOOTBALL CLUB, LLC	No
TMK 06-00914	05/24/2016	06/07/2026	DESIGN ONLY	S.A.S. JEAN CASSEGRAIN	No
TMK 06-00914	05/24/2016	06/07/2026	DESIGN ONLY	S.A.S. JEAN CASSEGRAIN	No
TMK 06-01016	05/03/2016	03/12/2025	CARTIER (Stylized)	CARTIER INTERNATIONAL A.G.	No
TMK 06-01016	05/03/2016	03/12/2025	CARTIER (Stylized)	CARTIER INTERNATIONAL A.G.	No
TMK 06-01118	05/06/2016	08/03/2026	SHARPIE (Stylized)	SANFORD, L.P.	No
TMK 06-01118	05/06/2016	08/03/2026	SHARPIE (Stylized)	SANFORD, L.P.	No
TMK 06-01221	05/16/2016	11/16/2017	ETL LISTED INTERTEK	Intertek Testing Services NA, Inc.	No
TMK 06-01221	05/16/2016	11/16/2017	ETL LISTED INTERTEK	Intertek Testing Services NA, Inc.	No
TMK 06-01412	05/05/2016	07/25/2026	EBEL	EBEL WATCHES SA SOCIETE ANONYME	No
TMK 06-01412	05/05/2016	07/25/2026	EBEL	EBEL WATCHES SA SOCIETE ANONYME	No
TMK 07-00232	05/04/2016	04/15/2022	CONFIGURATION OF A ORCHESTRAL MUSIC STAND	Manhasset Specialty Co., Inc.	No
TMK 07-00232	05/04/2016	04/15/2022	CONFIGURATION OF A ORCHESTRAL MUSIC STAND	Manhasset Specialty Co., Inc.	No
TMK 07-00284	05/26/2016	09/11/2026	TUMS	GLAXOSMITHKLINE CONSUMER HEALTHCARE (US) IP LLC	No
TMK 07-00284	05/26/2016	09/11/2026	TUMS	GLAXOSMITHKLINE CONSUMER HEALTHCARE (US) IP LLC	No
TMK 07-00512	05/23/2016	08/02/2025	PACE	CSC BRANDS LP	No

CBP IPR RECORDATION — MAY 2016

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/k/Tm	Owner Name	GM Restricted
TMK 07-00512	05/23/2016	08/02/2025	PACE	CSC BRANDS LP	No
TMK 07-00518	05/12/2016	07/23/2016	Bucking Horse and Rider Design	State of Wyoming	No
TMK 07-00518	05/12/2016	07/23/2016	Bucking Horse and Rider Design	State of Wyoming	No
TMK 07-00884	05/05/2016	05/13/2026	JL-JL AUDIO and Design	JL AUDIO, INC.	No
TMK 07-00884	05/05/2016	05/13/2026	JL-JL AUDIO and Design	JL AUDIO, INC.	No
TMK 07-01055	05/05/2016	09/06/2026	NEW DECADE	EATON CORPORATION	No
TMK 07-01055	05/05/2016	09/06/2026	NEW DECADE	EATON CORPORATION	No
TMK 09-00333	05/16/2016	05/11/2026	MONTE CRISTO AND DESIGN	CUBAN CIGAR BRANDS B.V.	No
TMK 09-00333	05/16/2016	05/11/2026	MONTE CRISTO AND DESIGN	CUBAN CIGAR BRANDS B.V.	No
TMK 10-00003	05/03/2016	02/01/2026	DONNA KARAN	Gabrielle Studio, Inc.	No
TMK 10-00003	05/03/2016	02/01/2026	DONNA KARAN	Gabrielle Studio, Inc.	No
TMK 11-00668	05/06/2016	07/18/2026	MIXED CHICKS	MIXED CHICKS LLC	No
TMK 11-00668	05/06/2016	07/18/2026	MIXED CHICKS	MIXED CHICKS LLC	No
TMK 11-00809	05/16/2016	04/10/2026	PORSCHÉ STUTTGART & Design	Dr. Ing. h.c. F. Porsche Aktiengesellschaft	No
TMK 11-00809	05/16/2016	04/10/2026	PORSCHÉ STUTTGART & Design	Dr. Ing. h.c. F. Porsche Aktiengesellschaft	No
TMK 11-00829	05/16/2016	04/10/2026	PORSCHÉ (stylized)	Dr. Ing. h.c. F. Porsche Aktiengesellschaft	No
TMK 11-00829	05/16/2016	04/10/2026	PORSCHÉ (stylized)	Dr. Ing. h.c. F. Porsche Aktiengesellschaft	No
TMK 11-01016	05/16/2016	08/14/2026	BIGFOOT	Bigfoot 4x4, Incorporated	No
TMK 11-01016	05/16/2016	08/14/2026	BIGFOOT	Bigfoot 4x4, Incorporated	No
TMK 12-00046	05/04/2016	05/04/2026	PULL-UPS	KIMBERLY-CLARK WORLDWIDE, INC.	No
TMK 12-00046	05/04/2016	05/04/2026	PULL-UPS	KIMBERLY-CLARK WORLDWIDE, INC.	No
TMK 12-00334	05/03/2016	05/28/2026	MUNKI MUNKI	CREATIVE APPAREL CONCEPTS, INC.	No
TMK 12-00334	05/03/2016	05/28/2026	MUNKI MUNKI	CREATIVE APPAREL CONCEPTS, INC.	No

CBP IPR RECORDATION — MAY 2016

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 12-00514	05/19/2016	08/23/2026	TWILIGHT TURTLE	CLOUD B, INC.	No
TMK 12-00514	05/19/2016	08/23/2026	TWILIGHT TURTLE	CLOUD B, INC.	No
TMK 12-00799	05/09/2016	04/03/2026	DISCOVISC	NOVARTIS AG	No
TMK 12-00799	05/09/2016	04/03/2026	DISCOVISC	NOVARTIS AG	No
TMK 13-00415	05/16/2016	05/14/2026	WILKINSON SWORD	EDGEWELL PERSONAL CARE BRANDS, LLC	No
TMK 13-00415	05/16/2016	05/14/2026	WILKINSON SWORD	EDGEWELL PERSONAL CARE BRANDS, LLC	No
TMK 13-00472	05/23/2016	05/10/2024	QUATTRO	EDGEWELL PERSONAL CARE BRANDS, LLC	No
TMK 13-00472	05/23/2016	05/10/2024	QUATTRO	EDGEWELL PERSONAL CARE BRANDS, LLC	No
TMK 13-00504	05/16/2016	11/27/2022	WEST VIRGINIA	WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS	No
TMK 13-00504	05/16/2016	11/27/2022	WEST VIRGINIA	WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS	No
TMK 13-00506	05/16/2016	10/30/2022	WVU	WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS	No
TMK 13-00506	05/16/2016	10/30/2022	WVU	WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS	No
TMK 13-00510	05/16/2016	12/03/2022	MOUNTAINEERS	WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS	No
TMK 13-00510	05/16/2016	12/03/2022	MOUNTAINEERS	WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS	No
TMK 13-00511	05/16/2016	05/26/2025	Flying WV	WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS	No

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TMK 13-00511	05/16/2016	05/26/2025	Flying WV	WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS	No
TMK 13-00855	05/16/2016	05/28/2026	WD	Western Digital Technologies, Inc.	No
TMK 13-00855	05/16/2016	05/28/2026	WD	Western Digital Technologies, Inc.	No
TMK 13-01117	05/12/2016	05/14/2026	CHIVAS	CHIVAS HOLDINGS (IP)	No
TMK 13-01117	05/12/2016	05/14/2026	CHIVAS	CHIVAS HOLDINGS (IP)	No
TMK 13-01239	05/18/2016	08/07/2023	WET BRUSH	J & D BRUSH CO., LLC	No
TMK 13-01239	05/18/2016	08/07/2023	WET BRUSH	J & D BRUSH CO., LLC	No
TMK 14-00147	05/19/2016	03/06/2026	BARACLUDE	Bristol-Myers Squibb Company	No
TMK 14-00147	05/19/2016	03/06/2026	BARACLUDE	Bristol-Myers Squibb Company	No
TMK 14-00153	05/19/2016	08/10/2025	ORENCIA	BRISTOL-MYERS SQUIBB COMPANY	No
TMK 14-00153	05/19/2016	08/10/2025	ORENCIA	BRISTOL-MYERS SQUIBB COMPANY	No
TMK 15-00754	05/04/2016	06/05/2026	ROLEX DAYTONA	Rolex Watch U.S.A., Inc.	No
TMK 15-00754	05/04/2016	06/05/2026	ROLEX DAYTONA	Rolex Watch U.S.A., Inc.	No
TMK 16-00407	05/02/2016	04/14/2017	Flag Device	TOMMY HILFINGER LICENSING LLC	No
TMK 16-00408	05/02/2016	03/15/2026	FIRMMARKER	Forrest Paint Co.	No
TMK 16-00409	05/03/2016	01/14/2024	TOMMY	TOMMY HILFINGER LICENSING LLC	No
TMK 16-00410	05/03/2016	09/07/2021	RØDE	FREEDMAN ELECTRONICS PTY LTD	No
TMK 16-00411	05/03/2016	10/24/2022	CARTIER (Stylized)	Cartier International A.G.	No
TMK 16-00412	05/03/2016	11/28/2024	CC (Stylized)	CARTIER INTERNATIONAL A.G.	No
TMK 16-00413	05/03/2016	04/09/2019	CC (Stylized)	CARTIER INTERNATIONAL A.G.	No
TMK 16-00414	05/03/2016	01/16/2025	CC (Stylized)	CARTIER INTERNATIONAL A.G.	No
TMK 16-00415	05/03/2016	12/25/2022	TRENTALETTE 37 and Design	Italian Productets USA, Inc.	No

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TMK 16-00416	05/03/2016	03/29/2026	SLIM & TONE	Tristar Products, Inc.	No
TMK 16-00417	05/03/2016	04/19/2026	STARNIGHT LASER	Tristar Products, Inc.	No
TMK 16-00418	05/03/2016	08/26/2025	TOMMY flag HILFIGER	Tommy Hilfiger Licensing LLC	No
TMK 16-00419	05/03/2016	11/26/2024	Design of a gold colored dot	Freedman Electronics Pty Limited	No
TMK 16-00420	05/03/2016	10/24/2022	CARTIER (Stylized)	Cartier International A.G.	No
TMK 16-00421	05/03/2016	03/22/2026	POWER PRESSURE COOKER XL and Design	Tristar Products, Inc.	No
TMK 16-00422	05/03/2016	03/15/2026	TITAN TWIST	Tristar Products, Inc.	No
TMK 16-00423	05/03/2016	03/08/2026	LFB FUSION LIFE BRANDS & Design	Tristar Products, Inc.	No
TMK 16-00424	05/03/2016	12/29/2025	Sonic Vortex and Design	JDA TECHNOLOGY, LLC	No
TMK 16-00425	05/03/2016	02/17/2026	TRISTAR PRODUCTS and Design	Tristar Products, Inc.	No
TMK 16-00426	05/03/2016	03/04/2025	CC (stylized)	CARTIER INTERNATIONAL A.G.	No
TMK 16-00427	05/03/2016	05/12/2018	PASTAWAVE	Tristar Products, Inc.	No
TMK 16-00428	05/03/2016	02/25/2025	DESIGN	Magpul Industries Corp.	No
TMK 16-00429	05/03/2016	02/25/2025	MAGPUL	Magpul Industries Corp.	No
TMK 16-00430	05/03/2016	01/26/2025	ZUPREEM	Premium Nutritional Products, Inc.	No
TMK 16-00431	05/03/2016	04/06/2025	JACK HAMMER ABS	Tristar Products, Inc.	No
TMK 16-00432	05/03/2016	03/01/2026	COMFORT ALL WOMEN WISH FOR	Tristar Products, Inc.	No
TMK 16-00433	05/03/2016	04/16/2018	BEN NYE	BEN NYE CO., INC.	No
TMK 16-00434	05/04/2016	05/14/2026	AB SCULPTOR	TriStar Products, Inc.	No
TMK 16-00435	05/04/2016	07/17/2017	POWER JUICER EXPRESS	TriStar Products, Inc.	No
TMK 16-00436	05/04/2016	02/03/2019	TITAN PEELER	Tristar Products, Inc.	No
TMK 16-00437	05/04/2016	12/14/2020	TALKMERCIAL	Tristar Products, Inc.	No

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TMK 16-00438	05/04/2016	11/13/2022	TV INVENTIONS	Tristar Products, Inc.	No
TMK 16-00439	05/04/2016	08/21/2022	HOOK N HANG	Tristar Products, Inc.	No
TMK 16-00440	05/04/2016	02/18/2025	LONZA (stylized)	Lonza AG (Lonza Ltd.)	No
TMK 16-00441	05/04/2016	06/20/2017	PASTA EXPRESS	Tristar Products, Inc.	No
TMK 16-00442	05/04/2016	09/08/2024	INSTANT ABS	TRISTAR PRODUCTS, INC.	No
TMK 16-00443	05/04/2016	02/28/2021	AB TONER	Tristar Products Inc.	No
TMK 16-00444	05/04/2016	08/13/2018	MICRO CHEF	Tristar Products, Inc.	No
TMK 16-00445	05/04/2016	05/20/2021	EUROSEALER	TRISTAR PRODUCTS, INC.	No
TMK 16-00446	05/04/2016	09/02/2025	FUSION XCELERATOR	Tristar Products, Inc.	No
TMK 16-00447	05/04/2016	10/28/2025	PERFECT SLICER and Design	Tristar Products, Inc.	No
TMK 16-00448	05/04/2016	10/21/2025	POWER PRESSURE COOKER XL PRO and Design	Tristar Products, Inc.	No
TMK 16-00449	05/04/2016	03/23/2025	AB ROLLER EVOLUTION	Tristar Products, Inc.	No
TMK 16-00450	05/04/2016	10/10/2022	GENIE BRA WHAT ALL WOMEN WISH FOR (stylized)	Tristar Products, Inc.	No
TMK 16-00451	05/04/2016	09/23/2025	SKINNIE GENIE	Tristar Products, Inc.	No
TMK 16-00452	05/04/2016	07/28/2025	POWER STYLER	Tristar Products, Inc.	No
TMK 16-00453	05/04/2016	04/20/2025	COPPER WEAR & Design	Tristar Products, Inc.	No
TMK 16-00454	05/04/2016	07/12/2026	TRISTAR	Tristar Products, Inc.	No
TMK 16-00455	05/04/2016	04/05/2026	TRADITIONAL LIGHT	VELAS HISPANIOLA, S.A. DBA VELAS HISPANIOLA, S.A.	No
TMK 16-00456	05/04/2016	07/16/2023	SERENITY CANDLES & Design	VELAS HISPANIOLA, S.A. DBA VELAS HISPANIOLA, S.A.	No

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TMK 16-00457	05/04/2016	08/01/2022	AROMA FROM NATURE and Design	VELAS HISPANIOLA, S.A. DBA VELAS HISPANIOLA, S.A.	No
TMK 16-00458	05/04/2016	02/06/2023	DWELLSTUDIO	WAYFAIR LLC	No
TMK 16-00459	05/04/2016	10/07/2019	DWELLSTUDIO	WAYFAIR LLC	No
TMK 16-00460	05/05/2016	04/21/2024	INFOMIR	INFOMIR, LLC	No
TMK 16-00461	05/05/2016	02/28/2021	DWELLSTUDIO	WAYFAIR LLC	No
TMK 16-00462	05/05/2016	12/18/2022	MAGIC LIGHT QUALITY CANDLES and Design	VELAS HISPANIOLA, S.A. DBA VELAS HISPANIOLA, S.A.	No
TMK 16-00463	05/05/2016	12/29/2025	DESIGN ONLY	KAS Direct, LLC	No
TMK 16-00464	05/05/2016	02/03/2026	DESIGN ONLY	Kas Direct, LLC	No
TMK 16-00465	05/05/2016	12/22/2025	DESIGN ONLY	KAS DIRECT, LLC	No
TMK 16-00466	05/05/2016	07/05/2026	DESIGN ONLY	KAS Direct, LLC	No
TMK 16-00467	05/05/2016	12/08/2025	Design mark	KAS Direct, LLC	No
TMK 16-00468	05/06/2016	12/22/2025	Design mark	KAS DIRECT, LLC	No
TMK 16-00469	05/06/2016	12/22/2025	Design mark	KAS DIRECT, LLC	No
TMK 16-00470	05/06/2016	12/22/2025	Design mark	KAS DIRECT, LLC	No
TMK 16-00471	05/06/2016	12/29/2025	Design mark	KAS Direct, LLC	No
TMK 16-00472	05/06/2016	03/01/2026	DESIGN ONLY (Bear)	Kas Direct, LLC	No
TMK 16-00473	05/06/2016	05/24/2025	DESIGN ONLY (Frog)	KAS Direct, LLC	No
TMK 16-00474	05/06/2016	02/03/2026	DESIGN ONLY (Octopus)	Kas Direct, LLC	No
TMK 16-00475	05/06/2016	12/29/2025	DESIGN ONLY (Hippopotamus)	KAS Direct, LLC	No
TMK 16-00476	05/06/2016	05/24/2025	DESIGN ONLY (Squirrel)	KAS Direct, LLC	No
TMK 16-00477	05/06/2016	12/29/2025	DESIGN ONLY (Turtle)	KAS Direct, LLC	No
TMK 16-00478	05/06/2016	12/29/2025	Design mark	KAS Direct, LLC	No

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TMK 16-00479	05/06/2016	12/22/2025	Design mark - Moon	KAS DIRECT, LLC	No
TMK 16-00480	05/06/2016	02/03/2026	Design mark - Snail	Kas Direct, LLC	No
TMK 16-00481	05/06/2016	03/01/2026	Design mark - Tiger	Kas Direct, LLC	No
TMK 16-00482	05/06/2016	12/22/2025	Design mark - Sun	KAS DIRECT, LLC	No
TMK 16-00483	05/06/2016	12/29/2025	Design mark - Train	KAS Direct, LLC	No
TMK 16-00484	05/09/2016	09/24/2018	GREENBERG	GREENBERG, LOUISE	No
TMK 16-00485	05/10/2016	12/23/2023	ZADITOR	Novartis AG	No
TMK 16-00486	05/10/2016	04/26/2026	OCULUS	Oculus VR, Inc.	No
TMK 16-00487	05/10/2016	06/01/2026	OCULUS	Oculus VR, Inc.	No
TMK 16-00488	05/12/2016	06/28/2019	CBGB	315 BOWERY HOLDINGS, LLC	No
TMK 16-00489	05/12/2016	10/15/2018	R&R Monogram	R&R APPAREL COMPANY, LLC	No
TMK 16-00490	05/16/2016	08/03/2026	DESIGN ONLY (Three Elephant jasmine rice)	Bangkok Bangkok Import & Import Export Inc. AKA Bangkok Market	No
TMK 16-00491	05/16/2016	10/15/2018	R&R Skull Design	R&R APPAREL COMPANY, LLC	No
TMK 16-00492	05/16/2016	01/23/2023	Sexy R (stylized)	R&R Apparel Company, LLC	No
TMK 16-00493	05/16/2016	05/05/2023	ALLMODERN	Wayfair LLC	No
TMK 16-00494	05/16/2016	08/12/2022	DESIGN ONLY (MUSTANG Horse & Bars)	FORD MOTOR COMPANY	No
TMK 16-00495	05/16/2016	08/15/2022	WAYFAIR	Wayfair LLC	No
TMK 16-00496	05/16/2016	05/07/2022	JOSS & MAIN	WAYFAIR LLC LIMITED LIABILITY	No
TMK 16-00497	05/16/2016	06/06/2022	RAPTOR	Ford Motor Company	No
TMK 16-00498	05/16/2016	10/15/2017	DITA	DITA, Inc.	No
TMK 16-00499	05/16/2016	08/30/2020	ELCHIM	ELCHIM S.P.A.	No
TMK 16-00500	05/16/2016	07/16/2022	PALI HAWAII & DESIGN	ACME EX-IM, Inc.	No

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TMK 16-00501	05/18/2016	08/10/2026	YAKGRIPS	Cascade Creek Company	No
TMK 16-00502	05/18/2016	07/05/2026	HYMOVIS and Design	FIDIA FARMACEUTICI S.p.A.	No
TMK 16-00503	05/18/2016	03/26/2021	KOOLABURRA	DECKERS OUTDOOR CORPORATION	No
TMK 16-00504	05/18/2016	03/22/2026	Stylized K	Deckers Outdoor Corporation	No
TMK 16-00505	05/18/2016	09/15/2019	CARLSSON	Shar Products Company	No
TMK 16-00506	05/19/2016	09/17/2024	NEO HYBRID	Spigen, Inc.	No
TMK 16-00507	05/19/2016	10/26/2021	TECHNOMARINE	TM Brands, LLC	No
TMK 16-00508	05/20/2016	06/30/2025	MOTHERSHIP	Mothership Glass LLC	No
TMK 16-00509	05/20/2016	02/10/2026	MOTHERSHIP (Design)	Mothership Glass LLC	No
TMK 16-00510	05/20/2016	08/10/2026	Design	Rhineland Cutlery, LLC	No
TMK 16-00511	05/20/2016	06/02/2023	INGE CHRISTOPHER (stylized)	INDOLINK CORP	No
TMK 16-00512	05/20/2016	06/29/2026	SAFETY, EFFICIENCY, PERFORMANCE FOR NEAR EARTH FLIGHT	Near Earth Autonomy, Inc.	No
TMK 16-00513	05/23/2016	07/03/2023	LONZA	LONZA LTD.	No
TMK 16-00514	05/23/2016	02/09/2021	NUOVA RICAMBI USA	Progressive Marketing, Inc.	No
TMK 16-00515	05/24/2016	07/24/2020	IODEX	BAAR PRODUCTS CORPORATION	No
TMK 16-00516	05/24/2016	09/30/2017	ZENITH	ZENITH ELECTRONICS LLC	No
TMK 16-00517	05/25/2016	08/03/2026	SPLATOON	Nintendo of America Inc.	No
TMK 16-00518	05/25/2016	02/18/2025	SOPHIE LA GIRAPE	SOPHIE LA GIRAPE S.A.S.	No
TMK 16-00519	05/25/2016	12/16/2024	Sophie la Girape design/shape	SOPHIE LA GIRAPE S.A.S.	No
TMK 16-00520	05/25/2016	01/21/2025	Fu Wax USA	Fu Wax USA LLC	No
TMK 16-00521	05/26/2016	01/13/2019	GLORYBEE	GLORYBEE NATURAL SWEETENERS, INC.	No
TMK 16-00522	05/26/2016	05/18/2024	LONZA	Lonza AG (Lonza Ltd.)	No

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TMK 16-00523	05/26/2016	02/09/2022	WATERPIK	WATER PIK, INC.	No
TMK 16-00524	05/26/2016	10/30/2022	WATERPIK	WATER PIK, INC.	No
TMK 16-00525	05/26/2016	01/20/2026	CARNIPURE	Lonza Ltd.	No
TMK 16-00526	05/26/2016	05/12/2024	WATERPIK	WATER PIK, INC.	No
TMK 16-00527	05/26/2016	09/10/2023	WATERPIK and Design	WATER PIK, INC.	No
TMK 85-00547	05/03/2016	04/09/2025	CARTIER	CARTIER INTERNATIONAL A.G.	No
TMK 85-00547	05/03/2016	04/09/2025	CARTIER	CARTIER INTERNATIONAL A.G.	No
TMK 86-00242	05/03/2016	02/26/2026	LOVE BRACELET DESIGN	CARTIER INTERNATIONAL A.G.	No
TMK 86-00242	05/03/2016	02/26/2026	LOVE BRACELET DESIGN	CARTIER INTERNATIONAL A.G.	No
TMK 88-00402	05/04/2016	01/20/2018	C (stylized)	CARTIER INTERNATIONAL A.G.	No
TMK 88-00402	05/04/2016	01/20/2018	C (stylized)	CARTIER INTERNATIONAL A.G.	No
TMK 93-00854	05/19/2016	08/13/2026	EGOISTE (Stylized)	CHANEL, INC.	No
TMK 93-00854	05/19/2016	08/13/2026	EGOISTE (Stylized)	CHANEL, INC.	No
TMK 95-00669	05/03/2016	05/25/2025	LOVE BRACELET	CARTIER INTERNATIONAL A.G.	No
TMK 95-00669	05/03/2016	05/25/2025	LOVE BRACELET	CARTIER INTERNATIONAL A.G.	No
TMK 96-00215	05/26/2016	01/31/2026	DALLAS COWBOYS	Dallas Cowboy Football Club, Ltd.	No
TMK 96-00215	05/26/2016	01/31/2026	DALLAS COWBOYS	Dallas Cowboy Football Club, Ltd.	No
TMK 96-00630	05/26/2016	07/17/2026	TAREYTON	REYNOLDS INNOVATIONS INC.	No
TMK 96-00630	05/26/2016	07/17/2026	TAREYTON	REYNOLDS INNOVATIONS INC.	No
TMK 98-00808	05/19/2016	03/10/2026	CANON	CANON KABUSHIKI KAISHA	No
TMK 98-00808	05/19/2016	03/10/2026	CANON	CANON KABUSHIKI KAISHA	No
TMK 99-00274	05/26/2016	08/28/2026	Design	HMI INDUSTRIES INC.	No
TMK 99-00274	05/26/2016	08/28/2026	Design	HMI INDUSTRIES INC.	No