

U.S. Customs and Border Protection



PROPOSED REVOCATION OF THREE RULING LETTERS AND PROPOSED REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF SURFBOARD TRANSPORT SYSTEMS

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

ACTION: Notice of proposed revocation of three ruling letters and revocation of treatment relating to the tariff classification of surfboard transport systems.

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 three ruling letters concerning tariff classification of surfboard transport systems, 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.

DATE: Comments must be received on or before October 25, 2019.

ADDRESS: Written comments are to be addressed to 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: Karen S. Greene, Chemicals, Petroleum, Metals & Miscellaneous Articles Branch, Regulations and Rulings, Office of Trade, at (202) 325–0041.

SUPPLEMENTARY INFORMATION:**BACKGROUND**

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with 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 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to revoke three ruling letters concerning surfboard transport systems. Although in this notice, CBP is specifically referring to New York Ruling Letter ("NY") N019824, dated November 29, 2007 (Attachment A), NY M81749, dated April 5, 2006 (Attachment B), and NY K80289, dated November 13, 2003, (Attachment C), this notice also 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 ruling letter 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 comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), 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 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 the final decision on this notice.

In NY N019824, NY M81749, and NY K80289, CBP classified surfboard transport systems in subheading 9506.29.00, HTSUS, which provides as follows: "Articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter;

swimming pools and wading pools; parts and accessories thereof: Water skis, surfboards, sailboards and other water-sport equipment; parts and accessories thereof: Other.”

CBP has reviewed NY N019824, NY M81749, and NY K80289, and has determined the ruling letters are in error.

It is now CBP’s position that the surfboard transport systems that are designed to attach to a motor vehicle described above are properly classified in subheading 8708.29.50, HTSUS, which provides as follows: “Parts and accessories of the motor vehicles of headings 8701 to 8705: Other parts and accessories of bodies (including cabs): Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N019824, NY M81749, and NY K80289, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ 287584, set forth as Attachment D to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: August 20, 2019

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

NY M81749

April 5, 2006

CLA-2-95:RR:NC:2:224 M81749

CATEGORY: Classification

TARIFF NO.: 9506.29.0080

MS. EDITH TOLCHIN
EGT GLOBAL TRADING
P. O. BOX 231
FLORIDA, NY 10921

RE: The tariff classification of surfboard accessories from China, Taiwan, or Hong Kong

DEAR MS. TOLCHIN:

In your letter dated March 20, 2006, you requested a tariff classification ruling, on behalf of Long Arm Surf & Snow Co., your client.

You are requesting the tariff classification on five products that are described as follows. A Gate Rack constructed of textile material, foam, and non-slip neoprene is packaged in a mesh bag; the item is used for carrying a surfboard in a truck. A Strap Pad constructed of the exact materials as the Gate Rack; it is designed for transporting the board on the roof of a car. A Nose Boot of either nylon or polyester that protects the end of a surfboard when you travel with it. A Board Sling also of either polyester or nylon that enables you to carry the surfboard over your shoulder. The Tight Strap Tie-Downs made of webbing material, packaged 2 in each mesh bag; the tie-downs are designed for securing the board to a roof of a car. All of the items described above will be classified as accessories to surf boards in Chapter 95 of the HTSUS. The samples will be returned, as requested by your office.

The applicable subheading for the surf board accessories: Gate Rack, Strap Pad, Nose Boot, Board Sling, and Tight Strap Tie-Downs will be 9506.29.0080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for water skis, surf boards, sailboards and other water sport equipment; parts and accessories thereof: 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 Tom McKenna at 646-733-3025.

Sincerely,

ROBERT B. SWIERUPSKI
Director,
National Commodity
Specialist Division

ATTACHMENT B

N019824

November 29, 2007
CLA-2-95:OT:RR:NC:2:224
CATEGORY: Classification
TARIFF NO.: 9506.29.0080

Ms. DEBBIE CARCHIDI
QUICKSILVER
5600 ARGOSY CIRCLE, #300
HUNTINGTON BEACH, CA 92649

RE: The tariff classification of surfboard accessories from Vietnam

DEAR Ms. CARCHIDI:

In your letter dated November 14, 2007, you requested a tariff classification ruling, on behalf of Quicksilver, your client.

You are requesting the tariff classification on four products that are described as follows. Style CAR0001, Tie-Down Straps, will be constructed of 100% nylon with a metal clamp covered with neoprene. The Tie-Downs are used to secure the surfboard to the roof rack of a vehicle. The Tie-Downs are packaged and sold in a nylon storage bag. Style CAR0003, an Aerial Roof Pad, consists of two pads of 100% polyester, foam padding, and a secure closure. The Roof Pads serve to protect a surfboard from damage that a roof rack may cause. The Roof Pads will be packaged and sold in its own nylon storage bag. Style CAR0004 is called a Tailgate Pad. It is constructed of 100% polyester, foam padding, rubber backing, nylon straps, and plastic adjustment clasps. The Tailgate Pad holds a surfboard securely on a pickup truck tailgate. Style CAR0005, a Single Soft Rack, is made of 100% polyester, foam padding, nylon straps, rubber backing, and metal clasps. It is designed to carry a surfboard on the roof of a vehicle. The item is sold in a nylon storage bag.

All of the items described above will be classified as accessories to surfboards in Chapter 95 of the HTSUS. The samples will be returned, as requested by your office.

The applicable subheading for the surf board accessories: Tie-Down Straps, Aerial Roof Pads, Tailgate Pad, and Single Soft Rack will be 9506.29.0080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for water skis, surf boards, sailboards and other water sport equipment; parts and accessories thereof: 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 Wayne Kessler at 646-733-3025.

Sincerely,

ROBERT B. SWIERUPSKI
Director,
National Commodity
Specialist Division

ATTACHMENT C

NY K80289

November 13, 2003

CLA-2-95:RR:NC:2:224 K80289

CATEGORY: Classification

TARIFF NO.: 9506.29.0040

MR. MICHAEL IANNINI
SURFSLING INTERNATIONAL, INC.
170 E. 17TH STREET, SUITE 211
COSTA MESA, CA 92627

RE: The tariff classification of a Surfsling from China

DEAR MR. IANNINI:

In your letter dated October 31, 2003, you requested a tariff classification ruling.

You are requesting the tariff classification on an item that is described as a Surfsling. The primary functions of this device are to permit a surfer to physically transport a surfboard from a vehicle to the beach with little physical assistance and to protect the surfboard from scratching. The apparatus is designed so that it can be folded into itself and zippered closed for easy storage. The proper classification will be in Chapter 95 of the HTS, as accessories for other water-sport equipment. You have not requested the return of your sample.

The applicable subheading for the Surfsling (no style number shown) will be 9506.29.0040, Harmonized Tariff Schedule of the United States (HTS), which provides for water skis, surf boards, sailboards and other water-sport equipment; parts and accessories thereof: other...other. The rate of duty will be free.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Tom McKenna at 646-733-3025.

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity

Specialist Division

ATTACHMENT D

HQ H287584
OT:RR:CTF:CPMM H287584 KSG
CATEGORY: Classification
TARIFF NO.: 6307.90.98, 8708.29.50

EDITH TOLCHIN
DGT GLOBAL TRADING
P.O. Box 231
FLORIDA, NY 10921

DEBBIE CARCHIDI
QUICKSILVER
5600 ARGOSY CIRCLE, #300
HUNTINGTON BEACH, CA 92649

MARC IANNINI
SURFSLING INTERNATIONAL, INC.
170 E. 17TH STREET, SUITE 211
COSTA MESA, CA 92627

RE: Revocation of NY N019824, NY M81749 and NY K80289; tariff classification of surfboard racks and other items

DEAR Ms. TOLCHIN, Ms. CARCHIDI AND Mr. IANNINI:

This letter is in reference to New York Ruling Letter (NY) N019824, dated November 29, 2007, NY M81749, dated April 5, 2006, and NY K80289, dated November 13, 2003, regarding the tariff classification of surfboard transport systems (“surfboard racks”), slings to carry a surfboard, tie-down straps, and a “Nose Boot” under the Harmonized Tariff Schedule of the United States (HTSUS).

In NY N019824, U.S. Customs & Border Protection (CBP) classified three styles of surfboard racks and tie-down straps in subheading 9506.29.00, HTSUS, as accessories to a surfboard. In NY M81749, CBP classified two styles of surfboard racks (“Gate Rack” and a “Strap Pad”), a “Nose Boot,” a “Board Sling,” and tie-down straps in subheading 9506.29.00, HTSUS, as accessories to a surfboard. Lastly, in NY K80289, dated November 13, 2003, CBP classified a “Surfsling” in subheading 9506.29.00, HTSUS, as an accessory to a surfboard.

We have reviewed NY N019824, NY M81749 and NY K80289, dated November 13, 2003, and determined that the rulings are in error. Accordingly, for the reasons set forth below, CBP is revoking NY N019824, NY M81749 and NY K80289.

FACTS:

In NY N019824, four articles were classified as surfboard accessories: three surfboard racks and tie-down straps. The three surfboard racks are designed to be mounted on the exterior roof of an automobile or on a pickup truck to carry a surfboard on a moving motor vehicle when there is no permanent rack on the motor vehicle. The surfboard racks are: the Aerial Roof Pad, the Tailgate Pad, and the Single Soft Rack. The Aerial Roof Pad is described as two pads of 100% polyester foam padding and a secure closure in a nylon storage bag. The Tailgate Pad is made of 100% polyester foam padding, rubber backing, nylon straps, and plastic adjustment clasps. The Tailgate

Pad holds a surfboard securely on a pickup truck tailgate. Lastly, the Single Soft Rack is described as 100% polyester foam padding, nylon straps, rubber backing and metal clasps sold in a nylon storage bag. It is designed to carry a surfboard on an automobile. The tie-down straps are constructed of 100% nylon with a metal clamp covered with neoprene and are designed to secure an article to a motor vehicle.

In NY M81749 five articles were classified as surfboard accessories: two surfboard racks designed to be mounted on the exterior roof of an automobile or on a pickup truck to carry a surfboard when there is no permanent rack on the motor vehicle, a “Nose Boot,” a “Board Sling,” and tie-down straps. The two surfboard racks are the Gate Rack and the Strap Pad.

A Gate Rack is constructed of textile material, foam, and non-slip neoprene that is packaged in a mesh bag. The Gate Rack is used to transport a surfboard on a pickup truck. A Strap Pad is constructed of the same material as the Gate Rack but is used to transport a surfboard on the roof of an automobile.

A Nose Boot is made of polyester or nylon and protects the end of a surfboard when it is being transported. A Board Sling is described as made of either polyester or nylon and used to facilitate the transport of a surfboard on the shoulder of the surfer. The tie-down straps are made of webbing material, packaged two in a mesh bag.

In NY K80289, CBP classified a “Surfsling” that was described in the NY ruling as a device to enable a surfer to physically transport a surfboard with little physical assistance and to protect it from scratching. The website SURFSLING, <http://www.surfsling.com/slng.php> (last visited May 13, 2019), describes the Surfsling as a full length terry/velour beach towel with hardware on either side. The images show a beach towel with a strip of material on either end with hooks on one side and holes on the other side. A strap with a handle is sold with the article. Its use is described on the website as including use as a beach towel, a changing device, a beach bag, to carry a wetsuit and “for any outdoor activity.”

ISSUE:

Whether the surfboard racks, slings and tie-down straps are properly classified in heading 9506, HTSUS, as accessories of surfboards, in heading 6307 as other made up articles, in heading 8479 as machinery or in heading 8708 as accessories of motor vehicles.

LAW AND ANALYSIS:

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

GRI 6 provides that for legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this Rule the relative section and chapter notes also apply, unless the context otherwise requires.

The HTSUS headings under consideration are the following:

9506	Articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof:
	Water skis, surf boards, sailboards and other water-sport equipment; parts and accessories thereof:
9506.29.00	Other

6307	Other made up articles, including dress patterns:
6307.90	Other:
6307.90.98	Other

8479	Machines and mechanical appliances having individual functions, not specified or included elsewhere in this chapter; parts thereof:
8479.89	Other:
8479.89.94	Other

8708	Parts and accessories of the motor vehicles of headings 8701 to 8705:
	Other parts and accessories of bodies (including cabs):
8708.29	Other:
8708.29.50	Other

In *Rollerblade, Inc. v. United States*, 116 F. Supp. 2d 1247 (Ct. Int'l Trade 2000), the court held that protective gear used by an in-line skater such as elbow pads, knee pads and wrist guards were correctly classified as other sports equipment and not as an accessory to in-line roller skates. Since the HTSUS does not define the word "accessory," the court looked at various dictionary definitions and concluded that "an accessory must relate directly to the thing accessorized." There must be a direct relationship between the protective gear and the roller skates themselves. The court said that an accessory must contribute to the effectiveness of the principal article, widen the range of its uses, or improve its operation. The court then held that the protective gear did not accessorize roller skates but rather, the activity of skating or the comfort and safety of the person engaged in skating and therefore, the protective gear was not classified in heading 9506, HTSUS.

The surfboard racks, tie-down straps, slings and nose boot involved in this case are all similar to the protective gear in *Rollerblade* to the extent that they do not relate directly to the operation of surfboards or other water-sport equipment. None of these articles contribute to the effectiveness of a surfboard or other water-sport equipment, widen the range of its uses, or improve its operation. With regard to the Surfslings, it has the appearance of a beach towel and has a variety of possible uses. It is not designed to only be usable to carry a surfboard. Similarly, the tie-down straps are not narrowly designed to only be useable to secure a surfboard or other water-sport equipment. Thus, the surfboard racks, tie-down straps, slings and nose boot are not

classified in heading 9506, HTSUS, as surfboard or other water-sport equipment accessories.

Section Note 3, Section XVII, HTSUS, limits items classified in Chapters 86 to 88 as parts or accessories to parts or accessories which are suitable for use solely or principally with the articles of those Chapters. The EN for chapter 87 states that motor vehicles designed for the transport of persons are classified in headings 8702 and 8703.

The EN for Heading 6307, HTSUS, states that it covers made up articles of any textile material which are not included more specifically in other headings.

I. Surfboard Racks (Aerial Roof Pad, Tailgate Pad, Single Soft Rack, Gate Rack and the Strap Pad)

The surfboard racks are designed solely or principally to be mounted on the exterior roof of an automobile or to be mounted on a pickup truck in order to securely carry a surfboard on a moving motor vehicle without damaging the motor vehicle or the surfboard. These surfboard racks provide for the safe and secure transport of a surfboard on an automobile or pickup truck that does not have a permanent roof rack. Therefore, they add an additional feature to the motor vehicle. Consistent with the analysis in *Rollerblade*, surfboard racks that are designed to be placed on the exterior roof of an automobile or pickup truck to carry a surfboard when the automobile or pickup truck does not have a permanent rack widens the range of the uses of the motor vehicle and would be classified as accessories to an automobile or pickup truck in heading 8708, HTSUS.

CBP has classified similar goods in subheading 8708.29.50, HTSUS. See NY K86958, dated June 15, 2004, classifying a foam canoe carrier and a foam kayak carrier in subheading 8708.29.50, HTSUS, and NY J83752, dated April 24, 2003, classifying a canoe carrier in subheading 8708.29.50, HTSUS. They are similar because they are also shaped foam and straps. Accordingly, we conclude that the surfboard racks are an accessory of an automobile or a pickup truck classified in heading 8708, HTSUS. In accordance with GRI 6, the surfboard racks are classified in subheading 8708.29.50, HTSUS.

II. Surfslings

In HQ H007654, dated July 8, 2009, CBP held that a sling for snow skis used to allow a user to carry their ski equipment hands-free were not classified in heading 9506, HTSUS, because they did not directly act on, contact the skis or contribute to their effectiveness. The ski equipment, which features a ratcheting closure system, was classified in heading 8479, HTSUS. The Board Sling and the Surfslings are items that allow for hands-free carrying of sports equipment as well as other items, like the sling for snow skis provided for in HQ H007654. Consistent with *Rollerblade* and HQ H007654, we find that the Board Sling and Surfslings do not relate directly to a surfboard, directly act on a surfboard, or contribute to the effectiveness, widen the range of uses of a surfboard or improve the operation of a surfboard. Accordingly, they are not accessories of a surfboard and would not be classified in heading 9506, HTSUS.

The Surfslings are not even particularly designed to carry surfboards and is described as functional for any outdoor activity and particularly useful as a beach towel. Based on the description of the Surfslings, it would be classified in heading 6307, and more particularly subheading 6307.90.98, HTSUS.

III. Tie-down straps and Board Sling

The tie-down straps would be classified in either heading 8479, HTSUS, as machines and mechanical appliances having individual functions, not otherwise specified, or in heading 6307, HTSUS, as other made up textile articles, depending on whether they have a ratchet or a cam buckle.¹ In HQ H007654, CBP explained that heading 8479 includes a sling with a ratcheting closure system and tie-downs that have a ratchet mechanism. Since we have no information regarding the buckles or closure systems, we are unable to determine which heading is applicable for the Board Sling and the tie-down straps. The Board Sling may be an item similar to the tie-down straps, in which case, it would also be classified in either heading 8479, HTSUS, or in heading 6307, HTSUS.

IV. Nose Boot

The Nose Boot is also not an accessory to a surfboard. The Nose Boot is intended to protect the ends of a surfboard but does not directly act on the surfboard or contribute to the effectiveness of the surfboard, widen the range of its uses, or improve its operation. Therefore, pursuant to *Rollerblade* and in accordance with the rulings cited above, the Nose Boot would also not be classified as an accessory in heading 9506, HTSUS.

The Nose Boot is described as made of nylon or polyester, so it may be classified in heading 6307, HTSUS, as other made up textile articles. However, without further information regarding possible buckles or another closure system or if it has other pertinent features, we are unable to classify it.

HOLDING:

By application of GRI's 1 and 6, the surfboard racks are classified in heading 8708 and specifically subheading 8708.29.50, HTSUS. The column one, general rate of duty is 2.5% ad valorem.

The Surfslings are classified in heading 6307 and specifically subheading 6307.90.98, HTSUS. The column one, general rate of duty is 7% 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 for at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY N019824, NY M81749 and NY K80289 are revoked in accordance with the above analysis.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

¹ For instance, in NY I83883, HTSUS, dated July 16, 2002, CBP classified nylon tie-downs with a plastic buckle used with kayaks in subheading 6307.90.9889, HTSUS. Also see NY N152400, dated March 29, 2011; NY N092896, dated February 22, 2010; NY 883806, dated March 26, 1993; and NY 875985, dated July 9, 1992 classifying nylon tie-downs in heading 6307, HTSUS. In NY N170443, dated July 5, 2011, CBP classified a nylon tie-down with a ratchet in heading 8479, HTSUS. See also NY C87350, dated May 21, 1998, NY D83599, dated November 3, 1998, NY B80441, dated December 26, 1996, and HQ 089411, dated June 20, 1991, classifying tie-downs with a ratchet in heading 8479, HTSUS.

**PROPOSED MODIFICATION OF A RULING LETTER AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
THE TARIFF CLASSIFICATION OF KAYAK SEAT BACK**

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

ACTION: Notice of proposed modification of a ruling letter and revocation of treatment relating to the tariff classification of a kayak seat back.

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 a ruling letter concerning tariff classification of a kayak seat back 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.

DATE: Comments must be received on or before October 25, 2019.

ADDRESS: Written comments are to be addressed to 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: Karen S. Greene, Chemicals, Petroleum, Metals & Miscellaneous Articles Branch, Regulations and Rulings, Office of Trade, at (202) 325–0041.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with 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 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to modify a ruling letter pertaining to the tariff classification of a kayak seat back. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) N181156, dated September 15, 2011 (Attachment A), this notice also 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 ruling letter 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 comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), 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 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 the final decision on this notice.

In NY N181156, CBP classified a childrens’ kayak seat back and an adult kayak seat back in subheading 3926.90.99, HTSUS, which provides as follows: “Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other.”

CBP has reviewed NY N181156 and has determined the ruling letter is in error.

It is now CBP’s position that the children’s and adult kayak seat backs described above are properly classified in subheading 9404.90.20, HTSUS, which provides as follows: “Mattress supports; articles of bedding and similar furnishing (for example, mattresses, quilts, eiderdowns, cushions, pouffes and pillows) fitted with springs or stuffed or internally fitted with any material or of cellular rubber or plastics, whether or not covered: Other: Pillows, cushions and similar furnishings: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to modify NY N181156, and to revoke or modify any other ruling not specifically

identified to reflect the analysis contained in the proposed HQ H286422, 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: August 23, 2019

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

N181156

September 15, 2011

CLA-2-39:OT:RR:NC:N4:421

CATEGORY: Classification

TARIFF NO.: 3926.90.9980; 6307.90.9889

MR. BRYON BROWN
LIFETIME PRODUCTS
FREEMPORT CENTER BLDG., D-11
P.O. BOX 160010
CLEARFIELD, UT 84404

RE: The tariff classification of kayak seat backs and carry straps from China

DEAR MR. BROWN:

In your letter dated August 17, 2011, you requested a tariff classification ruling.

Photographs and drawings were provided with your letter. The first product is identified as a seat back for a kids kayak. The seat back functions as a backrest and is sold as an accessory for the kayak. It is composed of polyethylene plastic foam and has a polyester textile strap with a clip at each end to secure it to the kayak. The second product is a seat back for an adult kayak. This seat back/backrest is made of ethylene vinyl acetate (EVA) foam and polyethylene sheet, both covered with polyester fabric. The seat back has a polyester textile strap with a clip at each end to secure it to the kayak. The third product is a carrying strap or harness for a kayak. The strap is made of polyester textile and is designed so that it can be wrapped around a kayak. In the center portion of the strap there is a steel bar to use as a handle to carry the kayak. Nylon buckles are used to attach the strap around the kayak.

The applicable subheading for the kayak seat backs will be 3926.90.9980, Harmonized Tariff Schedule of the United States (HTSUS), which provides for other articles of plastics, other. The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the kayak carrying strap/harness will be 6307.90.9889, HTSUS, which provides for other made up textile articles, other. The rate of duty will be 7% 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 Joan Mazzola at (646) 733-3023.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

ATTACHMENT B

HQ H286422
OT:RR:CTF:CPMM H286422 KSG
CATEGORY: Classification
TARIFF NO.: 9404.90.20

BRYON BROWN
LIFETIME PRODUCTS
FREEPORT CENTER BLDG., D-11
P.O. BOX 160010
CLEARFIELD, UT 84404

RE: Modification of NY N181156, dated September 15, 2011; tariff classification of kayak seat back

DEAR MR. BROWN:

This letter is in reference to New York Ruling Letter (NY) N181156, dated September 15, 2011, regarding the classification of kayak seat backs in the Harmonized Tariff Schedule of the United States (HTSUS).

In NY N181156, U.S. Customs & Border Protection (CBP) classified kayak seat backs for children and for adults in subheading 3926.90.99, HTSUS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other.”

We have reviewed NY N181156 and determined that the ruling is in error. Accordingly, for the reasons set forth below, CBP is modifying NY N181156.

FACTS:

The imported articles are kayak seat backs for children and for adults, which function as a back rest and are an accessory to a kayak. The childrens’ kayak seat is composed of polyethylene plastic foam and has a polyester textile strap with a clip at each end to secure it to the kayak. The adult kayak seat back is made of ethylene vinyl acetate foam and also has the polyester textile strap with a clip at each end to secure it to the kayak.

ISSUE:

Whether the kayak seat backs are properly classified in heading 3926, HTSUS, as other articles of plastics or in heading 9404, HTSUS, as pillows, cushions, and similar furnishings.

LAW AND ANALYSIS:

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

GRI 6 provides that for legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this Rule the relative section and chapter notes also apply, unless the context otherwise requires.

The HTSUS subheadings under consideration are the following:

3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.90	Other:
3926.90.99	Other
9404	Mattress supports; articles of bedding and similar furnishing (for example, mattresses, quilts, eiderdowns, cushions, pouffes and pillows) fitted with springs or stuffed or internally fitted with any material or of cellular rubber or plastics, whether or not covered:
9404.90	Other: Pillows, cushions and similar furnishings:
9404.90.20	Other

In understanding the language of the HTSUS, the Explanatory Notes (EN's) of the Harmonized Commodity Description and Coding System, constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Chapter note 1 (a), chapter 94, HTSUS, provides that the chapter excludes pneumatic or water mattresses, pillows or cushions of chapter 39....

Chapter note 2(x), chapter 39, HTSUS, excludes articles of chapter 94 (for example, furniture, lamps and lighting fittings, illuminated signs, prefabricated buildings).

In Headquarters Ruling Letter (HQ) H265674, dated November 20, 2017, CBP considered whether airbeds were classified as "other articles of plastics" in heading 3926 or as "other furniture" in heading 9403. CBP examined the interplay of the chapter 39 note 2(x) and the chapter 94 note 1(a). CBP reconciled the two exclusionary notes by concluding that chapter note 1(a), chapter 94 applies to a narrow subset of goods- pneumatic or water mattresses, pillows or cushions. Essentially, the list of several very specific articles provides an exception to the general rule of classification under Chapter 94. In HQ H265674, airbeds were deemed to be pneumatic mattresses, which does fall within the narrow subset, and therefore, the airbeds were excluded from classification in chapter 94 and were classified in heading 3926, HTSUS.

When terms are not defined in the HTSUS or the EN's, they are construed in accordance with their common and commercial meanings, which are presumed to be the same. In determining the common meaning of a term in the tariff, courts may and do consult dictionaries, scientific authorities and other reliable sources of information....*Nippon Kogaku (USA), Inc. v. U.S.*, 673 F.2d 380 (C.C.P.A. 1982). In *Carl Zeiss, Inc. v. U.S.*, 195 F.3d 1375 (Fed. Cir. 1999), the Federal Circuit Court upheld the government's reliance on a dictionary definition of a compound optical microscope absent contrary legislative intent and where the tariff provision was an *eo nomine* provision, not a use provision.¹

¹ The court rejected the importer's argument that the article was designed, marketed and used as a surgical instrument so should be classified in a manner consistent with its commercial meaning.

The HTSUS or EN's do not define a "pneumatic" mattress, pillow or cushion. In HQ H265674, CBP examined various dictionary definitions which defined "pneumatic" as filled with compressed air or gas. The phrase "pneumatic or water" in chapter note 1(a), chapter 94 applies to mattresses, pillows or cushions of chapter 39. The article in this case is clearly not a mattress so it would only be precluded from classification in Chapter 94, HTSUS if it is a pneumatic or water pillow of chapter 39 or a pneumatic or water cushion of chapter 39, HTSUS. In this case, the kayak seat backs are not filled with compressed air or gas or filled with water. Therefore, the kayak seat backs in this case are not pneumatic pillows or cushions. This is consistent with other CBP rulings dealing with kayak seats: NY I83878, dated July 26, 2002, which classified kayak seats in subheading 9404.90.20, HTSUS; NY H87797, dated February 28, 2002, which classified a kayak seat of nylon with a foam padding in subheading 9404.90.20, HTSUS; and NY N284050, dated March 17, 2017, which classified a kayak seat with a gel padding in subheading 9404.90.20, HTSUS. Based on the above, we conclude that the kayak seat backs are not precluded from classification in chapter 94, HTSUS, by chapter note 1(a).

Heading 9404 covers articles of bedding and similar furnishings. For instance in HQ 956997, dated March 14, 1995, CBP classified cushions for aircraft flight attendant seats, with a synthetic leather or fabric cover and urethane foam padding in subheading 9404.90.20, HTSUS. The cushions were not bedding but were considered "similar furnishings." We find that the children and adult kayak seat backs are like the flight attendant seats and would be considered "similar furnishings." Therefore, the kayak seats are properly classified in subheading 9404.90.20, HTSUS, consistent with the classification of kayak seats in NY I83878, NY H87797, and NY N284050.

HOLDING:

Pursuant to GRIs 1 and 6, the kayak seat backs are classified in subheading 9404.90.20, HTSUS. The column one, general rate of duty is 6% 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 for at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY N181156 is modified in accordance with the above analysis.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**PROPOSED REVOCATION OF ONE RULING LETTER,
PROPOSED MODIFICATION OF ONE RULING LETTER,
AND REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF TWO STRETCHER COVERS
AND ONE GURNEY COVER**

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

ACTION: Notice of proposed revocation of one ruling letter, proposed modification of one ruling letter, and revocation of treatment relating to the tariff classification of certain stretcher covers and gurney covers.

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 letter concerning tariff classification of a stretcher cover, and to modify one letter concerning the tariff classification of one stretcher cover and one gurney cover, 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.

DATE: Comments must be received on or before October 25, 2019.

ADDRESS: Written comments are to be addressed to 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: Lynne O. Robinson, Food, Textiles and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0067.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with 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 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the tariff classification of a stretcher cover, and to modify the tariff classification of one ruling letter pertaining to a stretcher cover and a gurney cover. Although in this notice, CBP is specifically referring to New York Ruling Letter ("NY") B89677, dated October 6, 1997 (Attachment A) and NY I88978, dated December 13, 2002 (Attachment B), this notice also 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 comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), 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 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 the final decision on this notice.

In the rulings to be revoked and modified, CBP classified a stretcher cover and a gurney cover in heading 6307, HTSUS, specifically in subheading 6307.90.98, HTSUS, which provides for "Other made up articles, including dress patterns: Other: Other." CBP has reviewed NY B89677 and NY I88978 and has determined the ruling letters to be in error. It is now CBP's position that stretcher covers and gurney covers are properly classified in heading 6302, HTSUS, specifically in subheading 6302.32.20, HTSUS, which provides for "Bed linen, table linen, toilet linen and kitchen linen: Other bed linen: Of man-made fibers: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY B89677 and to modify NY I88978, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ H254033, 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: August 23, 2019

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

NY B89677

October 6, 1997

CLA-2-63:RR:NC:TA:352 B89677

CATEGORY: Classification

TARIFF NO.: 6307.90.9989

MR. LAWRENCE R. PILON

HODES & PILON

33 NORTH DEARBORN STREET, SUITE 2204

CHICAGO, ILL 60602-3109

RE: The tariff classification of a stretcher cover from the Philippines.

DEAR MR. PILON:

In your letter dated September 12, 1997, on behalf of Medline Industries, Inc., you requested a tariff classification ruling.

The sample submitted is a stretcher cover made of nonwoven polypropylene fabric and measures 72" x32". The ends are folded over and sewn to form pockets to hold the cover on the stretcher.

The applicable subheading for the stretcher cover will be 6307.90.9989, Harmonized Tariff Schedule of the United States (HTS), which provides for other made up articles...Other. The rate of duty will be 7percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Alan Tytelman at 212-466-5896.

Sincerely,

ROBERT B. SWIERUPSKI
Director,
National Commodity
Specialist Division

ATTACHMENT B

NY I88978

December 13, 2002

CLA-2-63:RR:NC:TA:351 I88978

CATEGORY: Classification

TARIFF NO.: 6307.90.9889

MS. NANCY L. RICE
KAPPLER USA
115 GRIMES DRIVE
GUNTERSVILLE, AL 35976

RE: The tariff classification of a stretcher cover, a gurney cover, a blood pressure sleeve and a strap assembly from China.

DEAR MS. RICE:

In your letter dated November 25, 2002 you requested a tariff classification ruling. The samples are being returned as requested.

The samples submitted are a disposable stretcher cover, a disposable gurney cover, a disposable blood pressure sleeve and a strap assembly to be used to secure patients. The stretcher cover is made of nonwoven spun bonded polypropylene fabric coated on one side with polyethylene. The ends are folded over and sewn to form pockets to hold the cover on the stretcher. It features textile strap handles

The gurney cover is constructed of nonwoven spun bonded polypropylene fabric coated on one side with polyethylene. It features two web fabric straps with a plastic buckle and strap handles.

The blood pressure sleeve is composed of a nonwoven spun bonded polypropylene textile fabric panel coated on one side with polyethylene. The sides are seamed to form a tubular shape article with an elasticized opening at each end. It features a clear plastic window.

The strap assembly is constructed of twelve adjustable web fabric straps with plastic buckles. The straps are assembled together to form an adjustable strap to cover a patient's head, shoulders, chest, abdomen, pelvic, thigh and leg areas. The straps are made of nylon webbing fabric.

The applicable subheading for the stretcher cover, gurney cover, blood pressure sleeve and strap assembly will be 6307.90.9889, Harmonized Tariff Schedule of the United States (HTS), which provides for other made up articles . . . Other. The rate of duty will be 7 percent ad valorem. The rate of duty for the year 2003 will be the same.

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 Mitchel Bayer at 646-733-3102.

Sincerely,

ROBERT B. SWIERUPSKI
Director,
National Commodity
Specialist Division

ATTACHMENT C

H254033
OT:RR:CTF:FTM H254033 LOR
CATEGORY: Classification
TARIFF NO.: 6302.32.20

MR. LAWRENCE PILON
HODES, KEATING & PILON
33 NORTH DEARBORN STREET
SUITE 2204
CHICAGO, IL 60602-3109

RE: Proposed revocation of NY B89677 and proposed modification of NY I88978; Classification of a stretcher cover and a gurney cover

DEAR MR. PILON:

This is reference to New York Ruling Letter (“NY”) B89677, dated October 6, 1997, that U.S. Customs and Border Protection (“CBP”) issued to you on behalf of Medline Industries, Inc. NY B89677 concerns the tariff classification of a stretcher cover under subheading 6307.90.99 of the Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for “Other made up articles, including dress patterns: Other: Other: Other.” After reviewing NY B89677, we have determined it to be in error. Therefore, for the reasons set forth below, we hereby revoke NY B89677.

In addition, we have also reviewed NY I88978, dated December 13, 2002, which involves the classification of substantially identical stretcher cover and gurney covers under subheading 6307.90.98, HTSUS, as well as other articles. As with NY B89677, we have determined that the tariff classification of the stretcher covers and gurney covers in this ruling is incorrect. Therefore, we are modifying NY I88978 with respect to the stretcher covers and the gurney covers.

FACTS:

In NY B89677, CBP described the subject merchandise as follows:

The sample submitted is a stretcher cover made of nonwoven polypropylene fabric and measures 72” x 32”. The ends are folded over and sewn to form pockets to hold the cover on the stretcher.

In NY I88978, CBP described the subject merchandise as follows:

The stretcher cover is made of nonwoven spun bonded polypropylene fabric coated on one side with polyethylene. The ends are folded over and sewn to form pockets to hold the cover on the stretcher. It features textile strap handles.

The gurney cover is constructed of nonwoven spun bonded polypropylene fabric coated on one side with polyethylene. It features two web fabric straps with a plastic buckle and strap handles.

ISSUE:

Whether the disposable stretcher covers and disposable gurney covers are classified in heading 6302, HTSUS, as bed linen or in heading 6307, HTSUS, as other made up articles.

LAW AND ANALYSIS:

Merchandise is classifiable under the 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. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings or notes do not require otherwise, the remaining GRIs 2 through 6 may be applied.

The 2019 HTSUS headings under consideration are as follows:

6302 Bed linen, table linen, toilet linen and kitchen linen:

* * * * *

6307 Other made up articles, including dress patterns:

* * * * *

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).

EN 63.02 states, in pertinent part:

These articles are usually made of cotton or flax, but sometimes also of hemp, ramie or man-made fibres, etc.; they are normally of a kind suitable for laundering. They include:

Bed linen, e.g., sheets, pillowcases, bolster cases, eiderdown cases and mattress covers.

EN 63.07 states, in pertinent part:

This heading covers made up articles of any textile materials which are not included more specifically in other headings of Section XI or elsewhere in the Nomenclature.

Heading 6302, HTSUS, is the provision for “bed linen.” The term “bed linen” is not defined in the tariff. As such, CBP may determine the scope of the term by relying upon its common and commercial meaning, and by consulting lexicographic sources. *Medline Indus. v. United States*, 62 F.3d 1407, 1409 (Fed. Cir. 1995). “[T]he meaning of a tariff term is presumed to be the same as its common or dictionary meaning.” *Brookside Veneers, Ltd. v. United States*, 847 F.2d 786, 789 (Fed. Cir. 1988) (citations omitted), cert. denied, 488 U.S. 943, 109 S. Ct. 369, 102 L. Ed. 2d 358 (1988).

The term “bed linen” is defined in the *Oxford English Dictionary* (“OED”) as “[b]edclothes, esp. sheets and pillow-cases, originally of linen.” The term “bed-clothes” is defined as “[t]he sheets and blankets with which a bed is covered.” A “bed” is defined as “[t]he sleeping-place of a person or animal.” The term “bed” is further defined as “[a] permanent structure or arrangement for sleeping on, or for the sake of rest.” A “stretcher” is defined as “[A] framework of two poles with a long piece of canvas strung between them, used for carrying sick, injured, or dead people. Lastly, the OED defines the term “gurney” as “a wheeled stretcher used for transporting patients.” *See* 2012 OED located at www.oed.com.

In *Medline*, the U.S. Court of Appeals for the Federal Circuit (“CAFC”) reversed the U.S. Court of International Trade (“CIT”) and determined that

the CIT erred in “limiting the scope of heading 6302, HTSUS, to include, only those items found on all beds, thus excluding specialized items such as drawsheets which are only found on some beds.” The CAFC stated that, “[t]he correct definition of bed linens includes linen, cotton or other fabric articles for a bed.” See, *Medline*, 62 F.3d at 1410.

In accordance with the CAFC’s rationale in *Medline*, for purposes of heading 6302, HTSUS, the definition of “bed” is not limited to “all beds” and “bed linens” are not limited to linen, cotton or other fabric articles for a bed. The subject stretcher covers and gurney covers in this case, which are fitted sheets, are used to protect the stretchers and gurneys from dirt and other contaminants, and to provide comfort to the patient.¹ Here, the subject disposable stretcher covers in NY B89677 and NY I88978 meet the CAFC’s definition of “bed linen,” set forth above. We further note that although the subject gurney covers in NY I88978 have straps, these articles are used to cover gurneys in the same way that stretcher covers are used to cover stretchers. Accordingly, the gurney covers also meet the CAFC’s definition in *Medline* for “other fabric articles for a bed.” Therefore, consistent with the court’s analysis in *Medline*, we find that the subject disposable stretcher covers and gurney covers are classified in heading 6302, HTSUS.

Moreover, CBP has classified other articles that are similar to the subject stretcher covers and gurney covers in subheading 6302.32.20, HTSUS. See, for example, NY C89339, dated July 20, 1998 (classifying a disposable fitted sheet made of 100 percent polypropylene); NY E80050, dated April 22, 1999 (classifying a “Disposable Bedding Pack for 911 Emergency Use”); NY I87600, dated November 15, 2002 (classifying a stretcher kit, composed of two disposable pillow cases, a top sheet, and a fitted stretcher sheet made of 100 percent polypropylene spunbond cotton); and, NY K85383, dated May 12, 2004 (classifying a “fitted sheet made of polypropylene non-woven fabric,” similar to the stretcher covers at issue in NY C89339).

Therefore, based on the foregoing, it is our opinion that the polyurethane stretcher covers and gurney covers, which we consider to be fitted sheets, are described in heading 6302, HTSUS. Inasmuch as the stretcher covers are more specifically described in heading, 6302, HTSUS, they are excluded from classification in heading 6307, HTSUS.

HOLDING:

By application of GRIs 1 and 6, the stretcher covers are classified in heading 6302, HTSUS, specifically in subheading 6302.32.20, HTSUS, which provides for “Bed linen, table linen, toilet linen and kitchen linen: Other bed linen: Of man-made fibers: Other.” The 2019 rate of duty is 11.4% *ad valorem*.

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

¹ CBP has found that fitted bed linen of heading 6302, HTSUS, is used to protect a bed or pillow from dirt and to add comfort for the sleeper. See, HQ H241333, dated June 26, 2014 (classifying a futon cover in heading 6304, HTSUS, after finding that it could be part of a room’s décor as opposed to functioning primarily to protect the mattress from dirt); HQ H056837, dated May 19, 2011 (classifying futon cover Style A as bed linen after finding that it may function to cover and protect both the foam pad and the mattress from dirt and air exposure); HQ 967041, dated September 30, 2004 (classifying disposable covers designed to cover and protect pillows distributed for the passenger’s comfort and sleep needs).

NY B89677, dated October 6, 1997, is hereby revoked to classify the disposable stretcher covers in subheading 6302.32.20, HTSUS.

NY I88978, dated December 13, 2002, is hereby modified to classify the disposable stretcher covers and the disposable gurney covers in subheading 6302.32.20, HTSUS.

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

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

CC: Ms. Nancy L. Rice
Kappler USA
115 Grimes Drive
Guntersville, AL 35976

**PROPOSED MODIFICATION OF ONE RULING LETTER
AND PROPOSED REVOCATION OF TREATMENT
RELATING TO THE TARIFF CLASSIFICATION OF A
PLASTIC SHEET WITH A PRINTED NUMERAL**

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

ACTION: Notice of proposed modification of one ruling letter and proposed revocation of treatment relating to the tariff classification of a plastic sheet with a printed numeral.

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 plastic sheet with a printed numeral 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.

DATE: Comments must be received on or before October 25, 2019.

ADDRESS: Written comments are to be addressed to 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: Karen Greene, Chemicals, Petroleum, Metals & Miscellaneous Articles Branch, Regulations and Rulings, Office of Trade, at (202) 325–0041.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with 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 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to modify one ruling letter pertaining to the tariff classification of a plastic sheet with a printed numeral. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) N254739, dated July 24, 2014 (Attachment A), this notice also 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 comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), 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 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 the final decision on this notice.

In NY N254739, CBP classified a plastic sheet with a printed numeral in heading 3926, HTSUS, specifically in subheading 3926.90.99, HTSUS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Other: Other.” CBP has reviewed NY N254739 and has determined the ruling letter to be in error. It is now CBP’s position that the plastic sheet with a printed numeral is properly classified, in heading 4911, HTSUS, specifically in subheading 4911.99.80, HTSUS, which provides for “Other printed matter, including printed pictures and photographs: Other: Other: Other: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to modify one ruling and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters

Ruling Letter (“HQ”) H262220, 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: August 23, 2019

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

N254739

July 24, 2014

CLA-2-85:OT:RR:NC:N1:112

CATEGORY: Classification

TARIFF NO.: 3926.90.9980, 8543.70.7000

B. BAHRAMIAN
PRESIDENT
CENTER FOR TECHNOLOGY MANAGEMENT
202 HALPINE WALK CT.
ROCKVILLE, MARYLAND 20851

RE: The tariff classification of Plastic Numbers 0 to 9, solar packs, reflective membrane, Plexiglas diffuser sheet, and LEDs mounted on aluminum strips from unspecified countries of origin

DEAR MR. BAHRAMIAN:

In your letter dated June 23, 2014, you requested a tariff classification ruling.

The items in question are identified as components of LED lighted signage. The finished products can be used as house numbers that glow in the dark, or as illuminating signs.

The items identified as Plastic Numbers 0 to 9 (Part #28) are designed to be part of illuminating backlit panels, in different sizes.

The items identified as LEDs mounted on aluminum strips; ¼ inch by different lengths (Part #29.1) are designed to be part of illuminating backlit panels, in different sizes.

The items identified as Solar Power Packs (Part # 25) are small solar panels used to provide electrical power to LED lighted signage.

The applicable subheading for the Plastic Numbers 0 to 9 (Part #28) will be 3926.90.9980, Harmonized Tariff Schedule of the United States (HTSUS), which provides for other articles of plastics...: other: other...other. The rate of duty will be 5.3 percent ad valorem.

The applicable subheading for the LEDs mounted on aluminum strips; ¼ inch by different lengths (Part #29.1) is 8543.70.7000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Electrical machines and apparatus...: Other machines and apparatus: Electric luminescent lamps." The general rate of duty will be 2%.

Section 177.7 of the Customs Regulations (19 C.F.R. §177.7) provides that rulings will not be issued in certain circumstances. The classification of Solar Power Packs (Part # 25) is being reconsidered by Headquarters. As such, CBP will not issue a classification ruling with regard to this merchandise at this time. If you wish, you may resubmit your request for a prospective ruling after the appropriate Headquarters issues have been resolved.

Your inquiry does not provide enough information for us to give a classification ruling on the Reflective membrane (Part # 26.1) and the Plexiglas Diffuser Sheet (Part # 26.2) Your request for a classification ruling must provide complete details on each of these products.

- Specify the dimensions of each.
- Provide an illustration showing all four corners of each sheet that clearly illustrates whether the corners are plain perpendicular edges or whether they have been rounded, beveled or otherwise further worked.

- Indicate whether the sheets are flexible. A sheet is considered to be flexible if, in its imported dimensions, it can be flexed so that two ends touch and, when released, it returns to its original condition without evidence of creasing, cracking or distortion.
- Identify the polymer comprising the reflective sheet. If it is made from a polyester other than polyethylene terephthalate, indicate whether it is unsaturated or saturated.
- Specify the thickness and indicate if it is imported on rolls or as individual sheets.
- Specify whether the acrylic in the diffuser sheet is poly (methyl methacrylate) or another acrylic. Explain how the acrylic sheet acts as a diffuser. Has it been modified in any way that gives it optical qualities?
- Based on the picture, it appears that there may be a cut-out section in this sheet. Please confirm or clarify.
- If practical, provide a sample of the diffuser sheet.

When this information is available, you may wish to consider resubmission of your request. If you decide to resubmit your request, please include all of the material that we have returned to you.

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 Karl Moosbrugger at karl.moosbrugger@cbp.dhs.gov.

Sincerely,

GWENN KLEIN KIRSCHNER
Director

National Commodity Specialist Division

ATTACHMENT B

HQ H262220
OT:RR:CTF:CPMM H262220 KSG
CATEGORY: Classification
TARIFF NO.: 4911.99.8000

MR. B. BAHRAMIAN
CENTER FOR TECHNOLOGY MANAGEMENT
202 HALPINE WALK CT
ROCKVILLE MD 20851

RE: Modification of NY N254739; tariff classification of a plastic sheet with a printed numeral

DEAR MR. BAHRAMIAN:

This letter is to inform you that we have reviewed New York Ruling Letter (NY) N254739, dated July 24, 2014, regarding the tariff classification of a plastic sheet with a printed numeral under the Harmonized Tariff Schedule of the United States (HTSUS). You requested reconsideration of the classification of the merchandise amongst other items. In response, we issued NY N255964, dated August 29, 2014. However, we declined to reclassify the plastic sheet and instead asked for further information. We received another request for reconsideration of the plastic numerals, amongst other items, and issued NY N257869, dated October 28, 2014, wherein we again declined to classify the merchandise without a sample and description of the printing process.

Upon review of NY N254739, and inspection of the sample provided, U.S. Customs & Border Protection (CBP) has determined that the classification of the plastic sheet with a printed numeral is incorrect and the ruling should be modified as explained below.

FACTS:

The sample provided is a clear plastic sheet about 7 inches by 3 3/8 inches (identified in NY N254739 as part #28). The numeral “3” is formed by printing a black background that leaves the shape of the numeral. The plastic sheet will be used in a light panel assembly that functions as an illuminated address sign. Each sheet is printed with a single number. The appropriate quantity of sheets with the applicable numbers are placed in a light panel assembly to form the address.

In NY N254739, CBP classified the article in subheading 3926.90, HTSUS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914: Other.”

ISSUE:

Whether a plastic sheet with the numeral on it is classified in heading 3920, HTSUS as a plastic sheet, in heading 3926, HTSUS, as a plastic article or in heading 4911, HTSUS, as other printed matter.

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the

goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

GRI 6 provides that for legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this Rule the relative section and chapter notes also apply, unless the context otherwise requires.

The HTSUS headings under consideration are the following:

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

4911 Other printed matter, including printed pictures and photographs:

Section Note 2, Section VII, HTSUS, states that except for goods of heading 39.18 or 39.19, plastics, rubber and articles thereof, printed with motifs, characters, or pictorial representations, which are not merely incidental to the primary use of the goods, fall in Chapter 49.

Chapter 49 Note 2 states the following:

For the purposes of Chapter 49, the term “printed” also means reproduced by means of a duplicating machine, produced under Indent control of an automatic data processing machine, embossed, photographed, photocopied, thermocopied or typewritten.

In understanding the language of the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System, 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 general EN of Chapter 49, HTSUS, states, in pertinent part, the following:

With the few **exceptions** referred to below, this Chapter covers all printed matter of which the essential nature and use is determined by the fact of its being printed with motifs, characters or pictorial representations. . . .

For the purposes of this Chapter, the term “printed” includes not only reproduction by the several methods of ordinary hand printing (e.g., prints from engravings or woodcuts, other than originals) or mechanical printing (letterpress, offset printing, lithography, photogravure, etc.), but also reproduction by duplicating machines, production under the control of an automatic data processing machine, embossing, photography, photocopying (sic) thermocopying or typewriting (see Note 2 to this Chapter), irrespective of the form of the characters in which the printing is executed (e.g., letters of any alphabet, figures, shorthand signs, Morse or other code symbols, Braille characters, musical notations, pictures, diagrams). The term **does not**, however, **include** coloration or decorative or repetitive-design printing.

The EN for heading 4911 states that it “covers all printed matter (including photographs and printed pictures) of this Chapter ...but not more particularly covered by any of the preceding headings of the Chapter.”

Since the use of the plastic sheets bearing numerals is determined by the fact of its being printed with the outline of the numeral, and it is not more particularly covered elsewhere in Chapter 49, we find that the articles are properly classified in heading 4911, HTSUS. Although the numerals are delineated by the absence of the black printing on the clear sheet, the numerals are formed by the printing process. They are not colored or repetitive-design printed.

Pursuant to GRI 6, since the article is not particularly covered by any other subheadings of Chapter 49, it is classified in subheading 4911.99.80, HTSUS, which provides for “Other printed matter, including printed pictures and photographs: Other: Other: Other: Other.”

HOLDING:

By application of GRI's 1 and 6, the plastic sheets printed with numerals are classified in subheading 4911.99.80, HTSUS, which provides for “Other printed matter. Including printed pictures and photographs: Other: Other: Other: Other.” The column one, general rate of duty is free.

Duty rates are provided for your convenience and subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the world wide web at www.itc.gov.

EFFECT ON OTHER RULINGS:

NY N254739 is modified with regard to the tariff classification of the plastic sheets with numeral printed on them (part #28). The classification of the other articles in NY N254739 is unaffected.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**PROPOSED REVOCATION OF A RULING LETTER AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
THE TARIFF CLASSIFICATION OF HEADBOARDS,
FOOTBOARDS, AND SIDE RAILS IMPORTED IN
SEPARATE SHIPMENTS**

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

ACTION: Notice of proposed revocation of one ruling letter and proposed revocation of treatment relating to the tariff classification of headboards, footboards, and side rails imported in separate shipments.

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 headboards, footboards, and side rails imported in separate shipments, 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.

DATE: Comments must be received on or before October 25, 2019.

ADDRESS: Written comments are to be addressed to 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: Karen S. Greene, Chemicals, Petroleum, Metals & Miscellaneous Articles Branch, Regulations and Rulings, Office of Trade, at (202) 325–0041.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with 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 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the tariff classification of headboards, footboards, and side rails imported in separate shipments. Although in this notice, CBP is specifically referring to New York Ruling Letter ("NY") N277888, dated August 24, 2016 (Attachment A), this notice also 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 ruling letter 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 comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), 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 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 the final decision on this notice.

In NY N277888 CBP classified headboards, footboards and side rails imported in separate shipments, in subheading 9403.50.90, HTSUS, which provides for "Other furniture and parts thereof: Wooden furniture of a kind used in the bedroom: Other: Other: Beds." CBP has reviewed NY N277888 and has determined the ruling letter to be in error. It is now CBP's position that headboards, footboards, and side rails imported in separate shipments are properly classified in heading 9403, HTSUS, specifically in subheading 9403.90.70, HTSUS, which provides for "Other furniture and parts thereof: Parts: Other: Of wood."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N277888, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ 285903, 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: August 23, 2019

ALLYSON MATTANAH
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

N277888

August 24, 2016

CLA-2-94:OT:RR:NC:N4:433

CATEGORY: Classification

TARIFF NO.: 9403.50.9045

DONALD S. STEIN, ESQ.
GREENBERG TRAUIG, LLP
ATTORNEYS AT LAW
2101 L STREET, N.W., SUITE 1000
WASHINGTON, DC 20037

RE: The tariff classification of component parts of beds from Vietnam.

DEAR MR. STEIN:

In your letter dated June 1, 2016, on behalf of Haverty Furniture Companies, Inc., you requested a tariff classification ruling. Descriptive and illustrative literature were provided.

The merchandise under consideration are component parts of “Newport Beds.” Three styles of Newport Bed have been identified: (1) style # 5-4590-3117, King Panel Storage Bed Distressed White; (2) style # 5-4590-3116, King Panel Bed Distressed White; and (3) style # 5-4590-3120, King Poster Bed Distressed White. All three style numbers consist of a headboard, footboard and side rails – the {component parts of beds}, all made of wood. Illustrative literature depicts that the drawer-units for the King Panel Storage Bed Distressed White are contained within the footboard.

We note based on the illustrative literature that the King Panel Storage Bed Distressed White and the King Panel Bed Distressed White both use the same SKU numbers for the headboard, while the King Panel Bed Distressed White and the King Poster Bed Distressed White both use the same SKU numbers for the side rails.

It is your contention that this office confirm in a binding ruling that the headboard, footboard and side rails are classified as parts of furniture in subheading 9403.90.7080 of the Harmonized Tariff Schedule of the United States (HTSUS), regardless of whether (a) imported in equal numbers in one shipment with other components, or in equal numbers in separate shipments, so when assembled, they will form completed beds, or (b) imported in non-equal numbers, so that after assembly, there are excess numbers of left over components (“unequal quantities”).

Alternatively, you request, in the absence of confirmation of subheading 9403.90.7080, HTSUS, that the component parts of the beds, as referenced above, be classified in 9403.50.9045, HTSUS, as unassembled wooden beds, regardless of whether imported in equal or unequal quantities.

Before we examine your primary contention, followed by your alternative contention, two schools of thought are applicable to the merchandise concerned:

(1) The “Doctrine of Entireties” as used in Customs (CBP) law says that when an entry consists of parts which can be assembled to form an article that is different from any of the parts, the proper classification will be of the whole article, rather than the individual components. This principle is a corollary to the fundamental theory of customs jurisprudence that an imported article should be classified according to its true commercial character.

The doctrine of entreties states that, if an entry consists of parts which, although unjoined, when assembled form an article different from any of the parts, then the proper classification is the one for the whole article and not for the parts separately.

(2) Customs {CBP} has consistently followed the long-standing classification principle stated by the Supreme Court in *United States v. Citroen*, 223 U.S. 407, 414–15, 32 S. Ct. 259, 56 L.Ed. 486 (1911): ... [t]he rule is well established that “in order to produce uniformity in the imposition of duties, the “dutiable classification of articles imported” must be ascertained by an examination of the imported article itself, *in the condition in which it is imported.*” *Worthington v. Robbins*, 139 U.S. 337,341, 35 L. Ed. 181, 182, 11 Sup. Ct. Rep. 581; *Dwight v. Merritt*, 140 U.S. 213, 219, 35 L. Ed. 450, 452, 11 Sup. Ct. Rep. 768; *United States v. Schoverling*, 146 U.S. 76, 82, 36 L. Ed. 893, 895, 13 Sup. Ct. Rep. 24; *United States v. Irwin* (C.C.A. 2d C.) 24 C.C.A. 349, 45 U.S. App. 746, 78 Fed. 799, 802. [Emphasis supplied.]

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

Under GRI 2 (a), “any reference to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), entered unassembled or disassembled.” GRI 2 (a) does not apply when unassembled components of goods are imported separately. When component parts are imported as separate items, the goods are classified separately, whereas if component goods of unassembled articles are imported together, even in separate boxes, the items are aggregated to determine the appropriate classification. See Headquarters ruling: HQ H079175 dated April 8, 2010 and New York rulings: N200657 dated January 27, 2012; N257914 dated November 4, 2014; N258940 dated December 2, 2014; and N268806 dated October 7, 2015.

We do not dispute that the subheading “wooden furniture of a kind used in the bedroom” is a principal use provision classified under subheading 9403.50, HTSUS. However, only “Parts: Of furniture of a kind used for motor vehicles” is a principal use provision classified under subheading 9403.90, HTSUS; all other parts of furniture including parts of furniture of wood (subheading 9403.90.7080) are not use provisions. Regardless of whether the “component parts of beds” are aggregated and classified as finished beds or separately classified, the principal use criterion under Additional U.S. Rules of Interpretation (AUSRI) 1 (a), HTSUS, is not germane to the merchandise concerned; it is our position that the “component parts of beds” are governed by the GRIs to the HTSUS, case law, and Headquarters and New York rulings consistent with the GRIs and case law.

By application of GRI 2 (a), HTSUS, and consistent with the “Doctrine of Entreties,” the bed frames consisting each of a headboard, a footboard and side rails, whether packaged in individual boxes or bulk packaged, when imported together in corresponding quantities and in the same shipment, are classifiable in heading 9403, HTSUS, “Other furniture and parts thereof,”

with its subheading of 9403.50.9045, as finished beds. “Component parts of beds,” the headboards, footboards and side rails, not forming finished beds in the same shipment or in separate shipments (i.e., excess inventory or replacement parts) are to be classified as “separately presented elements of unit furniture” in subheading 9403.50.9045, HTSUS – this is consistent with *United States v. Citroen*, as well as Headquarter rulings: HQ 950246 dated November 22, 1991 and HQ 966672 dated March 8, 2004, and New York rulings: NY R05137 dated November 7, 2006 and N268806 dated October 7, 2015.

The applicable subheading for “component parts of beds,” when aggregated in entirety as finished beds; and “component parts of beds” when separately presented as unit furniture, not forming finished beds, will be 9403.50.9045, Harmonized Tariff Schedule of the United States (HTSUS), which provides for which provides for “Other furniture and parts thereof: Wooden furniture of a kind used in the bedroom: Other: Other: Beds: 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 Neil H. Levy at neil.h.levy@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK

Director

National Commodity Specialist Division

ATTACHMENT B

HQ H285903
OT:RR:CTF:CPMM H285903 KSG
CATEGORY: Classification
TARIFF NO.: 9403.90.70

DONALD S. STEIN, ESQ.
GREENBERG TRAURIG LLP
2101 L STREET NW SUITE 1000
WASHINGTON, D.C. 20037

RE: Revocation of NY N277888; tariff classification of headboards, footboards, and side rails imported in separate shipments

DEAR MR. STEIN:

This ruling is in reference to your request on behalf of Haverty Furniture Companies, Inc., for reconsideration of New York Ruling Letter (NY) N277888, dated August 24, 2016, regarding the tariff classification of headboards, footboards, and side rails imported in separate shipments, under the Harmonized Tariff Schedule of the United States (HTSUS).

Upon review of NY N277888, U.S. Customs & Border Protection (CBP) has determined that the classification of headboards, footboards, and side rails imported in separate shipments is incorrect and should be revoked.

FACTS:

In NY N277888, CBP classified headboards, footboards, and side rails imported in separate shipments in subheading 9403.50.90, HTSUS, which provides for “Other furniture and parts thereof: Wooden furniture of a kind used in the bedroom: Other: Other: Beds.”

The headboards, footboards, and side rails are imported in varying quantities.

ISSUE:

Whether the headboards, footboards, and side rails imported in separate shipments are classified in subheading 9403.50.90, HTSUS, as “Other furniture and parts thereof: Wooden furniture of a kind used in the bedroom: Other: Other: Beds” or in subheading 9403.90.70, HTSUS, as “Other furniture and parts thereof: Parts: Other: Of wood.”

LAW AND ANALYSIS:

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

GRI 6 provides that for legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this Rule the relative section and chapter notes also apply, unless the context otherwise requires. In this case, it is

undisputed that the articles are classified in heading 9403, HTSUS. The issue presented is the tariff classification at the subheading level.

The HTSUS subheadings under consideration are the following:

9403	Other furniture and parts thereof:
9403.50	Wooden furniture of a kind used in the bedroom:
9403.50.90	Other:
	Other:
9403.90	Parts:
	Other:
9403.90.70	Of wood

In understanding the language of the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System, 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 EN for chapter 94, HTSUS, states that furniture presented disassembled or unassembled is to be treated as assembled furniture, provided the parts are presented together.

CBP ruled in Headquarters Ruling Letter (HQ) H079175, dated April 8, 2010, that mirrors and dressers imported in the same shipment, in equal quantities but packaged separately for safety reasons were classified as the assembled article pursuant to GRI 2(a). When unassembled components are imported as separate items, the components are classified separately.

In HQ H230217, dated July 20, 2016, CBP considered similar merchandise and the same issue; whether headboards, footboards, and side rails shipped in separate shipments were classified as if a complete bed in subheading 9403.50, HTSUS, or as parts of furniture in subheading 9403.90.70, HTSUS. CBP concluded that the headboards, footboards, and side rails were properly classified in subheading 9403.90.70 as parts of furniture. We affirm the conclusion reached in HQ H230217; the headboards, footboards, and side rails at issue in this case are classified in subheading 9403.90.70, HTSUS. The reasoning set forth in HQ H079175 that unassembled components imported in separate shipments are not classified as the assembled article, particularly when they may be imported in unequal quantities, is correct. The analysis in NY N277888, in which the essential character of the headboards, footboards, and side rails is determined by the wood, is affirmed.

Accordingly, the headboards, footboards, and side rails, imported in separate shipments, are classified in subheading 9403.90.70, HTSUS.

HOLDING:

By application of GRI's 1 and 6, the headboards, footboards, and side rails, when imported in separate shipments, are classified in subheading 9403.90.70, HTSUS, which provides for "Other furniture and parts thereof: Parts: Other: Of wood." The general column one rate of duty is free.

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

EFFECT ON OTHER RULINGS:

NY N277888 is revoked with regard to the tariff classification of headboards, footboards, and side rails imported in separate shipments.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**PROPOSED REVOCATION OF ONE RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
COUNTRY OF ORIGIN OF STEEL TUBING**

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 country of origin of steel tubing.

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 the country of origin of steel tubing 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.

DATE: Comments must be received on or before October 25, 2019.

ADDRESS: Written comments are to be addressed to 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: Parisa J. Ghazi, Food, Textiles, and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0272.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with 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 19 U.S.C. §1625(c)(1), this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the country of origin of steel tubing. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) N298549, dated July 31, 2018 (Attachment A), this notice also 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 comment period.

Similarly, pursuant to 19 U.S.C. §1625(c)(2), 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 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 the final decision on this notice.

In NY N298549, CBP applied the NAFTA Marking Rules to determine the country of origin of the steel tubing subject to Section 232 duties. CBP has reviewed NY N298549 and has determined the ruling letter to be in error. It is CBP’s position that a determination of country of origin of steel tubing subject to Section 232 duties requires a substantial transformation analysis.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N298549 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H301494, 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: August 23, 2019

MONIKA R. BRENNER
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

N298549

July 31, 2018

MAR-2 OT:RR:NC:N1:117

CATEGORY: Country of Origin

MR. ALEX ROMERO
A.F. ROMERO Co.
1749 STERGIOS ROAD
CALEXICO, CA 92231

RE: The country of origin of steel tubing; Applicability of Section 232 Duties

DEAR MR. ROMERO:

This is in response to your letter dated June 27, 2018, in which you requested a binding ruling on behalf of Merchant Metals Inc., as to the country of origin of steel tubing/pipe for use as fence posts in ornamental fence panels.

Steel tubing manufactured in the United States is exported to Mexico where it will be painted, passed through an iron phosphate treatment to inhibit rust and then chemically etched. The tubing is then imported back to the United States. These square tubes are made to various sizes ranging from 2" x 2" to 4" x 4" and have lengths ranging from 3' to 10'.

You state that the raw tubing is classified in subheading 7306.61.5000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for other tubes, pipes and hollow profiles (for example, open seamed or welded, riveted or similarly closed), of iron or steel, other, welded, of noncircular cross section, of square or rectangular cross section, having a wall thickness of less than 4 mm, of iron or nonalloy steel.

Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304), as amended, provides that unless excepted, every article of foreign origin imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article.

Part 134, Customs Regulations (19 CFR Part 134), implements the country of origin marking requirements of 19 U.S.C. 1304. Pursuant to 19 CFR 134.1(b), further work or material added to an article in another country must effect a substantial transformation in order to render such other country the "country of origin" within the meaning of this part; however, for a good of a NAFTA country, the NAFTA Marking Rules will determine the country of origin.

Since in this case, the raw tube/pipe is shipped to Mexico to undergo further processing, the NAFTA Marking Rules set forth at 19 CFR 102.20 would apply. Based on your classification of the imported pipe in subheading 7306.61.5000, HTSUS, the rule of origin set forth at 19 CFR 102.20(n) would be:

7301-7307..... A change to heading 7301 through 7307 from any other heading, including another heading within that group...

The raw pipe enters Mexico classified in heading 7306, HTSUS, and after treatment, it is returned to the United States classified in heading 7306, HTSUS. As such, a change of heading does not occur.

Since the tariff shift rule set forth in 19 CFR 102.20 is not satisfied, pursuant to 19 CFR 102.11(b)(1), the country of origin of the good would be the country of the single material that imparts the essential character to the good. The rule of interpretation set forth in 19 CFR 102.18(b)(1)(iii) states that if there is only one material that is classified in a tariff provision from which a change in tariff classification is not allowed under the 102.20 specific rule or other requirements applicable to the good, then that material will represent the single material that imparts the essential character to the good under 102.11. Therefore, the raw pipe would be the single material that imparts the essential character to the good.

Accordingly, the country of origin of the imported finished pipe under 19 CFR 102.11 would be the country of origin of the raw pipe for country of origin marking and duty purposes. In this particular case, it would be the United States, and therefore in our opinion the tubing is not subject to Section 232 duties.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 CFR Part 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 Mary Ellen Laker at mary.ellen.laker@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK

Director

National Commodity Specialist Division

ATTACHMENT B

HQ H301494
OT:RR:CTF:FTM H301494 PJG
CATEGORY: Origin

MR. ALEX ROMERO
A.F. ROMERO Co.
1749 STERGIOS ROAD
CALEXICO, CA 92231

RE: Revocation of NY N298549; Country of origin of steel tubing from Mexico; 2018 Section 232 trade remedy; Subheading 9903.80.01, HTSUS

DEAR MR. ROMERO:

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered New York Ruling Letter (“NY”) N298549, which was issued to you, on behalf of Merchant Metals Inc., on July 31, 2018. In NY N298549, CBP considered the country of origin of steel tubing, classified under subheading 7306.61.50, Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for “[o]ther tubes, pipes and hollow profiles (for example, open seamed or welded, riveted or similarly closed), of iron or steel: Other, welded, of noncircular cross section: Of square or rectangular cross section: Having a wall thickness of less than 4mm: Of iron or nonalloy steel.” CBP determined the country of origin of the product is the United States pursuant to 19 C.F.R. Part 102. We have reviewed NY N298549 and found it to be incorrect. For the reasons set forth below, we are revoking NY N298549.

FACTS:

In NY N298549, the product was described as a “steel tubing/pipe for use as fence posts in ornamental fence panels.” The steel tubing was manufactured in the United States, exported to Mexico for powder painting, iron phosphate treatment to inhibit rust, and chemical etching. The steel tubing was then imported back into the United States. You state that the steel tubing is classified under subheading 7306.61.50, HTSUS, when it is exported to Mexico and when it is imported back into the United States.

CBP issued NY N298549 in response to your request for a country of origin determination for the purposes of application of subheading 9903.80.01 HTSUS, which provides for “[p]roducts of iron or steel provided for in the tariff headings or subheadings enumerated in note 16 to this subchapter, except products of Australia, of Argentina, of South Korea, of Brazil, of Turkey or any exclusions that may be determined and announced by the Department of Commerce” and which applies an additional 25 percent *ad valorem* rate of duty to the column one general rate of duty in the applicable subheading.

ISSUE:

What is the country of origin of the steel tubing imported from Mexico for purposes of application of the 2018 Section 232 trade remedy for goods under subheading 9903.80.01, HTSUS?

LAW AND ANALYSIS:

Effective March 23, 2018, the Department of Commerce imposed an additional tariff on certain steel articles classified in the subheadings enumerated in Section XXII, Chapter 99, Subchapter III, U.S. Note 16, HTSUS. For additional information, see the Federal Register Notice entitled “Adjusting Imports of Steel Into the United States.” 83 Fed. Reg. 11625 (March 15, 2018). Certain steel articles classified in the subheadings enumerated in Section XXII, Chapter 99, Subchapter III, U.S. Note 16, HTSUS, referenced in subheading 9903.80.01, HTSUS, shall continue to be subject to antidumping, countervailing, or other duties and charges that apply to such products. In particular, products classified in subheading 7306.61.50, HTSUS, are subject to the additional tariff under subheading 9903.80.01, HTSUS.

Subheading 9903.80.01, HTSUS¹, provides for an additional duty of 25 percent *ad valorem*, in addition to the duty provided in the applicable subheading. Subheading 9903.80.01, HTSUS, is applicable to “[p]roducts of iron or steel provided for in the tariff headings or subheadings enumerated in note 16 to this subchapter, except products of Australia, of Argentina, of South Korea, of Brazil, of Turkey or any exclusions that may be determined and announced by the Department of Commerce.”

U.S. Note 16 to Chapter 99, Subchapter III, Section XXII, HTSUS, provides, in pertinent part:

- (a) This note and the tariff provisions referred to herein set forth the ordinary customs duty treatment applicable to all entries of the iron or steel products of all countries other than of the United States, when such iron or steel products are classifiable in the headings or subheadings enumerated in subdivision (b) of this note. All anti-dumping, countervailing, or other duties and charges applicable to such goods shall continue to be imposed, except as may be expressly provided herein.

...

- (b) The rates of duty set forth in headings 9903.80.01 and subheadings 9903.80.05 through 9903.80.58, inclusive, apply to all imported products of iron or steel classifiable in the provisions enumerated in this subdivision:

...

- (iii) tubes, pipes and hollow profiles provided for in heading 7304 or 7306; tubes and pipes provided for in heading 7305;

...

Any reference above to iron or steel products classifiable in any heading or subheading of chapter 72 or 73, as the case may be, shall mean that any good provided for in the article description of such heading or subheading and of all its subordinate provisions (both legal and statistical) is covered by the provisions of this note and related tariff provisions.

¹ In this ruling, we are applying the 2019 Revision 6 version of the HTSUS.

When determining the country of origin for purposes of applying current trade remedies under Section 301,² Section 232,³ and Section 201,⁴ the substantial transformation analysis is applicable. See HQ H301619 (Nov. 6, 2018); see also HQ 563205 (June 28, 2006); and *Belcrest Linens v. United States*, 741 F.2d 1368, 1370–71 (Fed. Cir. 1984) (stating that “the term ‘product of’ at the least includes manufactured articles of such country or area” and that substantial transformation “is essentially the test used...in determining whether an article is a manufacture of a given country”). In accordance with 19 C.F.R. § 102.0, the 102 marking rules are applicable for the limited purposes of: country of origin marking specified in paragraph 1 of Annex 311 of the North American Free Trade Agreement (“NAFTA”), as implemented under the NAFTA Implementation Act, Pub. L. 103–182, 107 Stat. 2057 (December 8, 1993); determining the rate of duty and staging category applicable to originating textile and apparel products as set out in Section 2 (Tariff Elimination) of Annex 300–B (Textile and Apparel Goods); and determining the rate of duty and staging category applicable to an originating good as set out in Annex 302.2 (Tariff Elimination). As stated above, the Part 102 rules do, however, continue to be applicable for purposes of country of origin marking of NAFTA goods, as defined in 19 C.F.R. § 134.1. See HQ H301619 (Nov. 6, 2018); and HQ H302252 (Feb. 27, 2019).

The test for determining whether a substantial transformation will occur is whether an article emerges from a process with a new name, character or use, different from that possessed by the article prior to processing. See *Texas Instruments Inc. v. United States*, 69 C.C.P.A. 151 (1982). This determination is based on the totality of the evidence. See *National Hand Tool Corp. v. United States*, 16 Ct. Int’l Trade 308 (1992), aff’d, 989 F.2d 1201 (Fed. Cir. 1993).

In *National Hand Tool Corp. v. United States*, the court held that hand tool components imported from Taiwan and used to make flex sockets, speeder handles, and flex handles were not substantially transformed in the United States. *Id.* at 313. The court focused on the fact that the components had been cold-formed or hot-forged into their final shape before importation and their use was predetermined at the time of importation. *Id.* at 311–312. The court stated that the fact that there was only one predetermined use of the imported articles did not preclude the finding of substantial transformation but that the finding would be based on a “totality of the evidence.” *Id.* at 312.

In this case, the steel tubing is manufactured in the United States and exported to Mexico for powder painting, iron phosphate treatment, and chemical etching. Similar to *National Hand Tool Corp. v. United States*, the foreign steel tubing did not undergo a change in name, character, or use due

² See Notice of Action and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, 83 Fed. Reg. 28710 (Jun. 20, 2018).

³ See Adjusting Imports of Aluminum Into the United States, 83 Fed. Reg. 11619 (Mar. 15, 2018); and Adjusting Imports of Steel Into the United States, 83 Fed. Reg. 11625 (Mar. 15, 2018).

⁴ See To Facilitate Positive Adjustment to Competition From Imports of Certain Crystalline Silicon Photovoltaic Cells (Whether or Not Partially or Fully Assembled Into Other Products) and for Other Purposes, 83 Fed. Reg. 3541, (Jan. 25, 2018); and To Facilitate Positive Adjustment to Competition From Imports of Large Residential Washers, 83 Fed. Reg. 3553 (Jan. 25, 2018).

to the processing performed in Mexico. Based on the information provided, the processing performed in Mexico is akin to finishing operations and the foreign steel tubing is not substantially transformed. *See id.*; *see also* HQ H302252 (Feb. 27, 2019) (CBP determined that the U.S.-origin steel tube was not substantially transformed after undergoing assembly operations in Mexico, which “involve[d] welding a flange to the bottom of the tube, powder coating the tube and flange, and soldering a steel cap on the end of the tube”).

As the steel tubing of U.S. origin is not substantially transformed in Mexico, the steel tubing remains a product of the United States. Therefore, in accordance with U.S. Note 16 to Chapter 99, Subchapter III, Section XXII, the steel tubing is not subject to the additional 25 percent *ad valorem* rate of duty under subheading 9903.80.01, HTSUS, because it is a steel product of the United States.

HOLDING:

The country of origin of the steel tubing for purposes of the 2018 Section 232 trade remedy is the United States. Therefore, the steel tubing is not subject to the Section 232 trade remedy measures and the additional 25 percent *ad valorem* rate of duty under subheading 9903.80.01, HTSUS, will not apply.

EFFECT ON OTHER RULINGS:

NY N298549, dated July 31, 2018, is hereby REVOKED.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**PROPOSED MODIFICATION OF ONE RULING LETTER
AND PROPOSED REVOCATION OF TREATMENT
RELATING TO THE COUNTRY OF ORIGIN MARKING OF A
PILL CASE**

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

ACTION: Notice of proposed modification of one ruling letter, and proposed revocation of treatment relating to the country of origin marking of a pill case.

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 the country of origin marking of a pill case 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.

DATE: Comments must be received on or before October 25, 2019.

ADDRESS: Written comments are to be addressed to 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: Parisa J. Ghazi, Food, Textiles, and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0272.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with 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 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to modify one ruling letter pertaining to the country of origin marking of a pill case. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) N153956, dated April 14, 2011 (Attachment A), this notice also 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 comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), 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 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 the final decision on this notice.

In NY N153956, CBP classified a pill case made of cellular plastic sheeting in 4202.32.2000, HTSUSA. CBP also determined that “the ultimate purchaser of the [pill] case is the consumer who receives the case with the pills” and “[e]ach pill case must be marked” to meet the requirements of 19 U.S.C. § 1304 and 19 C.F.R. part 134.

CBP has reviewed NY N153956 and has determined the ruling letter to be in error with regard to the country of origin marking determinations. It is now CBP’s position that, in accordance with 19 C.F.R. § 134.24(b), it is acceptable to mark the outermost container of the pill cases that will be received by the ultimate purchaser, specifically, the pharmaceutical company, because the pill cases are disposable and they are packed and sold to the pharmaceutical company in multiple units.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N153956 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H303064, 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: July 9, 2019

YULIYA A. GULIS
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

N153956

April 14, 2011

CLA-2-42:OT:RR:NC:N4:441

CATEGORY: Classification

TARIFF NO.: 4202.32.2000

RANDALL GARCIA

JAIME MADURO CUSTOMS BROKERS & FREIGHT FORWARDERS

P.O. Box 9022947

SAN JUAN, PR 00902

RE: The tariff classification and marking of a pill case from China

DEAR MR. GARCIA:

In your letter, dated March 11, 2011, you requested a tariff classification ruling on behalf of your client, Keller Crescent. Your sample will be returned to you.

Your sample was submitted without a style number. The item is a pill case; similar in design to a business card case. It is constructed of a plastic sheeting material that is not reinforced with a textile material. The case has an interior storage compartment and is designed to provide portability, protection, organization and storage to contraceptive pills. It measures approximately 3.75" (W) x 4.5" (L). The case is of a durable construction and suitable for repetitive use.

In your letter, you suggest classification under subheading 4202.32.1000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for articles of a kind normally carried in the pocket or in the handbag, with outer surface of reinforced or laminated plastics. However, the case is made of cellular plastic sheeting that is not reinforced or supported with any textile materials. As such, it is not eligible for classification under that subheading.

The applicable subheading for the case will be *4202.32.2000*, HTSUS, which provides for articles of a kind normally carried in the pocket or in the handbag, with outer surface of sheeting of plastic, other. The rate of duty will be 20% ad valorem.

You have also inquired about the correct country of origin marking for the pill case.

You state in your letter that at the time of importation the outer shipping carton of the pill cases will be marked "Made in China". After importation the importer will inspect the products and then will send the articles to a pharmaceutical company at which time they will be placed in a package with the pills. You have requested an exception from marking requirements because the articles will not be sold at retail but rather as packing for the pills.

The marking statute, section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article.

As provided in section 134.41(b), Customs Regulations (19 CFR 134.41(b)), the country of origin marking is considered conspicuous if the ultimate purchaser in the U.S. is able to find the marking easily and read it without strain.

With regard to the permanency of a marking, section 134.41(a), Customs Regulations (19 CFR 134.41(a)), provides that as a general rule marking requirements are best met by marking worked into the article at the time of manufacture. For example, it is suggested that the country of origin on metal articles be die sunk, molded in, or etched. However, section 134.44, Customs Regulations (19 CFR 134.44), generally provides that any marking that is sufficiently permanent so that it will remain on the article until it reaches the ultimate purchaser unless deliberately removed is acceptable.

You have indicated that the cases are not individually marked with the country of origin. Containers that are designed for or capable of reuse after the contents have been consumed must be individually marked to indicate the country of their own origin. See Section 134.23, Customs Regulations (19 CFR 134.23). In determining whether particular containers are reusable or disposable, Customs and Border Protection has considered both the construction of the container and its function.

The cases are of durable construction and suitable for repetitive use after the pills have been consumed. Accordingly, the ultimate purchaser of the case is the consumer who receives the case with the pills. Each pill case must be marked conspicuously, legibly and permanently to indicate its own country of origin. The unmarked, individual cases do not satisfy the requirements of 19 U.S.C. 1304 and 19 CFR 134.

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 Vikki Lazaro at (646) 733-3041.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

ATTACHMENT B

HQ H303064
OT:RR:CTF:FTM H303064 PJG
CATEGORY: Marking

MR. RANDALL GARCIA
JAIME MADURO LLC CUSTOMS BROKERS
STATE ROAD #165 KM. 2.4 CENTRO MERCANTIL INTL.
ADM BLDG. LOCAL 1-03
GUAYNABO, PUERTO RICO 00965

RE: Modification of NY N153956; country of origin marking of a pill case

DEAR MR. GARCIA:

This letter pertains to New York Ruling Letter (“NY”) N153956, dated April 14, 2011, which concerns the country of origin marking and tariff classification under the Harmonized Tariff Schedule of the United States (“HTSUS”) of a pill case. For the reasons set forth below, we are modifying NY N153956 only insofar as to change the country of origin marking determination made in that ruling.¹

FACTS:

In NY N153956, the pill case was described as follows:

The item is a pill case; similar in design to a business card case. It is constructed of a [cellular] plastic sheeting material that is not reinforced with a textile material. The case has an interior storage compartment and is designed to provide portability, protection, organization and storage to contraceptive pills. It measures approximately 3.75” (W) x 4.5” (L). The case is of a durable construction and suitable for repetitive use....

You state in your letter that at the time of importation the outer shipping carton of the pill cases will be marked “Made in China”. After importation the importer will inspect the products and then will send the articles to a pharmaceutical company at which time they will be placed in a package with the pills. You have requested an exception from marking requirements because the articles will not be sold at retail but rather as packing for the pills.

In NY N153956, CBP determined that “the ultimate purchaser of the [pill] case is the consumer who receives the case with the pills” and “[e]ach pill case must be marked” to meet the requirements of 19 U.S.C. § 1304 and 19 C.F.R. part 134.

ISSUE:

Who is the ultimate purchaser of the pill case and is it acceptable to provide the country of origin marking on the outermost container of the pill cases?

LAW AND ANALYSIS:

The marking statute, Section 304(a), Tariff Act of 1930, as amended (19 U.S.C. § 1304(a)), provides that unless excepted, every article of foreign origin imported into the United States shall be marked in a conspicuous place

¹ In Headquarters Ruling Letter (“HQ”) H187695, dated March 6, 2019, we affirmed the tariff classification of the subject merchandise in NY N153956.

as legibly, indelibly, and permanently as the nature of the article (or container) will permit in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. Congressional intent in enacting 19 U.S.C. § 1304 was “that the ultimate purchaser should be able to know by an inspection of the marking on imported goods the country of which the goods is the product. The evident purpose is to mark the goods so that at the time of purchase the ultimate purchaser may, by knowing where the goods were produced, be able to buy or refuse to buy them, if such marking should influence his will.” *United States v. Friedlaender & Co.*, 27 C.C.P.A. 297, 302 (1940).

Part 134 of Title 19 of the Code of Federal Regulations (19 C.F.R. Part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. § 1304. Section 134.1(d) (19 C.F.R. § 134.1(d)) provides, in pertinent part, as follows:

(d) *Ultimate purchaser.* The “ultimate purchaser” is generally the last person in the United States

who will receive the article in the form in which it was imported; however, for a good of a NAFTA country, the “ultimate purchaser” is the last person in the United States who purchases the good in the form in which it was imported. It is not feasible to state who will be the “ultimate purchaser” in every circumstance.

The marking requirements include provisions for reusable and disposable containers. Section 134.23 (19 C.F.R. § 134.23) provides the country of origin marking requirements for reusable containers, and we have previously “explained that the type of reusable containers described in section 134.23 fall into two classes: articles such as steel drums, tanks, and other storage or transportation containers; and, containers or holders which have a lasting value or decorative use, such as decorative mustard jars, shaving mugs and cologne bottles.” See HQ H007770 (May 21, 2007). Specifically, 19 C.F.R. § 134.23 provides as follows:

(a) *Usual and ordinary reusable containers or holders.* Except for goods of a NAFTA country which are usual containers, containers or holders designed for or capable of reuse after the contents have been consumed, whether imported full or empty, must be individually marked to indicate the country of their own origin with a marking such as, “Container Made in (name of country).” Examples of the containers or holders contemplated are heavy duty steel drums, tanks, and other similar shipping, storage, transportation containers or holders capable of reuse. These containers or holders are subject to the treatment specified in General Rule of Interpretation 5(b), Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

(b) *Other reusable containers or holders.* Containers or holders which give the whole importation its essential character, as described in General Rule of Interpretation 5(a) (19 U.S.C. 1202), must be individually marked to clearly indicate their own origin with a marking such as, “Container made in (name of country).” Examples of the containers contemplated are mustard jars reusable as beer mugs; shaving soap containers reusable as shaving mugs; fancy cologne bottles reusable as flower vases, and other containers which have a lasting value or decorative use.

Section 134.24 (19 C.F.R. § 134.24) provides the country of origin marking requirements for disposable containers. Specifically, 19 C.F.R. § 134.23(a) and (b) provides as follows:

- (a) *Containers ordinarily discarded after use.* Disposable containers or holders subject to the provisions of this section are the usual ordinary types of containers or holders, including cans, bottles, paper or polyethylene bags, paperboard boxes, and similar containers or holders which are ordinarily discarded after the contents have been consumed.
- (b) *Imported empty.* Disposable containers or holders imported for distribution or sale are subject to treatment as imported articles in accordance with the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), and shall be marked to indicate clearly the country of their own origin. However, when the containers are packed and sold in multiple units (dozens, gross, etc.), this requirement ordinarily may be met by marking the outermost container which reaches the ultimate purchaser.

In HQ 731318, dated August 12, 1988, CBP considered the country of origin for marking purposes of vinyl cases that were imported in bulk. The pill cases were to be sold to a pharmaceutical company to be filled with one packet of birth control pills for distribution to the consumer by resale or free distribution. CBP indicated that the pill cases were “quite thin and flimsy in nature and measure approximately 4 ½ inches x 3 ¾ inches.” CBP determined that the pill cases were “disposable containers within the meaning of 19 CFR 134.24 since they are an ordinary type of packaging which in most cases would be discarded after the pills have been consumed” and “[u]nlike the reusable containers mentioned in 19 CFR 134.23, the vinyl containers are flimsy and have no lasting value or decorative use.” In HQ 731318, CBP decided that “it is acceptable to mark the outermost package which reaches the ultimate purchaser,” which CBP identified as the pharmaceutical company.

In NY N153956, CBP determined that the subject pill “case is of a durable construction and suitable for repetitive use.” Upon further consideration and review of a sample of the subject merchandise, we disagree. The instant pill case constructed of plastic sheeting material is substantially similar to the merchandise at issue in HQ 731318. Both products are constructed of plastic, and are of a thin, flimsy nature, with “no lasting value or decorative use” and likely to be discarded after the pills contained therein have been consumed. *See* HQ 731318 (Aug. 12, 1988). Moreover, the subject pill cases are not similar to the two classes of reusable containers provided for in 19 C.F.R. § 134.23, specifically, “shipping, storage, transportation containers or holders capable of reuse” and “containers which have a lasting value or decorative use.” *See also* HQ H007770 (May 21, 2007).

The country of origin marking of the instant pill cases is governed by 19 C.F.R. § 134.24, which provides the marking requirements for disposable containers. Pursuant to 19 C.F.R. § 134.24(b), when disposable “containers are packed and sold in multiple units,” as in the instant case, the “outermost container which reaches the ultimate purchaser” may be marked to meet the requirements of 19 U.S.C. § 1304. Consistent with 19 C.F.R. § 134.1(d), the ultimate purchaser of the instant pill cases is the pharmaceutical company because they are “the last person in the United States who will receive the

article in the form in which it was imported.” See HQ 731318 (Aug. 12, 1988). Therefore, it is acceptable to mark the outermost container of the pill cases that will be packed and sold to the pharmaceutical company with the country of origin. See 19 C.F.R. § 134.24(b).

HOLDING:

In accordance with 19 C.F.R. § 134.24(b), it is acceptable to mark the outermost container of the pill cases that will be received by the ultimate purchaser, specifically, the pharmaceutical company, because the pill cases are disposable and they are packed and sold to the pharmaceutical company in multiple units.

EFFECT ON OTHER RULINGS:

NY N153956, dated April 14, 2011, 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,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

19 CFR PART 177

REVOCATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE COUNTRY OF ORIGIN OF ENCAPSULATED FISH OIL

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

ACTION: Notice of revocation of one ruling letter and of revocation of treatment relating to the country of origin of encapsulated fish oil.

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 the country of origin of encapsulated fish oil. 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. 53, No. 24, on July 17, 2019. 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 November 25, 2019.

FOR FURTHER INFORMATION CONTACT: Tanya Secor, Food, Textiles and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0062.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with 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 19 U.S.C. §1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 53, No. 24, on July 17, 2019, proposing to revoke one ruling letter pertaining to the country of origin of encapsulated fish oil. 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 19 U.S.C. §1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during 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 New York Ruling Letter ("NY") N287514, dated July 20, 2017, CBP determined China to be the country of origin of the encapsulated fish oil. CBP has reviewed NY N287514 and has determined the ruling letter to be in error. It is now CBP's position that the fish oil is not substantially transformed in China, and the country of origin of the encapsulated fish oil is Peru.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N287514 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H303093, set forth as an attachment 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: August 28, 2019

YULIYA GULIS
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H303093

August 28, 2019

OT:RR:CTF:FTM H303093 TJS

CATEGORY: Origin

MR. KEVIN ZHENG
SIRIO PHARMA COMPANY, LTD.
NO. 83 TAISHIN ROAD
SHANTOU, GUANDONG
CHINA 515000

RE: Revocation of NY N287514; Country of Origin Marking; Encapsulated Fish Oil.

DEAR MR. ZHENG:

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered New York Ruling Letter (“NY”) N287514 issued to you on July 20, 2017. In NY N287514, CBP found that the processing performed in China effected a substantial transformation, and therefore, determined that the encapsulated fish oil was a product of China. We have reviewed NY N287514 and determined it to be in error. For the reasons set forth below, we are revoking the ruling.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), a notice of the proposed action was published in the Customs Bulletin, Volume 53, No. 24, on July 17, 2019. One comment, which will be addressed below, was received in response to this notice.

FACTS:

In NY N287514, CBP described the encapsulated fish oil as follows:

...oil derived from Peruvian anchoveta (*Engraulis ringens*) is refined, bleached, cold filtrated, deodorized and blended with sunflower oil and d-alpha tocopherol (vitamin E) then shipped to China. In China, the fish oil is filled into soft gelatin capsules. The encapsulated fish oil is imported into the United States in retail sized bottles containing 60 capsules or 200 capsules, respectively.

In NY N287514, CBP found that the processing undertaken at the facility in China substantially transformed the fish oil. CBP determined the encapsulated fish oil to be a product of China for CBP marking purposes.

ISSUE:

What is the country of origin of encapsulated fish oil for country of origin marking purposes?

LAW AND ANALYSIS:

The marking statute, Section 304, Tariff Act of 1930, as amended (19 U.S.C. § 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the United States shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the United States the English name of the country of origin of

the article. Congressional intent in enacting 19 U.S.C. § 1304 was “that the ultimate purchaser should be able to know by an inspection of the marking on the imported goods the country of which the goods is the product. The evident purpose is to mark the goods so that at the time of purchase the ultimate purchaser may, by knowing where the goods were produced, be able to buy or refuse to buy them, if such marking should influence his will.” See *United States v. Friedlander & Co.*, 27 C.C.P.A. 297, 302; C.A.D. 104 (1940).

Part 134, Customs Regulations (19 C.F.R. Part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. § 1304. Pursuant to 19 C.F.R. § 134.1(b), the “country of origin” means the country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the “country of origin” within the meaning of the marking laws and regulations.

A substantial transformation occurs when an article emerges from a process with a new name, character or use different from that possessed by the article prior to processing. A substantial transformation will not result from a minor manufacturing or combining process that leaves the identity of the article intact. See *United States v. Gibson-Thomsen Co.*, 27 C.C.P.A. 267 (1940); and *National Juice Products Association v. United States*, 628 F. Supp. 978 (Ct. Int’l Trade 1986).

In determining whether a substantial transformation occurs in the manufacture of chemical products such as pharmaceuticals, CBP has consistently examined the complexity of the processing and whether the final article retains the essential identity and character of the raw material. To that end, CBP has generally held that the processing of pharmaceutical products from bulk form into measured doses does not result in a substantial transformation of the product. See, e.g., Headquarters Ruling Letter (“HQ”) H284694, dated August 22, 2017; HQ H233356, dated December 26, 2012; NY N017772, dated October 26, 2007; and, HQ H735146, dated November 15, 1993.

For example, in HQ H284694, CBP held that the processing of bulk imported pharmaceuticals into dosage form did not result in a substantial transformation. In that case, the processing began with Dutch-origin bulk calcium acetate and, after being combined with inactive ingredients in India, resulted in calcium acetate capsules in individual doses of 667 milligrams. CBP determined that the process in India did not change the name, character, or use of the calcium acetate, and therefore, the country of origin was the Netherlands.

Similarly, in HQ H233356, CBP held that the processing and packaging of imported mefenamic acid into dosage form in the United States did not constitute substantial transformation. CBP found that the specific U.S. processing, which involved blending the active ingredients with inactive ingredients in a tumbler and then encapsulating and packaging the product, did not substantially transform the mefenamic acid because its chemical character remained the same. Accordingly, CBP held that the country of origin of the final product was India, where the mefenamic acid was produced.

In HQ H735146, 100 percent pure acetaminophen imported from China was blended with excipients in the United States, granulated and sold to pharmaceutical companies to process into tablets for retail sale under private labels. CBP found that the process in the United States did not substantially transform the imported product because the product was referred to as

acetaminophen before importation and after U.S. processing, its use was for medicinal purposes and continued to be so used after U.S. processing, and the granulating process minimally affected the chemical and physical properties of the acetaminophen.

Here, as in the cases cited above, the processing of the fish oil into dosage form as soft gel capsules will not result in a substantial transformation. The fish oil originates from Peru and is encapsulated in China. No change in name occurs in China because the product is referred to as “fish oil” both before and after encapsulation. Furthermore, the fish oil retains its chemical and physical properties and is merely put into a dosage form in China. Finally, no change in use occurs in China because the fish oil has the same predetermined medicinal use both as bulk and as soft gel capsules. Therefore, in accordance with prior CBP rulings, we find that no substantial transformation occurred during the encapsulation process in China and therefore the country of origin of the final product is Peru.

One comment was received in support of the proposed ruling. The commenter requested clarification regarding the applicable tariff rate of the fish oil and the application of the ruling to similar products. In particular, the commenter inquired whether the subject fish oil should be assessed the tariff rate based on the duty rate for fish oil products from Peru. Please note that even though the country of origin of the fish oil is Peru, this product is not eligible for preferential tariff treatment under the United States-Peru Trade Promotion Agreement (“Peru FTA”), as addressed in HQ H078175, dated December 15, 2009. In HQ H078175, CBP held that fish oil derived from Peru and shipped to China for encapsulation was not considered an originating good under General Note 32(c)(iii), implementing the transit and transshipment provision of the Peru FTA. When no preferential tariff rate applies, then the applicable duty rate is provided for under the general duty rate in column one of the Harmonized Tariff Schedule of the United States.

Additionally, the commenter inquired whether the subject fish oil can be declared a product of Peru if it is packed in other dosage forms such as sachets, bottles, and liquid-filled hard-shell capsules. We note that packaging bulk product into dosage or individual sizing generally does not effect a substantial transformation. We also note that while the subject fish oil is derived from Peruvian anchoveta, the analysis in this ruling will apply to other fish oil products such as Cod Liver Oil or Krill Oil, provided these products undergo similar processing.

HOLDING:

Based on the facts provided, encapsulation of fish oil performed in China does not substantially transform the fish oil from Peru. Accordingly, the country of origin of encapsulated fish oil in NY N287514 is Peru.

EFFECT ON OTHER RULINGS:

NY N287514, dated July 20, 2017, is hereby **REVOKED** in accordance with the above analysis.

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

Sincerely,
YULIYA GULIS
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

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

(NO. 8 2019)

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 August 2019. A total of 178 recordation applications were approved, consisting of 11 copyrights and 167 trademarks. The last notice was published in the Customs Bulletin Vol. 53, No. 31, September 4, 2019.

Corrections or updates may be sent to: Intellectual Property Rights Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, 90 K Street, NE., 10th Floor, Washington, D.C. 20229–1177, or via email at *iprrquestions@cbp.dhs.gov*.

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

Dated: September 10, 2019

CHARLES R. STEUART

Chief,

*Intellectual Property Rights Branch
Regulations and Rulings, Office of Trade*

CBP IPR RECORDATION — AUGUST 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
COP 19-00104	08/01/2019	08/01/2039	Photo of woman with horses	Miller Manufacturing Company	No
COP 19-00105	08/02/2019	07/02/2039	Primal Teju	Artistic Tile, Inc.	No
COP 19-00106	08/02/2019	07/02/2039	Hip 2B Square	Artistic Tile, Inc.	No
COP 19-00107	08/22/2019	08/22/2039	Genoa	3-Form Corporation	No
COP 19-00108	08/22/2019	08/22/2039	Splash	3-Form Corporation	No
COP 19-00109	08/22/2019	08/22/2039	Tonic	3-Form Corporation	No
COP 19-00110	08/27/2019	08/27/2039	Trace (Dune / Bone) Panel Design	3form, Inc. d.b.a. 3form	No
COP 19-00111	08/27/2019	08/27/2039	Baby Shark	Smart Study Co., Ltd.	No
COP 19-00112	08/27/2019	08/27/2039	Daddy Shark	Smart Study Co., Ltd.	No
COP 19-00113	08/27/2019	08/27/2039	Mommy Shark	Smart Study Co., Ltd.	No
COP 19-00114	08/27/2019	08/27/2039	Pink Fong Mascot	Smart Study Co., Ltd.	No
TMK 00-00006	08/21/2019	12/07/2029	WS (Stylized)	Wrought Washer Mfg., Inc.	No
TMK 00-00007	08/21/2019	10/06/2029	W3 (Stylized)	Wrought Washer Mfg., Inc.	No
TMK 02-00749	08/22/2019	09/10/2027	CLEVELAND	SUMITOMO RUBBER INDUSTRIES, LTD.	No
TMK 04-01036	08/13/2019	06/08/2028	Brother (Stylized)	BROTHER INDUSTRIES, LTD.	No
TMK 05-00818	08/18/2019	10/11/2029	SOX (Stylized)	CHICAGO WHITE SOX, LTD.	No
TMK 05-00820	08/18/2019	02/07/2030	DETROIT (Stylized)	DETROIT TIGERS, INC.	No
TMK 06-00219	08/07/2019	08/06/2029	REFRIGWEAR & DESIGN	REFRIGWEAR, INC.	No
TMK 06-01112	08/12/2019	12/01/2019	TI AND DESIGN	TEXAS INSTRUMENTS INCORPORATED	No
TMK 09-00422	08/28/2019	08/25/2029	LAUREN	PREL USA HOLDINGS, INC.	No
TMK 10-00270	08/28/2019	01/06/2030	HERCULES	HCC HOLDINGS, INC.	No

CBP IPR RECORDATION — AUGUST 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/TmK/TmM	Owner Name	GM Restricted
TMK 10-00294	08/14/2019	05/03/2029	ENERGY ENERGY STAR & Design	US ENVIRONMENTAL PROTECTION AGENCY	No
TMK 10-00339	08/13/2019	12/10/2026	ENERGY STAR	ENVIRONMENTAL PROTECTION AGENCY FEDERAL	No
TMK 10-00679	08/07/2019	10/04/2029	GIORGIO ARMANI	GIORGIO ARMANI S.P.A	No
TMK 11-00303	08/20/2019	09/01/2029	CONAIR	Conair Corporation	No
TMK 11-00653	08/01/2019	08/01/2029	CARTER'S	WILLIAM CARTER COMPANY, THE	No
TMK 11-00898	08/30/2019	11/22/2029	LAMICTAL	GLAXOSMITHKLINE LLC	No
TMK 12-01391	08/18/2019	02/28/2025	RAG & BONE	RAG & BONE HOLDINGS LLC	No
TMK 12-01403	08/30/2019	09/23/2029	Design Only (Tri-Leaf)	Herbalife International, Inc.	No
TMK 13-00046	08/06/2019	07/21/2029	BYSTOLIC & Design	ALLERGAN SALES, LLC	No
TMK 13-00199	08/12/2019	10/08/2028	RESPIMAT	Boehringer Ingelheim International GmbH	No
TMK 13-00204	08/12/2019	01/12/2021	SPIRIVA	Boehringer Ingelheim Pharma GmbH & Co. K	No
TMK 14-00936	08/13/2019	07/12/2029	DESIGN ONLY	FERRARI S.P.A.	No
TMK 14-01150	08/09/2019	08/12/2029	PERFORMANCE QUOTIENT	PRW Industries, Inc.	No
TMK 14-01156	08/09/2019	08/12/2029	PQX	PRW Industries, Inc.	No
TMK 14-01158	08/13/2019	10/28/2029	MBT PHYSIOLOGICAL FOOTWEAR (and Design)	MASAI INTERNATIONAL PTE LTD.	No
TMK 15-00075	08/09/2019	07/24/2027	TURBO SLIM	BEACHBODY, LLC	No
TMK 15-00116	08/30/2019	08/30/2029	K & M	K & M ASSOCIATES L.P.	No
TMK 15-00802	08/12/2019	06/24/2029	JARDIANCE	Boehringer Ingelheim International GmbH	No
TMK 15-00927	08/07/2019	09/02/2019	INNOVATE/MILL	Levi, Ray & Shoup, Inc.	No

CBP IPR RECORDATION — AUGUST 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 15-01028	08/20/2019	09/30/2029	Design Only (SPYDER Logo)	Spyder Active Sports, Inc.	No
TMK 16-00033	08/07/2019	11/04/2029	PEPPA PIG	ASTLEY BAKER DAVIES	No
TMK 16-00133	08/13/2019	08/12/2028	SKNCEUTICALS	L'OREAL USA CREATIVE, INC.	No
TMK 16-00786	08/22/2019	08/26/2029	CARBO HYDROPROP	CARBO Ceramics Inc.	No
TMK 16-00833	08/12/2019	08/12/2029	HYDROPROP	Carbo Ceramics Inc.	No
TMK 17-00293	08/06/2019	04/23/2029	WATER QUALITY ASSOCIATION AND DESIGN	WATER QUALITY ASSOCIATION NON-PROFIT	No
TMK 17-00404	08/07/2019	06/17/2029	WQA INDEPENDENTLY TESTED & CERTIFIED AND DESIGN	Water Quality Association	No
TMK 17-00471	08/12/2019	06/02/2029	JAGUAR & DESIGN	JAGUAR LAND ROVER	No
TMK 17-00477	08/12/2019	10/14/2029	LAND ROVER logo (word & design)	JAGUAR LAND ROVER	No
TMK 17-01274	08/20/2019	08/19/2029	THE WUF BISCUIT CO (Stylized) and Design	The WOOF Biscuit Company	No
TMK 17-01314	08/21/2019	09/20/2029	WAIS	NCS PEARSON, INC.	No
TMK 18-00774	08/20/2019	09/27/2029	SOLID GOLD	SOLID GOLD PET, LLC	No
TMK 18-00822	08/07/2019	08/19/2029	BANNERSAVER	SMADAPP, INC.	No
TMK 19-00245	08/20/2019	09/23/2029	CUBBIES	CHICAGO CUBS BASEBALL CLUB, LLC	No
TMK 19-00829	08/01/2019	09/12/2028	GEAR4	Gear4 HK Limited	No
TMK 19-00830	08/01/2019	06/24/2025	HALO	Halo2Cloud, LLC	No
TMK 19-00831	08/01/2019	10/16/2029	LOS ANGELES CHARGERS	Chargers Football Company, LLC	No
TMK 19-00832	08/01/2019	09/11/2029	VECTOR	Orsmond, Albert N.	No
TMK 19-00833	08/01/2019	10/13/2022	LAVAZZA	Luigi Lavazza S.p.A.	No
TMK 19-00834	08/01/2019	02/13/2029	LAVAZZA (Stylized)	LUIGI LAVAZZA S.P.A.	No

CBP IPR RECORDATION — AUGUST 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/TmK/TmM	Owner Name	GM Restricted
TMK 19-00835	08/02/2019	12/27/2026	Loewe Stylized 4L Trademark (Stylized)	Loewe, S.A.	No
TMK 19-00836	08/06/2019	08/24/2026	KELLER FUNNEL	Keller Medical, Inc.	No
TMK 19-00837	08/06/2019	05/25/2024	FETZIMA	ALLERGAN SALES, LLC	No
TMK 19-00838	08/06/2019	09/23/2029	RAPAFLO	ALLERGAN SALES, LLC	No
TMK 19-00839	08/06/2019	10/11/2027	RESTITASIS MULTIDOSE	Allergan, Inc.	No
TMK 19-00840	08/06/2019	08/03/2021	ALLODERM	LifeCell Corporation	No
TMK 19-00841	08/06/2019	05/04/2024	REVOLVE	LIFECELL CORPORATION	No
TMK 19-00842	08/06/2019	08/06/2028	STRATTICE	LifeCell Corporation	No
TMK 19-00843	08/06/2019	09/16/2025	LILETTA	ODYSSEA PHARMA SPRL	No
TMK 19-00844	08/06/2019	11/23/2021	Lo Loestrin FE & Design	ALLERGAN PHARMACEUTICALS	No
TMK 19-00845	08/06/2019	11/23/2026	NAMZARIC	MERZ PHARMA GMBH & CO. KGAA	No
TMK 19-00846	08/06/2019	04/30/2027	TAYTULLA	ALLERGAN PHARMACEUTICALS	No
TMK 19-00847	08/06/2019	06/22/2021	TEFLARO	ALLERGAN SALES, LLC	No
TMK 19-00848	08/06/2019	01/28/2025	XEN	AqueSys, Inc.	No
TMK 19-00849	08/06/2019	10/23/2029	CIG-A-QUE	John Gibson Enterprises, Inc.	No
TMK 19-00850	08/06/2019	08/15/2028	CONMED	ConMed Corporation	No
TMK 19-00851	08/06/2019	06/20/2028	HD MIRROR CAM & Design	Inventel Products, LLC	No
TMK 19-00852	08/06/2019	07/30/2029	MAGIC STITCH & Design	INVENTEL PRODUCTS, LLC	No
TMK 19-00853	08/06/2019	10/23/2029	MAGIC STITCH	INVENTEL PRODUCTS, LLC	No
TMK 19-00854	08/06/2019	01/16/2029	20 MINUTE WHITE SMILE & Design	Inventel Products, LLC	No
TMK 19-00855	08/07/2019	05/21/2027	GAZELLE	Ardisam, Inc.	No
TMK 19-00856	08/07/2019	09/10/2024	ANORO	SmithKline Beecham Limited	No
TMK 19-00857	08/07/2019	06/18/2024	ELLIPTA	Glaxo Group Limited	No

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TMK 19-00858	08/07/2019	12/24/2023	BREO	Glaxo Group Limited	No
TMK 19-00859	08/07/2019	01/11/2027	JULUCA	VIIV HEALTHCARE UK (NO. 3)	No
TMK 19-00860	08/07/2019	06/05/2023	TRELEBY	Glaxo Group Limited	No
TMK 19-00861	08/07/2019	10/26/2021	TRIUMBEQ	VIIV HEALTHCARE COMPANY	No
TMK 19-00862	08/07/2019	08/07/2029	WHIPSNAP	BreakEats LLC	No
TMK 19-00863	08/07/2019	03/24/2023	DESIGN ONLY (Habibah)	Haj Mahmud Habibah & Sons Co.	No
TMK 19-00864	08/07/2019	07/07/2025	NUCALA	Glaxo Group Limited	No
TMK 19-00865	08/08/2019	02/21/2028	SOOTHAMIDE	Vitalitus LLC	No
TMK 19-00866	08/08/2019	07/28/2025	VITALITUS & Design	Vitalitus LLC	No
TMK 19-00867	08/08/2019	12/04/2027	DENAMARIN	NUTRAMAX LABORATORIES, INC.	No
TMK 19-00868	08/09/2019	05/02/2026	SOLLIQUIN	NUTRAMAX LABORATORIES, INC.	No
TMK 19-00869	08/09/2019	10/19/2025	WELACTIN	NUTRAMAX LABORATORIES, INC.	No
TMK 19-00870	08/09/2019	02/01/2027	AVMACOL IMMUNE	NUTRAMAX LABORATORIES, INC.	No
TMK 19-00871	08/09/2019	03/07/2021	TIVOSE	NUTRAMAX LABORATORIES, INC.	No
TMK 19-00872	08/09/2019	10/12/2021	NANO	Innovation First, Inc.	No
TMK 19-00873	08/09/2019	08/14/2029	ORBZ	PARTY CITY HOLDINGS, INC.	No
TMK 19-00874	08/09/2019	09/28/2026	KORUSA (Stylized)	Hung, Raymond	No
TMK 19-00875	08/09/2019	09/28/2026	KORUSA	Hung, Raymond	No
TMK 19-00876	08/09/2019	08/29/2022	LOTTO & Design	Lotto Sport Italia S.p.A.	No
TMK 19-00877	08/11/2019	10/30/2029	DESIGN ONLY (VIOLIN OR VIOLA SHOULDER REST)	The Kun Shoulder Rest Inc.	No
TMK 19-00878	08/11/2019	10/30/2029	MODA & Design	Nice Vice Corp	No
TMK 19-00879	08/12/2019	10/13/2029	LAND ROVER logo and design	JAGUAR LAND ROVER	No

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TMK 19-00880	08/12/2019	10/14/2029	RANGE ROVER	JAGUAR LAND ROVER	No
TMK 19-00881	08/12/2019	03/16/2025	DALVANCE	ALLERGAN PHARMACEUTICALS INTERNATIONAL	No
TMK 19-00882	08/12/2019	10/23/2023	DELZICOL	ALLERGAN PHARMACEUTICALS INTERNATIONAL LIMITED	No
TMK 19-00883	08/12/2019	08/18/2024	NAMENDA	MERZ PHARMA GMBH & CO. KGAA	No
TMK 19-00884	08/12/2019	01/08/2024	NAMENDA XR	MERZ PHARMA GmbH & CO. KGaA	No
TMK 19-00885	08/12/2019	02/26/2026	ASACOL	MEDEVA PHARMA SUISSE AG	No
TMK 19-00886	08/12/2019	11/04/2029	BOVIE	SPECIALTY SURGICAL INSTRUMENTATION, INC.	No
TMK 19-00887	08/12/2019	02/07/2027	BROTHER (Stylized)	Brother Industries, Ltd.	No
TMK 19-00888	08/13/2019	02/04/2024	CONMED ELECTROSURGERY	ConMed Corporation	No
TMK 19-00889	08/13/2019	03/29/2029	CONMED	ConMed Corporation	No
TMK 19-00890	08/13/2019	05/11/2025	CONMED	CONNED CORPORATION	No
TMK 19-00891	08/13/2019	08/26/2021	CARAFATE	APTALIS PHARMA US, INC.	No
TMK 19-00892	08/14/2019	10/30/2029	SELKIRK SPORT	Selkirk Sport, LLC	No
TMK 19-00893	08/14/2019	08/21/2029	HILL CITY	Athleta, Inc.	No
TMK 19-00894	08/14/2019	10/09/2029	SUPREME logo	Chapter 4 Corp. DBA Supreme	No
TMK 19-00895	08/14/2019	02/14/2026	INTERMIX	INTERMIX HOLDCO, INC.	No
TMK 19-00896	08/14/2019	11/07/2021	ATHLETA	ATHLETA, INC.	No
TMK 19-00897	08/14/2019	05/16/2023	GAP	GAP(APPAREL), LLC	No
TMK 19-00898	08/14/2019	07/24/2028	V (Stylized)	Valentino Beauty Pure LLC	No
TMK 19-00899	08/14/2019	03/29/2026	A.J. MORSE & SON	DESCO Corporation	No
TMK 19-00900	08/14/2019	08/21/2029	POPWALLET	PopSockets LLC	No

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TMK 19-00901	08/14/2019	11/29/2027	keeper keep on keeping & Design	KEEPER GMBH	No
TMK 19-00902	08/15/2019	11/29/2027	DESIGN ONLY (squirrel design)	KEEPER GMBH	No
TMK 19-00903	08/15/2019	09/25/2029	FORTNITE	Epic Games, Inc.	No
TMK 19-00904	08/15/2019	11/15/2027	GRANDELASH	Grande Cosmetics, LLC DBA Grande Cosmetics, LLC	No
TMK 19-00905	08/15/2019	03/04/2029	keeper and Design	keeper GmbH	No
TMK 19-00906	08/15/2019	06/08/2026	FIREFLY	NWT Holdings LLC	No
TMK 19-00907	08/15/2019	06/08/2026	FIREFLY and Design	NWT Holdings LLC	No
TMK 19-00908	08/15/2019	11/25/2025	DESIGN ONLY (Firefly)	NWT Holdings LLC	No
TMK 19-00909	08/15/2019	09/25/2029	FORTNITE (Stylized)	Epic Games, Inc.	No
TMK 19-00910	08/18/2019	10/30/2029	X10	Halley Orthopedic Products, LLC	No
TMK 19-00911	08/18/2019	07/08/2024	HAPPY CHAMBLEON	C.H. Robinson Worldwide, Inc.	No
TMK 19-00912	08/18/2019	11/13/2029	ML MANUELA LUBIN DELICATE BEAUTY (Stylized)	ML Delicate Beauty, LLC	No
TMK 19-00913	08/19/2019	11/13/2029	HUG IN AN ENVELOPE	Desanti, Jane DBA Hug In An Envelope	No
TMK 19-00914	08/19/2019	08/21/2029	SLIM ARMOR	Spigen, Inc.	No
TMK 19-00915	08/19/2019	08/28/2029	TOUGH ARMOR	Spigen, Inc.	No
TMK 19-00916	08/19/2019	10/25/2027	CASEOLOGY	SPIGEN, INC.	No
TMK 19-00917	08/19/2019	11/26/2027	OLD NAVY	OLD NAVY (APPAREL), LLC	No
TMK 19-00918	08/20/2019	09/04/2029	DESIGN ONLY (Baja Designs Clover Leaf Bezel)	Bestop Baja, LLC	No
TMK 19-00919	08/20/2019	09/25/2023	SOUTHERN MARSH	Southern Marsh Collection, LLC	No
TMK 19-00920	08/20/2019	02/21/2028	Design (Duck Logo)	Southern Marsh Collection, LLC	No
TMK 19-00921	08/20/2019	09/07/2026	LP Lyallpur & Design	Lyallpur Food Industries	No

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TMK 19-00922	08/20/2019	03/05/2028	SOUTHERN MARSH	Southern Marsh Collection, LLC	No
TMK 19-00923	08/20/2019	06/11/2024	Design Only (Duck Logo)	Southern Marsh Collection, LLC DBA Southern Marsh Collection	No
TMK 19-00924	08/21/2019	05/07/2026	DRAXXIN and Design	ZOFETIS SERVICES LLC	No
TMK 19-00925	08/22/2019	01/08/2024	HAPPY BIRDS PERFORMING PARROT SHOW	Cardoza, Ed	No
TMK 19-00926	08/22/2019	07/03/2028	SIMPLE JOYS	The William Carter Company	No
TMK 19-00927	08/22/2019	11/28/2027	CLEVELAND GOLF	SUMITOMO RUBBER INDUSTRIES, LTD.	No
TMK 19-00928	08/22/2019	09/18/2029	IR HUNTER	IRD Acquisitions, LLC	No
TMK 19-00929	08/22/2019	07/09/2029	MINT HILL DENTISTRY	Sullivan & Hutchinson DDS PA DBA Mint Hill Dentistry	No
TMK 19-00930	08/22/2019	12/19/2027	REAP-IR	IRD Acquisitions, LLC	No
TMK 19-00931	08/22/2019	03/26/2028	SNIPPE-IR	IRD Acquisitions, LLC	No
TMK 19-00932	08/23/2019	02/28/2028	BIKTARVY	Gilead Sciences Ireland UC	No
TMK 19-00933	08/26/2019	11/25/2025	GENVOYA	GILEAD SCIENCES IRELAND UC	No
TMK 19-00934	08/26/2019	10/19/2026	VEMLIDY	Gilead Sciences Ireland UC	No
TMK 19-00935	08/26/2019	10/08/2024	TWIX	Mars, Incorporated	No
TMK 19-00936	08/26/2019	12/08/2025	ACCUPOWER	Trijicon, Inc.	No
TMK 19-00937	08/26/2019	11/20/2029	SRO	Trijicon, Inc.	No
TMK 19-00938	08/26/2019	04/05/2026	ODEFSY	Gilead Sciences Ireland UC	No
TMK 19-00939	08/27/2019	03/29/2026	DESCOVY	Gilead Sciences Ireland UC	No
TMK 19-00940	08/28/2019	12/15/2025	SNS Healthy Natural Nails & Design	JOE NGUYEN	No
TMK 19-00941	08/28/2019	07/18/2027	GRANDE COSMETICS	Grande Cosmetics, LLC	No

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TMK 19-00942	08/28/2019	05/19/2029	G and Design	Grande Cosmetics, LLC	No
TMK 19-00943	08/28/2019	10/18/2021	MAVALA	MAVALA SA	No
TMK 19-00944	08/28/2019	02/19/2024	VOSSEN	Vossen Wheels, Inc.	No
TMK 19-00945	08/28/2019	12/04/2020	GILEAD SCIENCES (Stylized)	GILEAD SCIENCES, INC.	No
TMK 19-00946	08/28/2019	04/01/2029	THE SKYCLIP	2DiveGuys, LLC	No
TMK 19-00947	08/28/2019	02/22/2027	Leaf and Shield Design	Gilead Sciences, Inc.	No
TMK 19-00948	08/28/2019	02/13/2029	BRIMAC	Brimac Char, Inc.	No
TMK 19-00949	08/29/2019	04/01/2029	LITTLE PLANET	The William Carter Company	No
TMK 19-00950	08/29/2019	11/06/2029	DURAPAN	WashoutPan.com LLC DBA Washout Pan	No
TMK 19-00951	08/29/2019	08/02/2027	SKINNYFIT	Skinny Fit, LLC	No
TMK 19-00952	08/29/2019	08/14/2029	SIMULINES	Ulthera, Inc.	No