

Bureau of Customs and Border Protection

CBP Decisions

RE-ACCREDITATION OF INTERTEK CALEB BRETT STOLTHAVEN TERMINAL AS A COMMERCIAL LABORATORY

[CBP Dec. 07-16]

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

ACTION: Notice of re-accreditation of Intertek Caleb Brett Stolthaven Terminal of Houston, Texas, as an accredited commercial laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12, Intertek Caleb Brett Stolthaven Terminal, 15602 Jacintoport Boulevard, Houston, Texas 77015, has been re-accredited to test Petroleum and Petroleum Products entered under Chapters 27 and 29 of the Harmonized Tariff Schedule of the United States (HTSUS) for customs purposes, in accordance with the provisions of 19 CFR 151.12. Anyone wishing to employ this entity to conduct laboratory analysis should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test requested. Alternatively, inquiries regarding the specific tests this entity is accredited to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.

DATES: The re-accreditation of Intertek Caleb Brett Stolthaven Terminal as an accredited laboratory became effective on February 17, 2005. The next triennial inspection date will be scheduled for February 2008.

FOR FURTHER INFORMATION CONTACT: Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: April 6, 2007

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

[Published in the Federal Register, April 12, 2007 (72 FR 18487)]

**RE-ACCREDITATION AND RE-APPROVAL OF SAYBOLT LP
AS A COMMERCIAL GAUGER AND LABORATORY**

[CBP Dec. 07-17]

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

ACTION: Notice of re-approval of Saybolt LP of Carson, California, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 151.13, Saybolt LP, 21730 South Wilmington Avenue, Carson, California 90810, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils, and to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 151.13. Anyone wishing to employ this entity to conduct laboratory analysis or gauger services should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific tests or gauger services this entity is accredited or approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.

DATES: The re-approval of Saybolt LP as a commercial gauger and laboratory became effective on September 14, 2006. The next triennial inspection date will be scheduled for September 2009.

FOR FURTHER INFORMATION CONTACT: Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: April 6, 2007

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

[Published in the Federal Register, April 12, 2007 (72 FR 18486)]

RE-APPROVAL OF INSPECTORATE AMERICA CORPORATION AS A COMMERCIAL GAUGER**[CBP Dec. 07-18]**

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

ACTION: Notice of re-approval of Inspectorate America Corporation of Freeport, Texas, as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13 Inspectorate America Corporation, 1331 North Avenue I, Suite E, Freeport, Texas 77541, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity for gauger services should request and receive written assurances from the entity that it is approved by the Bureau of Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger services this entity is approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.

DATES: The re-approval of Inspectorate America Corporation as a commercial gauger became effective on September 7, 2006. The next triennial inspection date will be scheduled for September 2009.

FOR FURTHER INFORMATION CONTACT: Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: April 6, 2007

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

[Published in the Federal Register, April 12, 2007 (72 FR 18485)]

**RE-ACCREDITATION AND RE-APPROVAL OF CAMIN
CARGO CONTROL INC., AS A COMMERCIAL GAUGER AND
LABORATORY**

[CBP Dec. 07-19]

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

ACTION: Notice of re-approval Camin Cargo Control, Inc., of Corpus Christi, Texas, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 151.13, Camin Cargo Control, Inc., 218 Centaurus Street, Corpus Christi, Texas 78405, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils, and to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 151.13. Anyone wishing to employ this entity to conduct laboratory analysis or gauger services should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific tests or gauger services this entity is accredited or approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.

DATES: The re-approval of Camin Cargo Control Inc., as a commercial gauger and laboratory became effective on November 3, 2006. The next triennial inspection date will be scheduled for November 2008.

FOR FURTHER INFORMATION CONTACT: Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: April 6, 2007

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

[Published in the Federal Register, April 12, 2007 (72 FR 18484)]

**RE-ACCREDITATION AND RE-APPROVAL OF COLUMBIA
INSPECTION, INC., AS A COMMERCIAL GAUGER AND
LABORATORY**

[CBP Dec. 07-20]

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

ACTION: Notice of re-approval of Columbia Inspection, Inc., of Portland, Oregon, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 151.13, Columbia Inspection, Inc., 7133 North Lombard Street, Portland, Oregon 97203, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils, and to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 151.13. Anyone wishing to employ this entity to conduct laboratory analysis or gauger services should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific tests or gauger services this entity is accredited or approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.

DATES: The re-approval of Columbia Inspection, Inc., as a commercial gauger and laboratory became effective on July 14, 2005. The next triennial inspection date will be scheduled for July 2008.

FOR FURTHER INFORMATION CONTACT: Eugene J. Bondoc, Ph.D, or Randall Breau, Laboratories and Scientific Services, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: April 7, 2007

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

[Published in the Federal Register, April 12, 2007 (72 FR 18485)]

**RE-ACCREDITATION AND RE-APPROVAL OF AMSPEC
SERVICES LLC AS A COMMERCIAL GAUGER AND
LABORATORY**

[CBP Dec. 07-21]

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

ACTION: Notice of re-approval of Amspec Services LLC of Linden, New Jersey, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 151.13, Amspec Services LLC, 360 East Elizabeth Avenue, Linden, New Jersey 07036, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils, and to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 151.13. Anyone wishing to employ this entity to conduct laboratory analysis or gauger services should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific tests or gauger services this entity is accredited or approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.

DATES: The re-approval of Amspec Services LLC as a commercial gauger and laboratory became effective on August 3, 2005. The next triennial inspection date will be scheduled for August 2008.

FOR FURTHER INFORMATION CONTACT: Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: April 6, 2007

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

[Published in the Federal Register, April 12, 2007 (72 FR 18485)]

**RE-ACCREDITATION AND RE-APPROVAL OF SAYBOLT LP,
INC., AS A COMMERCIAL GAUGER AND LABORATORY****[CBP Dec. 07-22]****AGENCY:** Bureau of Customs and Border Protection, Department of Homeland Security.**ACTION:** Notice of re-approval of Saybolt LP, Inc., of Tukwila, Washington, as a commercial gauger and laboratory.**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 151.13, Saybolt LP, Inc., 18251 Cascades Avenue South, Tukwila, Washington 98188, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils, and to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 151.13. Anyone wishing to employ this entity to conduct laboratory analysis or gauger services should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific tests or gauger services this entity is accredited or approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.**DATES:** The re-approval of Saybolt LP Inc., as a commercial gauger and laboratory became effective on July 15, 2005. The next triennial inspection date will be scheduled for July 2008.**FOR FURTHER INFORMATION CONTACT:** Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: April 6, 2007

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

[Published in the Federal Register, April 12, 2007 (72 FR 18486)]

**RE-ACCREDITATION AND RE-APPROVAL OF INTERTEK
CALEB BRETT, INC., AS A COMMERCIAL GAUGER AND
LABORATORY**

[CBP Dec. 07-23]

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

ACTION: Notice of re-approval of Intertek Caleb Brett, Inc., of Benicia, California, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 151.13, Intertek Caleb Brett, Inc., 6050 Egret Court, Benicia, California 94510, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils, and to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 151.13. Anyone wishing to employ this entity to conduct laboratory analysis or gauger services should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific tests or gauger services this entity is accredited or approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.

DATES: The re-approval of Intertek Caleb Brett as a commercial gauger and laboratory became effective on September 21, 2005. The next triennial inspection date will be scheduled for September 2008.

FOR FURTHER INFORMATION CONTACT: Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: April 6, 2007

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

[Published in the Federal Register, April 12, 2007 (72 FR 18486)]

**RE-ACCREDITATION AND RE-APPROVAL OF SAYBOLT LP
AS A COMMERCIAL GAUGER AND LABORATORY****[CBP Dec. 07-24]****AGENCY:** Bureau of Customs and Border Protection, Department of Homeland Security.**ACTION:** Notice of re-approval of Saybolt LP of Corpus Christi, Texas, as a commercial gauger and laboratory.**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 151.13, Saybolt LP, 414 Westchester, Corpus Christi, Texas 78408, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils, and to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 151.13. Anyone wishing to employ this entity to conduct laboratory analysis or gauger services should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific tests or gauger services this entity is accredited or approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.**DATES:** The re-approval of Saybolt LP as a commercial gauger and laboratory became effective on February 23, 2005. The next triennial inspection date will be scheduled for February 2008.**FOR FURTHER INFORMATION CONTACT:** Eugene J. Bondoc, Ph.D, or Randall Breau, Laboratories and Scientific Services, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: April 6, 2007

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

[Published in the Federal Register, April 12, 2007 (72 FR 18487)]

*General Notice***COPYRIGHT, TRADEMARK, AND TRADE NAME
RECORDATIONS****(No. 3 2007)**

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

SUMMARY: Presented herein are the copyrights, trademarks, and trade names recorded with U.S. Customs and Border Protection during the month of March 2007. The last notice was published in the CUSTOMS BULLETIN on December 6, 2006.

Corrections or updates may be sent to: Department of Homeland Security, U.S. Customs and Border Protection, Office of Regulations and Rulings, IPR Branch, 1300 Pennsylvania Avenue, N.W., Mint Annex, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Delois Johnson, Paralegal, Intellectual Property Rights Branch, (202) 572-8710.

Dated: April 5, 2007

GEORGE MCCRAY, ESQ.,
Chief,
Intellectual Property Rights Branch.

CBP IPR RECORDATIONS - MARCH 2007

Id.	Effective Date	Name of Copr/Tmkt/Trm	Owner Name	Recordation #
14	3/5/2007	MARWARE & DESIGN	MARWARE, INC.	NTMK 07-001
15	3/5/2007	MARWARE	MARWARE, INC.	NTMK 07-001
39	3/12/2007	TEXACRO	VELCRO INDUSTRIES, B.V.	NTMK 93-003
33	3/12/2007	MISCELLANEOUS DESIGN CONSISTING OF AN ALLIGATOR	LACOSTE ALLIGATOR S.A.	NTMK 97-003
50	3/12/2007	GAP KIDS	GAP (APPAREL), LLC	NTMK 93-007
35	3/12/2007	DIESEL	DIESEL S.P.A.	NTMK 05-000
31	3/12/2007	DESIGN (PEPSI)	PEPSICO, INC.	NTMK 98-009
76	3/12/2007	OSCAR	ACADEMY OF MOTION PICTURE ARTS AND SCIENCES	NTMK 98-003
79	3/12/2007	OSCAR	ACADEMY OF MOTION PICTURE ARTS AND SCIENCES	NTMK 98-003
06	3/12/2007	OSCAR STATUETTE	ACADEMY OF MOTION PICTURE ARTS AND SCIENCES	NTMK 96-000
93	3/12/2007	DENYNE	CADBURY ADAMS USA LLC	NTMK 95-005
65	3/12/2007	MARLBORO LIGHTS	PHILIP MORRIS USA INC.	NTMK 99-005
37	3/12/2007	FORTUNOFF, THE SOURCE	FORTUNOFF FINE JEWELRY AND SILVE	NTMK 96-007
48	3/12/2007	KK (STYLIZED)	KOHLER COMPANY	NTMK 95-007
44	3/12/2007	ACCORD	HONDA GIKEN KOGYO KABUSHIKI KAIS	NTMK 97-000
04	3/12/2007	RIVERSTONE	J. LOHR WINERY CORPORATION	NTMK 06-002
35	3/12/2007	OSCAR NIGHT	ACADEMY OF MOTION PICTURE ARTS AND SCIENCES	NTMK 00-003
56	3/12/2007	COCOCARE & DESIGN	COCOCARE PRODUCTS INC.	NTMK 00-003
73	3/12/2007	SEIKO	SEIKO KABUSHIKI KAISHA D/B/A SEIKO CORPORATION	NTMK 00-003
80	3/12/2007	SALEM	GMB, INC.	NTMK 00-002
32	3/12/2007	10/22/2016	GA MODEFINE S.A.	NTMK 01-004
95	3/12/2007	ARMANI	SEIRIN-AMERICA, INC.	NTMK 01-002
05	3/12/2007	10/15/2016	SEIRIN	NTMK 01-002
18	3/12/2007	10/22/2016	ATLANTA HAWKS AND DESIGN	NTMK 02-010
19	3/12/2007	4/23/2015	WYETH HOLDINGS CORPORATION	NTMK 02-010
19	3/12/2007	1/6/2017	FIBERCON	NTMK 02-008
55	3/12/2007	7/15/2016	ESPRIT (STYLIZED)	NTMK 02-008
50	3/12/2007	2/26/2017	I CAN LEARN	NTMK 03-001
09	3/12/2007	9/23/2016	DURAMLINE	NTMK 03-002
26	3/12/2007	9/17/2015	WYETH HOLDINGS CORPORATION	NTMK 03-002
82	3/12/2007	5/13/2016	FROM A TO ZINC	NTMK 04-006
			PANASONIC	NTMK 04-006
			BD.	NTMK 88-001
12	3/12/2007	2/14/2017	PEPSICO, INC.	NTMK 88-001
13	3/12/2007	2/14/2017	PEPSICO, INC.	NTMK 88-001

CBP IPR RECORDATIONS - MARCH 2007

93	3/12/2007	12/2/2016	SQUID DESIGN	THAI FISHSAUCE FACTORY (SQUID BRAND) CO., LTD.	NTMK 87-002
36	3/12/2007	4/29/2016	HOUSE THAT LOVE BUILT (SERVICE MARK)	MCDONALD'S CORP.	NTMK 89-001
99	3/12/2007	2/18/2016	RONALD MCDONALD DESIGN	MCDONALD'S CORPORATION	NTMK 89-006
68	3/12/2007	5/20/2016	FURY AND DESIGN	SHELL STORES CORPORATION DBA JOY ENTERPRISES	YFPMK 91-004
10	3/12/2007	2/25/2016	PLAYERS LIGHTS 25'S	PHILIP MORRIS INCORPORATED	YFPMK 91-005
81	3/12/2007	12/23/2016	TRUCK-LITE & DESIGN	TRUCK-LITE CO., INC.	YFPMK 92-006
91	3/12/2007	9/27/2016	BELL	BELL SPORTS, INC.	YFPMK 92-008
02	3/12/2007	10/15/2016	DESIGN ONLY	MOUNTAIN HARDWEAR, INC.	NTMK 06-012
90	3/12/2007	12/23/2016	KELLOGG'S FROSTED FLAKES	KELLOGG NORTH AMERICA COMPANY	NTMK 06-010
00	3/12/2007	10/24/2016	PALMOLIVE	COLGATE-PALMOLIVE COMPANY	NTMK 06-010
54	3/12/2007	1/14/2017	TONY THE TIGER DESIGN	KELLOGG NORTH AMERICA COMPANY	NTMK 06-010
20	3/12/2007	3/8/2015	DESIGN ONLY	PHOENIX INTERNATIONAL TRADING, INC.	NTMK 07-001
16	3/12/2007	1/8/2011	BOSTONIAN	C. & J. CLARK AMERICA, INC.	NTMK 07-001
17	3/12/2007	5/25/2014	BOSTONIAN	C. & J. CLARK AMERICA, INC.	NTMK 07-001
18	3/12/2007	8/27/2012	SWITCHERCAD	LINEAR TECHNOLOGY CORPORATION	NTMK 07-001
19	3/12/2007	6/13/2016	LINEAR EXPRESS	LINEAR TECHNOLOGY CORPORATION	NTMK 07-001
14	3/12/2007	3/12/2027	AUBUSSON WEAVE ; DESIGN 50G.	RENAISSANCE CARPET & TAPESTRY (RCT)	NCOP 07-000
24	3/12/2007	3/12/2027	JIBBITZ ANGEL FISH.	JIBBITZ, LLC	NCOP 07-000
15	3/12/2007	3/12/2027	JIBBITZ FROG.	JIBBITZ, LLC	NCOP 07-000
25	3/12/2007	3/12/2027	JIBBITZ LIPS.	JIBBITZ, LLC	NCOP 07-000
16	3/12/2007	3/12/2027	JIBBITZ HOCKEY STICK & PUCK.	JIBBITZ, LLC	NCOP 07-000
26	3/12/2007	3/12/2027	JIBBITZ HELMET.	JIBBITZ, LLC	NCOP 07-000
27	3/12/2007	3/12/2027	JIBBITZ CHEERLEADING SYMBOL.	JIBBITZ, LLC	NCOP 07-000
20	3/12/2007	3/12/2027	JIBBITZ SILLY FACES TEETH.	JIBBITZ, LLC	NCOP 07-000
21	3/12/2007	3/12/2027	JIBBITZ TURKEY	JIBBITZ, LLC	NCOP 07-000
19	3/12/2007	3/12/2027	JIBBITZ SPORTS DUDE.	JIBBITZ, LLC	NCOP 07-000
22	3/12/2007	3/12/2027	JIBBITZ EYE.	JIBBITZ, LLC	NCOP 07-000
18	3/12/2007	3/12/2027	JIBBITZ DOLPHIN.	JIBBITZ, LLC	NCOP 07-000
23	3/12/2007	3/12/2027	JIBBITZ GOLFER.	JIBBITZ, LLC	NCOP 07-000
25	3/12/2007	9/17/2012	BENJAMIN CUMMINGS	ADISON WESLEY LONGMAN, INC.	NTMK 07-001
17	3/12/2007	3/12/2027	AUBUSSON WEAVE ; DESIGN 126G.	RENAISSANCE CARPET & TAPESTRY (RCT)	NCOP 07-000
21	3/12/2007	9/15/2008	ADDISON WESLEY	PEARSON EDUCATION, INC.	NTMK 07-001
28	3/12/2007	3/12/2027	AUBUSSON WEAVE ; DESIGN 91.	RENAISSANCE CARPET & TAPESTRY (RCT)	NCOP 07-000
22	3/12/2007	8/8/2016	MOOD BY VICTORIA'S SECRET	VICTORIA'S SECRET BRAND MANAGEMENT, INC.	NTMK 07-001
24	3/12/2007	10/21/2007	D'ARTAGNAN	D'ARTAGNAN TRADEMARSK, LLC	NTMK 07-001

CBP IPR RECORDATIONS - MARCH 2007

23	3/12/2007	12/13/2007	THINSULATE	3M COMPANY	NETMK 07-001
13	3/12/2007	3/12/2007	BVLGARI - 2006 OPTICAL AND SUNGLASS UPDATE 1	BVLGARI S.P.A. EMPLOYER FOR HIRE OF PAOLO BVLGARI	NECOP 07-000

rds: 69
4/2/2007

Total Reco
Date as of:

**QUARTERLY IRS INTEREST RATES USED IN
CALCULATING INTEREST ON OVERDUE ACCOUNTS AND
REFUNDS ON CUSTOMS DUTIES**

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

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning April 1, 2007, the interest rates for overpayments will remain at 7 percent for corporations and 8 percent for non-corporations, and the interest rate for underpayments will remain at 8 percent. This notice is published for the convenience of the importing public and Customs and Border Protection personnel.

EFFECTIVE DATE: April 1, 2007.

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614-4516.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85-93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. Law 105-206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2007-16, the IRS determined the rates of interest for the calendar quarter beginning April 1, 2007, and ending June 30, 2007. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (5%) plus three percentage points (3%) for a total of eight percent (8%). For corporate overpayments, the rate is the Federal short-term rate (5%) plus two percentage points (2%) for a total of seven percent (7%). For overpayments made by non-corporations, the rate is the Federal short-term rate

(5%) plus three percentage points (3%) for a total of eight percent (8%). These interest rates are subject to change for the calendar quarter beginning July 1, 2007, and ending September 30, 2007.

For the convenience of the importing public and Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

<u>Beginning Date</u>	<u>Ending Date</u>	<u>Under- payments (percent)</u>	<u>Over- payments (percent)</u>	<u>Corporate Overpay- ments (Eff. 1-1-99) (percent)</u>
070174	063075	6 %	6 %	
070175	013176	9 %	9 %	
020176	013178	7 %	7 %	
020178	013180	6 %	6 %	
020180	013182	12 %	12 %	
020182	123182	20 %	20 %	
010183	063083	16 %	16 %	
070183	123184	11 %	11 %	
010185	063085	13 %	13 %	
070185	123185	11 %	11 %	
010186	063086	10 %	10 %	
070186	123186	9 %	9 %	
010187	093087	9 %	8 %	
100187	123187	10 %	9 %	
010188	033188	11 %	10 %	
040188	093088	10 %	9 %	
100188	033189	11 %	10 %	
040189	093089	12 %	11 %	
100189	033191	11 %	10 %	
040191	123191	10 %	9 %	
010192	033192	9 %	8 %	
040192	093092	8 %	7 %	
100192	063094	7 %	6 %	

<u>Beginning Date</u>	<u>Ending Date</u>	<u>Under- payments (percent)</u>	<u>Over- payments (percent)</u>	<u>Corporate Overpay- ments (Eff. 1-1-99) (percent)</u>
070194	093094	8 %	7 %	
100194	033195	9 %	8 %	
040195	063095	10 %	9 %	
070195	033196	9 %	8 %	
040196	063096	8 %	7 %	
070196	033198	9 %	8 %	
040198	123198	8%	7%	
010199	033199	7%	7%	6%
040199	033100	8%	8%	7%
040100	033101	9%	9%	8%
040101	063001	8%	8%	7%
070101	123101	7%	7%	6%
010102	123102	6%	6%	5%
010103	093003	5%	5%	4%
100103	033104	4%	4%	3%
040104	063004	5%	5%	4%
070104	093004	4%	4%	3%
100104	033105	5%	5%	4%
040105	093005	6%	6%	5%
100105	063006	7%	7%	6%
070106	063007	8%	8%	7%

Dated: April 5, 2007

DEBORAH J. SPERO,
*Acting Commissioner,
Customs and Border Protection.*

[Published in the Federal Register, April 11, 2007 (72 FR 18265)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, April 4, 2007

The following documents of the Bureau of Customs and Border Protection ("CBP"), Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and CBP field offices to merit publication in the CUSTOMS BULLETIN.

SANDRA L. BELL,
*Executive Director,
Regulations and Rulings Office of Trade.*

**PROPOSED REVOCATION OF RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
CLASSIFICATION OF TREATED FLAX YARN**

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

ACTION: Notice of proposed revocation of a tariff classification ruling letter and revocation of any treatment relating to the classification of treated flax yarn.

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 relating to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of treated flax yarn. Similarly, CBP proposes to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the proposed action.

DATE: Comments must be received on or before May 25, 2007.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue N.W., Mint Annex, Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrange-

ments to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Ann Segura Minardi, Tariff Classification and Marking Branch, (202) 572-8822.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility**." These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. section 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke one ruling letter pertaining to the tariff classification of treated flax yarn. Although in this notice, CBP is specifically referring to the revocation of New York Ruling Letter (NY) L82682, dated March 9, 2005 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise CBP during this notice period.

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

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

In NY L82682, CBP classified a treated flax yarn in subheading 5607.90.9000, HTSUSA, which provides for "Twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics: Other: Other". Based on our recent review of NY L82682, we have determined that the tariff classification set forth for the treated yarn is incorrect. It is now CBP's view that the proper tariff classification is subheading 5306.20.0000, HTSUSA, which provides for "Flax yarn: Multiple (folded) or cabled".

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY L82682 and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letter (HQ) 967902 (Attachment B). Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions that are contrary to the determination set forth in this notice. Before taking this action, consideration will be given to any written comments timely received.

DATED: April 4, 2007

GAIL A. HAMILL for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

NY L82682
March 9, 2005
CLA-2-56:RR:NC:N3:351 L82682
CATEGORY: Classification
TARIFF NO.: 5607.90.9000

PETER HERRMANN
AMERICAN FALCON, INC.
470 Main Street Route 28
Harwich Port, MA 02646-1604

RE: The tariff classification of flax cord from India

DEAR MR. HERRMANN:

In your letter dated February 8, 2005, you requested a tariff classification ruling.

The item in question is 5-ply (multiple) white cord composed of 100 percent vegetable fibers with the characteristics of flax. The yarn is treated with a substance of the polyethylene type and has an approximate decitex of 6448. It is wound on a spool that weighs 484 grams. Its box is labeled "100% FLAX / TEX 500 5 CORD LINEN THREAD / MADE IN INDIA."

The applicable subheading for the flax cord will be 5607.90.9000, Harmonized Tariff Schedule of the United States (HTS), which provides for twine, cordage, ropes, and cables . . . other, other. The rate of duty will be 6.3 percent ad valorem.

You state that the yarn is properly classifiable in subheading 5306.20.0000, HTS, which provides for flax yarn, multiple. However, Note 3(A) to Section XI, HTS, describes those yarns that are to be treated as twine, cordage, ropes or cables. In discussing flax yarns, the note specifies, at (c):

(i) polished or glazed, measuring 1,429 decitex or more. . . .

This describes the sample you have sent us. You state that heading 5607 refers to bast fibers; however, you are misreading the provision, as only subheading 5607.10.0000, HTS, covers twine, cordage, etc., of bast fibers. As stated above, your flax cord is classified in subheading 5607.90.9000, 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 Mitchel Bayer at 646-733-3102.

ROBERT B. SWIERUPSKI,
Director,
National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ W967902
CLA-2 RR:CTF:TCM W967902 ASM
CATEGORY: Classification
TARIFF NO.: 5306.20.0000

PETER HERMANN
AMERICAN FALCON, INC.
470 Main St., Route 28
Harwich Port, MA 02646-1604

RE: Tariff classification of treated yarn; Revocation of NY L82682

DEAR MR. HERMANN:

This is in response to a request for reconsideration of Customs and Border Protection (CBP) New York Ruling letter (NY) L82682, dated March 9, 2005, which classified a certain treated yarn under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). Samples have been submitted to CBP for examination.

We have reconsidered NY L82682 and have determined that the classification of the treated yarn is not correct.

FACTS:

The subject merchandise consists of white yarn, identified as "TEX 500 5 cord linen thread". It is imported on a spool that weighs 484 grams. According to the CBP Laboratory Report, the sample is a 5-ply (multiple) white yarn composed of 100 percent by weight vegetable fibers with the characteristics of flax. The yarn is treated with a substance of the polyethylene type and has an approximate decitex of 6448. There was no rubber material detected on the sample.

In NY L82682, the yarn was classified in subheading 5607.90.9000, HTSUSA, which provides for "Twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics: Other: Other".

The merchandise was invoiced under subheading 5306.20.0000, HTSUSA, as "Flax yarn: Multiple (folded) or cabled". You disagree with CBP's determination in NY L82682 that the product is classified in subheading 5607.90.9000, HTSUSA. Furthermore, you assert that the yarn is merely "waxed" and not "polished or glazed" within the meaning of the General Explanatory Notes to Section XI(I)(B).

ISSUE:

What is the proper classification for the merchandise?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied. 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 HTSUSA and are generally indicative of the proper interpretation of these headings. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

We begin by noting that, in relevant part, the General EN's to Section XI(I)(B), state as follows:

(B) Yarns

* * *

Polished or glazed yarns are those which have been treated with preparations based on natural substances (wax, paraffin, etc.) or on synthetic substances (acrylic resins in particular). They are then made glossy by means of polishing rollers.

In considering this definition, we recognize that the yarn, while treated with a coating, is not "polished or glazed" within the meaning of the General EN to Section XI cited above. In fact, the yarn has not been made "glossy" by means of polishing rollers.

Section XI, Note 3(A)(c), HTSUSA, specifies that the following descriptions are to be treated as "twine, cordage, ropes and cables":

* * *

- (c) Of true hemp or flax:
 - (i) Polished or glazed, measuring 1,429 decitex or more; or
 - (ii) Not polished or glazed, measuring more than 20,000 decitex;

* * *

As we have already noted, the flax yarn is not “polished or glazed” within the meaning of the tariff. Furthermore, it is not more than 20,000 decitex and only has an approximate decitex of 6448. Thus, pursuant to Section XI, Note 3(A)(c)(ii), the subject yarn cannot be classified within a provision for “twine, cordage, ropes and cables”.

The General EN’s to Section XI(I)(B), Table I, provide that flax yarn, neither polished nor glazed, measuring less than 20,000 decitex is to be classified in Chapter 53, HTSUSA. Inasmuch as the subject yarn is not “polished or glazed” within the meaning of the General EN to Section XI, it is not precluded from classification in Chapter 53, HTSUSA. Accordingly, we find that the merchandise, which is only a decitex of 6448, is properly classified as “flax yarn” of heading 5306, HTSUSA. We further find that NY L82682 erroneously classified the yarn in subheading 5607.90.9000, HTSUSA.

HOLDING:

The subject merchandise is correctly classified in subheading 5306.20.0000, HTSUSA, which provides for “Flax yarn: Multiple (folded) or cabled”. The general column one duty rate is *Free*. The textile category is 800.

EFFECT ON OTHER RULINGS:

NY L82682, dated March 9, 2005, is hereby revoked.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUSA and the accompanying duty rates are provided on the world wide web at www.usitc.gov. With the exception of certain products of China, quota/visa requirements are no longer applicable for merchandise which is the product of World Trade Organization (WTO) member countries. The textile category number above applies to merchandise produced in non-WTO member-countries. Quota and visa requirements are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information on quota and visa requirements applicable to this merchandise, we suggest you check, close to the time of shipment, the “Textile Status Report for Absolute Quotas” which is available on our web site at www.cbp.gov. For current information regarding possible textile safeguard actions on goods from China and related issues, we refer you to the web site of the Office of Textiles and Apparel of the Department of Commerce at otexa.ita.doc.gov.

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, you should contact the local CPB office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

MYLES B. HARMON,

Director,

Commercial and Trade Facilitation Division.

**PROPOSED REVOCATION AND OF A RULING LETTER
AND REVOCATION OF TREATMENT RELATING TO
TARIFF CLASSIFICATION OF MILLAD® 3988i**

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

ACTION: Notice of revocation of a tariff classification ruling letter and revocation of treatment relating to the classification of MILLAD® 3988i.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)), this notice advises interested parties that Customs and Border Protection (CBP) is proposing to revoke one ruling letter relating to the tariff classification of MILLAD® 3988i under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also proposing to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before May 25, 2007.

FOR FURTHER INFORMATION CONTACT: Kelly Herman, Tariff Classification and Marking Branch: (202) 572-8713.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI") became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility**." These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke one ruling letter pertaining to the tariff classification of MILLAD[®] 3988i. Although in this notice, CBP is specifically referring to the revocation of New York Ruling Letter (NY) R03248 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

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

In NY R03248, CBP ruled that MILLAD[®] 3988i was classified in heading 3824, HTSUS, which provides for "Chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: Other: Mixtures containing 5 percent or more by weight of one or more aromatic or modified aromatic substances." Since the issuance of that ruling, CBP has reviewed the classification of this item and has determined that the cited ruling is in error.

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY R03248 and to revoke or modify any other ruling not specifically identified, to reflect the proper classification of MILLAD[®] 3988i according to the analysis contained in proposed Headquarters Ruling Letter (H) 003890, set forth as Attachment B. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

DATED: April 9, 2007

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,
BUREAU OF CUSTOMS AND BORDER PROTECTION,

NY R03248
May 18, 2006
CLA-2-38:RR:NC:2:239 R03248
CATEGORY: Classification
TARIFF NO.: 3824.90.2800

MR. JOHN D. BRUHNKE
MILLIKEN CHEMICAL
920 Milliken Rd., M-209
Spartanburg, SC 29304

RE: The tariff classification of MILLAD® 3988i.

DEAR MR. BRUHNKE:

In your letter dated February 8, 2006, you requested a tariff classification ruling for MILLAD® 3988i which is a mixture of 96–98% D-Glucitol, 1,3:2,4-Bis-O-[(3,4-Dimethylphenyl) Methylene]- (CAS 135861–56–2) and 2–4% silated silicon dioxide. You have stated that this product will be used as a clarifying agent for polyolefin plastics.

You request classification as a separate chemically defined compound in subheading 2932.99.6100, Harmonized Tariff Schedule of the United States (HTSUS), claiming that the silated silicon dioxide functions as a flow control (anti-caking) additive. Chapter 29 Note 1(a) states that products of chapter 29 must be “Separate chemically defined organic compounds whether or not containing impurities” and may contain. “an added stabilizer (including an anti-caking agent) necessary for their preservation or transport” (Chapter 29 Note 1(f)).

Silicon dioxide is used in several applications in the polymer industry such as a slip and block agent in the formulation of polyolefins. Additives added for a specific use rather than a general use are precluded from classification in chapter 29 as a separate chemically defined compound. The silated silicon dioxide renders the product for a specific use and would therefore be classified as a chemical mixture in chapter 38.

You reference a ruling previously issued to you (NY R02067) in which MILLAD® 3988 (D-Glucitol, 1,3:2,4-Bis-O-[(3,4-Dimethylphenyl) Methylene]-), CAS 135861–56–2, was classified in subheading 2932.99.6100, HTSUS. However, that product was imported without the silated silicon dioxide or any other additive.

The applicable subheading will be 3824.90.2800, HTSUS, which provides for foundry molds or cores: chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: other: mixtures containing 5 percent or more by weight of one or more aromatic or modified aromatic substances: other. The rate of duty will be 6.5 percent ad valorem.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are

provided on World Wide Web at <http://www.usitc.gov/tata/hts/>.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Richard Dunkel at 646-733-3032.

ROBERT B. SWIERUPSKI,
Director,
National Commodity Specialist Division.

[ATTACHMENT B]

HQ H003890
CLA-2 RR:CTF:TCM H003890 KSH
TARIFF NO.: 2932.99.6100

BARRY COHEN, ESQ.
CROWELL & MORING LLP
1001 Pennsylvania Avenue N.W.
Washington, D.C. 20004

RE: Revocation of New York Ruling Letter (NY) R03248, dated May 18, 2006; Classification of MILLAD® 3988i.

DEAR MR. COHEN:

This is in response to your letter of June 16, 2006, on behalf of your client Milliken Chemical, in which you request reconsideration of New York Ruling Letter (NY) R03248, issued on May 18, 2006, concerning the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of MILLAD® 3988i. The MILLAD® 3988i was classified in subheading 3824.90.2800, HTSUS, which provides for "Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included: Other: Other: Mixtures containing 5 percent or more by weight of one or more aromatic or modified aromatic substances: Other."

You have provided additional information not included with the original ruling request to support the assertion that the silicon dioxide present in the product is for anti-caking purposes. Thus, you maintain that the MILLAD® 3988i should be classified in subheading 2932.99.6100, HTSUS, which provides for "Heterocyclic compounds with oxygen hetero-atom(s) only: Other: Other: Aromatic: Other: Products described in additional U.S. note 3 to section VI." In accordance with your request for reconsideration of NY R03248, CBP has reviewed the classification of this item and has determined that the cited ruling is in error.

FACTS:

The merchandise at issue is identified as MILLAD® 3988i. It is used as a clarifying agent for polyolefin plastics. The MILLAD® 3988i is composed of 96-98% D-Glucitol, 1,3:2,4-bis-o-[(3,4-dimethylphenyl) methylene]- (CAS 135861-56-2) and 2-4% silated silicon dioxide.

ISSUE:

Whether the MILLAD® 3988i is classified as a chemical product or preparation of the chemical or allied industries of heading 3824, HTSUS, or as a separate chemically defined organic compound of heading 2932, HTSUS.

LAW AND ANALYSIS:

Classification of goods under the HTSUSA 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.

The Harmonized Commodity Description and Coding System Explanatory Notes (EN), constitute the official interpretation of the tariff at the international level. While neither legally binding nor dispositive, the EN provide a commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings.

In accordance with Note 1 to Chapter 38, HTSUS, MILLAD® 3988i cannot be classified in Chapter 38, HTSUS, if it is determined to be a separate chemically defined compound. Note 1 to Chapter 38, HTSUS, provides in relevant part:

1. This chapter does not cover:

(a) Separate chemically defined elements or compounds with the exception¹ of the following:

* * * *

Note 1 to Chapter 29, HTSUS, provides in relevant part:

1. Except where the context otherwise requires, the headings of this chapter apply only to:

(a) Separate chemically defined organic compounds, whether or not containing impurities;

* * * *

(f) The products mentioned in (a), (b), (c), (d) or (e) above with an added stabilizer (including an anticaking agent) necessary for their preservation or transport;

* * * *

MILLAD® 3988i will be classified in Chapter 29, HTSUS, only if the silicon dioxide is present as a stabilizer necessary for its preservation or transport. In NY R03248, we determined that silicon dioxide is applied in the polymer industry for several applications, including as a slip and block agent in the formulation of polyolefins. As an additive for a specific use rather than a general use, we concluded that Note 1(f) to Chapter 29, HTSUS, precluded MILLAD® 3988i from classification in Chapter 29, HTSUS.

You have now provided information that silicon dioxide which is used as a slip and block agent in polyolefins is present in amounts of 0.1 to 0.4 percent by weight of the polyolefin product. The MILLAD® 3988i only comprises 0.2 percent by weight of the final polyolefin product and therefore the silicon di-

¹Millad does not fall within any of the exceptions.

oxide comprises no more than 0.008 percent of the final product. Thus, it cannot be used for slip and anti-block purposes.

We have confirmed in New York Laboratory Report NY20061573, dated November 6, 2006, that the silicon dioxide present in MILLAD® 3988i is insufficient for use as a slip and anti-block agent. Further, the silicon dioxide is present for anti-caking purposes. Accordingly, MILLAD® 3988i is classified in heading 2932, HTSUS.

HOLDING:

The MILLAD® 3988i is classified in heading 2932, HTSUS. It is provided for in subheading 2932.99.6100, HTSUS, which provides for "Heterocyclic compounds with oxygen hetero-atom(s) only: Other: Other: Aromatic: Other: Products described in additional U.S. note 3 to section VI." The general column one rate of duty is 6.5% *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY R03248, dated May 18, 2006, is hereby revoked.

MYLES B. HARMON,

Director;

Commercial and Trade Facilitation Division.

**PROPOSED MODIFICATION OF RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF PRINTED BOOKS**

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

ACTION: Notice of proposed modification of tariff classification ruling letter and revocation of treatment relating to the classification of printed books.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (CBP) intends to modify one ruling letter relating to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of a 38-page paperbound book measuring 5 ½ inches by 8 ½ inches. Similarly, CBP proposes to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before May 25, 2007.

ADDRESS: Written comments are to be addressed to Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark of the Trade and Commercial Regulations Branch at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Beth Safeer, Tariff Classification and Marking Branch, at (202) 572-8825.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "informed compliance" and "shared responsibility." These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to modify one ruling letter relating to the tariff classification of a printed paperbound book. Although in this notice CBP is specifically referring to the modification of Headquarters Ruling Letter (HQ) 089388, dated July 12, 1991, (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or pro-

test review decision) on the merchandise subject to this notice, should advise CBP during this notice period.

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

In HQ 089388, CBP classified a paperbound book, measuring 5 ½ by 8 ½ inches under heading 4901.99.0075, HTSUSA, which provides for "printed books: other: other: other: other: rack size paperbound books. For the reasons set forth in proposed HQ W968178 (Attachment B), we find that the printed book is properly classified under heading 4901.99.0092, HTSUSA, which provides for "Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets: Other: Other: Other: Other: Other: Containing 5 or more pages each, but not more than 48 pages each (excluding covers)." The general column one rate of duty is free.

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to modify HQ 089388 and to modify or revoke any ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed HQ W968178. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions that are contrary to the determination set forth in this notice.

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

DATED: April 10, 2007

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 089388 July 12, 1991
CLA-2 CO:R:T:C 089388 jlj
CATEGORY: Classification
TARIFF NO.: 4901.99.0075

MS. PENNY L. ELLIOTT
CHERSAR SERVICES INC.
P. O. Box 3025
Sarnia, Ont. N7T 7M1 Canada

RE: Classification of a book

DEAR MS. ELLIOTT:

In your letter of April 23, 1991, you requested a tariff classification ruling under the Harmonized Tariff Schedule of the United States (HTSUSA) for a paperback book imported from Canada. You submitted a sample along with your letter.

The book is entitled "What's the Duty? The 1991 Smart Shopper's Guide to Bringing Goods Back to Canada." It contains information designed to assist Canadian shoppers with purchases from abroad. It is printed and bound in a printed paperboard cover. It measures 21.5 centimeters by 14 centimeters.

This book is classified under subheading 4901.99.0075, HTSUSA, in the provision for printed books: other: other: other:
other: other: rack size paperback books. It is free of duty.

JOHN DURANT,
Director,
Commercial Rulings Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ W968178
CLA-2 RR:CTF:TCM W968178 BAS
CATEGORY: Classification
TARIFF NO.: 4901.99.0092

PENNY L. ELLIOTT
CHERSAR SERVICES, INC.
P.O. Box 3025
Sarnia, Ontario N7T 7M1
Canada

RE: Classification of a Paperbound book; HQ 089388 modified

DEAR MS. ELLIOTT:

This is in reference to Headquarters Ruling Letter (HQ) 089388, dated July 12, 1991, which classified, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), certain paperback printed books. In

that ruling the products at issue were classified in subheading 4901.99.0075, HTSUSA, which provides for rack size paperbound books. We have reviewed HQ 089388 and determined the classification provided therein is incorrect at the statistical level. This ruling modifies HQ 089388.

FACTS:

The book at issue is entitled, "What's the Duty? The 1991 Smart Shopper's Guide to Bringing Goods Back to Canada" and is a 38 page paperback measuring five and a half inches by eight and a half inches." The publishing company is Chersar, Inc.

ISSUE:

Is the subject merchandise classifiable in subheading 4901.99.0075, HTSUSA, which provides for "Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets: Other: Other: Other: Other: Rack size paperbound books" or under subheading 4901.99.0092, HTSUSA, which provides for "Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets: Other: Other: Other: Other: Other: Containing 5 or more pages each but not more than 48 pages each (excluding covers)"?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

When interpreting and implementing the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, while neither legally binding nor dispositive, provide a guiding commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. Customs and Border Protection (CBP) believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Neither the HTS nor the ENs offer any definition of "rack size paperbound books." Trade sources indicate that the American mass-market paperback, referred to as "rack size," is approximately 6 ¾ inches – 7 inches by 4 ⅛ or 4 ¼ inches. See www.bookdist.com; www.alwdb.com; www.pw.org; www.sff.net/people/dlyle/macdonald/publishing.htm; and www.sizes.com/tools/books.htm. In addition, trade sources indicate that the mass market paperbacks are intended for non-bookstore outlets such as news stands, grocery stores, etc. They are often distributed in the same way as magazines and newspapers.

Trade sources state, further, that there are two basic kinds of paperbacks, one of which is market, the small "rack size book"- approximately 7 by 4 ½ inches, which "easily fits in the back pocket of a pair of jeans" and the other which is the trade paperback which is usually a larger or oversized softcover book. The subject merchandise, which measures 5 ½ by 8 ½ inches is clearly larger than the industry definition of a rack size or mass market book. It would be very difficult to imagine that the book at issue would fit into the back pocket of a pair of jeans as would a "rack size book" as contemplated by

the trade source. The distribution outlet in this case is not determinative as it may be sold at either a bookstore or possibly in a newstand at an airport.

The classification of substantially similar merchandise was addressed in HQ 967939, dated April 21, 2006. The 5 1/2" by 8 1/2" paperback book at issue is substantially similar in construction and function to the 5" x 8" printed book at issue in HQ 967939. Although different topics and slightly different lengths, both are quick reference books and are approximately the same size.

In HQ 967939, it was determined that the paper book was properly classified under subheading 4901.99.0093, HTSUSA, which provides for "Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets: Other: Other: Other: Other: Other: Other: Containing 49 or more pages each (excluding covers)." As the subject merchandise is substantially similar to the merchandise addressed in the aforementioned ruling, the merchandise would be classified accordingly.

HOLDING:

The proper classification for the paperback printed book at issue is subheading 4901.99.0092, HTSUSA, which provides for "Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets: Other: Other: Other: Other: Other: Other: Containing 5 or more pages each, but not more than 48 pages each (excluding covers)." The general column one rate of duty is free.

In HQ 089388, although the paper book was correctly classified in heading 4901, HTSUSA, the merchandise was improperly classified as to the subheading within 4901, HTSUSA. Accordingly, HQ 089388 is modified to reflect the above classification.

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

MYLES B. HARMON,

Director,

Commercial and Trade Facilitation Division.

19 CFR PART 177

**REVOCATION OF RULING LETTERS AND REVOCATION
OF TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF CERTAIN "PODS" DESIGNED TO
PROMOTE WEIGHT LOSS**

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

ACTION: Notice of revocation of a tariff classification ruling letter and revocation of treatment relating to the classification of certain "pods" designed to promote weight loss.

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 Moderniza-

tion) 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 a ruling letter relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of certain “pods” designed to promote weight loss. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice proposing these actions and inviting comments on their correctness was published in the *Customs Bulletin*, Volume 41, Number 10, on February 28, 2007. No comments were received in response to this notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after June 24, 2007.

FOR FURTHER INFORMATION CONTACT: Brian Barulich, Tariff Classification and Marking Branch, at (202) 572-8883.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter “Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **informed compliance** and **shared responsibility**. These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke New York Ruling Letter (“NY”) M81992 was published in the *Customs Bulletin*, Volume 41, Number 10, on February 28, 2007. No comments were received in response to this notice. As stated in the proposed notice, the revocation will cover 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.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during this notice period.

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

In NY M81992, CBP determined the two "pods" at issue, specifically identified as the "Silhouwell Fit" and the "Silhouwell Comfort," to be a single composite good, and classified it in subheading 9506.91.0030, HTSUS, which provides for: "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: Other: Articles and equipment for general physical exercise, gymnastics or athletics; parts and accessories thereof."

As a result of additional information obtained about the merchandise after the issuance of NY M81992, CBP now recognizes that the two "pods" at issue are not a single composite good, but individual articles which must be classified separately. Specifically, the Silhouwell Fit is classified in subheading 9506.91.0030, HTSUS, which provides for: "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: Other: Articles and equipment for general physical exercise, gymnastics or athletics; parts and accessories thereof" and the Silhouwell Comfort is classified in subheading 8516.29.0090, HTSUSA, which provides for: "Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof: Electric space heating apparatus and electric soil heating apparatus: Other, Other."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY M81992 and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letter ("HQ") H003373, which is set forth as an attachment to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

DATED: April 10, 2007

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachment

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ H003373
April 10, 2007
CLA-2 RR:CTF:TCM H003373 BtB
CATEGORY: Classification
TARIFF NO.: 9506.91.0030, 8516.29.0090

MR. JEFF HUI
JING, INC.
1852 Langley Ave.
Irvine, CA 92614

Re: Classification of "Silhouwell Fit" pod and "Silhouwell Comfort" pod; NY M81992 revoked

DEAR MR. HUI:

Based on your letter dated September 18, 2006, U.S. Customs and Border Protection ("CBP") has determined that New York Ruling Letter ("NY") M81992, issued to you on April 6, 2006, is in error. We thank you for bringing the fact that the merchandise was not described correctly in NY M81992 to our attention.

In NY M81992, CBP found the two machines at issue, the "Silhouwell Fit" and the "Silhouwell Comfort," to be a single composite good and classified it, pursuant to General Rule of Interpretation 3(b), in subheading 9506.91.0030, Harmonized Tariff Schedule of the United States Annotated ("HTSUSA"), which provides for: "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: Other: Articles and equipment for general physical exercise, gymnastics or athletics; parts and accessories thereof."

This ruling revokes NY M81992 and sets forth the correct classification of the “Silhouwell Fit” pod and “Silhouwell Comfort” pod. Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY M81992 was published in the *Customs Bulletin*, Volume 41, Number 10, on February 28, 2007. CBP received no comments during the notice and comment period that closed on March 30, 2007.

FACTS:

The articles at issue are manufactured in Italy by a company identified as “Intégrée.” In NY M81992, the merchandise at issue was described as follows:

You are requesting the tariff classification on a product that is identified as a Silhouwell. There are two styles as follows: the Silhouwell Fit and the Silhouwell Comfort. There has been no item number designated for this product. The Silhouwell Fit is an exercise machine that encloses the user up to the chest area while pedaling for exercise. The machine incorporates lights and heat for the comfort of the user. In addition, the machine has a built-in DVD player and viewing screen. The Silhouwell Comfort has the same features as the Silhouwell Fit, but it also has a vibrating mat for the comfort of the exerciser. An illustration was submitted, in lieu of a sample.

The description in NY M81992 set forth for the Silhouwell Fit is correct. This machine or “pod,” measuring 8 feet in length, 3 feet in width, and 4 feet in height, was further described in a national publication as follows:

Essentially a lounge-positioned stationary bike, the pod heats to between 35 and 37 degrees Celsius (95 to 98.6 degrees Fahrenheit). As users pedal toward their target heart-rate, the hypothalamus is stimulated. This action . . . ‘jolts your body into burning fat.’²

In your letter to us dated September 18, 2006, you stated the following regarding the Silhouwell Fit:

The main function of the machine is the bicycle pedal inside which the user pedals in order to exercise. The machine also has heaters at a temperature of 35 degrees Celsius to keep the body warm while pedaling. Another function is the chromatherapy which are colored lights that provide mood lighting and atmosphere, promoting feelings of wellbeing. The machine also has a DVD player and screen for the user to watch videos while pedaling (for entertainment purposes).

The description in NY M81992 set forth for the Silhouwell Comfort is not correct. This machine, also measuring 8 feet in length, 3 feet in width, and 4 feet in height, was described in the same national publication as:

Comfort . . . is used in conjunction with Intégrée essential oils to drain excess fluid from the body. After sliding into its ergonomically designed seat, the pod heats to 65 to 78 degrees Celsius (149 to 172 degrees Fahr-

² See “Pod People” by Emili Vesilind, *Robb Report Luxury Home*, July 1, 2005. Article available online at: <http://www.robreportluxuryhome.com/Articles/Home-Technology/Pod-People.asp>. The text in quotation marks is attributed to you.

enheit) and vibrates gently. "The vibration and the heat therapy paired with the sitting position, which is optimal for drainage, is what makes it effective."³

In your letter to us dated September 18, 2006, you stated the following regarding the Silhouwell Comfort:

This machine does NOT have a bicycle pedal. The main function for Comfort is the vibrating mat that the user sits on while in the enclosed environment, which is used primarily for relaxation and massage. This machine also has heaters that provide heat at a temperature of 65–70 degrees Celsius. This also keeps the body warm and helps to provided [sic] added feelings of relaxation. The machine has chromatherapy and a DVD player just like the Fit machine.

You also clarified the difference between the machines at issue:

Your original ruling classified both machines as one composite machine. However, I just want to clarify that the machines are in fact 2 different machines. They look identical from the outside, but Fit has a bicycle pedal and Comfort has a vibrating mat with NO pedal. . . .

They are sold together but they can be used separately. The two machines are sold together to beauty spas or similar service oriented businesses. The machines are not meant for resale to the retail consumer.

The pods are suited for commercial or residential use. The description in the national publication referenced above clearly identifies the purpose of both of the pods:

Intégrée Silhouwell pods look like bumper cars, but these cocoonlike seats have a more mature mission. The primary components in a multistep wellness system **designed to promote weight loss, the pods target excess water retention and stubborn body fat** (Emphasis Added).

ISSUE:

What is the classification of the Silhouwell Fit pod and the Silhouwell Comfort pod?

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation ("GRI"). GRI 1 provides, in part, that classification decisions are to be "determined according to the terms of the headings and any relative section or chapter notes." If 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, in order.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN") constitute the official interpretation of the Harmonized System at the international level (for the 4 digit headings and the 6 digit subheadings) and facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI. While neither legally binding nor dispositive of classification issues, the EN provide commentary on the scope of each heading of the HTSUSA and are generally indicative of

³ *Id.* Again, the text in quotation marks is attributed to you.

the proper interpretation of the headings. See T.D. 89-80, 54 Fed. Reg. 35127-28 (Aug. 23, 1989).

The Silhouwell Fit pod and the Silhouwell Comfort pod are separate machines. Although they are sold together, they are classified separately. Contrary to the analysis in NY M81992 the machines, together, do not constitute a single composite good.

The Silhouwell Fit pod and the Silhouwell Comfort pod are both articles that incorporate several components. The Silhouwell Fit incorporates a lounge-positioned stationary bike, heaters, lights, and DVD player with viewing monitor. Each of the components in the machine is classified in different headings. Based on the additional information provided, we believe that the stationary bike is classified in heading 9506, HTSUSA, as physical exercise equipment, that the heaters are classified in heading 8516, HTSUSA, as electric heating apparatus, the lights are classified in heading 9405, HTSUSA, as other lighting, and the DVD player with monitor is classified in heading 8528, HTSUSA, as a video monitor incorporating video recording or reproducing apparatus.

Meanwhile, the Silhouwell Comfort incorporates a vibrating seat apparatus, heaters, lights, DVD player and monitor. Each of the components in the machine is also classified in different headings. Based on the additional information provided, we believe that the vibrating seat apparatus is classified in heading 8543, HTSUSA, as an electrical machine or apparatus, having individual functions, not specified or included elsewhere in Chapter 85, that the heaters are classified in heading 8516, HTSUSA, as electric heating apparatus, the lights are classified in heading 9405, HTSUSA, as other lighting, and the DVD player with monitor is classified in heading 8528, HTSUSA, as a video monitor incorporating video recording or reproducing apparatus.

We have considered whether the vibrating seat apparatus may be classified in heading 9019, HTSUSA, as massage apparatus based on your statement that “[t]he main function for Comfort is the vibrating mat that the user sits on while in the enclosed environment, which is used primarily for relaxation and massage.” However, a review of all of the materials available to us evidences that the pods are “. . . designed to promote weight loss” by targeting “excess water retention and stubborn body fat.”⁴ In light of this fact, the pods are not classifiable as massage apparatus in heading 9019, HTSUSA.

There is no single heading that specifically and completely describes the machines at issue. Because the articles are *prima facie* classifiable under two or more headings, they cannot be classified according to GRI 1.

In pertinent part, GRI 2(b) provides that any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. However, GRI 2(b) adds that the classification of goods consisting of more than one material or substance shall be according to the principles of rule 3. Accordingly, GRI 3 is utilized when, by application of GRI 2(b), a good consists of materials or substances which are *prima facie* classifiable under two or more headings.

⁴ *Id.*

GRI 3(a) states that when goods are *prima facie* classifiable under two or more headings, classification shall be effected as follows:

The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

In this instance, several headings are equally specific in relation to one another. As we cannot classify these goods pursuant to GRI 3(a), we turn to GRI 3(b), which states:

Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

To determine whether the merchandise constitutes a composite good, we look to Explanatory Note IX to GRI 3(b), which states in pertinent part:

For the purposes of this Rule, composite goods made up of different components shall be taken to mean not only those in which the components are attached to each other to form a practically inseparable whole but also those with separable components, **provided** these components are adapted one to the other and are mutually complementary and that together they form a whole which would not normally be offered for sale in separate parts.

In the case at hand, each pod is composed of four components that are attached to form an inseparable whole. Consequently, the articles are composite goods. Thus, we must determine which component imparts the essential character to each pod. Explanatory Note (EN) VIII to GRI 3(b) states:

The factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.

In regard to the Silhouwell Fit pod, it is the lounge-positioned stationary bike that imparts the essential character of the article because the bike is central to the function of the machine. The user is active on the machine. Pedaling towards a target heart rate stimulates the hypothalamus and, as you stated, "jolts your body into burning fat." We recognize that the heaters are secondarily important to the function of the machine. However, the heaters only heat the machine up to between 95 and 98.6 degrees Fahrenheit. While the heaters may also aid in calorie burning, we believe that it is the physical activity done on the bike through which most fat burning will occur, thereby making the stationary bike the most important component in regard to weight loss, the goal of using the Silhouwell Fit Pod. Consequently, the Silhouwell Fit pod is classified, at the heading level, as a stationary bike under heading 9506. At the ten-digit level, the Silhouwell Fit pod is classified in subheading 9506.91.0030, HTSUSA, which provides for: "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 accesso-

ries thereof: Other: Articles and equipment for general physical exercise, gymnastics or athletics; parts and accessories thereof." We note that the Silhouwell Fit pod was classified in this provision in NY M81992, but the analysis was not correct.

In regard to the Silhouwell Comfort pod, it is the heaters that impart the essential character of the article because the heaters are central to the function of the machine. The user is passive on this machine. Unlike the Silhouwell Fit pod, the Silhouwell Comfort pod does not incorporate a component on which the user can exercise. Instead, the user simply sits on an ergonomically designed seat that vibrates. The heat in the pod is then turned up to as high as 149 to 172 degrees Fahrenheit. It is the high temperature generated by the heaters that will primarily cause a user to sweat and drain fluid when using the pod, the goal of using the Silhouwell Comfort pod. We recognize that the vibrating seat apparatus is secondarily important to the function of the machine. The apparatus puts the user in a position that is optimal for drainage and gently vibrates. While this action may aid in the process, it is the heat that will cause the user to sweat and release fluid from the body, the goal of using the Silhouwell Comfort pod. Consequently, the Silhouwell Comfort pod is classified in heading 8516, specifically in subheading 8516.29.0090, HTSUSA, which provides for: "Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof: Electric space heating apparatus and electric soil heating apparatus: Other, Other."

HOLDING:

By application of GRI 3(b), the Silhouwell Fit pod is classified in heading 9506, HTSUSA. It is specifically provided for in subheading 9506.91.0030, HTSUSA, which provides for: "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: Other: Articles and equipment for general physical exercise, gymnastics or athletics; parts and accessories thereof." The applicable column one (general) rate of duty under the 2007 HTSUSA is 4.6% *ad valorem*.

By application of GRI 3(b), the Silhouwell Comfort pod is classified in heading 8516, HTSUSA. It is specifically provided for in subheading 8516.29.0090, HTSUSA, which provides for: "Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof: Electric space heating apparatus and electric soil heating apparatus: Other, Other." The applicable column one (general) rate of duty under the 2007 HTSUSA is 3.7% *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY M81992, dated April 6, 2006, is hereby revoked.

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

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

19 CFR PART 177

**PROPOSED REVOCATION OF RULING LETTERS AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF KVM CONSOLE SWITCHES
AND KVM EMBEDDED SWITCHES USED WITH
COMPUTER NETWORKS**

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

ACTION: Notice of proposed revocation of tariff classification ruling letters and revocation of treatment relating to the classification of KVM switches that are used with computer networks.

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 relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of KVM switches that are used with and attached to a computer networks. Similarly, CBP proposes to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before May 25, 2007.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Robert Dinerstein, Tariff Classification Branch and Marking Branch, at (202) 572-8721.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **informed compliance** and **shared responsibility**. These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to revoke two ruling letters relating to the tariff classification of KVM switches attached to computer network systems that are used to control those networks. Although in this notice CBP is specifically referring to the revocation of New York Ruling Letter (NY) L81751 dated January 20, 2005, and NY L82985, dated February 16, 2005, (Attachments A and B), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the two identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625 (c)(2)), as amended by section 623 of Title VI, CBP intends to revoke any treatment previously accorded by CBP to substantially identical merchandise. Any person involved with substan-

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

In NY L81751 and NY L82985, CBP classified devices known as KVM switches which are hardware devices used with computer networks to connect one keyboard, monitor and mouse two or more computers, in subheading 8537.10.90, HTSUS, which provides for boards, panels, consoles . . . for the electric control or distribution of electricity. The KVM switches are used to connect to and work in conjunction with networks and provide increase efficiency in networking functions. In NY L81751, the merchandise that was considered was the Dell KVM Console Switch. In NY L82985, CBP considered the classification of the Dell Embedded KVM Switch. NY L82985 described the Dell Embedded KVM Switch as a printed circuit assembly (PCA) in a metal frame that is intended for internal installation in an Original Equipment Manufacturer chassis containing multiple servers. The KVM switches allow the system administrator to view and control several servers through the use of one or two monitors, keyboards and mouse. It utilizes a combination of solid state switching and software to switch the input signals from various servers that connected to the switch.

Based on our examination of the scope of the terms of heading 8471, HTSUS, and we have determined that the KVM switches fit within the scope of Note 5(B) to Chapter 84, of the HTSUS, as a unit of an ADP system. Thus, we have concluded that the KVM switches in question are properly classified in heading 8471, HTSUS, specifically in subheading 8471.80.10, HTSUS, as control or adapter units of ADPs and that NY L81751 and NY L82985 should be revoked.

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke NY L81751 and NY L82985 and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letter (HQ) 967686 (Attachment C). Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions that is contrary to the determination set forth in this notice. Before taking this action, consideration will be given to any written comments timely received.

DATED: April 10, 2007

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

[ATTACHMENT A]

NY L81751
January 20, 2005
CLA-2-85:RR:NC:1:110 L81751
CATEGORY: Classification
TARIFF NO.: 8537.10.9070

MS. KIM HOLSTROM
9911 Willows Road N.E.
Redmond, WA 98052

RE: The tariff classification of a "KVM" Consol Switch from Malaysia.

DEAR MS. HOLSTROM:

In a letter dated December 21, 2004, Mr. Ron Reuben requested a tariff classification ruling on behalf of his client Avocent Corporation.

The merchandise under consideration is the Dell KVM Console Switch. A sample of a similar KVM Switch was submitted with your ruling request and will be returned to you. From the information provided with this request, the Dell KVM Console Switch is identical, except for certain cosmetic elements, to the submitted sample. As indicated in the submitted descriptive literature, the Dell KVM Console Switch is a rack mounted solid-state electronic device that will be utilized by a computer system administrator. This switch consists of a metal housing that measures approximately 17.2 inches wide by 6.5 inches deep and is 1.7 inches high. The KVM Switch will have 1 or 2 local access ports for hooking up to a monitor, keyboard and mouse, 8 or 16 RJ45 ports for server hookup, an additional RJ45 port for connecting to another Avocent unit, and a DB9 interface for delivery of upgrade firmware. The KVM Switch will allow the system administrator to view and control several servers through the use of one or two monitors, keyboards and mouse.

Additional information on the functioning of the KVM Console Switch was received from you on January 11, 2005. It utilizes a combination of solid state switching and software to switch the input signals from various servers that are connected to the switch. It switches between ports on the switch. It does not interface with the server CPU for the purpose of accepting or delivering data in a coded form. In NY R00197, dated April 22, 2004, a similar KVM Switch was classified in heading 8537.

The applicable subheading for the Dell KVM Console Switch will be 8537.10.9070, Harmonized Tariff Schedule of the United States (HTS), which provides for "Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity . . . For a voltage not exceeding 1,000 V: Other: Other: Other." The general rate of duty will be 2.7 percent 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 Eileen S. Kaplan at 646-733-3016.

ROBERT B. SWIERUPSKI,
Director,
National Commodity Specialist Division.

[ATTACHMENT B]

NY L82985
February 16, 2005
CLA-2-85:RR:NC:1:110 L82985
CATEGORY: Classification
TARIFF NO.: 8537.10.9070

MS. KIM HOLSTROM
AVOCENT CORPORATION
9911 Willows Road N.E.
Redmond, WA 98052

RE: The tariff classification of a Dell Embedded KVM Console Switch from Malaysia

DEAR MS. HOLSTROM:

In your letter, dated January 20, 2005, you requested a tariff classification ruling.

The merchandise under consideration is a Dell Embedded KVM (keyboard, video and mouse) Console Switch. A sample was submitted with the ruling request and will be returned. It is a printed circuit assembly (PCA) in a metal frame. It is intended for internal installation in an OEM (Original Equipment Manufacturer) chassis containing multiple servers. This KVM switch allows a keyboard, monitor and mouse to be connected to and switch between multiple servers. The KVM switch and servers connect into the OEM chassis backplane. The switch uses solid-state switching to switch between the server video signals. It has a connector for the backplane on the back and two connectors, a RJ45 connector for connecting to another unit and a KVM connector, on the front. This KVM switch does not have any network interface capabilities. KVM switches do not interface with the CPU for the purpose of accepting or delivering data in a coded form and do not meet Chapter 84, Note 5(B)(b) or (c). In New York ruling R00197, April 22, 2004, a similar KVM switch was classified in heading 8537.

The applicable subheading for the Dell Embedded KVM Console Switch will be 8537.10.9070, Harmonized Tariff Schedule of the United States (HTS), which provides for "Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity . . . For a voltage not exceeding 1,000 V: Other: Other: Other." The rate of duty will be 2.7 percent 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 Eileen S. Kaplan at 646-733-3016.

ROBERT B. SWIERUPSKI,
Director,
National Commodity Specialist Division.

[ATTACHMENT C]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ W967696
CLA-2 RR:CTF:TCM W967696 RSD
CATEGORY: Classification
TARIFF NO: 8471.80.1000

MS. KIM HOSTROM
AVOCENT CORPORATION
9911 Willows Road, N.E.
Redmond, Washington 98052

RE: Reconsideration of NY L81751 and NY L82985; Classification of Certain KVM Switches that are Used with ADP networks

DEAR MS. HOSTROM:

This is in response to a request for reconsideration of two rulings, NY L81751 dated January 20, 2005 and NY L82985 dated February 16, 2005, submitted by counsel on behalf of Avocent Corporation (Avocent) concerning the classification of certain KVM switches used with automatic data processing (ADP) system. On May 6, 2005, Counsel submitted the request for reconsideration. On September 13, 2006, a meeting was held at our offices with counsel, employees of Avocent, and members of my staff to discuss this matter.

FACTS:

The merchandise that was under consideration in NY L81751 was the Dell KVM (keyboard, video, and mouse) Console Switch. In NY L82985, Customs and Border Protection (CBP) ruled on the classification of the Dell Embedded KVM Console Switch.

According to the facts stated in NY L81751, the Dell KVM Console Switch is a rack mounted solid-state electronic device that will be utilized by a system administrator. This product consists of a metal housing that measures approximately 17.2 inches wide by 6.5 inches deep and is 1.7 inches high. The KVM console switch will have 1 or 2 local access ports for hooking up to a monitor, keyboard and mouse, 8 or 16 RJ45 ports for server hookup. There is also an additional RJ45 port for connecting to another KVM unit, and a DB9 interface for delivery of upgrade firmware. The KVM console switch allows the system administrator to view and control several servers through the use of one or two monitors, keyboards and mouse. It utilizes a combination of solid state switching and software to switch the input signals from various servers that are connected to the switch. It switches between ports of the switch.

NY L82985 describes the Dell Embedded KVM Switch as a printed circuit assembly (PCA) in a metal frame. It is intended for internal installation in an Original Equipment Manufacturer (OEM) chassis containing multiple servers. This KVM switch allows a keyboard, monitor and mouse to be connected to and switch between multiple servers. The KVM switch and servers connect into the OEM chassis backplane. The switch uses solid-state switching to switch between the server video signals. It has a connector for the backplane on the back and two connectors, a RJ45 connector for connecting to another unit and a KVM connector on the front.

KVM switches increase the functionality of a network. For example, in a network using the Windows operating system, a person at a single workstation can access files on any other workstation. That person, however, cannot run programs that appear on other workstations, or see another workstation's desktop monitor. In other words, the KVM switches allow a person at a single control console to perform these tasks, increasing the functionality of the network.

Some common examples of how KVM are switches are used include:

Controlling two computers on different platforms (i.e., a PC and a Mac) with one control console.

Enabling a network administrator to control a large number (up to thousands) of servers from his office and/or the server room; for example, using a KVM switch, the network administrator can boot up all servers from their work station with a single control console.

Allowing a sales person to control a notebook computer using a desktop keyboard, monitor, and mouse.

To achieve the desired functionality, KVM switches must be able to (1) connect (directly or indirectly) to each server or CPU to be accessed and controlled; (2) to accept data from CPUs or servers in coded form; (3) transmit data from the CPUs or servers to the control console in coded form from the control console; (4) accept data in coded form from the control console; and (5) transmit the coded data received from the control console to CPUs or servers in a coded form that is readable by the CPUs or servers. In effect, when the KVM switch is connected to a CPU, the CPU responds just as if the control console was attached directly to the CPU (sending and receiving coded data), and the KVM switch responds in the same fashion as a control console (accepting, encoding, decoding, and transmitting coded data).

There are numerous physical characteristics that KVM switches must possess to achieve the desired functionality, including:

- (1) control console ports, which are capable of connecting directly or indirectly to keyboard, monitor and mouse;
- (2) printed circuit boards (including a CPU) that are capable of accepting and converting data received by the console ports from the control console (keyboard, video, and mouse) and transmitting this data in coded form to the CPUs or servers, and receiving data from the CPUs or servers, converting this data in a coded form that can be read by, and transmitted to, the control console; and
- (3) server ports, which are capable of connecting directly or indirectly to CPUs or servers.

Each of these physical elements is contained in a single KVM switch housing, which may be in the form of a separately housed unit (small box), or in the form of a board that is directly placed into (embedded) the ADP or servers by the OEM.

In NY L81751 and NY L82985, CBP held that the Dell KVM Console Switches and Dell KVM Embedded Switches were classified in heading 8537, HTSUS, as: "boards, panels, consoles . . . for the electric control or distribution of electricity."

ISSUE:

Whether the Dell KVM Console Switches and Dell Embedded KVM Switches are classified as units of automatic data processing machines in

heading 8471, HTSUSA, or in heading 8537, HTSUSA, as: “boards, panels, consoles . . . for the electric control or distribution of electricity.”

LAW AND ANALYSIS:

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

The HTSUS provisions under consideration are as follows:

- 8471: Automatic data processing machines and units thereof; ...:
- 8471.80: Other units of automatic data processing machines:
- 8471.80.10: Control or adapter units.
- * * *
- 8537: Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of chapter 90, and numerical control apparatus, other than switching apparatus of heading 8517:
- 8537.10: For a voltage not exceeding 1,000 V:
- 8537.10.90: Other.
- * * *

Automatic data processing (ADP) machines are defined in Legal Note 5(A) to Chapter 84, HTSUS, which states as follows: For purposes of heading 8471, the expression “automatic data processing machines” means: (a) machines, capable of (i) [s]toring the processing program or programs and at least the data immediately necessary for the execution of the program; (ii) [b]eing freely programmed in accordance with the requirements of the user; (iii) [p]erforming arithmetical computations specified by the user; and, (iv) [e]xecuting, without human intervention, a processing program which requires them to modify their execution, by logical decision during the processing run.

To be classified as an ADP unit under heading 8471, HTSUS, an article must meet the terms of Legal Note 5(C) to Chapter 84, HTSUS, which provides that:

Subject to paragraphs (D) and (E) below, a unit is to be regarded as being a part of an automatic data processing system if it meets all the following conditions:

- (i) It is of a kind solely or principally used in an automatic data processing system;
- (ii) It is connectable to the central processing unit [CPU] either directly or through one or more other units; and
- (iii) It is able to accept or deliver data in a form (codes or signals) which can be used by the system.

The Harmonized Commodity Description and Coding System Explanatory Notes (EN's) constitute the official interpretation of the Harmonized System. While not legally binding on the contracting parties, and therefore not dispositive, the EN's provide a commentary on the scope of each heading of the Harmonized System and are thus useful in ascertaining the classification of merchandise under the Harmonized System. CBP believes the EN's should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

EN 84.71 provides:

Data processing is the handling of information of all kinds, in pre-established logical sequences and for a specific purpose or purposes.

Automatic data processing machines are machines which, by logically interrelated operations performed in accordance with pre-established instructions (program), furnish data which can be used as such or, in some cases, serve in turn as data for other data processing operations.

Accordingly, to determine if the KVM switches should be classified in heading 8471, HTSUS, we must apply the requirements for units of ADP systems that are set forth in Note 5(C) of Chapter 84. First, the information available indicates that the KVM switches are used solely with ADP systems. The purpose of the Dell KVM switches is to allow a single user to access multiple ADP machines or servers from a single control console (keyboard, video or mouse). The products are also sold and marketed solely for use in computer systems.

With respect to the second condition specified in Legal Note 5(C) in Chapter 84, the KVM switches are connected to the CPUs or servers, either directly or through one or more other units. The KVM Console Switch is directly connected to the CPUs or servers through a standard cable, and jack arrangement. A separate dongle is used to connect the server to the switch body. The KVM Embedded Switch contains high-density connectors that plug into the midplane, which acts in the same fashion as the cables.

The third requirement of Legal Note 5(C) in Chapter 84 concerns the accepting or the delivery of data in a form (codes or signals) which can be used by the system. The KVM switches contain OSCAR, keyboard and mouse logic and a CPU with embedded software, which convert the coded data received into a proprietary code. OSCAR stands for On Screen Configuration and Activity Reporting. The OSCAR within the KVM unit contains a custom designed ASIC (Application Specific Integrated Circuit), and works in conjunction with CPU software that runs inside of the unit to generate the OSCAR interface. This interface works as a graphical menuing system. For example, the OSCAR in a KVM unit allows the user to configure menu language, color, name attached computers, setup scan lists, and select computers for control.

The synchronizing of data by converting it into a proprietary code is required to ensure the KVM switches achieve their primary purpose to control multiple CPU's from a single console. In addition, KVM switch products receive data in a proprietary code, convert this code back into a code readable by the CPUs or servers and transmit the data to the CPUs or servers. This means that KVM switches are capable of converting data that are sent and delivered in different types of computer system platforms such as Windows to MAC and vice or versa. Thus, the KVM switches in question deliver and accept data.

Even if a product is able to meet the terms of Legal Note 5(C), classification in heading 8471, HTSUS, may be precluded if Legal Note 5(D) or (E) to chapter 84 is applicable. They provide the following.

D) Heading 8471 does not cover the following when presented separately, even if they meet all of the set forth in note 5(C) above:

- (i) Printers, copying machines, facsimile machines, whether or not combined;
- (ii) Apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network);
- (iii) Loudspeakers and microphones;
- (iv) Television cameras, digital cameras and video camera recorders;
- (v) Monitors and projectors, not incorporating television reception apparatus.

E) Machines incorporating or working in conjunction with an automatic data processing machine and performing a specific function other than data processing are to be classified in the headings appropriate to their respective functions or, failing that, in residual headings.

Heading 8517, HTSUS provides in relevant part for: “. . . other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network) . . .”. Classification under heading 8517 is precluded because the switches are not transmitting or receiving data but controlling data servers by interconnecting the keyboards, monitor, and mouse to different servers.

Legal Note 5(E) to chapter 84, HTSUS, clearly states that machines performing a specific function other than data processing are to be classified in the heading appropriate to those respective functions. Thus, the issue remains as to whether Legal Note 5(E) to Chapter 84, HTSUS, precludes classification of the KVM switches in heading 8471, HTSUS, because they are performing functions other than data processing.

Based on the information presented, we find that Note 5(E) does not exclude the KVM switches from being classified in heading 8471, HTSUS, because they are not performing a specific function other than data processing. The KVM switches' basic function is to interconnect the keyboard, mouse, and video monitor to different servers in order to control multiple computers and servers from a single control console. This is a data processing function, and thus the KVM switches in question are not precluded from being classified in heading 8471, HTSUS, by Note 5(E). Thus, we find that KVM switches are classified in heading 8471, HTSUS.

Next, we must determine which of the subheadings of heading 8471, HTSUS, that the KVM switches are classified. EN 84.71(I)(B)(3) provides that:

Control and adaptor units such as those to effect interconnection of the central processing unit to input or output units (e.g. USB hubs). However, control and adaptor units or communication in a wired or wireless network (such as a local or wide area network) are **excluded (heading 85.17)**.

This definition provided by the ENs for control and adaptor units describes the KVM switches under consideration that are used to interconnect CPUs with input and out units, such as keyboards, video, and mouse in this case. Therefore, we find that the KVM switches are classified in subheading 8471.80.10, HTSUS, as control or adapter units of ADPs. Accordingly, we find that NY L81751 and NY L8225 should be revoked.

HOLDING:

In accordance with GRI 1, and by virtue of Legal Note 5(C) to Chapter 84, HTSUS, the two types of KVM switches, the Dell KVM Console Switch and the Dell KVM Embedded Switch, are classified in heading 8471, HTSUS. They are specifically provided for in subheading 8471.80.1000, HTSUS, as: "Automatic data processing machines and units thereof; . . . : Other units of automatic data processing machines: Control or adapter units", at a general, column one rate of duty which is free. Duty rates are provided for requester's convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at <http://www.usitc.gov/tata/hts/>.

EFFECT ON OTHER RULINGS:

NY L81751 (issued January 20, 2005) and NY L82985 (issued February 16, 2005) are hereby revoked.

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

