



## U.S. Customs and Border Protection

**December 06, 2021**

### **PUBLIC VERSION**

EAPA Cons. Case Number 7586

Luke A. Meisner, Esq.  
Schagrin Associates  
Counsel to Cambria Company, LLC  
900 Seventh Street, NW  
Suite 500  
Washington, D.C. 20001  
lmeisner@schagrinassociates.com

Lizbeth Levinson, Esq.  
Joseph Rohe, Esq.  
Fox Rothschild LLP  
Counsel to Vivaldi Commercial LLC (dba Superior Granite and Marble by Vivaldi)  
Vivaldi Interiors LLC (“Vivaldi Interiors”)  
2020 K Street, NW  
Suite 500  
Washington, D.C. 20006  
llevinson@foxrothschild.com  
JRohe@foxrothschild.com

Re: Notice of Determination as to Evasion

---

To the Counsel and Representatives of the above-referenced Entities:

Pursuant to an examination of the record in Enforce and Protect Act (“EAPA”) Consolidated Cons. Case Number 7586, U.S. Customs and Border Protection (“CBP”) has determined that there is substantial evidence that Vivaldi Commercial LLC (“Vivaldi Commercial”) dba Superior Granite and Marble by Vivaldi and Vivaldi Interiors LLC (“Vivaldi Interiors”) (collectively “Vivaldi”)<sup>1</sup> entered merchandise covered by antidumping (“AD”) and countervailing (“CVD”) duty orders A-570-084 and C-570-085, respectively, into the customs territory of the United States through evasion.<sup>2</sup> Substantial evidence demonstrates that Vivaldi entered certain quartz surface products (“QSP”) from the People’s Republic of China (“China”) by misclassifying the

---

<sup>1</sup> Tax documents provided in the allegation show both companies registered at the same physical address in Houston, Texas to owners with the same surname.

<sup>2</sup> See *Certain Quartz Surface Products from the People's Republic of China: Antidumping and Countervailing Duty Orders*, 84 Fed. Reg. 33053 (Dep’t Commerce July 11, 2019) (collectively, the “AD/CVD orders”).

products as crushed glass products, referred to as “Eco Glass.”<sup>3</sup> As a result, no AD/CVD duties, cash deposit, or other security were collected on the merchandise upon entry.

## Background

On December 3, 2020, Cambria Company LLC (“the Alleger”), a domestic producer of QSP, filed an EAPA allegation through counsel alleging that Vivaldi Commercial LLC dba Superior Granite and Marble by Vivaldi (“Vivaldi Commercial”) was evading the AD/CVD orders on quartz surface products from China.<sup>4</sup> On December 9, 2020, the Alleger submitted a similar and related allegation against Vivaldi Interiors LLC (“Vivaldi Interiors”).<sup>5</sup> On January 7, 2021, TRLED acknowledged receipt of the Alleger’s properly filed EAPA allegations against Vivaldi.<sup>6</sup> TRLED found the information provided in the allegations reasonably suggested that Vivaldi entered covered merchandise into the customs territory of the United States through evasion. Consequently, on February 1, 2021, TRLED initiated a consolidated investigation, under EAPA Cons. Case Number 7586, with respect to Vivaldi, pursuant to Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.<sup>7</sup>

### *CF 28s*

On March 1, 2021, CBP received a timely response for the February 24, 2021 CF-28 documents request for entry [number]1966.<sup>8</sup> Specific documents were requested to establish the applicability of the AD and CVD orders to this entry originally declared as type “01.”<sup>9</sup> The author of the response claimed no specific knowledge of the manufacturing process, but recalled that ECO Glass as “slabs of crushed glass slabs,” “primarily used as countertops / wall covering / flooring,” and claimed it was the [model #] designation.<sup>10</sup> The CF-28 response further referenced an e-ruling (N302271) from December 12, 2018,<sup>11</sup> which unsuccessfully explained ECO Glass’ current exclusion from the AD/CVD orders.<sup>12</sup>

---

<sup>3</sup> See Letter from the Alleger, “Quartz Surface Products from the People’s Republic of China: Supplement to Request for an Investigation under the Enforce and Protect Act of Vivaldi Interiors LLC,” dated December 9, 2020 (Vivaldi Interiors Allegation).

<sup>4</sup> See generally Letter from the Alleger, “Quartz Surface Products from the People’s Republic of China: Request for an Investigation under the Enforce and Protect Act of Vivaldi Commercial LLC,” dated December 3, 2020 (Vivaldi Commercial Allegation).

<sup>5</sup> See Letter from the Alleger, “Quartz Surface Products from the People’s Republic of China: Supplement to Request for an Investigation under the Enforce and Protect Act of Vivaldi Interiors LLC,” dated December 9, 2020 (Vivaldi Interiors Allegation).

<sup>6</sup> See “Receipt Notification Email to Luke A. Meisner of Schagrin Associates for EAPA 7586 and 7587,” dated January 07, 2021.

<sup>7</sup> See 19 USC 1517(b)(1) and 19 CFR 165.15; see also CBP Memorandum to Brian Hoxie, Director, Enforcement Operations Division, “Initiation of Investigations for EAPA Allegations 7586 and 7587 - Vivaldi Commercial LLC and Vivaldi Interiors LLC.,” dated February 1, 2021 (Initiation).

<sup>8</sup> See CF 28 Response for Entry [number]1966 Attachment A, B, C and Continuation Page # 14, dated March 1, 2021 (“CF 28 Response xxx1966”). See CF 28 Request for Information for Entry [number]1966, dated February 24, 2021 (“CF 28 Request xxx1966”).

<sup>9</sup> See CF 28 Request xxx1966.

<sup>10</sup> See CF 28 Response for Entry [number]1966 Attachment A, B, C and Continuation Page # 14 at 1, dated March 1, 2021 (“CF 28 Response xxx1966”).

<sup>11</sup> See CF 28 Response at N302271.

<sup>12</sup> CBP determined that the samples from 2018 should stand on its own regarding classification, and it was recommended that Lab sample analysis for current shipments be completed.

On February 18, 2021, a CF-28 request for documentation to support entry [number]7676<sup>13</sup> was issued. The response was received over two (2) weeks late on April 12, 2021<sup>14</sup> with the same type “01” entry designation as the previously mentioned entry.<sup>15</sup> Consequently, information provided in [number]1966<sup>16</sup> and [number]7676<sup>17</sup> both included the previously mentioned CBP e-ruling.<sup>18</sup> The Vivaldi merchandise had the [model #] designation,<sup>19</sup> to which the author of the response stated [ statement about product identifiers ]<sup>20</sup> Both entries describe the material composition of “ECO Glass” as approximately [description of materials ]. The [ description of materials. ]<sup>21</sup>

### *Cargo Exams*

CBP conducted a cargo exam on March 22, 2021, of the “ECO Glass Countertop” shipment for entry [number]0142<sup>22</sup> and it revealed discrepant classification information. Although listed as a type “01” ECO Glass countertops entry, the declared classification was 6802.93.0090.<sup>23</sup> Further, the bill of lading for the same entry was classified as 7016.90.1050,<sup>24</sup> not subject to AD/CVD duties. The commercial invoice had a special project identifier, [name ].<sup>25</sup> The project identifier [name ] was also used for entry [number]1927 of ECO Glass counter tops.<sup>26</sup>

CBP completed its laboratory analysis on April 13, 2021, on the shipment for entry [number]1927.<sup>27</sup> The lab results for [number], described an “ECO Glass Slab” with measurements of [(number x number)] of polished face white slab with clear specks with an approximate thickness of [number].<sup>28</sup> The sample consisted of an artificial stone with approximately [number]% quartz, [number]% amorphous material, and [number] organic resin. The sample further reported that it contained pieces of [material ] visible across the surface and

---

<sup>13</sup> See CF 28 Request for Information for Entry [number]7676, dated February 18, 2021 (“CF 28 Request xxx7676”).

<sup>14</sup> See CF 28 Response for Entry [number]7676, Attachment A, B, C and RFI Continuation Page # 14 dated April 12, 2021 (“CF 28 Response xxx7676”).

<sup>15</sup> See CF 28 Response xxx7676 at Attachment A at 6-9.

<sup>16</sup> See CF 28 Response xxx1966.

<sup>17</sup> See CF 28 Request for Information for Entry [number]7676, dated February 18, 2021 (“CF 28 Request xxx7676”). This HTS is consistent with the classification of quartz surface products. See the “AD/CVD orders.”

<sup>18</sup> See CF 28 Response at N302271.

<sup>19</sup> See CF 28 Response xxx1966 at Continuation Page # 14 at 2 and CF 28 Response xxx7666 at RFI Continuation Page # 14 at 2.

<sup>20</sup> See CF 28 Response xxx7666 at RFI Continuation Page # 14 at 1-2.

<sup>21</sup> See CF 28 Response xxx1966 at Continuation Page # 14 at 2 and CF 28 Response xxx7666 at RFI Continuation Page # 14 at 2.

<sup>22</sup> See CF 28 Response xxx7666 at RFI Continuation Page # 14 at 1-2.

<sup>23</sup> See Cargo Exam and Cargo Exam Photos for [number]0142, dated March 22, 2021 (“Cargo Exam xxx0142”).

<sup>24</sup> See Cargo Exam and Cargo Exam Photos for [number]0142, dated March 22, 2021 (“Cargo Exam xxx0142”).

<sup>25</sup> The project identifier “Marcos” was also used for entry [number]1927 of ECO Glass counter tops which was not sampled.

<sup>26</sup> See Cargo Exam [number]1927, dated March 18, 2021 (“Cargo Exam xxx1927”).

<sup>27</sup> See Laboratory Report [number], dated April 13, 2021 (“Lab Report”).

<sup>28</sup> *Id.*

[word] pieces measured [quantity] than [number] centimeter, which is a requirement for exclusion from the scope.<sup>29</sup>

CBP also produced a lab report on May 4, 2021, for entry [number]7519, the “Pure White Slab Granite Counter Top.”<sup>30</sup> The sample consisted of a large white piece of polished stone measuring [number] cm in length, [number] cm in width, and [number] cm in thickness.<sup>31</sup> The composition of the sample was [number]% SiO<sub>2</sub>, quartz, [number]% glass, and [number]% organic resin.<sup>32</sup> The results of both sample analysis supported that the ECO Glass did not meet the exclusionary criteria designated in the scope.<sup>33</sup> There was [amount] crushed glass content by actual weight [word] were there visible pieces of crushed glass. Specifically, with [word] visible glass evident on the surface of the sample, the distance between any single glass piece and the closest separate glass piece [statement] exceed three inches. As a result, the Pure White Slab Granite sample [status].<sup>34</sup> The submitted sample was [statement].<sup>35</sup>

### *NOI and RFIs*

On May 10, 2021, after evaluating the information on the record, including the CF-28s and cargo exams, CBP issued a “Notice of initiation of investigation and interim measures taken as to Vivaldi Commercial LLC (dba Superior Granite and Marble by Vivaldi) and Vivaldi Interiors LLC – EAPA Consolidated Case 7586” (“NOI”).<sup>36</sup> The NOI informed Vivaldi and the Allegor of the initiation of the investigation and of CBP’s decision to impose interim measures for Vivaldi based upon a reasonable suspicion of evasion.<sup>37</sup> Further, the original allegations were consolidated and the period of investigation was defined from February 1, 2020, through the pendency of this investigation.<sup>38</sup>

On June 4, 2021, CBP issued request for information (“RFI”) questionnaires to Vivaldi and the declared manufacturer, [Manufacturer #1] (“[Manufacturer #3]”) for trade information relating to the imported quartz surface products.<sup>39</sup> Vivaldi responded on July 7, 2021.<sup>40</sup> [Manufacturer #3]

---

<sup>29</sup> *Id.*

<sup>30</sup> See Laboratory Report [number], dated May 04, 2021 (“Lab Report”).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> See Laboratory Report Memo to the File, dated May 10, 2021 (“Memo Lab Report”).

<sup>35</sup> *Id.*

<sup>36</sup> See Notice of initiation of investigation and interim measures taken as to Vivaldi Commercial LLC (dba Superior Granite and Marble by V) and Vivaldi Interiors LLC concerning evasion of the antidumping and countervailing duty orders on Quartz Surface Products from the People’s Republic of China, dated May 10, 2021.

<sup>37</sup> *Id.*; see also 19 USC 1517(e) and 19 CFR 165.24.

<sup>38</sup> See 19 CFR 165.2; see also 19 USC 1517(b)(5) and 19 CFR 165.13 (concerning the consolidation of allegations); see also 19 CFR 165.2. Entries covered by the POI include entries up to one year prior to the date CBP officially received the allegations, which was February 1, 2021.

<sup>39</sup> See Letter from CBP, “Request for Information – Vivaldi,” dated June 4, 2021; see also Letter from CBP, “Request for Information – [Manufacturer #3] (“[Manufacturer #3]”), dated June 4, 2021.

<sup>40</sup> See Letter from Vivaldi, “Response to June 4, 2021, Request for Information Issued to Vivaldi.; EAPA Cons. Case Number: 7586,” dated July 7, 2021 (“Vivaldi RFI Response”).

responded on September 3, 2021.<sup>41</sup> The documentation received included information about the manufacturing process, financial documentation, and Vivaldi's entry summary documents.<sup>42</sup>

On June 14, 2021, CBP issued an RFI<sup>43</sup> to [Manufacturer #1] (“[Manufacturer #1]”), another manufacturer identified in the allegation,<sup>44</sup> and July 19, 2021 [Manufacturer #1] responded on July 19, 2021.<sup>45</sup> CBP issued a supplemental RFI to [Manufacturer #1] on August 23, 2021, and [Manufacturer #1] responded on September 3, 2021<sup>46</sup>.

CBP issued an RFI to [Manufacturer #2] on June 14, 2021<sup>47</sup> and the manufacturer was not responsive. Although it was identified as a manufacturer in CBP import data, Vivaldi considered [Manufacturer #2] synonymous with [Manufacturer #1].<sup>48</sup>

On August 9, 2021, CBP issued an RFI to [Supplier #1], [Manufacturer #1]'s named trading company.<sup>49</sup> [Manufacturer #1] claimed that it developed and sold ECO Glass that it purchased from the inventory of [Supplier #1].<sup>50</sup> [Supplier #1] did not respond to CBP's RFI.

On October 4, 2021, the Alleger and Vivaldi timely submitted their Written Arguments.<sup>51</sup> On October 22, 2021, rebuttals to the written arguments were filed by both parties.<sup>52</sup> Vivaldi's written arguments outlined the reasons why CBP should proceed with a negative determination and asserted that there was no substantial evidence supporting a determination of evasion.<sup>53</sup> Additionally, Vivaldi stated that only DOC can interpret and clarify the scope of the AD/CVD orders and that CBP does not have the authority to make its own scope ruling while a DOC scope ruling proceeding on the same merchandise is pending.<sup>54</sup>

## Analysis

---

<sup>41</sup> See Letter from [Manufacturer #3], “Response to June 4, 2021, Request for Information Issued to [Manufacturer #3] (“[Manufacturer #3]”); EAPA Cons. Case Number: 7586,” dated September 3, 2021 ([Manufacturer #3] RFI Response).

<sup>42</sup> See Vivaldi RFI Response and [Manufacturer #3] RFI Response.

<sup>43</sup> See Letter from CBP, “Request for Information – [Manufacturer #1] (“[Manufacturer #1]”),” dated June 14, 2021.

<sup>44</sup> See generally Letter from the Alleger, “Quartz Surface Products from the People's Republic of China: Request for an Investigation under the Enforce and Protect Act of Vivaldi Commercial LLC,” dated December 3, 2020 (Vivaldi Commercial Allegation).

<sup>45</sup> See Letter from Vivaldi, “Response to June 14, 2021, Request for Information Issued to [Manufacturer #1]; EAPA Cons. Case Number: 7586,” dated July 19, 2021 ([Manufacturer #1] RFI Response).

<sup>46</sup> See Letter from CBP, “Supplemental Request for Information – [Manufacturer #1] (“[Manufacturer #1]”),” dated August 23, 2021; and *also see* Letter from [Manufacturer #1], “Response to August 23, 2021, Supplemental Request for Information Issued to Sunrise Stone; EAPA Cons. Case Number: 7586,” dated September 3, 2021 ([Manufacturer #1] Supplemental RFI Response).

<sup>47</sup> See Letter from CBP, “Request for Information – [Manufacturer #2] (“[Manufacturer #2]”),” dated June 14, 2021.

<sup>48</sup> See Vivaldi RFI Response. It was discovered that [Company] and [Manufacturer #2] were identified as “[Manufacturer #1].” on the commercial invoices.

<sup>49</sup> See [Manufacturer #1] RFI Response. It was stated that they have no production or research and development facilities.

<sup>50</sup> See [Manufacturer #1] RFI Response

<sup>51</sup> See Letter from the Vivaldi, “Written Arguments EAPA Cons. 7586,” dated October 4, 2021, and Letter from the Alleger, “Written Arguments EAPA Cons. 7586,” dated October 4, 2021.

<sup>52</sup> See Letter from the Vivaldi, “Vivaldi Response to Written Arguments EAPA Cons. 7586,” dated October 22, 2021, and Letter from the Alleger, “Rebuttal Comments EAPA Cons. 7586,” dated October 22, 2021.

<sup>53</sup> See Letter from the Vivaldi, “Written Arguments EAPA Cons. 7586,” dated April 19, 2021.

<sup>54</sup> *Id.*

Under 19 USC 1517(c)(1)(A), to reach a determination as to evasion, CBP must “make a determination, based on substantial evidence, with respect to whether such covered merchandise entered into the customs territory of the United States through evasion.”<sup>55</sup> Evasion is defined as “the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.”<sup>56</sup> As discussed below, the record of this investigation, supported by substantial evidence, indicates that covered merchandise entered into the customs territory of the United States through evasion.

### *Vivaldi*

Vivaldi’s RFI response reports multiple discrepancies. According to its RFI response, Vivaldi Commercial LLC uses the trade names “Vivaldi Stone” and Vivaldi Lifestyles” to do business.<sup>57</sup> Other business names used by Superior Granite and Marble by Vivaldi include “Superior Granite,” “Vivaldi Stone Boutique,” and “I-Field + Vivaldi.”<sup>58</sup> These multiple company identifiers were provided for trading purposes with no context for their use.<sup>59</sup> Vivaldi’s 2018 financial statements noted that Superior Granite and Marble by Vivaldi was a merger between Superior Granite and Vivaldi Commercial .<sup>60</sup> However, the RFI notes that Vivaldi Commercial has been an importer since 2002 and that Superior Granite began its imports in 2010.<sup>61</sup> Vivaldi Interiors, LLC was formed in August 17, 2018, and began importing in 2019.<sup>62</sup> Further, Vivaldi Commercial’s tax returns describe its business activity as a lessor of the real estate,<sup>63</sup> which is not import-related. Vivaldi reported all of its sales transactions through Superior Granite and Marble by Vivaldi, regardless of importer of record.<sup>64</sup> Bank statements from Superior Granite and Marble by Vivaldi fails to identify which payments it applied to the entries from the period of investigation.<sup>65</sup> CBP’s review of trade data, highlighted the challenges of establishing the actual trading relationships of Vivaldi Commercial and Superior Granite. Of the three different trade databases accessed by CBP, two used the same importer of record number (IR#) for Vivaldi Commercial LLC; the third system used the same IR# for Superior Granite and Marble by Vivaldi. All the addresses are the same and does not support a merger of the companies, but that Vivaldi Commercial re-registered its name for a different IR number.<sup>66</sup>

---

<sup>55</sup> Substantial evidence is not defined in the statute. However, the Federal Circuit has stated that substantial evidence “means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *See* A.L. Patterson, Inc. v. United States, 585 Fed. Appx. 778, 781-782 (Fed. Cir. 2014) (quoting *Consol. Edison Co. of N.Y. v. NLRB*, 305 U.S. 197, 229 (1938)).

<sup>56</sup> *See* 19 CFR 165.1; *see also* 19 USC 1517(a)(5)(A).

<sup>57</sup> *See* Vivaldi RFI response at 5.

<sup>58</sup> *Id.*

<sup>59</sup> *See* Vivaldi RFI response at 14.

<sup>60</sup> *See* Vivaldi RFI response at 5.

<sup>61</sup> *See* Vivaldi RFI response at 4-5.

<sup>62</sup> *See* Vivaldi RFI response at 5.

<sup>63</sup> *See* Vivaldi RFI response at RFIV-3.

<sup>64</sup> *See* Vivaldi RFI response at RFIV-3.

<sup>65</sup> *See* Vivaldi RFI response at RFIV-3.

<sup>66</sup> [Company] shows IR# [number] belongs to Vivaldi Commercial LLC; ACE shows that the IR name as Superior Granite and Marble By V. Vivaldi Commercial appeared in CBP’s [Company] system. A wildcard search in ACE for Vivaldi only returned results for Vivaldi Interiors LLC.

Vivaldi advertises in its catalog ECO Glass products, which only featured one product consistent with entries from the period of investigation.<sup>67</sup> The ECO Glass featured does not contain one-centimeter-wide glass visible across the entire surface,<sup>68</sup> which is an exclusionary requirement. Further, emails between Vivaldi and its Chinese suppliers demonstrate apparent deceptive practices to promote ECO Glass with vague descriptors especially with no mention of the large glass piece exemption. On July 25, 2019, a Chinese supplier stated to Vivaldi that “[*statement about importing* ]”<sup>69</sup>

In another correspondence dated July 27, 2019, with a Chinese supplier, Vivaldi was told [*statement about product description* ]<sup>70</sup> Additional emails show ECO Glass being marketed to Vivaldi by Chinese suppliers having equivalent designs to as the original QSP, but with nuances to avoid the payment of AD/CVD duties.<sup>71</sup> “[*statement about product description.* ]”<sup>72</sup>

Furthermore, Vivaldi provided a list of merchandise it imported from China, which was not inclusive of products CBP discovered in its documents review, such as Hazel White Granite, Blanco Eco Glass, Stellar White Eco Glass, and Blanco Maple Eco Glass.<sup>73</sup> Vivaldi’s purchase transactions for [Manufacturer #1] and [Manufacturer #3] identified discrepant information. One commercial invoice identified the product as granite, but the purchase history identified the product as Eco Glass.<sup>74</sup> On another occasion, the commercial invoice identified the products as Eco Glass, granite, and slab rack but the purchase history identified the products as granite.<sup>75</sup>

Vivaldi stated that manufacturers, [Manufacturer #3] and [Manufacturer #1], were the sole suppliers of ECO Glass products.<sup>76</sup> The RFI responses from [Manufacturer #3] and [Manufacturer #1] claimed that they were trading companies and not the true manufacturers of the merchandise.<sup>77</sup> Vivaldi was unaware that [Manufacturer #1] was not a manufacturer as evidenced by the walk through of its facilities by video conferencing.<sup>78</sup> However, Vivaldi began importing merchandise from [Manufacturer #1] beginning in February 2019, prior to travel restrictions effective March 2020.<sup>79</sup>

Vivaldi did not provide a Chart of Accounts, Trial Balance, or Affiliate Statement, as requested by CBP. It also did not provide its most recent audited financial statements for Superior Granite and Marble by Vivaldi. Vivaldi also failed to provide all requested documents related to the

---

<sup>67</sup> See Vivaldi RFI response at RFIV-6

<sup>68</sup> See Vivaldi RFI Response at RFIV-6.

<sup>69</sup> *Id.* at RFIV- 9, p. 134.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at Exhibit 9 p. 44

<sup>72</sup> *Id.*

<sup>73</sup> See Vivaldi RFI response at RFIV-7.

<sup>74</sup> See Vivaldi RFI response at RFIV-8.

<sup>75</sup> See Vivaldi RFI response at RFIV-8.

<sup>76</sup> See Vivaldi RFI response at 16.

<sup>77</sup> See [Manufacturer #3] RFI response and See [Manufacturer #1] RFI response.

<sup>78</sup> See Vivaldi RFI response.

<sup>79</sup> See Vivaldi RFI response.

sample transactions with [Manufacturer #3].<sup>80</sup> Significantly, it failed to provide samples or pictures of the imported products related to the entry review.

Furthermore, as requested by CBP, Vivaldi did provide an explanation of Eco Glass composition, stating the composition is [number] percent grit (comprised of [number] percent glass and [number] percent unsaturated polyester resin), [number] percent resin, [number] percent quartz, and [number] percent CaCo3 powder.<sup>81</sup> Vivaldi also did not detail the true manufacturers responsibility in processing these materials. It also provided a photograph of the merchandise, specifically product [model #], to prove that its products are outside the scope of the AD/CVD order; however, it did not pertain to any of the entries we reviewed.

In Vivaldi's e-ruling N302271, it addressed classification questions, not AD/CVD and as a result, the product described as "Slabs of Pressed Crushed Glass," does not match any of the product descriptions in the entries reviewed during the EAPA investigation.<sup>82</sup> Vivaldi maintained that the e-ruling samples were manufactured by [Manufacturer #1].<sup>83</sup> Two of the correspondences to support that claim were email exchanges between Vivaldi and [Company].<sup>84</sup> [Company] was not listed as a supplier during the POI nor did it supply any of the merchandise during the period of investigation based on CBP import data.

Vivaldi further provided the SGS test report for a product supplied by [Manufacturer #1], although the description only lists the product as "Glass Slab (Glass Stone)" and there are no other details to help identify whether it is any of the products imported during the POI. We compared the test results to the bill of materials provided by [Manufacturer #1]. The tested product is [number] percent glass; however, the bill of materials, which is the same for all the reviewed entries, shows that the total weight is [number] percent glass fibers. As previously mentioned, CBP tested two samples of Eco Glass obtained from cargo exams and determined one product was comprised of [number] percent quartz, [number] percent amorphous material, and [number] percent organic resin.<sup>85</sup> The second product was comprised of [number] percent SiO2 quartz, [number] percent glass, and [number] percent organic resin, respectively.<sup>86</sup> Accordingly, the product tested by [Manufacturer #1] does not appear to be any of the products imported during the POI.<sup>87</sup>

#### *[Manufacturer #1]*

Discrepancies are shown on [Manufacturer #1] website when it advertises Eco Glass and an affiliate website has similarities, except the product focus is only Eco Glass.<sup>88</sup> The website also discusses the manufacturing process and includes pictures of the product being manufactured. Both websites state [Manufacturer #1] specializes in the manufacturing of countertops and vanity

---

<sup>80</sup> The documents not provided included customer contracts, customer purchase orders, order confirmations, country of origin certificates, CBP Form 3461, sales journals, accounts receivable pages, cash receipts journals, general ledger pages, photographs, descriptive literature, and internal communications.

<sup>81</sup> See Vivaldi RFI response.

<sup>82</sup> See Vivaldi RFI response at 25.

<sup>83</sup> See Vivaldi RFI response at RFIV-9.3.

<sup>84</sup> See Vivaldi RFI response at 16.

<sup>85</sup> See Lab Reports.

<sup>86</sup> See Lab Reports.

<sup>87</sup> See Vivaldi RFI response at 13.

<sup>88</sup> See Vivaldi RFI response.



and tiles of granite, marble, and quartz, when all along it was claiming to be a trading company to CBP.<sup>89</sup>

In 2009, [Manufacturer #1] resold granite countertops and QSP to the US, but after the AD/CVD order on QSP, [Manufacturer #1] began to explore products to replace QSP.<sup>90</sup> Eco Glass was developed and sold to the United States by [Manufacturer #1] who was not responsible for any production.<sup>91</sup> The imports were produced by [Supplier #1] in China.<sup>92</sup> The name on the business license and articles of incorporation, translated to [Manufacturer name ] rather than [Manufacturer #1].<sup>93</sup> As a trading company, not the manufacturer, [Manufacturer #1] estimated the purchase cost for the required quantity of slabs for a project, which it presents to Vivaldi with a 10-15 percent profit markup.<sup>94</sup> Admittedly, they do not discuss the cost for every order with the manufacturer as a result, [Manufacturer #1] was unable to clarify how it determines the purchase price with the true manufacturer.<sup>95</sup> [Manufacturer #1] stated Eco Glass contains the composition of silica/quartz; however, in contrast, it also mentioned that silica is not the major composition of the products.<sup>96</sup>

[Manufacturer #1] provided CBP the bill of materials related to several of the Eco Glass entries reviewed by CBP,<sup>97</sup> all of which showed the same composition. The bill of materials for the two entries with CBP Laboratory results, comprise [number] percent quartz and [number] percent SiO<sub>2</sub> quartz, respectively.<sup>98</sup> As all the bill of materials showed the same amount of quartz powder used in each product, [number] kilograms or [number]% of the slab weight.<sup>99</sup> [Manufacturer #1] stated the bill of materials only provides the standard composition for each texture/color design of Eco Glass, but the actual compositions for each piece may vary subtly.

[Manufacturer #1] claimed it only exported Pure White and Iced White Eco Glass to the U.S.;<sup>100</sup> however, based on the commercial invoice descriptions for the entries reviewed, the evidence provided by [Manufacturer #1] contradicts its statement.<sup>101</sup> [Manufacturer #1] claims it was the first one to name the new-type glass products as “Eco Glass” and it was not an industry-wide or nation-wide acknowledged product name.<sup>102</sup> [Manufacturer #1] claims only itself and [Manufacturer #1 ] have access to the composition for each texture / color design of Eco Glass.

---

<sup>89</sup> See Vivaldi RFI response.

<sup>90</sup> See [Manufacturer #1] RFI response.

<sup>91</sup> See [Manufacturer #1] RFI response.

<sup>92</sup> See [Manufacturer #1] RFI response.

<sup>93</sup> See [Manufacturer #1] RFI response.

<sup>94</sup> See [Manufacturer #1] RFI response.

<sup>95</sup> See [Manufacturer #1] RFI response.

<sup>96</sup> See [Manufacturer #1] RFI response.

<sup>97</sup> See [Manufacturer #1] RFI response.

<sup>98</sup> See [Manufacturer #1] RFI response.

<sup>99</sup> This suggests the other products we received the bill of materials for are also comprised of similar amounts of quartz found through CBP Laboratory testing.

<sup>100</sup> See [Manufacturer #1] RFI response.

<sup>101</sup> It also imported Blanco, Stellar White, Blanco Maple, Calacatta Gold, Coastal Grey, and White Attica Eco Glass. It also provided bill of materials for Blanco Maple, Calacatta Gold, and Stellar White Eco Glass;

<sup>102</sup> However, [Company] used the term “Eco Glass” during email exchanges with Vivaldi and [Company] provided SGS test reports to [Manufacturer #1] to produce Eco Glass. [Manufacturer #3] also refers to the product it supplies Vivaldi as “Eco Glass”.

Although other companies assert it manufacturers Eco Glass, the composition of the products should be different than those manufactured by [Supplier #1].<sup>103</sup>

For entry [number]7519, [Manufacturer #1] mentioned granite products and Eco Glass products were shipped together; therefore, [Manufacturer #1] mistakenly labeled all the products as “Granite Countertop” on the commercial invoice.<sup>104</sup> [Manufacturer #1] also provided the CBP Form 7501 for each of the reviewed entries.<sup>105</sup> CBP did not receive evidence that this foreign trading company is one of these authorized parties.

[Manufacturer #1] further explained Eco Glass consumes silica powders during the production; however, glass fibers are the primary inputs.<sup>106</sup> It also stated there is no crushed glass during the whole production process and there is no visible glass across the surface of the products.<sup>107</sup> [Manufacturer #1] statement contradicts Vivaldi’s assertions that Eco Glass aligns with the definition of “crushed glass surface products.”<sup>108</sup> [Manufacturer #1] furnished a chart showing the monthly production of Eco Glass products and the comparison to CBP trade data highlighted reporting discrepancies.<sup>109</sup> [Manufacturer #1] provided two production flow charts, where the beginning process appeared to be different, as there is an additional step of “mixing” in the partially translated version. Chinese characters appear to be different in the first three production steps between the two versions. The [Manufacturer #1] production flow chart and the production flow chart provided by [Manufacturer #3] appeared to be the same. The differences between the two was the use of glass inputs as “glass fibre thread” or as “glass fibers.”

The [Manufacturer #1] translated production flow charts and the flow chart on its website differed when the inspection occurs and polishing/surface treatment.<sup>110</sup> There is no mention of glass fibers or crushed glass in the flowchart on the website, although there is a reference to quartz.<sup>111</sup> Additionally, the production flow chart states a “pulverizer” is used during the production process to produce a grit.<sup>112</sup>

[Manufacturer #1], the self-reported trading company, provided the monthly raw material inventory sheets showing the quantity and value of each input for the period of January 2020 to March 2021.<sup>113</sup> It, not the manufacturer, stated that glass fiber, unsaturated polyester resin, and

---

<sup>103</sup> [Manufacturer #3] bill of materials are basically in the same format and the products have the same composition compared to the bill of materials provided by [Manufacturer #1].

<sup>104</sup> See [Manufacturer #1] RFI response.

<sup>105</sup> According 19 United States Code 1484(a)(1), the importer of record or their authorized agent shall make entry by filing documentation with CBP and complete the entry summary.

<sup>106</sup> See [Manufacturer #1] RFI response.

<sup>107</sup> To qualify for the AD/CVD scope exclusion for crushed glass surface products, there must be crushed glass visible across the surface of the product.

<sup>108</sup> See [Manufacturer #1] RFI response.

<sup>109</sup> Monthly production by [Supplier #1] was [number] kilograms of Eco Glass. the total Eco Glass sold to Vivaldi from [Manufacturer #1], which was [number] kilograms, with the total monthly production of Eco Glass products by [Supplier #1]; however, the total production was [number] kilograms more than what was sold to Vivaldi.

<sup>110</sup> See [Manufacturer #1] RFI response.

<sup>111</sup> See [Manufacturer #1] RFI response.

<sup>112</sup> To qualify for the AD/CVD scope exclusion for crushed glass surface products, there must be crushed glass visible across the surface of the product and at least some of the individual pieces of crushed glass that are visible across the surface are larger than one centimeter wide.

<sup>113</sup> See [Manufacturer #1] RFI response.

calcium carbonate powders are the most significant direct material inputs.<sup>114</sup> The most significant direct material inputs are high white quartz powder, calcium carbonate powders, and glass fiber, based on the “current year accumulative consumption quantity.”<sup>115</sup>

In its response, [Manufacturer #1] provided purchase listings for raw material,<sup>116</sup> which is not consistent with information that a trading company would have at its disposal. Validation and verification of the raw material information was unattainable because of insufficient supporting documentation. While evidence was presented that [Supplier#1] purchased the most of glass fiber, unsaturated polyester resin, calcium carbonate powder, and high-white quartz powder,<sup>117</sup> [Manufacturer #1] furnished the product composition and material make up.<sup>118</sup> Historically, the true manufacturer and not the trading company would provide such information. Also, [Manufacturer #1] avoided responding to CBP’s request for a breakdown of the steps taken to ensure that [Supplier #1]’s use of raw material encompasses the actual make-up of the slabs sold to Vivaldi as Eco Glass.<sup>119</sup>

*[Manufacturer #3]*

In its RFI response, [Manufacturer #3], identified as a manufacturer in the allegation, claimed to be founded in 2005.<sup>120</sup> They also provided contradictory information stating the company was founded in 2002.<sup>121</sup> Further, the translated business license stated that the actual company’s name was [ Company name],” incorporated in 2017 rather than [Manufacturer #3].<sup>122</sup> After the imposition of AD/CVD orders on QSP from the PRC, [Manufacturer #3] chose Eco Glass as a substitute product for quartz and Eco Glass was chosen after doing research and testing.<sup>123</sup> As with [Manufacturer #1], [Manufacturer #3] maintains that it is a trading company and does not produce any products<sup>124</sup> and that the Eco Glass sold to the U.S. was produced by [ company name].<sup>125</sup> A contract between with the true manufacturer, [Supplier #1] and [Manufacturer #3] also translated its company’s name to “[company name ]”<sup>126</sup>

[Manufacturer #3] started trading consistently with Vivaldi in 2006 after getting contacted by an [Manufacturer #3] employee.<sup>127</sup> Ironically, Vivaldi did not provide any correspondences or SGS test reports pertaining to products supplied which would quantify its longstanding business relationship with [Manufacturer #3].<sup>128</sup> [Manufacturer #3] reported creating the bills of lading and entry summaries;<sup>129</sup> this practice is unusual for a manufacturer / supplier and is

---

<sup>114</sup> See [Manufacturer #1] RFI response.

<sup>115</sup> See [Manufacturer #1] RFI response.

<sup>116</sup> See [Manufacturer #1] RFI response.

<sup>117</sup> See [Manufacturer #1] RFI response.

<sup>118</sup> See [Manufacturer #1] RFI response.

<sup>119</sup> See [Manufacturer #1] RFI response.

<sup>120</sup> See [Manufacturer #3] RFI response at 3.

<sup>121</sup> See [Manufacturer #3] RFI response at 8.

<sup>122</sup> See [Manufacturer #3] RFI response at Exhibit 1.

<sup>123</sup> See [Manufacturer #3] RFI response.

<sup>124</sup> See [Manufacturer #3] RFI response at 11.

<sup>125</sup> *Id.*

<sup>126</sup> See [Manufacturer #3] RFI response.

<sup>127</sup> See [Manufacturer #3] RFI response at 9.

<sup>128</sup> See [Manufacturer #3] RFI response.

<sup>129</sup> See [Manufacturer #3] RFI response.

discrepant throughout its RFI response.<sup>130</sup> At times in the RFI response, the freight forwarder and customs broker generate the required documents.<sup>131</sup> Apparent marketing material submitted in lieu of a list of exports to the United States failed to mention of Eco Glass within the document.<sup>132</sup>

[Manufacturer #3] also provided a bill of materials for [model #1] Pure White<sup>133</sup> whose product description matched one of the products tested by the CBP Laboratory<sup>134</sup> and found to comprise [number] percent SiO<sub>2</sub> quartz.<sup>135</sup> The bill of materials was translated and determined to use similar inputs and the same number of inputs for Eco Glass as [Manufacturer #1].<sup>136</sup> Ironically, [Manufacturer #1] reported having sole access with its supplier to the composition for each texture / color design of Eco Glass<sup>137</sup> and that the composition of other Eco Glass products are different from those manufactured by their supplier.<sup>138</sup> There is no mention of glass inputs other than “glass fibre thread”; therefore, based on the bill of materials, there is no crushed glass in this product.<sup>139</sup> [Manufacturer #3] provided a production flow chart and there is no mention of glass inputs other than “glass fibre thread”.<sup>140</sup> Consequently, based on the production flow chart, there was no crushed glass in this product making it subject to the orders.

### *Conclusion*

In sum, based on the record of this investigation, CBP has determined that Vivaldi’s ECO Glass imports from China were entered into the US by misclassifying them as quartz surface products. Lab sampling by CBP and marketing materials indicated that this merchandise did not meet the

---

<sup>130</sup> See [Manufacturer #3] RFI response.

<sup>131</sup> See [Manufacturer #3] RFI response.

<sup>132</sup> See [Manufacturer #3] RFI response.

<sup>133</sup> See [Manufacturer #3] RFI response. [Manufacturer #3] uses the letters [letters] and digits from manufacturer’s code to identify ECO Glass slabs in their internal files.

<sup>134</sup> See [Manufacturer #3] RFI response.

<sup>135</sup> See [Manufacturer #3] RFI response and See [Manufacturer #1] RFI response.

<sup>136</sup> See [Manufacturer #3] RFI response at 7, 10 and 11 and See [Manufacturer #1] RFI response.

<sup>137</sup> See [Manufacturer #1] RFI response.

<sup>138</sup> See [Manufacturer #1] RFI response.

<sup>139</sup> See [Manufacturer #3] RFI response and See [Manufacturer #1] RFI response.

<sup>140</sup> See [Manufacturer #3] RFI response and See [Manufacturer #1] RFI response.

scope exclusion for crushed glass merchandise. There were not one-centimeter pieces of crushed glass visible across the slab surface. Moreover, a month after being notified of the EAPA investigation by CBP, Vivaldi began using a different Harmonized Tariff Schedule (HTS).<sup>141</sup> Accordingly, CBP determines that there is substantial evidence that Vivaldi evaded the Orders by failing to declare this merchandise as covered by the Orders and paying the appropriate amount of AD/CVD duties.

### **Actions Taken Pursuant to the Affirmative Determination as to Evasion**

In light of CBP's determination that Vivaldi entered merchandise into the customs territory of the United States through evasion, and pursuant to 19 USC 1517(d) and 19 CFR 165.28, CBP will suspend or continue to suspend the liquidation for the entries imported by Vivaldi and subject to EAPA Cons. Case Number 7586, until instructed to liquidate. For those entries previously extended and for all future entries subject to EAPA Cons. Case Number 7586, CBP will rate adjust and change those entries to type 03, using the "all others" AD/CVD rates for China unless DOC determines a separate rate applies to that entry, and continue suspension until instructed to liquidate. CBP will also evaluate Vivaldi's continuous bonds in accordance with CBP's policies and may require single transaction bonds, as appropriate. None of the above actions precludes CBP or other agencies from pursuing additional enforcement actions or penalties.

Sincerely,



Brian M. Hoxie  
Director, Enforcement Operations Division  
Trade Remedy Law Enforcement Directorate  
CBP Office of Trade

---

<sup>141</sup> In addition to using a new HTS Vivaldi also began to use a different customs broker for its imports.