

U.S. Customs and Border Protection

General Notices

GENERAL NOTICE

COPYRIGHT, TRADEMARK, AND TRADE NAME RECORDATIONS

(No. 4 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 April 2007. The last notice was published in the CUSTOMS BULLETIN on April 4, 2007.

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: May 15, 2007

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

CBP IPR RECORDATION - APRIL 2007

Recordation No.	Effective Date	Name of Copr/Trmk/Tran	Owner Name	
TMK 93-00302	4/2/2007	MOSCHINO	MOSCHINO S.P.A.	No
COP 07-00047	4/2/2007	LEMON BUTTER SHRIMP	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00053	4/2/2007	HAWAIIAN SHRIMP SKEWERS	CONTESSA PREMIUM FOODS, INC.	No
TMK 93-00233	4/2/2007	FERRERO ROCHER & DESIGN	FERRERO S.P.A.	No
TMK 97-00170	4/2/2007	UMBRO	UMBRO INTERNATIONAL LTD.	No
TMK 97-00321	4/2/2007	DURASTEEL	E. GLUCK CORPORATION	No
TMK 97-00653	4/2/2007	Z-BEC	IVERNISS MEDICAL, INC.	No
TMK 94-00412	4/2/2007	V8 & DESIGN	CSC BRANDS, INC.	No
TMK 95-00069	4/2/2007	CATALINA	CCC ACQUISITION CORPORATION	No
TMK 96-00289	4/2/2007	NEWPORT	ACUSHNET COMPANY	No
TMK 05-00262	4/2/2007	CAROLINA HERRERA	CAROLINA HERRERA LTD.	No
TMK 96-00158	4/2/2007	AWATCH	E. GLUCK CORPORATION	No
TMK 95-00458	4/2/2007	MONTRAIL	MONTRAIL CORPORATION	No
TMK 99-00473	4/2/2007	HARVEYS LABEL	JIM BEAM BRANDS UK LIMITED	No
TMK 99-00363	4/2/2007	PD (STYLIZED)	DR. JMG. H.C.F. PORSCHKE AG	No
TMK 99-00424	4/2/2007	DILBERT	SCOTT ADAMS, INC.	No
TMK 99-00425	4/2/2007	DILBERT	SCOTT ADAMS, INC.	No
TMK 07-00194	4/2/2007	ANGEL'S SHARE	TWO HANDS U.S.A. LLC	No
TMK 00-00385	4/2/2007	PULSAR	SEIKO KABUSHIKI KAISHA D/B/A SEIKO CORPORATION	No
TMK 00-00549	4/2/2007	STICK FIGURE DESIGN	E. GLUCK CORPORATION	No
TMK 02-00750	4/2/2007	CLEVELAND (BOLD STYLIZED LETTERS)	ROGER CLEVELAND GOLF COMPANY INC	No
TMK 02-01040	4/2/2007	DESIGN (EAGLE)	MAGNUM RESEARCH, INC.	No
TMK 03-00277	4/2/2007	CHEEP AND CHIC BY MOSCHINO	MOSCHINO S.P.A.	No
TMK 03-00756	4/2/2007	CONFIGURATION OF A PET SHELTER	DOSKOCIL MANUFACTURING COMPANY	No
TMK 03-00914	4/2/2007	SOFT & DRI	DIAL BRANDS HOLDING, INC.	No
TMK 03-00917	4/2/2007	POWER STRIPE	DIAL BRANDS HOLDING, INC.	No
TMK 03-00918	4/2/2007	DRY IDEA	DIAL BRANDS HOLDING, INC.	No
TMK 04-00585	4/2/2007	TECAN	TECAN GROUP AG	No
TMK 04-00959	4/2/2007	ES (STYLIZED)	SENIERGROUP	No
TMK 05-00006	4/2/2007	DIESEL-ONLY-THE-BRAVE-DIESEL & DESIGN	DIESEL S.P.A.	No
TMK 04-01079	4/2/2007	CATALYST	CISCO TECHNOLOGY, INC.	No
TMK 07-00226	4/2/2007	CURAD	BEIERSDORF AG	No
TMK 92-00183	4/2/2007	STUD	BROOKSIDE IMPORT SPECIALTIES, INC.	Yes

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TMK ID	IPR No	IPR Date	IPR Description	IPR Title	IPR Status	IPR Owner	IPR No
TMK 07-00126	4/2/2007	10/4/2015	ADVANCED POWER SYSTEM		No	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00127	4/2/2007	6/20/2016	COOPER ATKINS AND DESIGN		No	COOPER-ATKINS CORPORATION	No
TMK 07-00150	4/2/2007	7/11/2015	AMERICAN CREW		No	AMERICAN CREW, INC.	No
TMK 07-00304	4/2/2007	2/27/2017	M MOLL DATA (STYLIZED)		No	MOLL SYSTEMS CORPORATION	No
TMK 07-00153	4/2/2007	11/22/2008	DVF		No	DIANE VON FURSTENBERG STUDIO PARTNERSHIP CONNECTICUT	No
TMK 07-00154	4/2/2007	10/24/2016	ARAK AL NIMAS		No	LEBANESE ARAK CORPORATION	No
TMK 07-00138	4/2/2007	4/4/2016	GLOBAL FINISHING SOLUTIONS		No	GLOBAL FINISHING SOLUTIONS, LLC	No
TMK 07-00140	4/2/2007	10/7/2013	LT LINEAR TECHNOLOGY AND DESIGN		No	LINEAR TECHNOLOGY CORPORATION	No
TMK 07-00129	4/2/2007	11/7/2016	WEISEN-U		No	KIM FUNG (WEISEN-U) CO LTD	No
TMK 07-00131	4/2/2007	10/10/2016	MISS ELAINE RELAX		No	MISS ELAINE, INC.	No
TMK 07-00147	4/2/2007	7/31/2011	OVER THE TOP		No	LINEAR TECHNOLOGY CORPORATION	No
TMK 07-00128	4/2/2007	12/20/2013	DESIGN ONLY		No	DIANE VON FURSTENBERG STUDIO PARTNERSHIP COMPOSED OF DIANE VON FURSTENBERG (BELGIUM CITIZEN) AND D.V	No
TMK 07-00132	4/2/2007	9/12/2016	ENYCE		No	L.C. LICENSING, INC	No
TMK 07-00133	4/2/2007	8/24/2014	DVF		No	DIANE VON FURSTENBERG STUDIO DIANE VON FURSTENBERG A U.S. CITIZEN PARTNERSHIP CONNECTICUT	No
TMK 07-00149	4/2/2007	4/4/2010	MOP		No	AMERICAN CREW, INC.	No
TMK 07-00151	4/2/2007	8/27/2012	FILTERCAD		No	LINEAR TECHNOLOGY CORPORATION	No
TMK 07-00152	4/2/2007	1/17/2016	BODECAD		No	LINEAR TECHNOLOGY CORPORATION	No
TMK 07-00134	4/2/2007	12/30/2015	TATIANA		No	DIANE VON FURSTENBERG IMPORTING CO., INC. (NEW YORK CORPORATION)	No
TMK 07-00137	4/2/2007	9/27/2014	LT		No	LINEAR TECHNOLOGY CORPORATION	No
TMK 07-00139	4/2/2007	10/14/2013	LINEAR TECHNOLOGY		No	LINEAR TECHNOLOGY CORPORATION	No
TMK 07-00141	4/2/2007	10/7/2013	LINEAR TECHNOLOGY		No	LINEAR TECHNOLOGY CORPORATION	No
TMK 07-00130	4/2/2007	9/19/2016	JUICY COUTURE		No	L.C. LICENSING, INC.	No
TMK 07-00142	4/2/2007	8/1/2016	LTM		No	LINEAR TECHNOLOGY CORPORATION	No
TMK 07-00143	4/2/2007	3/14/2016	CURVE WAVE		No	L.C. LICENSING, INC.	No
TMK 07-00135	4/2/2007	5/27/2013	LINEAR		No	LINEAR TECHNOLOGY CORPORATION	No
TMK 07-00136	4/2/2007	1/29/2015	LT		No	LINEAR TECHNOLOGY CORPORATION	No
TMK 07-00144	4/2/2007	12/26/2009	LIZ CLAIBORNE		No	L.C. LICENSING, INC.	No
TMK 07-00145	4/2/2007	10/26/2012	LIZ CLAIBORNE		No	L.C. LICENSING, INC.	No
TMK 07-00146	4/2/2007	3/24/2008	BURST MODE		No	LINEAR TECHNOLOGY CORPORATION	No
TMK 07-00148	4/2/2007	7/3/2011	OPT-LOOP		No	LINEAR TECHNOLOGY CORPORATION	No
TMK 07-00170	4/2/2007	5/3/2015	FUSIONE		No	BDSRCD, INC.	No
TMK 07-00171	4/2/2007	6/20/2016	LIVE THE FLORIDA LIFESTYLE		No	BDSRCD, INC.	No

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TMK 07-00174	4/2/2007	12/13/2015	POWERBALL	MOTHERS POLISHES WAXES CLEANERS	No
TMK 07-00177	4/2/2007	12/12/2016	CERPLAST	NAT-UR, INC.	No
TMK 07-00182	4/2/2007	9/26/2016	BLU BENCH AND DESIGN	SUYEN CORPORATION	No
TMK 07-00183	4/2/2007	9/5/2016	KINDERBENCH	SUYEN CORPORATION	No
TMK 07-00184	4/2/2007	6/4/2016	HERBENCH HB	SUYEN CORPORATION	No
TMK 07-00178	4/2/2007	6/24/2013	FLORIDFRUITA AND DESIGN	FLORIDFRUITA LLC	No
TMK 07-00179	4/2/2007	11/29/2015	POP	MARKWINS INTERNATIONAL CORPORATION	No
TMK 07-00180	4/2/2007	2/3/2008	BENCH	SUYEN CORPORATION	No
TMK 07-00155	4/2/2007	3/7/2016	DVF AND DESIGN	DIANE VON FURSTENBERG STUDIO DIANE VON FURSTENBERG, A U.S. CITIZEN PARTNERSHIP CONNECTICUT	No
TMK 07-00157	4/2/2007	9/21/2013	LTC	LINEAR TECHNOLOGY CORPORATION	No
TMK 07-00163	4/2/2007	10/4/2015	TRIPP LITE	TRIPPE MANUFACTURING COMPANY	No
TMK 07-00156	4/2/2007	9/24/2012	MALARONE	THE WELLCOME FOUNDATION LIMITED	No
TMK 07-00164	4/2/2007	7/12/2015	GE AND DESIGN	GENERAL ELECTRIC COMPANY	No
TMK 07-00167	4/2/2007	6/3/2016	FULLMARK AND DESIGN	FULLMARK PTE. LTD.	No
TMK 07-00168	4/2/2007	11/16/2009	CHROME HEARTS	CHROME HEARTS, LLC	No
TMK 07-00165	4/2/2007	11/26/2011	CHROME HEARTS	CHROME HEARTS, LLC	No
TMK 07-00159	4/2/2007	5/9/2016	PROJECT X	MARWARE, INC.	No
TMK 07-00161	4/2/2007	12/13/2015	MIST MONSTER	PUMPTEC, INC.	No
TMK 07-00162	4/2/2007	11/4/2013	COFFEE RODHAC AND DESIGN	RODMAC INTERNATIONAL COMPANY	No
TMK 07-00158	4/2/2007	12/12/2016	SEASIDE TREASURES	BDSRCO, INC.	No
TMK 07-00160	4/2/2007	10/20/2015	PURE RINSE	PUMPTEC, INC.	No
TMK 07-00169	4/2/2007	10/8/2016	KIDLOOKS	BDSRCO, INC.	No
TMK 07-00175	4/2/2007	3/2/2017	KB KAYBEE MONTESSORI, LLC WITH DESIGN	ALFO THOMAS MACRI	No
COP 07-00045	4/2/2007	4/2/2027	ADOBE CREATIVE SUITE 2 PREMIUM FOR WINDOWS	ADOBE SYSTEMS, INC.	No
TMK 07-00336	4/2/2007	6/9/2012	VISHAY AND PYRAMID DESIGN	VISHAY INTERTECHNOLOGY, INC.	No
TMK 07-00166	4/2/2007	3/21/2016	HAVAIAANAS	SAO PAULO ALPARGATAS S.A.	No
TMK 07-00172	4/2/2007	11/7/2016	ARAK AL RIF	LEBANESE ARAK CORPORATION	No
TMK 07-00173	4/2/2007	12/19/2016	POWERBALL MINI MD	MOTHERS POLISHES WAXES CLEANERS	No
TMK 07-00176	4/2/2007	12/26/2016	HUO LU & DESIGN	HYSAN PHARMACEUTICAL CO., LTD.	No
TMK 07-00181	4/2/2007	3/4/2013	TRO RAMON	JEST ENTERPRISES	No
TMK 07-00228	4/2/2007	1/31/2016	NIVEA DEODORANT	BEIERSDORF AG	No
TMK 07-00313	4/2/2007	10/29/2012	NIVEA BEAUTE	BEIERSDORF AKTIENGESELLSCHAFT	No
TMK 07-00314	4/2/2007	9/25/2011	NIVEA BODY	BEIERSDORF AKTIENGESELLSCHAFT	No

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TMK 07-00229	4/2/2007	1/31/2011	RED DOT	THOMAS & BETTS INTERNATIONAL INC.	No
TMK 07-00247	4/2/2007	12/26/2016	CANON (STYLIZED)	CANON KABUSHIKI KAISHA	No
TMK 07-00227	4/2/2007	7/26/2015	ULTRA-FRANGIBLE	GENESIS GRP LLC DBA ACCUTEK USA	No
TMK 07-00320	4/2/2007	10/28/2013	NIVEA LIP CARE	BEIERSDORF AKTIENGESELLSCHAFT	No
TMK 07-00316	4/2/2007	6/13/2016	NIVEA SUN	BEIERSDORF AG	No
TMK 07-00315	4/2/2007	10/1/2012	NIVEA SOFT	BEIERSDORF AKTIENGESELLSCHAFT	No
TMK 07-00202	4/2/2007	3/2/2017	DESIGN ONLY	BRUTOCAD CELLARS, LP	No
TMK 07-00188	4/2/2007	9/14/2011	FLOS	FLOS S.P.A.	No
TMK 07-00189	4/2/2007	7/12/2015	SLIP 'N SLIDE & DESIGN	WHAM-O, INC.	No
TMK 07-00190	4/2/2007	9/8/2012	ULTRA LIFE	WHAM-O, INC.	No
TMK 07-00185	4/2/2007	5/9/2016	OWI AND DESIGN	CORPORATION	No
TMK 07-00186	4/2/2007	10/15/2012	THE POWER OF INNOVATION	ETSUKO, LLC	No
TMK 07-00206	4/2/2007	5/17/2014	GREGORY AND DESIGN	JOHN MEZZALINGUA ASSOCIATES, INC.	No
TMK 07-00207	4/2/2007	5/9/2016	MICRO TUNER	BIANKHI INTERNATIONAL	No
TMK 07-00191	4/2/2007	7/14/2011	FRISBEE	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00195	4/2/2007	10/15/2012	L R G	WHAM-O, INC.	No
TMK 07-00187	4/2/2007	5/30/2016	SIMPLEX	LIFTED RESEARCH GROUP, INC.	No
TMK 07-00210	4/2/2007	12/1/2012	AQUAPHOR	JOHN MEZZALINGUA ASSOCIATES, INC.	No
TMK 07-00211	4/2/2007	12/17/2012	EUCERIN	BEIERSDORF AKTIENGESELLSCHAFT	No
COP 07-00029	4/2/2007	4/2/2027	BVLGARI - JEWELLERY STORES 2006/2007	BULGARI S.P.A., EMPLOYER FOR HIRE OF PAOLO BULGARI	No
COP 07-00030	4/2/2007	4/2/2027	COPYRIGHT MASTER BRANDS - BVLGARI PERFUMES CATALOGUE 2006	BULGARI S.P.A., EMPLOYER FOR HIRE OF PAOLO BULGARI	No
COP 07-00031	4/2/2007	4/2/2027	BVLGARI - WATCHES 2005/2006	BULGARI S.P.A., EMPLOYER FOR HIRE OF PAOLO BULGARI	No
COP 07-00032	4/2/2007	4/2/2027	BVLGARI - 2006 OPTICAL COLLECTION & SUNGLASS UPDATE 1	BULGARI S.P.A., EMPLOYER FOR HIRE OF PAOLO BULGARI	No
COP 07-00033	4/2/2007	4/2/2027	BVLGARI EYEWEAR - 2005 OPTICAL UPDATE 2	BULGARI S.P.A., EMPLOYER FOR HIRE OF PAOLO BULGARI	No
COP 07-00034	4/2/2007	4/2/2027	BVLGARI - GIFT COLLECTION 2005/2006	BULGARI S.P.A., EMPLOYER FOR HIRE OF PAOLO BULGARI	No
COP 07-00035	4/2/2007	4/2/2027	BVLGARI - WATCHES 2006/2007	BULGARI S.P.A., EMPLOYER FOR HIRE OF PAOLO BULGARI	No
TMK 07-00215	4/2/2007	12/25/2011	FACTORY DIRECT PERFORMANCE	PAOLO BULGARI AUTOTRONIC CONTROLS CORPORATION	No

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TMK 07-00218	4/2/2007	2/23/2010	DUAL CURVE	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00222	4/2/2007	8/15/2016	POLO BLACK	PRL USA HOLDINGS, INC.	No
TMK 07-00223	4/2/2007	7/27/2009	CURAD	BEIERSDORF AG	No
TMK 07-00216	4/2/2007	3/17/2012	ENGINE DYNAMICS	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00225	4/2/2007	12/11/2011	INFINEON	INFINEON TECHNOLOGIES AG	No
TMK 07-00317	4/2/2007	6/19/2014	BASIS	BEIERSDORF AKTIENGESELLSCHAFT	No
TMK 07-00197	4/2/2007	12/6/2015	SOAP JET	ATLAS CREATIVE L.L.C.	No
TMK 07-00198	4/2/2007	12/6/2015	SOAPJET AND DESIGN	ATLAS CREATIVE L.L.C.	No
TMK 07-00200	4/2/2007	11/7/2016	M2	M2 VINTNERS	No
TMK 07-00201	4/2/2007	12/19/2016	BLISS	BRUTOCAC VINEYARDS, INC.	No
TMK 07-00203	4/2/2007	1/2/2017	BRUTOCAC	BRUTOCAC CELLARS, LP	No
TMK 07-00204	4/2/2007	3/13/2016	CAVELLINI	SAADI ORABI	No
TMK 07-00205	4/2/2007	4/4/2016	BACK REVOLUTION	H. INTERDMMATI, INC.	No
TMK 07-00208	4/2/2007	3/19/2016	ALNOSSE	KAISER PHYSICAL FITNESS, INC.	No
TMK 07-00192	4/2/2007	8/10/2009	ELICERIN	BEIERSDORF AKTIENGESELLSCHAFT	No
TMK 07-00193	4/2/2007	4/14/2011	FRISBEE	WHAM-O, INC.	No
TMK 07-00310	4/2/2007	12/24/2013	SLIP 'N SLIDE	WHAM-O, INC.	No
TMK 07-00322	4/2/2007	2/23/2012	FRESH STEP	THE CLOROX PET PRODUCTS COMPANY	No
TMK 07-00209	4/2/2007	10/28/2008	LONGINES & DESIGN	COMPAGNIE DES MONTRES LONGINES	No
TMK 07-00213	4/2/2007	12/14/2009	M5D	FRANCLION SA	No
TMK 07-00212	4/2/2007	11/22/2013	FUTURO	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00214	4/2/2007	8/8/2010	KICKER IGNITION	BEIERSDORF AKTIENGESELLSCHAFT	No
TMK 07-00345	4/2/2007	4/18/2016	SSP	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00219	4/2/2007	12/14/2014	DIESEL DYNAMICS	DFE INC.	No
TMK 07-00224	4/2/2007	9/5/2015	NIVEA CREME DESIGN	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00196	4/2/2007	8/15/2016	HELL-CORE	BEIERSDORF AKTIENGESELLSCHAFT	No
TMK 07-00214	4/2/2007	9/21/2009	HELL-CORE	WILLIAMS & HUSSEY MACHINE CO., INC.	No
TMK 07-00217	4/2/2007	1/24/2016	EDGE	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00220	4/2/2007	1/21/2013	D-BOX	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00221	4/2/2007	3/19/2012	ALWAYS POWER	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00303	4/2/2007	3/21/2016	ANVIRZEL	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00244	4/2/2007	1/9/2017	NORTH CENTRAL	OZELLE PHARMACEUTICALS INC. BARRINGTON CREDIT LLC	No

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TMK ID	IPR No	IPR Date	IPR Title	Applicant	IPR No
TMK 07-00308	4/2/2007	6/20/2016	DIAPHEX	DIADENT GROUP INTERNATIONAL INC.	No
TMK 07-00306	4/2/2007	1/23/2016	DELTAVISION	APPLIED PRECISION HOLDINGS, LLC	No
TMK 07-00245	4/2/2007	11/7/2016	FOR DUMMIES	WILEY PUBLISHING INC.	No
TMK 07-00330	4/2/2007	7/17/2011	YARD MASTER	WOODS INDUSTRIES INC.	No
TMK 07-00332	4/2/2007	9/3/2012	TIGHT GRIP	WOODS INDUSTRIES, INC.	No
TMK 07-00230	4/2/2007	1/5/2015	ELASTIMOLD	THOMAS & BETTS INTERNATIONAL INC.	No
TMK 07-00319	4/2/2007	3/11/2009	T & B	THOMAS & BETTS INTERNATIONAL INC.	No
TMK 07-00231	4/2/2007	10/16/2010	STA-KON	THOMAS & BETTS INTERNATIONAL INC.	No
TMK 07-00311	4/2/2007	3/5/2013	STEEL CITY	THOMAS & BETTS INTERNATIONAL INC.	No
TMK 07-00232	4/2/2007	1/15/2012	CONFIGURATION OF A ORCHESTRAL MUSIC STAND	MANHASSET SPECIALTY CO., INC.	No
TMK 07-00323	4/2/2007	5/30/2016	KJUSH	BLUNT WRAP U.S.A., INC.	No
TMK 07-00321	4/2/2007	10/5/2014	DESIGN ONLY	LISA FRANK, INC.	No
COP 07-00036	4/2/2007	4/2/2027	NEW DECADE-BLUE-GOLF GRIP DESIGN	EATON CORPORATION	No
TMK 07-00325	4/2/2007	10/21/2013	I WITHIN A DIAMOND-SHAPED RABBIT HEAD DESIGN	STRIDE TOOL INC.	No
TMK 07-00236	4/2/2007	1/2/2017	THOMAS & BETTS	PLATBOY ENTERPRISES INTERNATIONAL, INC.	No
TMK 07-00318	4/2/2007	6/10/2007	CONFIGURATION DESIGN OF A LAMP	THOMAS & BETTS INTERNATIONAL INC.	No
TMK 07-00312	4/2/2007	7/9/2012	"BEE"	HAGGERTY ENTERPRISES INC.	No
TMK 07-00237	4/2/2007	1/23/2016	DESIGN ONLY	THE UNITED STATES PLAYING CARD COMPANY	No
TMK 07-00305	4/2/2007	3/29/2015	BILL LAWRENCE	SUN BELT CONFERENCE	No
TMK 07-00334	4/2/2007	11/28/2009	INDIA BATH CARE	BILL LAWRENCE AKA WILLI STICH	No
TMK 07-00307	4/2/2007	1/23/2011	PRECIOUS MOMENTS	BELISDORF AKTIENGESELLSCHAFT	No
TMK 07-00324	4/2/2007	3/14/2010	MSD PRO-DATA	PRECIOUS MOMENTS INC.	No
TMK 07-00309	4/2/2007	10/22/2012	PNY TECHNOLOGIES AND DESIGN	ELISON EDUCATIONAL EQUIPMENT, INC.	No
TMK 07-00326	4/2/2007	1/30/2011	PNY TECHNOLOGIES AND DESIGN	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00238	4/2/2007	2/13/2011	DESIGN ONLY	PNY TECHNOLOGIES, INC.	No
TMK 07-00239	4/2/2007	11/23/2014	TRU-WAY CORD	PNY TECHNOLOGIES, INC.	No
TMK 07-00234	4/2/2007	6/18/2016	TURM-H-LOCK	HUHTAMAKI COMPANY MANUFACTURING	No
TMK 07-00328	4/2/2007	11/26/2016	PNY TECHNOLOGIES AND DESIGN	WOODS INDUSTRIES INC.	No
TMK 07-00329	4/2/2007	1/28/2009		WOODS INDUSTRIES CANADA INC.	No
TMK 07-00241	4/2/2007	11/9/2014		PNY TECHNOLOGIES, INC.	No

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TMK 07-00233	4/2/2007	1/2/2017	DESIGN ONLY	EATON CORPORATION	No
TMK 07-00235	4/2/2007	5/24/2015	REDBACK	REDBACK BOOTS USA	No
TMK 07-00331	4/2/2007	10/4/2014	DECKMATES	WOODS INDUSTRIES INC.	No
TMK 07-00240	4/2/2007	9/6/2015	U.S. POLO ASSN. SINCE 1890 AND DESIGN	UNITED STATES POLO ASSOCIATION	No
TMK 07-00242	4/2/2007	3/15/2015	P AND DESIGN	UNITED STATES POLO ASSOCIATION	No
TMK 07-00243	4/2/2007	12/7/2014	U.S. POLO ASSN.	UNITED STATES POLO ASSOCIATION	No
TMK 07-00327	4/2/2007	4/11/2010	PRO MAG	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00343	4/2/2007	11/12/2012	AZZURE DENIM	AZZURE DENIM, LLC	No
TMK 07-00344	4/2/2007	3/20/2017	SMACKAROOS	SIARA RAULT	No
TMK 07-00333	4/2/2007	12/3/2013	VANELI (STYLIZED)	WOLFF SHOE CO.	No
TMK 07-00272	4/2/2007	7/1/2016	CONFIGURATION OF A DOUBLE DIAMOND	UMBRO INTERNATIONAL LTD.	No
TMK 07-00271	4/2/2007	9/25/2010	CONFIGURATION OF A DOUBLE DIAMOND	UMBRO INTERNATIONAL LTD.	No
TMK 07-00273	4/2/2007	2/15/2010	CONFIGURATION OF A DOUBLE DIAMOND	UMBRO INTERNATIONAL LTD.	No
TMK 07-00280	4/2/2007	5/9/2008	CONFIGURATION OF A DOUBLE DIAMOND	UMBRO INTERNATIONAL LTD.	No
TMK 07-00281	4/2/2007	7/18/2010	GOODY'S	BLOCK DRUG COMPANY, INC.	No
TMK 07-00266	4/2/2007	5/25/2011	ABREVA	SB PHARMCO PUERTO RICO INC.	No
TMK 07-00265	4/2/2007	4/20/2012	MASSENGILL	SMITHLINE BEECHAM CORPORATION	No
TMK 07-00262	4/2/2007	10/3/2011	PHAZIME	BLOCK DRUG COMPANY, INC.	No
TMK 07-00254	4/2/2007	9/30/2007	BENEFIX	GENETICS INSTITUTE, INC.	No
TMK 07-00301	4/2/2007	7/21/2007	HASTINGS AND DESIGN	HASTINGS MANUFACTURING COMPANY	No
TMK 07-00302	4/2/2007	12/14/2013	THE ORIGINAL RING LEADER	HASTINGS MANUFACTURING COMPANY	No
TMK 07-00297	4/2/2007	1/23/2017	LIVESTRONG	LANCE ARMSTRONG FOUNDATION, INC.	No
TMK 07-00295	4/2/2007	7/18/2015	XENICAL	HOFFMANN-LA ROCHE INC.	No
CDP 07-00037	4/2/2007	4/2/2027	DESIGN: EH-2111	TRENTEX FABRICS, LTD.	No
TMK 07-00246	4/2/2007	1/21/2013	MARSHALL UNIVERSITY	MARSHALL UNIVERSITY FOUNDATION INC.	No
TMK 07-00296	4/2/2007	1/31/2016	LIVESTRONG	LANCE ARMSTRONG FOUNDATION, INC.	No
TMK 07-00299	4/2/2007	9/15/2017	PARISH	PARISH NATIONAL BANK, INC.	No
TMK 07-00298	4/2/2007	8/8/2016	LIVESTRONG	LANCE ARMSTRONG FOUNDATION, INC.	No
TMK 07-00294	4/2/2007	11/29/2010	WHITE ELEPHANT AND DESIGN	ANING CORPORATION	No
TMK 07-00346	4/2/2007	1/2/2017	LC POWER	SILENT POWER ELECTRONICS GMBH	No

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Case No.	Date	Description	Applicant	Status
COP 07-00040	4/2/2007	ADBE PHOTOSHOP CS2 FOR WINDOWS.	ADBE SYSTEMS INCORPORATED	No
COP 07-00039	4/2/2007	MACROMEDIA DREAMWEAVER 8 : DREAMWEAVER 8.	MACROMEDIA, INC.	No
TMK 07-00335	4/2/2007	EFOK	HOLDEN, LLC	No
COP 07-00044	4/2/2007	BVLGARI--JEWELLERY RETAILERS	BULGARI, SPA (EMPLOYER FOR HIRE OF APACLO BULGARI)	No
TMK 07-00300	4/2/2007	HASTINGS	HASTINGS MANUFACTURING COMPANY	No
COP 07-00038	4/2/2007	TARGET	PRETTY UGLY, LLC, & DAVID HORVATH	No
COP 07-00043	4/2/2007	MACROMEDIA FLASH PROFESSIONAL 8.	MACROMEDIA, INC.	No
COP 07-00041	4/2/2007	MACROMEDIA FIREWORKS 8.	MACROMEDIA, INC.	No
COP 07-00052	4/2/2007	TUSCANY CHICKEN SALAD	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00048	4/2/2007	SHRIMP MUSHROOMS	CONTESSA PREMIUM FOODS, INC.	No
TMK 07-00251	4/2/2007	CONFIGURATION OF A LIP BALM CONTAINER	WYETH	No
TMK 07-00286	4/2/2007	CONFIGURATION OF A DOUBLE DIAMOND HAVING A COLOR PATTERN	UMBRO INTERNATIONAL LTD.	No
TMK 07-00290	4/2/2007	BC	BLOCK DRUG COMPANY INC.	No
TMK 07-00268	4/2/2007	CONFIGURATION OF A DOUBLE DIAMOND	UMBRO INTERNATIONAL LIMITED	No
COP 07-00049	4/2/2007	SPICE ORANGE BBQ SHRIMP	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00050	4/2/2007	ITALIAN GOAT CHEESE QUICHE	CONTESSA PREMIUM FOODS, INC.	No
TMK 07-00291	4/2/2007	SILVER AND GOLD BOX DESIGN	CARTIER INTERNATIONAL B.V. CORPORATION ASSIGNEE OF THE NETHERLANDS	No
TMK 07-00249	4/2/2007	LUSA	LUSA LIGHTING INT'L INC.	No
TMK 07-00248	4/2/2007	SD PRETTY DE CARTIER	CARTIER INTERNATIONAL B.V. COMPANY NETHERLAND HEREINGRACHT	No
COP 07-00046	4/2/2007	SHRIMP STIR FRY TACOS	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00056	4/2/2007	SHRIMP NACHOS	CONTESSA PREMIUM FOODS, INC.	No
TMK 07-00253	4/2/2007	BOSTONIAN	C & J CLARK AMERICA INC. AKA THE CLARKS COMPANIES N.A.	No
TMK 07-00292	4/2/2007	PRIMATENE	WYETH	No
TMK 07-00252	4/2/2007	TYGACIL	WYETH	No
TMK 07-00250	4/2/2007	RAPAMJINE	WYETH	No
COP 07-00058	4/2/2007	GENERAL TSAO SHRIMP EGG ROLLS	CONTESSA PREMIUM FOODS, INC.	No
TMK 07-00255	4/2/2007	EFFEXOR	WYETH	No
TMK 07-00259	4/2/2007	H	HEELING SPORTS LIMITED	No
TMK 07-00338	4/2/2007	TINKLE	DORCO CO., LTD.	No

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TMK 07-00256	4/2/2007	3/13/2017	PREMPRO	WYETH	No
TMK 07-00285	4/2/2007	9/20/2015	BD AND DESIGN	BECTON, DICKINSON AND COMPANY	No
COP 07-00042	4/2/2007	4/2/2027	MACROMEDIA FREEHAND MX FOR WINDOWS	MACROMEDIA, INC.	No
TMK 07-00337	4/2/2007	6/20/2016	TITAN OF MEXICO AND DESIGN	AZTECA PRODUCTS, INC.	No
TMK 07-00293	4/2/2007	6/4/2016	RENAGEL	GENZYME CORPORATION	No
TMK 07-00288	4/2/2007	11/7/2016	GOLDEARDD ANIMAL LANCET	MEDPOINT INC.	No
COP 07-00051	4/2/2007	4/2/2027	TERMEX SALAD	CONTRESSA PREMIUM FOODS, INC.	No
COP 07-00055	4/2/2007	4/2/2027	SEAFOOD VERACRUZ ENCHILADA	CONTRESSA PREMIUM FOODS, INC.	No
COP 07-00054	4/2/2007	4/2/2027	CHICKEN TIKKA MASALA	CONTRESSA PREMIUM FOODS, INC.	No
COP 07-00057	4/2/2007	4/2/2027	BURGUNDY BEEF STROGANOFF	CONTRESSA PREMIUM FOODS, INC.	No
TMK 07-00287	4/2/2007	10/31/2015	REFACTO	GENETICS INSTITUTE, INC.	No
TMK 07-00258	4/2/2007	6/15/2014	EFFEXOR XR	WYETH	No
TMK 07-00270	4/2/2007	6/9/2010	POLIGRIP	DENTICO INC.	No
TMK 07-00267	4/2/2007	6/13/2011	SENSODYNE	SMITHKLINE BEECHAM CORPORATION	No
TMK 07-00284	4/2/2007	6/11/2016	TUMS	SMITHKLINE BEECHAM CORPORATION	No
TMK 07-00261	4/2/2007	11/21/2011	C O N T A C	SMITHKLINE BEECHAM CORPORATION	No
TMK 07-00264	4/2/2007	2/1/2015	GERITOL	SMITHKLINE BEECHAM CORPORATION	No
TMK 07-00289	4/2/2007	4/10/2011	MYLOTARG	WYETH	No
TMK 07-00262	4/2/2007	11/14/2016	ECOTRIN	SMITHKLINE BEECHAM CORPORATION	No
TMK 07-00269	4/2/2007	12/15/2016	POLIDENT	BLOCK DRUG COMPANY INC.	No
TMK 07-00339	4/2/2007	1/2/9/2015	TAGAMET	SMITHKLINE BEECHAM PHARMACEUTICAL COMPANY	No
TMK 07-00257	4/2/2007	8/28/2015	ZOSYN	WYETH HOLDINGS CORPORATION	No
TMK 07-00260	4/2/2007	3/25/2013	XAL	UMPRO INTERNATIONAL LTD.	No
TMK 07-00263	4/2/2007	4/28/2010	VIVARIN	SMITHKLINE BEECHAM CORPORATION	No
TMK 07-00263	4/2/2007	10/8/2015	FEOSOL	SMITHKLINE BEECHAM CORPORATION	No
TMK 07-00275	4/2/2007	12/19/2010	PREVNAR	WYETH	No
TMK 07-00279	4/2/2007	6/13/2013	HEELYS	HEELING SPORTS LIMITED	No
TMK 07-00276	4/2/2007	9/14/2009	UMPRO	UMPRO INTERNATIONAL LTD.	No
TMK 07-00341	4/2/2007	9/22/2012	DESIGN ONLY	SAMTA FE NATURAL TOBACCO COMPANY, INC.	No
TMK 07-00277	4/2/2007	1/23/2016	CK/CALVIN KLEIN	CALVIN KLEIN TRADEMARK TRUST	No
TMK 07-00340	4/2/2007	7/18/2016	RICHARD MILLE	TURLEN HOLDING SA C/D C.M.	No
TMK 07-00278	4/2/2007	8/12/2013	DIOR	MANAGEMENT SERVICES S.A. CHRISTIAN DIOR COUTURE S.A.	No

U.S. CUSTOMS AND BORDER PROTECTION

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TMK 07-00342	4/2/2007	5/17/2015	MAAX	MAAX CANADA INC	NO
TMK 95-00066	4/9/2007	1/15/2016	CATALINA AND DESIGN	CCC ACQUISITION CORPORATION	NO
TMK 02-00298	4/9/2007	10/18/2016	S AND DESIGN	THE BASEBALL CLUB OF SEATTLE, LP	NO
TMK 03-00758	4/9/2007	1/28/2017	CONFIGURATION OF A PET SHELTER	DOSKOCIL MANUFACTURING COMPANY	NO
TMK 88-00003	4/9/2007	1/6/2017	LEE KUM KEE IN CHINESE CHARACTERS	LEE KUM KEE CO. LTD.	NO
TMK 89-00044	4/9/2007	9/9/2016	A STYLIZED	ANGELS BASEBALL L.P.	NO
TMK 91-00558	4/9/2007	7/1/2016	E-Z WIDER 1.0	ROBERT BURTON ASSOCIATES LTD.	Yes
TMK 07-00444	4/9/2007	1/21/2013	PRANA	SKYLARK SPORT MARKETING CORPORATION	NO
TMK 07-00347	4/9/2007	1/1/2015	MEORAL	SMITHKLINE BEECHAM PLC	NO
COP 07-00059	4/9/2007	4/9/2027	CHICKEN VEGETABLE CHOWDER	CONTESSA PREMIUM FOODS, INC.	NO
COP 07-00060	4/9/2007	4/9/2027	SHRIMP MARBELLA	CONTESSA PREMIUM FOODS, INC.	NO
TMK 07-00348	4/9/2007	8/16/2015	DVF AND DESIGN	DIANE VON FURSTENBERG STUDIO DIANE VON FURSTENBERG U.S. CITIZEN PARTNERSHIP CONNECTICUT	NO
TMK 07-00349	4/9/2007	6/1/2014	EINO	SMITHKLINE BEECHAM CORPORATION	NO
TMK 07-00350	4/9/2007	3/24/2012	BEANO	BLOCK DRUG COMPANY, INC.	NO
TMK 07-00351	4/9/2007	4/25/2016	ITI	G.G. MARCK & ASSOCIATES, INC.	NO
TMK 07-00352	4/9/2007	9/26/2016	MANI	MANI, INC.	NO
TMK 07-00354	4/9/2007	9/21/2014	SHUSTOV AND DESIGN	ZAO GRUPPA PREDPRIYATD OST	NO
TMK 07-00353	4/9/2007	10/26/2009	DESIGN ONLY	PRECIOUS MOMENTS, INC.	NO
TMK 07-00355	4/9/2007	6/30/2014	PICA PICA	OTIS MCALLISTER, INC.	NO
TMK 07-00358	4/9/2007	12/13/2015	RAYDOOR	MADMAN, INC.	NO
TMK 07-00356	4/9/2007	5/20/2013	COMMIT	SMITHKLINE BEECHAM CORPORATION	NO
TMK 07-00357	4/9/2007	3/10/2017	DESIGN ONLY	WHAM-O, INC	NO
TMK 07-00359	4/9/2007	12/19/2015	DRAWING OF DRAGON AND PHOENIX	ANHING CORPORATION CORPORATION CALIFORNIA	NO
COP 07-00061	4/9/2007	4/9/2027	BOP N' BEEP	PRETTY UGLY, LLC , SUN-HIN KIM, & DAVID HORVATH	NO
COP 07-00062	4/9/2007	4/9/2027	ICE BAT	PRETTY UGLY, LLC, & DAVID HORVATH	NO
TMK 07-00360	4/9/2007	2/13/2017	ERNIE BALL	ERNIE BALL, INC.	NO
TMK 07-00361	4/9/2007	6/23/2016	IMPERIAL	STRIDE TOOL INC.	NO
TMK 07-00362	4/9/2007	11/3/2008	TIGER BAY	BERDEX SEAFOOD, INC	NO
TMK 07-00363	4/9/2007	12/28/2009	AMIBCOM	AMIBCOM INC.	NO
TMK 07-00364	4/9/2007	1/4/2015	THERMINATOR	AUTOTRONIC CONTROLS CORPORATION	NO
TMK 07-00365	4/9/2007	4/18/2016	SUPERCIPS INC.	AUTOTRONIC CONTROLS CORPORATION	NO

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TMK 07-00366	4/9/2007	4/13/2013	DRAWING OF DRAGON AND PHOENIX	ANHING CORPORATION CORPORATION CALIFORNIA	No
TMK 07-00367	4/9/2007	4/13/2013	LUNGFUNG	ANHING CORPORATION CORPORATION	No
TMK 07-00368	4/9/2007	10/9/2011	TRADESMAN	WOODS INDUSTRIES INC.	No
TMK 07-00369	4/9/2007	10/9/2016	LUCKY FISH	LIEN HOA FOOD CORPORATION	No
TMK 07-00370	4/9/2007	8/31/2014	SURGE HAWK	WOODS INDUSTRIES INC.	No
TMK 07-00371	4/9/2007	11/28/2016	DR. THEO'S	SUPPLEMENT TESTING INSTITUTE INC.	No
TMK 07-00372	4/9/2007	8/20/2016	BOROFLOAT	SCHOTT JENAER GLAS GMBH, LTD	No
TMK 07-00373	4/9/2007	7/11/2015	WARMATES	WOODS INDUSTRIES INC.	No
TMK 07-00374	4/9/2007	4/29/2007	PIVOTPLUG	WOODS INDUSTRIES INC.	No
TMK 07-00375	4/9/2007	7/16/2016	SHOP BLOCK	WOODS INDUSTRIES INC.	No
TMK 07-00376	4/9/2007	2/7/2014	A	ANHING CORPORATION	No
COP 07-00063	4/9/2007	4/9/2007	15 & 16 CAKE	SHIAH YIH IND. CO., LTD.	No
COP 07-00064	4/9/2007	4/9/2007	PRAYING KIDS	SHIAH YIH IND. COMPANY, LTD.	No
TMK 07-00377	4/9/2007	3/5/2013	SC	THOMAS & BETTS INTERNATIONAL INC.	No
TMK 07-00378	4/9/2007	10/11/2015	SUNSHINE BABY	BOSRLO INC.	No
TMK 07-00379	4/9/2007	10/29/2012	BLACK DRAGON	JAYA MEDICAL SUPPLIES, INC.	No
COP 07-00065	4/9/2007	4/9/2007	BRIDE'S MAIDS : NO. 6126.	SHIAH YIH IND. COMPANY, LTD.	No
COP 07-00066	4/9/2007	4/9/2007	SLEEPING BABY 6463.	SHIAH YIH IND. COMPANY, LTD.	No
TMK 07-00380	4/9/2007	11/30/2009	CIVACON	DELAWARE CAPITAL FORMATION INC.	No
TMK 07-00381	4/9/2007	12/19/2016	POWERBALL MINI	MOTHERS POLISHES WAXES CLEANERS	No
TMK 07-00382	4/9/2007	3/29/2014	LA MODERNA	PRODUCTOS ALIMENTICIOS LA MODERNA S.A. DE C.V.	No
TMK 07-00383	4/9/2007	10/17/2016	TRUSSLOK-Z	HANDY & HARMAN	No
TMK 07-00384	4/9/2007	10/5/2013	YELLOW JACKET	WOODS INDUSTRIES INC.	No
TMK 07-00385	4/9/2007	5/20/2016	CARAVELLE	ANHING CORPORATION CORPORATION CALIFORNIA	No
TMK 07-00386	4/9/2007	10/3/2015	LUNGFUNG	ANHING CORPORATION CORPORATION CALIFORNIA	No
TMK 07-00387	4/9/2007	5/26/2008	WILEY	ANHING CORPORATION CORPORATION CALIFORNIA	No
COP 07-00067	4/9/2007	4/9/2007	BOY AND GIRL ASSORTMENT-SY6457	SHIAH YIH INDUSTRIES CO, LTD.	No
TMK 07-00388	4/9/2007	7/3/2011	WORKKACITON	LOUISIANA WORKERS' COMPENSATION CORPORATION	No
COP 07-00068	4/9/2007	4/9/2007	GIRLS WITH CROWN	SHIAH YIH IND. COMPANY, LTD.	No
COP 07-00069	4/9/2007	4/9/2007	X-ROTOR HUMMINGBIRD : NO. 85615.	SILVERLIT TOYS MANUFACTORY, LTD.	No
TMK 07-00389	4/9/2007	8/20/2016	SLIMLINE	WOODS INDUSTRIES INC.	No
TMK 07-00390	4/9/2007	3/7/2008	MOONRAVS	WOODS INDUSTRIES (CANADA) INC.	No

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TMK 07-00391	4/9/2007	4/2/2012	YELLOW JACKET BEE DESIGN	WOODS INDUSTRIES INC.	No
TMK 07-00392	4/9/2007	1/29/2017	METALMASTER (STYLIZED)	COOPER INDUSTRIES, INC.	No
TMK 07-00393	4/9/2007	9/26/2016	LUCKY FISH AND DESIGN	LIEN HOA FOOD CORPORATION	No
TMK 07-00394	4/9/2007	6/12/2011	MSD DIGITAL AND DESIGN	AUTOTRONICS CONTROLS CORPORATION	No
TMK 07-00395	4/9/2007	9/10/2011	RACEPAK	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00396	4/9/2007	1/31/2015	SUPER CHIP	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00397	4/9/2007	2/27/2011	SUPER CONDUCTOR	AUTOTRONIC CONTROLS CORPORATION	No
COP 07-00070	4/9/2007	4/9/2027	OK	PRETTY UGLY, LLC, & DAVID HORVATH	No
TMK 07-00398	4/9/2007	7/21/2016	I AND DESIGN	STRIDE TOOL INC.	No
TMK 07-00399	4/9/2007	7/25/2010	AMBLOOM AND DESIGN	AMBLOOM INC.	No
TMK 07-00400	4/9/2007	2/6/2010	TRUEPROTECTION	WOODS INDUSTRIES INC.	No
TMK 07-00401	4/9/2007	3/19/2012	WEEKEND WARRIOR	WOODS INDUSTRIES INC.	No
COP 07-00071	4/9/2007	4/9/2027	[PERO]	PRETTY UGLY, LLC, & DAVID HORVATH	No
COP 07-00072	4/9/2007	4/9/2027	STORK : NO. 6147.	SHIAH YH IND. COMPANY, LTD.	No
COP 07-00073	4/9/2007	4/9/2027	BABY : NO. 6471.	SHIAH YH INDUSTRIES COMPANY, LTD.	No
COP 07-00074	4/9/2007	4/9/2027	BABY WITH SWAN	SHIAH YH IND. COMPANY, LTD.	No
COP 07-00075	4/9/2007	4/9/2027	PRAYING CHILD WITH CROSS : NO. SY 6590.	SHIAH YH INDUSTRIES COMPANY, LTD.	No
COP 07-00076	4/9/2007	4/9/2027	BABY 6461	SHIAH YH IND. COMPANY, LTD.	No
COP 07-00077	4/9/2007	4/9/2027	GIRL WITH FAN	SHIAH YH IND. COMPANY, LTD.	No
TMK 07-00402	4/9/2007	6/26/2010	WOODS & LOGO	WOODS INDUSTRIES INC.	No
TMK 07-00403	4/9/2007	7/23/2012	WOODS PREMIER LOGO	WOODS INDUSTRIES INC.	No
TMK 07-00404	4/9/2007	6/11/2012	WOODS PREMIER	WOODS INDUSTRIES INC.	No
TMK 07-00405	4/9/2007	9/16/2007	AGRI-PRO	WOODS INDUSTRIES INC.	No
TMK 07-00406	4/9/2007	11/17/2016	EASY SWITCH	WOODS INDUSTRIES INC.	No
COP 07-00078	4/9/2007	4/9/2027	CINKO	PRETTY UGLY, LLC, & DAVID HORVATH	No
COP 07-00079	4/9/2007	4/9/2027	PICOOZ INSTRUCTIONAL MANUAL	SILVERLIT TOYS MANUFACTORY, LTD.	No
COP 07-00080	4/9/2007	4/9/2027	BABY - SY 6575	SHIAH YH INDUSTRIES CO, LTD.	No
TMK 07-00408	4/9/2007	9/13/2010	TRUEDATA	WOODS INDUSTRIES INC.	No
TMK 07-00407	4/9/2007	12/31/2016	TRANSFORMER DECK	WOODS INDUSTRIES INC.	No
TMK 07-00409	4/9/2007	11/9/2009	SAFE CONTROLS	AUTOTRONIC CONTROLS CORPORATION	No
TMK 07-00410	4/9/2007	10/17/2016	CANARON BEACH	BERDEX SEAFOOD, INC	No
TMK 07-00411	4/9/2007	12/11/2010	TRADESMAN	WOODS INDUSTRIES INC.	No
TMK 07-00412	4/9/2007	2/17/2014	LOCKERSTAR	WOODS INDUSTRIES INC.	No

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TMK 07-00413	4/9/2007	8/13/2011	A	ANHING CORPORATION	No
TMK 07-00414	4/9/2007	5/31/2015	ARBORMASTER	ARBORMASTER TRAINING, INC.	No
TMK 07-00415	4/9/2007	9/19/2016	FYFFES GOLD SUPER SWEET AND DESIGN	FYFFES GROUP LIMITED	No
COP 07-00081	4/9/2007	4/9/2027	CONGHO : NO. 71502-07.	LEATHER FACTORY, INC.	No
COP 07-00082	4/9/2007	4/9/2027	CONGHO : NO. 71502-02	LEATHER FACTORY, INC.	No
COP 07-00083	4/9/2007	4/9/2027	CONGHO : NO. 71502-08	LEATHER FACTORY, INC.	No
COP 07-00084	4/9/2007	4/9/2027	CONGHO : NO. 71502-09.	LEATHER FACTORY, INC.	No
COP 07-00085	4/9/2007	4/9/2027	CONGHO : NO. 71502-10	LEATHER FACTORY, INC.	No
COP 07-00086	4/9/2007	4/9/2027	CONGHO : NO. 71502-11	LEATHER FACTORY, INC.	No
COP 07-00087	4/9/2007	4/9/2027	CONGHO : NO. 71502-01	LEATHER FACTORY, INC.	No
COP 07-00088	4/9/2007	4/9/2027	THREE PIECE BELT BUCKLE : NO. 7317-01	TANDY LEATHER FACTORY, INC.	No
TMK 07-00416	4/9/2007	8/24/2009	POP-UPS!	BAJER DESIGN & MARKETING, INC.	No
COP 07-00090	4/9/2007	4/9/2027	EICHI HOSOMI-OCTOBER 2003 COLLECTION DESIGN: EHSJ16	TRENDTEX FABRICS, LTD.	No
COP 07-00089	4/9/2007	4/9/2027	CMS CASHWEW CHICKEN	COMTESSA PREMIUM FOODS, INC.	No
COP 07-00091	4/9/2007	4/9/2027	CMS GENERAL TSAO SHRIMP	COMTESSA PREMIUM FOODS, INC.	No
COP 07-00092	4/9/2007	4/9/2027	CMS CHICKEN TANDOORI	COMTESSA PREMIUM FOODS, INC.	No
COP 07-00093	4/9/2007	4/9/2027	CMS SESAME CHICKEN	COMTESSA PREMIUM FOODS, INC.	No
COP 07-00094	4/9/2007	4/9/2027	EICHI HOSOMI- MARCH 2002 COLLECTION	TRENDTEX FABRICS, LTD.	No
TMK 07-00417	4/9/2007	9/26/2016	SCHERER TRIER USA KUNSTSTOFF-TECHNIK AND DESIGN	KUNSTSTOFF-TECHNIK SCHERER & TRIER USA, INC.	No
COP 07-00095	4/9/2007	4/9/2027	JULY 2 2000 COLLECTION - HIRO	TRENDTEX FABRICS, LTD.	No
COP 07-00096	4/9/2007	4/9/2027	TRAY	PRETTY UGLY, LLC, & DAVID HORVATH	No
COP 07-00097	4/9/2007	4/9/2027	BABO	PRETTY UGLY, LLC, & DAVID HORVATH	No
TMK 07-00418	4/9/2007	7/6/2013	DESIGN ONLY	MAN CHONG LOONG FOOD CO., LTD.	No
TMK 07-00419	4/9/2007	8/29/2016	UGLYDOLL AND DESIGN	PRETTY UGLY LLC	No
TMK 07-00420	4/9/2007	12/19/2016	SUPER	TRUCK-LITE CO. INC.	No
COP 07-00098	4/9/2007	4/9/2027	SOCIAL LIGHT MULTI PURPOSE LIGHTER	DEBORAH DARNELL	No
COP 07-00099	4/9/2007	4/9/2027	UGLYDOG	PRETTY UGLY, LLC, DAVID HORVATH & SUN-MIN KIM	No
TMK 07-00421	4/9/2007	3/6/2017	DIANE VON FURSTENBERG	DIANE VON FURSTENBERG STUDIO, DIANE VON FURSTENBERG (US CITIZEN), PARTNERSHIP CONNECTICUT	No
TMK 07-00422	4/9/2007	7/18/2016	GRAPHICAL WATERFALL	PEVNICK DESIGN, INC.	No
TMK 07-00423	4/9/2007	10/24/2010	GARY MULL'S	GARY MULL & ASSOCIATES, INC.	No
TMK 07-00424	4/9/2007	10/19/2012	OLIO BEATO AND DESIGN	PIETRO DEMARCO IMPORTERS INC.	No

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COP 07-00100	4/9/2007	4/9/2007	4/9/2007	DESIGN EH-90636.	TRENDTEX FABRICS, LTD.	No
COP 07-00101	4/9/2007	4/9/2007	4/9/2007	EH-83-08.	TRENDTEX FABRICS, LTD.	No
TMK 07-00425	4/9/2007	4/9/2007	8/8/2016	FASHION BLVD	YOUNG'S TRADING, INC.	No
COP 07-00102	4/9/2007	4/9/2007	4/9/2007	LIFE SIZE WOLF : ITEM NO. 2310	EVERETT E. HUGHES	No
COP 07-00103	4/9/2007	4/9/2007	4/9/2007	BELT BUCKLE : NO. 71500-02.	LEATHER FACTORY, INC.	No
COP 07-00104	4/9/2007	4/9/2007	4/9/2007	3 PIECE BELT BUCKLE : NO. 7809-05	LEATHER FACTORY, INC.	No
COP 07-00105	4/9/2007	4/9/2007	4/9/2007	SHRIMP STIR-FRY WRAP	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00106	4/9/2007	4/9/2007	4/9/2007	WEDGEHEAD	PRETTY UGLY, LLC, & DAVID HORVATH	No
COP 07-00107	4/9/2007	4/9/2007	4/9/2007	SHRIMP BRUSCHETTA	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00108	4/9/2007	4/9/2007	4/9/2007	GREEK SHRIMP SALAD	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00109	4/9/2007	4/9/2007	4/9/2007	SESAME CHICKEN LETTUCE WRAP	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00110	4/9/2007	4/9/2007	4/9/2007	BEEF GOULASH PIE	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00111	4/9/2007	4/9/2007	4/9/2007	THAI CASHW CHICKEN SOUP	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00112	4/9/2007	4/9/2007	4/9/2007	CMS BEEF GOULASH	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00113	4/9/2007	4/9/2007	4/9/2007	CMS CHICKEN CACCIAOTORE	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00114	4/9/2007	4/9/2007	4/9/2007	CMS BURGUNDY BEEF STEW	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00115	4/9/2007	4/9/2007	4/9/2007	CMS SEAFOOD VERACRUZ	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00116	4/9/2007	4/9/2007	4/9/2007	CMS SPANISH SHRIMP	CONTESSA PREMIUM FOODS, INC.	No
COP 07-00117	4/9/2007	4/9/2007	4/9/2007	WAGE	PRETTY UGLY, LLC, & DAVID HORVATH	No
TMK 07-00426	4/9/2007	4/9/2007	7/11/2015	XILINX	XILINX, INC.	No
TMK 07-00427	4/9/2007	4/9/2007	8/3/2009	VITEK INDUSTRIAL VIDEO PRODUCTS	VIDEO SECURITY SPECIALISTS, INC	No
COP 07-00118	4/9/2007	4/9/2007	4/9/2007	EICHT HOSOMI : OCT. 2003 COLLECTION.	TRENDTEX FABRICS, LTD.	No
COP 07-00119	4/9/2007	4/9/2007	4/9/2007	DESIGN EH-3H25R	TRENDTEX FABRICS, LTD.	No
COP 07-00120	4/9/2007	4/9/2007	4/9/2007	EICHT HOSOMI JANUARY & FEBRUARY 2004 COLLECTION	TRENDTEX FABRICS, LTD.	No
TMK 07-00428	4/9/2007	4/9/2007	12/5/2016	CHICKEN CACCIAOTORE PIZZA	CONTESSA PREMIUM FOODS, INC.	No
TMK 07-00429	4/9/2007	4/9/2007	10/24/2007	BBQ BASICS	HANDI-FOIL CORPORATION	No
TMK 07-00430	4/9/2007	4/9/2007	1/15/2017	LOCKAW	WACO'S INDUSTRIES, INC.	No
COP 07-00121	4/9/2007	4/9/2007	4/9/2007	FOILABRATIONS	HANDI-FOIL CORPORATION	No
COP 07-00122	4/9/2007	4/9/2007	4/9/2007	EICHT HOSOMI-NOVEMBER 2003 COLLECTION-DESIGN E-3K411	TRENDTEX FABRICS, LTD.	No
TMK 07-00432	4/9/2007	4/9/2007	8/10/2014	POCKET STITCH DESIGN : STYLE NO. JPM288	SWEET PEOPLE APPAREL, INC.	No
TMK 07-00433	4/9/2007	4/9/2007	11/7/2016	BIG BIKE PARTS	BIG BIKE PARTS, INC.	No
TMK 07-00434	4/9/2007	4/9/2007	6/12/2010	VALU-FOIL	HANDI-FOIL CORPORATION	No
COP 07-00123	4/9/2007	4/9/2007	4/9/2007	DESIGN ONLY	THE GARDEN COMPANY LIMITED	No
COP 07-00124	4/9/2007	4/9/2007	4/9/2007	EICHT HOSOMI-OCTOBER 2003 COLLECTION DESIGN: EHL-3H37	TRENDTEX FABRICS, LTD.	No
				BELT BUCKLE : NO. 71500-03.	LEATHER FACTORY, INC.	No

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COP 07-00125	4/9/2007	4/9/2007	THREE PIECE BELT BUCKLE : NO. 71502-02	TANDY LEATHER FACTORY, INC.	No
COP 07-00126	4/9/2007	4/9/2007	DESIGN EH-2M59R.	TRENDEX FABRICS, LTD.	No
TMK 07-00435	4/9/2007	4/28/2016	GARDEN	THE GARDEN CO., LTD.	No
TMK 07-00443	4/9/2007	3/6/2017	ARTISTIC LOGO	SILVANO APPAREL,INC	No
TMK 07-00436	4/9/2007	3/2/2017	KING ROASTER	HANDI-FOIL CORPORATION	No
COP 07-00127	4/9/2007	4/9/2007	CONCHO : NO. 71502-04	LEATHER FACTORY, INC.	No
COP 07-00128	4/9/2007	4/9/2007	CONCHO : NO. 71502-12	LEATHER FACTORY, INC.	No
COP 07-00129	4/9/2007	4/9/2007	CONCHO : NO. 71502-05	LEATHER FACTORY, INC.	No
COP 07-00130	4/9/2007	4/9/2007	CONCHO : NO. 71502-06	LEATHER FACTORY, INC.	No
TMK 07-00437	4/9/2007	11/7/2016	DESIGN ONLY	KNIGHT'S ARMAMENT COMPANY	No
COP 07-00131	4/9/2007	4/9/2007	BELT BUCKLE : NO. 71500-04	LEATHER FACTORY, INC.	No
COP 07-00132	4/9/2007	4/9/2007	3 PIECE BELT BUCKLE : NO. 7850-01.	LEATHER FACTORY, INC.	No
COP 07-00133	4/9/2007	4/9/2007	CONCHO : NO. 71502-03	LEATHER FACTORY, INC.	No
TMK 07-00440	4/9/2007	12/5/2016	KAC	KNIGHT'S ARMAMENT COMPANY	No
TMK 07-00441	4/9/2007	2/20/2017	KNIGHT'S ARMAMENT COMPANY	KNIGHT'S ARMAMENT COMPANY	No
TMK 07-00442	4/9/2007	3/4/2013	NATURAL AMERICAN SPIRIT	SANTA FE NATURAL TOBACCO COMPANY, INC.	No
TMK 07-00439	4/9/2007	12/20/2015	FIFES	PFFES GROUP LIMITED	No
TMK 07-00438	4/9/2007	9/3/2014	NICORETTE	GLAXOSMITHKLINE CONSUMER HEALTHCARE LP.	No
TMK 07-00431	4/9/2007	1/19/2012	NICORETTE	GLAXOSMITHKLINE CONSUMER HEALTHCARE LP.	No
TMK 07-00445	4/10/2007	4/9/2012	SEATRADE AND DESIGN	HEALTHCARE LP.	No
TMK 07-00274	4/13/2007	2/15/2010	UMBRO	SEATRADE INTERNATIONAL CO., INC.	No
TMK 07-00456	4/16/2007	10/17/2016	DASIS	UMBRO INTERNATIONAL LTD.	No
TMK 07-00457	4/16/2007	10/21/2015	PUMA	BLOCK DRUG COMPANY, INC.	No
TMK 07-00458	4/16/2007	10/24/2010	ATLANTIC GEM	PUMA AG RUDOLF DASSLER SPORT	No
TMK 07-00447	4/16/2007	7/1/2013	GOLDEN CARP	SEATRADE INTERNATIONAL CO., INC.	No
TMK 07-00452	4/16/2007	7/25/2010	PRO-LITE	HAI YANG, INC.	No
TMK 07-00453	4/16/2007	11/8/2015	PHANTOM	AUTO METER PRODUCTS, INC.	No
TMK 07-00454	4/16/2007	4/16/2016	ULTRA-LITE	AUTO METER PRODUCTS, INC.	No
TMK 07-00451	4/16/2007	8/26/2013	BATTERY EXTENDER	AUTO METER PRODUCTS, INC.	No
TMK 07-00449	4/16/2007	6/14/2014	DINO ROPS	ADAMS & BROOKS, INC.	No
TMK 07-00448	4/16/2007	1/30/2016	DESIGN ONLY	THE GARDEN CO., LTD.	No
TMK 07-00450	4/16/2007	4/4/2016	DESIGN ONLY	AUTO METER PRODUCTS, INC.	No
TMK 07-00482	4/16/2007	4/3/2011	FIBER CHOICE	CMS, INC.	No
TMK 07-00459	4/16/2007	5/14/2012	GOLDEN SUN	SEATRADE INTERNATIONAL CO., INC.	No
TMK 07-00467	4/16/2007	2/6/2011	SSO & DESIGN	STUSSY, INC.	No
TMK 07-00478	4/16/2007	12/4/2011	SS	STUSSY, INC.	No
TMK 07-00446	4/16/2007	11/16/2016	AMERICAN CHOPPER	DISCOVERY COMMUNICATIONS, INC.	No
COP 07-00134	4/16/2007	4/16/2027	STG GRAPHIC : NO. 20.	GENERAL TRADING GROUP, INC.	No

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TMK 07-00464	4/16/2007	7/22/2016	JOHN DEERE	DEERE & COMPANY	No
TMK 07-00455	4/16/2007	5/11/2016	LEAPING CAT	PIMA AG RUDOLF-DASSLER SPORT	No
TMK 07-00460	4/16/2007	8/11/2012	LEAPING DEER DESIGN	DEERE & COMPANY	No
TMK 07-00461	4/16/2007	9/19/2014	DESIGN	DEERE & COMPANY	No
TMK 07-00463	4/16/2007	9/27/2013	STRIVECTIN--SD	KLEIN-BECKER IP HOLDINGS, LLC	No
TMK 07-00481	4/16/2007	11/29/2010	STUSSY & DESIGN	STUSSY, INC.	No
TMK 07-00480	4/16/2007	11/27/2009	JOHN DEERE	DEERE & COMPANY	No
TMK 07-00462	4/16/2007	7/4/2009	DESIGN ONLY	DEERE & COMPANY	No
TMK 07-00476	4/16/2007	11/21/2016	STRIVECTIN	KLEIN-BECKER IP HOLDINGS, LLC	No
TMK 07-00468	4/16/2007	6/29/2012	JOHN DEERE AND DESIGN	DEERE & COMPANY	No
TMK 07-00465	4/16/2007	7/29/2012	JOHN DEERE AND DESIGN	DEERE & COMPANY	No
TMK 07-00473	4/16/2007	8/6/2012	NCSTAR AND DESIGN	DEERE & COMPANY	No
TMK 07-00479	4/16/2007	10/7/2016	AQUATHIN	CARSON CHENG	No
TMK 07-00471	4/16/2007	3/27/2017	SEATRADE	AQUATHIN CORP.	No
TMK 07-00466	4/16/2007	2/23/2009	SS AND DESIGN	SEATRADE INTERNATIONAL CO., INC.	No
TMK 07-00469	4/16/2007	7/4/2016	SS	STUSSY, INC.	No
TMK 07-00470	4/16/2007	4/19/2010	SS	STUSSY, INC.	No
TMK 07-00477	4/16/2007	10/31/2010	SSO AND DESIGN	STUSSY, INC.	No
TMK 07-00474	4/16/2007	5/15/2011	ADVANTAGE	STUSSY, INC.	No
TMK 07-00475	4/16/2007	7/1/2007	REALTREE HARDWOODS HD	JORDAN OUTDOOR ENTERPRISES, LTD.	No
		3/7/2016		JORDAN OUTDOOR ENTERPRISES, LTD.	No

Total Records: 498
 Date as of: 5/2/2007

18 CUSTOMS BULLETIN AND DECISIONS, VOL. 41, NO. 23, MAY 30, 2007

9111-14

ADM-9-03 RR:RD:TC
H006284 CW

**Automated Commercial Environment (ACE):
Terms and Conditions for Account Access of the
ACE Secure Data Portal**

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

ACTION: General notice.

SUMMARY: This notice sets forth a revision of the terms and conditions that must be followed as a condition for access to the Automated Commercial Environment (ACE) Secure Data Portal (ACE Portal). These terms and conditions supersede and replace the Terms and Conditions documents previously signed and submitted to U.S. Customs and Border Protection (CBP) by ACE Portal Account Owners. The previous Terms and Conditions documents were not published in any public document but were provided to ACE Portal Account applicants after their acceptance into the test. For those ACE Portal Accounts already on file with CBP with the proper Account Owner listed, no further action is required by the ACE Portal Account Owner. The principal changes to the terms and conditions include a revised definition of "Account Owner" to permit either an individual or a legal entity to serve in this capacity, new requirements relating to providing notice to CBP when there has been a material change in the status of the Account and/or Account Owner, and explanatory provisions as to how the information from a particular account may be accessed through the ACE Portal when that account is transferred to a new owner. These terms and conditions do not affect participants in ACE who have not established Portal Accounts but who do participate via less formal Non-portal Accounts.

EFFECTIVE DATES: The terms and conditions set forth in this document must be followed as a condition for access to the ACE Portal effective immediately.

ADDRESSES: Comments concerning this notice should be submitted to Michael Maricich via e-mail at CSPO@dhs.gov.

FOR FURTHER INFORMATION CONTACT: Operational aspects for importers and brokers: Ruthanne Kenneally (202) 863-6064. Operational aspects for carriers: James Swanson at james.d.swanson@dhs.gov. Systems or automation aspects: Michael Maricich at michael.maricich@dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2002, the former U.S. Customs Service, now U.S. Customs and Border Protection (CBP), published a General Notice in the **Federal Register** (67 FR 21800) announcing a plan to conduct a National Customs Automation Program (NCAP) test of the first phase of the Automated Commercial Environment (ACE). The test was described as the first step toward the full electronic processing of commercial importations with a focus on defining and establishing an importer's account structure. This General Notice announced that importers and authorized parties would be allowed to access their customs data via a web-based Account Portal.

The notice set forth eligibility criteria for companies interested in establishing accounts (commonly known as Portal Accounts) accessible through the ACE Portal, and limited participants in the ACE test to importers already participating in the Customs Trade Partnership Against Terrorism (C-TPAT) Program who had access to the Internet. Upon an applicant's selection into the test, Customs would require additional information for inclusion in the account profile.

Certain subsequent notices eliminated the requirement of participation in the C-TPAT Program (see, e.g., General Notice published in the **Federal Register** on February 1, 2005 (70 FR 5199)) and expanded the universe of eligible participants in the ACE test and the types of ACE Portal Accounts, while establishing guidelines for account management, as described below.

On February 4, 2004, CBP published two General Notices in the **Federal Register**, which established the ACE Truck Carrier Accounts and opened the application period for authorized importers and their designated brokers to participate in the NCAP test to implement the Periodic Monthly Statement (PMS) process (see 69 FR 5360 and 69 FR 5362, respectively). Brokers were invited to establish Broker Accounts in ACE in order to participate in the NCAP test to implement PMS.

In both February 4, 2004, General Notices, CBP advised participants that they could designate only one person as the Account Owner for the company's ACE Portal account. The Account Owner was identified as the party responsible for safeguarding the company's ACE Portal account information, controlling all disclosures of that information to authorized persons, authorizing user access to the ACE Portal account information, and ensuring the strict control of access by authorized persons to the ACE Portal information.

On September 8, 2004, CBP published a General Notice in the **Federal Register** (69 FR 54302) inviting customs brokers to participate in the ACE Portal test generally and informing interested parties that once they had been notified by CBP that their request to participate in the ACE Portal test had been accepted, they would be

asked to sign and submit a Terms and Conditions document. CBP subsequently contacted those participants and asked them to also sign and submit a Power of Attorney form and an Additional Account/Account Owner Information form.

Non-portal Accounts

CBP has also enabled certain parties to participate in any ACE test without establishing ACE Portal accounts. On October 24, 2005, CBP published a General Notice in the **Federal Register** (70 FR 61466) announcing that importers, whether or not C-TPAT certified, could become ACE non-portal accounts and participate in the PMS test, under certain conditions. Additionally, on March 29, 2006, CBP published another General Notice in the **Federal Register** (71 FR 15756) announcing that truck carriers who do not have ACE Truck Carrier Accounts may use third parties to transmit truck manifest information on their behalf electronically in the ACE Truck Manifest system, via EDI messaging. Parties choosing to participate in any ACE test without an ACE Portal account, such as those identified here and any others that CBP may identify in the future, are not bound by the Terms and Conditions described below.

Terms and Conditions document

The purpose of the Terms and Conditions document that participants were asked to sign was to set forth the obligations and responsibilities of those parties accessing an ACE Portal account on behalf of an Account. An ACE Portal account, as employed in that document, referred to a party who had volunteered to participate in any ACE test and had an ACE Portal account. Presently, ACE Portal accounts may be established by any of the following business categories meeting the below listed eligibility requirements:

1. Importer:
 - Possesses one or more Importer of Record ("IR") numbers; and
 - Has access to the Internet (see 67 FR 21800, May 1, 2002)
2. Broker:
 - Possesses the ability to make periodic payment via ACH Credit or ACH Debit;
 - Possesses the ability to file entry/entry summary via ABI (Automated Broker Interface); and
 - Has access to the Internet (see 69 FR 5362, February 4, 2004)
3. Carrier:
 - Possesses a Standard Carrier Alpha Code (SCAC); and
 - Has access to the Internet (see 69 FR 5360, February 4, 2004)

To date, CBP has required that the Account Owner sign and submit the Terms and Conditions document prior to accessing the ACE Portal. If the Terms and Conditions document was not signed and submitted to CBP, CBP would deny access to the ACE Portal for the

Account Owner. The trade community has provided numerous comments to CBP describing the burdens imposed by the requirement that the Account Owner sign and submit the Terms and Conditions document prior to accessing the ACE Portal. In response, CBP is publishing the terms and conditions governing ACE Portal access in this Federal Register Notice (FRN). The publication of the terms and conditions in this FRN replaces the requirement that the Account Owner sign and submit a Terms and Conditions document to CBP.

Changes in Policy

Any Terms and Conditions document previously signed and submitted by any Account Owner is null and void, having been superseded and replaced by the Terms and Conditions set forth in this FRN. Any present ACE Portal account with a Terms and Conditions document already on file with CBP will not be required to change the designation of its Account Owners unless the Account would prefer to designate a new Account Owner, consistent with the definition of Account Owner that is set forth below. If the Account chooses to change its Account Owner designation, the Account will be required to sign and submit to CBP an Account Owner Designation/Authorization form.

The Terms and Conditions set forth in this FRN will appear on the introductory screen for the ACE Portal. Any party seeking access to the ACE Portal will be required to accept those Terms and Conditions as set forth on the screen and in this FRN. As ACE expands and includes other portal account types beyond the importer, broker and carrier ACE Portal accounts that exist today, further modifications to the Terms and Conditions may occur.

New Definition of Account Owner

With the publication of this FRN, CBP is also amending the requirements set forth in the General Notices published on February 4, 2004 (and referenced above) pertaining to the designation of the "Account Owner." Specifically, those notices limited the participants to the designation of only one person as the Account Owner who would be responsible for the company's portal account information. The Terms and Conditions documents presently on file with CBP define the Account Owner as "any individual identified and authorized by the Account to serve as the representative of the Account relating to the administration of access to the Account's information through the ACE Portal."

Upon review, CBP is revising the definition of "Account Owner." This revised definition of the Account Owner supersedes and replaces any former definition for the Account Owner. Whereas the former definition of Account Owner referred to a person or individual, CBP has now determined that a more appropriate definition for the Account Owner includes any "legal entity" identified and au-

thorized by the Account to serve as the representative of that Account relating to the administration of access to the Account's information through the ACE Portal. Accordingly, the Account may also choose to designate itself to be its own Account Owner.

The revisions of the Terms and Conditions set forth in this FRN include additional requirements, specifically those which require notice to CBP when there has been a material change in the status of the Account and/or Account Owner, as well as access to historical information in the event of the transfer of control of an IR number, filer code, or SCAC.

Terms and Conditions

I. Overview

This document sets forth the obligations and responsibilities that must be followed as a condition for access to the Automated Commercial Environment ("ACE") Secure Data Portal (hereinafter, "ACE Portal").

Information contained in ACE and accessed through the ACE Portal includes confidential commercial or financial information that pertains to the Account. Information in ACE is, generally, protected under the provisions of the Freedom of information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and the Trade Secrets Act (18 U.S.C. 1905). No private party will be permitted access to information pertaining to an account absent the authorization of the Account. No governmental agency outside of the Department of Homeland Security will be permitted access to information that pertains to an account, unless the access is otherwise authorized by law (e.g., Freedom of information Act, Privacy Act, Trade Secrets Act, etc.).

Information accessed through the ACE Portal that derives from another Agency of the United States Government is subject to the "Third Party Rule," which separately requires the approval of that other agency before the information may be disseminated beyond the Account Owner and any Account User.

CBP reserves the right to monitor access to the ACE Portal. CBP also reserves the right to disapprove any authorization of access to the ACE Portal for reasons pertaining to the security of ACE, mission of CBP, or National Security. The fact that one participates in the ACE test is not confidential.

II. Account

The term "Account" as employed in this document refers to a business entity that has volunteered to participate in an ACE test. The Account may designate only one Account Owner for the Account.

III. Account Roles

The Account Owner is any individual or other legal entity identified and authorized by the Account to serve as the representative of

the Account and is responsible for the administration of access to the Account's information through the ACE Portal.

If the Account chooses to designate a legal entity other than an individual as the Account Owner, the Account Owner must also designate an individual as the single point of contact for the Account. In all cases, there must be a single individual who is responsible for the administration of access to the Account's information through the ACE Portal.

A Proxy Account Owner is any individual identified and authorized by either the Account or the Account Owner to access information that pertains to the Account through the ACE Portal. The authority of the Proxy Account Owner includes the designation of other Account Users, but may be limited by the Account Owner. In no case may a Proxy Account Owner designate other Proxy Account Owners.

An Account User is any individual identified and authorized by the Account Owner or Proxy Account Owner to access information that pertains to the Account through the ACE Portal.

IV. Responsibilities:

A. The Account

1. The Account must separately authorize the Account Owner to exercise any and all authority, apparent or otherwise, to fulfill the enumerated responsibilities contained herein and in any applicable Federal Register Notice, including the authority to access and control information associated with newly acquired IR number(s), SCAC(s), and/or filer code(s).
2. The Account must complete and submit to CBP the Account Owner Designation/Authorization form, located on the CBP website (www.cbp.gov) as proof of designation of the Account Owner. This document must be signed by both the Account and the Account Owner and submitted to the Account Administrator. In cases in which the Account Owner is an entity, the form must be signed by the single point of contact of the Account.

B. Account Owner

1. The Account Owner, as the representative of the Account with respect to all information submitted by or on behalf of the Account, is responsible for safeguarding Account information, authorizing user access to the ACE Portal account information, controlling all disclosures of that information, enforcing ACE Portal access limitations, and ensuring the strict control of access by authorized persons to the ACE Portal information.
2. The Account Owner assumes liability for any disclosure of Account information or unauthorized access to the ACE Portal

and holds CBP, its officers, agents, and employees harmless from the release of any such information.

3. The Account Owner administers and controls all Proxy Account Owners and Account User access, including the designation and limitation of access, to the ACE Portal. The Account Owner is authorized to grant full or limited access to information relating to the Account (including information protected by the Trade Secrets Act or Privacy Act), through the ACE Portal.
4. The Account Owner, if not an individual, shall designate an individual as the single point of contact for the Account relating to the administration of access to the Account's information through the ACE Portal.

C. All Parties

The Account Owner, Proxy Account Owner, and any Account Users are responsible for ensuring the accuracy and confidentiality of any information they submit through the ACE Portal to CBP, and are also responsible for complying with the record-keeping requirements in accordance with law including, but not limited to, 19 U.S.C. 1508 and 1509.

V. Failure to Access the Portal

The failure of an Account Owner to access the ACE Portal for a period of ninety (90) days, consecutively, will result in the termination of access to the ACE Portal. Access may be restored by calling the Help Desk or by following the "forgot your password" prompt found on the ACE Portal log-in page.

The failure of a Proxy Account Owner or an Account User to access the ACE Portal for a period of ninety (90) days, consecutively, will result in the termination of access to the ACE Portal for the Proxy Account Owner or Account User. Access may only be restored upon re-authorization by the Account Owner.

VI. Change in the Status of the Account or Account Owner

A. Change in the Status of the Account

1. The Account must provide notice to CBP as soon as practicable, relating to a material change to the status or condition of the Account, such as a transfer of IR number(s), SCAC(s), or filer codes(s). Any transfer of control of an IR number, SCAC or filer code, will require notification to the CBP assigned Account Manager or the ACE Portal Administrator by the acquiring and acquired parties. Until such notification, CBP will not alter access to the Portal. Some material changes will also require re-application. For example, any re-

organization of an Account resulting in the creation of a new company and a new IR number, SCAC or filer code, will require re-application; this does not include the addition of a subsidiary. In the event of a division or spin-off from an Account, the Account will retain access to the ACE Portal, and the new business entity formed from the division or spin-off must apply for access.

2. In the event of a material change in the status of the Account, such as the transfer of IR number(s), SCAC(s), or filer codes(s), CBP will require a brief summary of the change, signed by both the acquiring and acquired parties, including, but not limited to, the following information:
 - a. Company names;
 - b. IR numbers acquired, transferred, sold, or divested;
 - c. Party transferring the IR number, filer code, and/or SCAC;
 - d. Party acquiring the IR number, filer code, and/or SCAC;
 - e. Address changes; and
 - f. Effective date of information control.
3. When the CBP assigned Account Manager or ACE Portal Administrator is notified of the transfer of IR number(s), SCAC(s) or filer code(s), ACE Portal access will be denied for the acquired company unless the acquiring company authorizes access to the acquired company.

B. Change in the Status of the Account Owner

1. The Account must provide notice to CBP, as soon as practicable, relating to a material change in the status of the Account Owner. A material change includes the resignation of the Account Owner. The Account must designate a new Account Owner to act on behalf of the Account after notifying CBP of the change. At such time that a new Account Owner is designated for the Account, the Account must submit a new Account Owner Designation/Authorization form to the CBP assigned Account Manager or Portal Administrator.
2. If the Account Owner is not an individual, the Account Owner must provide notice to CBP, as soon as practicable, relating to a material change to the status of the single point of contact. At such time that a new single point of contact is designated for the Account Owner, the Account Owner must submit a new Account Owner Designation/Authorization form to the CBP assigned Account Manager or Portal Administrator.


VII. Access to Historical Information

In the event of a transfer of control of an IR number, filer code, and/or SCAC, the acquiring company will obtain access to historical information associated with that IR number, filer code, and/or SCAC. In the event that the acquired company also requires access to the historical information associated with the transfer of control of an IR number, filer code, and/or SCAC, the acquired company's access to that information may be obtained by either downloading the historical information prior to the date of sale or the transfer of control of an IR number, filer code, and/or SCAC, or by making a Freedom of Information Act (FOIA) request to CBP of a download of that information after the sale or the transfer of control of an IR number, filer code, and/or SCAC. In the alternative, the acquired company may request to be made a user on the acquiring company's Account.

Dated: May 9, 2007

JAYSON P. AHERN,
*Assistant Commissioner,
Office of Field Operations.*

[Published in the Federal Register, (72 FR ?????)]



Name Change From the Bureau of Immigration and Customs Enforcement to U.S. Immigration and Customs Enforcement, and the Bureau of Customs and Border Protection to U.S. Customs and Border Protection

AGENCY: Office of the Secretary, DHS.

ACTION: Notice.

SUMMARY: This Notice informs the public that the Department of Homeland Security (DHS) has changed the name of the Bureau of Immigration and Customs Enforcement to U.S. Immigration and Customs Enforcement (ICE), and the name of the Bureau of Customs and Border Protection to U.S. Customs and Border Protection (CBP).

EFFECTIVE DATES: This Notice is effective March 31, 2007.

FOR FURTHER INFORMATION CONTACT: For CBP: Harold M. Singer, Director for the Regulations and Disclosure Law Division, Office of International Trade (202) 572-8700; for ICE:

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS) was established on January 24, 2003, pursuant to the Homeland Security Act of 2002, Public Law 107-296 (HSA). DHS is the result of the reorganization of 22 federal agencies, in-

cluding the former Immigration and Naturalization Service (INS) from the Department of Justice and the U.S. Customs Service (Customs Service) from the Department of the Treasury. Pursuant to sections 442 and 542 of the HSA, INS and the Customs Service were transferred to DHS effective March 1, 2003, and reorganized to become the U.S. Citizenship and Immigration Services (USCIS), the Bureau of Immigration and Customs Enforcement (ICE), and the Bureau of Customs and Border Protection (CBP).

DHS has decided to change the name of these components from the Bureau of Immigration and Customs Enforcement to U.S. Immigration and Customs Enforcement (ICE), and the Bureau of Customs and Border Protection to U.S. Customs and Border Protection (CBP). Pursuant to section 872(a)(2) of the HSA (6 U.S.C. 452(a)(2)), DHS is required to provide notice of the name change to Congress no later than 60 days before the change will be effective. DHS notified Congress on January 18, 2007.

This Notice informs the public that all official documents and future regulatory actions involving the Bureau of Immigration and Customs Enforcement now will identify U.S. Immigration and Customs Enforcement (ICE) as the applicable DHS component, and all references to the Bureau of Customs and Border Protection in existing documents and actions henceforth shall be construed as references to U.S. Customs and Border Protection (CBP).

Dated: April 17, 2007.

MARY KATE WHALEN,
Deputy Associate General Counsel for Regulatory Affairs,
Office of the General Counsel.

[Published in the Federal Register, April 23, 2007 (72 FR 20131)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS.
Washington, DC, May 15, 2007

The following documents of U.S. 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 MODIFICATION OF A RULING LETTER AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
THE COUNTRY OF ORIGIN MARKING REQUIREMENTS
OF CERTAIN ARTIST CANVASES**

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

ACTION: Notice of proposed modification of a country of origin ruling letter and proposed revocation of treatment relating to the country of origin marking requirements for certain artist canvases.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), this notice advises interested parties that Customs and Border Protection (CBP) intends to modify one ruling letter relating to the tariff classification of certain artist canvases under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). CBP also proposes to revoke any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before June 29, 2007.

ADDRESS: Written comments are to be addressed to Customs and Border Protection, Office of International Trade, Regulations and Rulings, Attention: Commercial Trade and 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 at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Sasha Kalb, Tariff Classification and Marking Branch: (202) 572-8791

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 modify one ruling letter pertaining to the tariff classification of certain artist canvases. Although in this notice, CBP is specifically referring to the modification of New York Ruling (NY) L89513, dated December 27, 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., 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 the above mentioned ruling, CBP determined that the country of origin for the subject artist canvas was India, pursuant to 19 C.F.R. §102.21 (c)(4). Based upon our analysis of the manufacturing process and the requirements of 19 CFR §102.21 (c)(3), we have determined that the appropriate country of origin designation of the artist canvas is China.

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to modify NY L89513 and any other ruling not specifically identified, to reflect the proper country of origin designation as detailed in proposed Headquarters Ruling Letter HQ H007440, set forth as Attachment B to this document. 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: May 9, 2007

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

Attachments

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[ATTACHMENT A]

NY L89513
December 27, 2005
CLA 2-RR:NC:TA:350 L89513
CATEGORY: Classification

MR. R. KEVIN WILLIAMS
RODRIGUEZ O' DONNELL ROSS FUERST
GONZALEZ WILLIAMS & ENGLAND, P.C.
1211 Connecticut Avenue, N.W.
Washington, DC 20036

RE: Classification and country of origin determination for a prepared artist's canvas, produced in China, using canvas material woven and primed with gesso in India; 19 CFR 102.21(c)(4)

DEAR MR. WILLIAMS:

This is in reply to your letter dated December 15, 2005, on behalf of Design Ideas, Ltd., Springfield, IL, requesting a classification and country of origin determination for an artist's canvas, which will be imported into the United States from China.

FACTS:

The transaction in question is as follows: A canvas material composed of 100% cotton is woven from yarn that is spun from the same factory in India. This is done in two weights: 225 grams per square meter and 310 grams per square meter. The canvas is then primed in India with gesso to make the material suitable for painting, before being shipped to China for further fabrication. In China, the primed rolls are cut to the appropriate size and

stretched over a wooden frame, which is produced in China. The edges of the canvas are folded into a groove on the back of the frame and a spline is inserted to hold the stretched canvas in place. The canvas and spline are then stapled to hold them in place. The completed artist's canvas is finally labeled and packaged for shipment to the United States.

ISSUE:

What are the classification and country of origin of the subject merchandise?

CLASSIFICATION:

The applicable subheading for the prepared artists canvas will be 5901.90.4000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for . . . prepared painting canvases. The general rate of duty will be 4.1 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/>.

COUNTRY OF ORIGIN – LAW AND ANALYSIS:

Section 334 of the Uruguay Round Agreements Act (codified at 19 U.S.C. 3592), enacted on December 8, 1994, provided rules of origin for textiles and apparel entered, or withdrawn from warehouse for consumption, on and after July 1, 1996. Section 102.21, Customs Regulations (19 C.F.R. 102.21), published September 5, 1995, in the Federal Register, implements Section 334 (60 FR 46188). Section 334 of the URAA was amended by section 405 of the Trade and Development Act of 2000, enacted on May 18, 2000, and accordingly, section 102.21 was amended (68 Fed. Reg. 8711). Thus, the country of origin of a textile or apparel product shall be determined by the sequential application of the general rules set forth in paragraphs (c)(1) through (5) of Section 102.21.

Paragraph (c)(1) states that "The country of origin of a textile or apparel product is the single country, territory, or insular possession in which the good was wholly obtained or produced." As the subject merchandise is not wholly obtained or produced in a single country, territory or insular possession, paragraph (c)(1) of Section 102.21 is inapplicable.

Paragraph (c)(2) states that "Where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1) of this section, the country of origin of the good is the single country, territory, or insular possession in which each of the foreign materials incorporated in that good underwent an applicable change in tariff classification, and/or met any other requirement, specified for the good in paragraph (e) of this section:"

Paragraph (e) in pertinent part states that "The following rules shall apply for purposes of determining the country of origin of a textile or apparel product under paragraph (c)(2) of this section":

HTSUS 5901–5903

Except for fabric of wool or of fine animal hair, a change from greige fabric of heading 5901 through 5903 to finished fabric of heading 5901 through 5903 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decatizing, permanent stiffening, weighting, permanent embossing, or moirering; or,

If the country of origin cannot be determined under (1) above, a change to heading 5901 through 5903 from any other heading, including a heading

within that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407, 5512 through 5516, 5803, 5806, 5808, and 6002 through 6006, and provided that the change is the result of a fabric making process.

We concur, that Subsection (1) of this rule does not apply because greige fabric is not exported to China from India. Further, the primed canvas from India is not dyed, printed or otherwise finished in China. Subsection (2) is likewise inapplicable because any tariff shift that occurs is not the result of a fabric making process. In fact, no tariff shift occurs at all in this situation. Both the primed canvas in bulk rolls and the framed artist canvases are classified in heading 5901.

Section 102.21(c)(3) states that, "Where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1) or (2) of this section":

(i) If the good was knit to shape, the country of origin of the good is the single country, territory, or insular possession in which the good was knit; or

(ii) Except for goods of heading 5609, 5807, 5811, 6213, 6214, 6301 through 6306, and 6308, and subheadings 6209.20.5040, 6307.10, 6307.90, and 9404.90, if the good was not knit to shape and the good was wholly assembled in a single country, territory, or insular possession, the country of origin of the good is the country, territory, or insular possession in which the good was wholly assembled.

The product is certainly not knit to shape, and, with regard to the reference "wholly assembled", the term wholly assembled means that there must be at least two, preexisting components which exist in essentially the same condition as found in the finished good, and which were combined to form the finished good in a single country, territory, or insular possession. In this case, the gesso-primed canvas is imported into China in bulk rolls where it is then cut to the proper size and shape in China before being stapled and folded over a wooden frame to make the finished product.

Accordingly, as the subject merchandise is neither knit to shape, nor wholly assembled within the meaning of Section 102.21(c)(3)(ii), Section 102.21 (c)(3) is inapplicable.

Section 102.21 (c)(4) states, "Where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1), (2) or (3) of this section, the country of origin of the good is the single country, territory or insular possession in which the most important assembly or manufacturing process occurred".

In the case of the subject merchandise, it is the making of the fabric, itself, specifically, the weaving of the fabric in India as well as the application of the gesso material that constitutes the two most important manufacturing operations.

HOLDING:

The country of origin of the prepared artist's canvas is India.

The holding set forth above applies only to the specific factual situation and merchandise identified in the ruling request. This position is clearly set forth in section 19 CFR 177.9(b)(1). This section states that a ruling letter, either directly, by reference, or by implication, is accurate and complete in every material respect.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177). Should it be subsequently determined that the information furnished is not complete and does not comply with 19 CFR

177.9(b)(1), the ruling will be subject to modification or revocation. In the event there is a change in the facts previously furnished, this may affect the determination of country of origin. Accordingly, if there is any change in the facts submitted to Customs, it is recommended that a new ruling request be submitted in accordance with 19 CFR 177.2.

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 Deborah Walsh at 646-733-3044.

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

[ATTACHMENT B]

HQ H007440
CLA-2 OT: RR: CTF: TCM H007440 ADK
CATEGORY: Classification and Marking
TARIFF NO.: 5901.90.40

MR. R. KEVIN WILLIAMS
RODRIGUEZ O'DONNELL ROSS FUERST
GONZALEZ WILLIAMS & ENGLAND, P.C.
1211 Connecticut Avenue, N.W.
Washington, DC 20036

RE: Country of Origin Marking of an Artist Canvas; Modification of New York Ruling (NY) L89513

DEAR MR. WILLIAMS:

On December 12, 2006, the Bureau of Customs and Border Protection (CBP) received a ruling request for merchandise substantially similar to your artist canvas classified in NY Ruling Letter (NY) L89513. We have since reviewed NY L89513, dated December 27, 2005, and although the classification determination in that ruling was correct, we find the country of origin determination to be in error.

FACTS:

The subject article, imported by Design Ideas, Ltd, is a prepared, framed artist canvas. The manufacturing process is as follows:

India

The 100% fabric is woven from Indian yarn. This is done in two weights: 225 grams per square meter and 310 grams per square meter.

The canvas is then primed with gesso to make the material suitable for painting.

The primed canvas is shipped to China for further fabrication.

China

The primed rolls of canvas are cut to the appropriate size

The cut canvas is then stretched over a wooden frame which is produced in China.

The edges of the canvas are folded into a groove on the back of the frame and a spline¹ is inserted to hold the stretched canvas in place. The canvas and spline are then stapled to hold them in place. The completed canvas is finally labeled and packaged for shipment to the United States.

ISSUE:

What is the country of origin of the artist canvas?

LAW AND ANALYSIS:

Section 334 of the Uruguay Round Agreements Act (URAA) (codified at 19 U.S.C. §3592), enacted on December 8, 1994, provided rules of origin for textiles and apparel entered, or withdrawn from warehouse for consumption, on or after July 1, 1996. Section 102.21, CBP Regulations (19 C.F.R. §102.21), published September 5, 1995, in the Federal Register, implements Section 334 (60 FR 46188). Section 334 of the URAA was amended by section 405 of the Trade and Development Act of 2000, enacted on May 18, 2000, and accordingly, §102.21 was amended (68 FR 8711). Thus, the country of origin of a textile or apparel product shall be determined by the sequential application of the general rules set forth in paragraphs (c)(1) through (5) of §102.21. The relevant provisions are set forth below. We will consider each of these rules in turn:

(c) *General rules.* Subject to paragraph (d) of this section, the country of origin of a textile or apparel product shall be determined by sequential application of paragraphs (c) (1) through (5) of this section and, in each case where appropriate to the specific context, by application of the additional requirements or conditions of §§ 102.12 through 102.19 of this part.

(1) The country of origin of a textile or apparel product is the single country, territory, or insular possession in which the good was wholly obtained or produced.

(2) Where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1) of this section, the country of origin of the good is the single country, territory, or insular possession in which each foreign material incorporated in that good underwent an applicable change in tariff classification, and/or met any other requirement, specified for the good in paragraph (e) of this section.

(3) Where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1) or (2) of this section:

(i) If the good was knit to shape, the country of origin of the good is the single country, territory, or insular possession in which the good was knit; or

(ii) Except for goods of heading 5609, 5807, 5811, 6213, 6214, 6301 through 6306, and 6308, and subheadings 6209.20.5040, 6307.10, 6307.90, and 9404.90, if the good was not knit to shape and the good was wholly assembled in a single country, territory, or insular possession, the country of origin of the good is the country, territory, or insular possession in which the good was wholly assembled.

(4) Where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1), (2) or (3) of this section, the country

¹Splines are the plastic "springs" sometimes used to hold frames together.

of origin of the good is the single country, territory, or insular possession in which the most important assembly or manufacturing process occurred.

* * *

In NY L89513, CBP concluded that the country of origin could not be determined by application of paragraphs §102.21 (c) (1) to (c) (3). With respect to paragraph (c)(3) specifically, CBP determined that the artist canvas component pieces did not exist in essentially the same condition as found in the finished good. As a result, the country of origin was found to be “the single country in which the most important assembly or manufacturing process occurred.” §102.21 (c)(4). We now find that the analysis of the term “wholly assembled,” as it pertains to paragraph (c)(3), was in error. Upon review, we find that the manufacturing process in China satisfies the definition of “wholly assembled” and that the country of origin determination should therefore have concluded with paragraph (c)(3).

The general rules set forth in paragraphs (c)(1) through (5) of §102.21 must be applied sequentially. Applying paragraph (c)(1), we agree with the conclusion in NY L89513 that it is inapplicable. The subject canvas was neither wholly obtained nor wholly produced in a single country.

Paragraph (c)(2) is similarly inapplicable. According to (c)(2), the country of origin is the single country in which the good underwent a tariff change specified in 19 C.F.R. §102.21(e). The relevant tariff change rules are as follows:

5901-5903

(1) Except for fabric of wool or of fine animal hair, a change from greige² fabric of heading 5901 through 5903 to finished fabric of heading 5901 through 5903 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling³, napping⁴, decatizing⁵, permanent stiffening, weighting, permanent embossing, or moireing⁶; or

(2) If the country of origin cannot be determined under (1) above, a change to heading 5901 through 5903 from any other heading, including a heading within that group, **except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5803, 5806, 5808, and 6002 through 6006**, and provided that the change is the result of a fabric making process. (Emphasis added)

² A term used to describe fabrics in the unfinished state, after they have been woven and before dyeing or finishing. *Fairchild's Dictionary of Textiles*, 264 (2nd Ed. 1970).

³ A finishing process in the manufacture of woollens in which the newly woven cloth is felted or compressed into smooth, tight finish. *Id.* at 245.

⁴ A finishing process consisting of raising a nap (a fuzzy or downy surface of fabric covering either one side or both) on the fabric, which may be either woven or knitted. *Id.* at 391.

⁵ A method of sponging fabrics to set the width and length to improve luster and hand finish. *Id.* at 176.

⁶ A finishing process which produces a wavy or rippling pattern with engraved rollers which press the design into the fabric. *Id.* at 376.

The canvas was not subjected to any of the processes detailed in subsection (1), nor did it undergo a tariff shift, as mandated by subsection (2). When exported from India to China, the 100% cotton fabric is classifiable under heading 5901, HTSUS, which provides for “[t]extile fabrics coated with gum or amylaceous substances, of a kind used for the outer covers of books or the like; tracing cloth; prepared painting canvas; buckram and similar stiffened textile fabrics of a kind used for hat foundations.” After processing in China, the unfinished fabric becomes an artist canvas. There is no tariff shift at all because the unfinished fabric and finished artist canvas are classifiable in the same heading. As a result, the country of origin cannot be determined according to (c)(2).

We next consider (c)(3). As a threshold matter, we note that subsection (i) is *prima facie* inapplicable because the cotton canvas was not knit to shape. Only subsection (ii) is potentially applicable to the subject artist canvas.

Subsection (ii) identifies the country of origin for goods which are “wholly assembled” in a single country. The term “wholly assembled” is defined in §102.21(a)(6), which provides, in pertinent part:

The term “wholly assembled” when used with reference to a good means that all components, of which there must be at least two, **preexisted in essentially the same condition as found in the finished good** and were combined to form the finished good in a single country, territory, or insular possession. . . .

(Emphasis added).

The subject merchandise is comprised of a one-piece cotton canvas and a wooden frame. It therefore satisfies the §102.21(a)(6) requirement that there be at least two preexisting components. At issue is whether these components exist in essentially the same condition as found in the finished good.

Counsel for the importer, argues that “the two or more preexisting components do not exist in this situation. The gesso primed canvas is imported into China in bulk rolls and is cut to the proper shape in China⁷.” Counsel misinterprets the relevant test. With regards to “wholly assembled,” CBP looks to the condition of the component pieces immediately prior to completion. Stated differently, the test requires that if the completed merchandise were disassembled, the disassembled components would exist in the same condition as they did immediately prior to assembly. See Headquarters Ruling Letter (HQ) 968229, dated July 18, 2006 (holding that the components of an imported two-layer fabric laminate consisting of a face fabric with a membrane laminated to its back would preexist in essentially the same condition before and after the lamination process, although permanently joined).

Applying this test, we find that the component pieces — the canvas and the wooden frame — preexisted in essentially the same condition as found in

⁷ Counsel also refers to the Substantial Transformation test, as relied upon by CBP prior to the promulgation of §102.21. §102.21, published on September 5, 1996 in the Federal Register, of CBP regulations provide objective standards with which to determine the “substantial transformation” of textiles and textile products. Counsel notes that under the prior interpretation of the substantial transformation test, the country or origin was the location in which the components were cut to shape. Even under that test, however, cutting to length or width alone was insufficient to constitute a substantial transformation. Furthermore, whether the fabric was “cut to shape” or merely “cut to length” is not relevant here.

the finished good. Prior to assembly, the canvas was primed, cut and stretched and the wooden frame was fully formed. If disassembled, the component pieces would consist of a primed, cut and stretched piece of canvas, and a fully formed wooden frame. As a result, the subject article meets the definition of "wholly assembled," and the country of origin may be determined according to (c)(3).

HOLDING:

By application of §102.21 (c)(3), the country of origin for the prepared artist's canvas is China. The canvas or its outer container should be marked conspicuously, legibly and permanently

Consistent with NY L89513, the subject artist canvas is classifiable under heading 5901, HTSUS. Specifically, it is classifiable under subheading 5901.90.40, HTSUS, which provides for: "Textile fabrics coated with gum or amylaceous substances, of a kind used for the outer covers of books or the like; tracing cloth; prepared painting canvas; buckram and similar stiffened textile fabrics of a kind used for hat foundations: Other: Other." The 2007, column one, general rate of duty is 4.1 percent *ad valorem*.

The subject artist canvas of fibers other than man-made, falls within textile category designation 229. At the present time goods produced in China and falling within this textile category are subject to quota and visa requirements. Quota and visa status are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information as to whether quota and visa requirements apply to this merchandise, we suggest that you check, close to the time of shipment, the "Textile Status Report for Absolute Quotas" available at our web site at www.cbp.gov. In addition, you will find current information on textile import quotas, textile safeguard actions and related issues at the web site of the Office of Textiles and Apparel, at otexa.ita.doc.gov.

Please note that the subject article may fall within the scope of an anti-dumping order concerning certain artist canvas from the People's Republic of China. See 71 FR 31154, June 1, 2006. Scope determinations are under the authority of the Department of Commerce (DOC). A list of AD/CVD proceedings at the Department of Commerce (DOC) and their product coverage can be obtained from the DOC website at: <http://ia.ita.doc.gov>, or you may write to them at the U.S. Department of Commerce, International Trade Administration, Office of Antidumping Compliance, 14th Street and Constitution Avenue, N.W. Washington, DC 20230. Written decisions regarding the scope of AD/CVD orders are issued by the Import Administration in the Department of Commerce and are separate from tariff classification and origin rulings issued by CBP.

EFFECT ON OTHER RULINGS:

NY L89513, dated December 27, 2005, is hereby modified.

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

19 CFR PART 177

MODIFICATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE CLASSIFICATION OF A CERTAIN DRYER TIMER KNOB OF PLASTIC

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

ACTION: Notice of modification of one ruling letter and revocation of treatment relating to the classification of a plastic dryer knob.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is modifying one ruling letter relating to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of a plastic dryer knob. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed action was published in the Customs Bulletin, Vol. 41, No. 14, on March 28, 2007. One comment opposing the proposed modification was received in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after July 29, 2007.

FOR FURTHER INFORMATION CONTACT: Heather K. Pinnock, Tariff Classification and Marking Branch, at (202) 572-8828.

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, a notice was published in the Customs Bulletin, Vol. 41, No. 14, on March 28, 2007, proposing to modify one ruling letter relating to the tariff classification of Electrolux Home Products part no. 1316524, a plastic dryer knob. One comment was received in response to the notice opposing the proposed modification. CBP addresses this comment in the attached ruling. As stated in the proposed notice, this modification will cover any rulings on the subject merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ruling identified above. 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 this final decision.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is modifying NY J82174 to reflect the proper tariff classification of the plastic dryer knob, part no. 1316524 under subheading 8451.90.3000, HTSUSA, which provides for, *inter alia*: "Machinery (other than machines of heading 8450) for . . . drying . . . textile yarns, fabrics or made up textile articles . . .; parts thereof: Parts: Drying chambers for the drying machines of subheading 8451.21 or 8451.29, and other parts of drying machines incorporating drying chambers," pursuant to the analysis set forth in Headquarters Ruling Letter (HQ) H007106 (Attachment). Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is revoking any treatment previously accorded by it to substantially identical transactions.

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

DATED: May 8, 2007

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

Attachment

HQ H007106

May 8, 2007

CLA-2 RR:CTF:TCM H007106 HkP

CATEGORY: Classification

TARIFF NO.: 8451.90.3000

MR. LAWRENCE M. FRIEDMAN
BARNES, RICHARDSON & COLBURN
303 East Wacker Drive
Chicago, IL 60601

RE: Electrolux Home Products plastic dryer timer knob - part no. 1316524;
Modification of NY J82174

DEAR MR. FRIEDMAN:

This is in reference to New York Ruling Letter (NY) J82174, dated March 31, 2003, regarding the classification of a plastic timer knob for a home laundry dryer (part no. 1316524) under the Harmonized Tariff Schedule of the United States ("HTSUS"). We have reconsidered NY J82174 and have determined that the classification of the dryer knob at the 8-digit level is not correct. The tariff classifications of the other articles described in that ruling are not affected.

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 modification was published on March 28, 2007, in the Customs Bulletin, Volume 41, No. 14. One comment was received in response to this notice and is addressed in this ruling.

FACTS:

In NY J82174 the knob was described, in relevant part, as follows:

2. Part number 1316524, a plastic timer knob assembly that is used to activate the timer on a home laundry dryer.

* * *

All of the above knobs are made of plastic. The knobs contain negligible amounts of metal due to the insertion of metal spring clips or threaded metal within plastic shafts that fit into the knobs themselves and allow them to be affixed to timers and switches. The knobs are molded and shaped to EHP's specifications. All of the above knobs are imprinted with an indicator line that allows the user to determine the temperature or timer setting.

U.S. Customs and Border Protection ("CBP") previously classified this knob in subheading 8451.90.9010, HTSUSA. It is now CBP's position that the correct classification is subheading 8451.90.3000, HTSUSA.

ISSUE:

What is the correct classification of the dryer knob?

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:

8451 Machinery (other than machines of heading 8450) for washing, cleaning, wringing, drying, ironing, pressing (including fusing presses), bleaching, dyeing, dressing, finishing, coating or impregnating textile yarns, fabrics or made up textile articles and machines for applying the paste to the base fabric or other support used in the manufacture of floor coverings such as linoleum; machines for reeling, unreeling, folding, cutting or pinking textile fabrics; parts thereof:

* * *

8451.90 Parts:

8451.90.3000 Drying chambers for the drying machines of subheading 8451.21 or 8451.29, and other parts of drying machines incorporating drying chambers

* * *

8451.90.90 Other

8451.90.9010 Of machines for washing, dry-cleaning, ironing, pressing or drying made-up textile articles or of other household or laundry type machines.

Chapter 84 is found in Section XVI of the tariff. Legal Note 1 to Section XVI, HTSUS, excludes "[p]arts of general use, as defined in note 2 to Section XV, of base metal (section XV), or similar goods of plastics (chapter 39)" from the section. Note 2 to Section XVI provides, in relevant part:

Subject to note 1 to this section, note 1 to chapter 84 and note 1 to chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

* * *

(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading . . . are to be classified with the machines of that kind or . . . as appropriate.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the HTSUS. While not legally binding nor dispositive, the ENs provide a commentary on the scope

of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

Heading 8451, HTSUS, provides for, among other things, machinery for drying textile yarns, fabrics, or made up textile articles. EN 84.51(D) explains, in relevant part, that drying machines are "made up of two main types: those consisting essentially of a closed chamber in which the goods to be dried are subjected to the action of hot air, and those in which fabrics are passed over heated rollers." We have reviewed your original ruling request of March 3, 2003, and the arguments made therein. Although you make no mention of the type of dryer that the knob will operate, it is the understanding of this office (based on research on the Internet) that Electrolux dryers for household use consist of a closed chamber in which the goods to be dried are subjected to the action of hot air. Dryers of this nature are classified in subheadings 8451.21 through 8451.29, HTSUS. Further, you indicated that the knob at issue is suitable for use solely or principally with drying machines of subheading 8451.21 or 8451.29, HTSUS. In the proposed ruling published in the Customs Bulletin (Vol. 41, No. 14, March 28, 2007), CBP found that the knob was a part solely or principally used with household dryers and was therefore classified in subheading 8451.90.3000, HTSUSA. One comment was received which questions CBP's determination that the subject plastic knob is a "part".

Commenter argues that plastic knobs for almost all household appliances share the same form of attachment to the appliances and that these types of knobs can easily be switched from one appliance to another without any modification. Commenter also states that the ruling request does not state the knob is for one style of dryer, just that it is a knob for listed goods. Consequently, commenter believes that the knob is a part of general use.

We note that in NY J82174, the knob at issue is described as being "molded and shaped to EHP's specifications. All of the . . . knobs are imprinted with an indicator line that allows the user to determine the temperature or timer setting." We further note that the temperature selections and settings on a household dryer are very different from those found on other household appliances such as a stove or washing machine. Based on these factors, CBP concluded that the indicator lines imprinted on the knob signified that the knob is for use solely or principally with dryers of subheading 8451.21 through 8451.29, HTSUS.

Commenter also believes that a ruling stating that a plastic knob is part of a machine will lead to confusion and incorrect classification of other goods. Commenter argues that plastic knobs are specifically provided for in the tariff in subheading 3926.90.2500, HTSUSA, which provides for: "Handles and knobs, not elsewhere specified or included, of plastics."

The courts have considered the nature of "parts" under the HTSUS and two distinct though not inconsistent tests have resulted. (See Bauerhin Technologies Limited Partnership, & John V. Carr & Son, Inc. v. United States, ("Bauerhin") 110 F.3d 774 ("We conclude that these cases are not inconsistent and must be read together." At 779)). The first, articulated in United States v. Willoughby Camera Stores, ("Willoughby Camera") 21 C.C.P.A. 322 (1933) requires a determination of whether the imported item is "an integral, constituent, or component part, without which the article to which it is to be joined, could not function as such article." At 324. The second requires a determination of whether the imported item is dedicated

solely for use with the article in question. United States v. Pompeo, (“Pompeo”) 43 C.C.P.A. 9 (1955).

In a fact situation such as this, the courts have applied the test in Pompeo (see discussion in Bauerhin) stated above and CBP must do the same. The knob’s physical characteristics, described in NY J82174, are indicative of its use solely or principally with dryers of subheading 8451.21 through 8451.29, HTSUS. Accordingly, we find that the dryer knob meets the terms of Note 2(b) to Section XVI. Knobs are not described in Note 2 to Section XV, HTSUS, as parts of general use nor are they similar to any of the articles mentioned therein. Therefore, they are not excluded from classification in Chapter 84 by operation of Note 1(g) to Section XVI.

Subheading 8451.90.3000, HTSUSA, provides for, in relevant part: “Parts: Drying chambers for the drying machines of subheading 8451.21 or 8451.29, and other parts of drying machines incorporating drying chambers. This is an *eo nomine* provision for parts of drying machines incorporating drying chambers. *Eo nomine* provisions normally include all forms of a named article unless specifically excluded. In this instance, there are no exclusions. Accordingly, we find that an article which is a part of a household dryer of subheading 8451.21 or 8451.29, HTSUS, and which fulfills the requirements of Note 2(b) to Section XVI, must be classified in subheading 8451.90.3000, HTSUSA. We find this to be the case with the knob under consideration.

HOLDING:

By application of GRI 1 and Note 2(b) to Section XVI, we find that the dryer knob at issue is classified in heading 8541, HTSUS. It is provided for in subheading 8451.90.3000, HTSUSA, which provides for, *inter alia*: “Machinery for . . . drying . . . parts thereof: Parts: Drying chambers for the drying machines of subheading 8451.21 or 8451.29, and other parts of drying machines incorporating drying chambers.”

EFFECT ON OTHER RULINGS:

NY J82174, dated March 31, 2003, is hereby modified with respect to the classification of part number 1316524, a plastic dryer knob used to activate the timer on a home laundry dryer. The classification of the other items described therein is unchanged. 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.

**PROPOSED REVOCATION OF RULING LETTERS AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
TARIFF CLASSIFICATION OF TABLEWARE AVAILABLE IN
SPECIFIED SETS**

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

ACTION: Notice of proposed revocation of tariff classification ruling letters and proposed revocation of treatment relating to the classification of tableware available in specified sets.

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 five ruling letters relating to the tariff classification of tableware available in specified sets 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 June 29, 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 in-

formation 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 five ruling letters pertaining to the tariff classification of tableware available in specified sets. Although in this notice, CBP is specifically referring to the revocation of Headquarters Ruling Letters (HQ) 967989, dated February 14, 2006, HQ 955838, dated August 8, 1994, HQ 967920, dated January 20, 2006, HQ 967792, dated January 20, 2006, and New York Ruling Letter (NY) K87695, dated August 5, 2004 (Attachments A-E, respectively), 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 HQ 967989, HQ 967920, HQ 967792, HQ 955838, and NY K87695, CBP ruled that certain dinnerware or tableware was not classifiable under provisions for such goods "available in specified sets." These determinations were based upon the language of Additional U.S. Note 6 to Chapter 69 and CBP's reading of the dimensional requirements of Additional U.S. Note 6(b) to chapter 69, HTSUSA.

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to revoke HQ 955838, HQ 967792, HQ 967920, HQ 967989 and NY K87695, and to revoke or modify any other ruling not specifically identified, to reflect the proper classification of tableware available in specified sets according to the analysis contained in proposed Headquarters Ruling Letters W968400, H004625, H004642, H004643 and H010776 set forth as Attachments F-J. 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 ac-

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tion, consideration will be given to any written comments timely received.

DATED: May 9, 2007

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

Attachments

[ATTACHMENT A]

HQ 967989
February 14, 2006
CLA-2 RR:CTF:TCM 967989 BtB
CATEGORY: Classification
TARIFF NO.: Not applicable

PORT DIRECTOR
U.S. CUSTOMS AND BORDER PROTECTION
LOS ANGELES-LONG BEACH SEAPORT
301 E. Ocean Blvd. Suite 1400
Long Beach, CA 90802

RE: Internal Advice 05-028; Interpretation of "available in specified sets" maximum size requirements of Additional U.S. Note 6 to Chapter 69, HTSUSA

DEAR PORT DIRECTOR:

This is in reference to your memorandum dated November 1, 2005, in which you forwarded a request for internal advice from counsel on behalf of Noritake Co., Inc. ("Noritake"), dated June 24, 2005, pursuant to section 177.11(b)(2) of the Customs and Border Protection ("CBP") Regulations. At issue is whether an article may exceed the dimensional requirements of Additional U.S. Note 6(b) to chapter 69, Harmonized Tariff Schedule of the United States Annotated ("HTSUSA"), and be classified as being "available in specified sets" in heading 6911 or 6912, HTSUSA.

FACTS:

Noritake imports ceramic tableware articles in specific patterns. Noritake claims that it offers for sale sets consisting of at least the articles listed in Additional U.S. Note 6(b) in such patterns. Some of the tableware articles in these sets, however, exceed the maximum dimensions set forth in Additional U.S. Note 6 to Chapter 69, HTSUSA, for such respective articles.

Noritake posits that this note should be interpreted to include articles with larger dimensions, as well as articles with equal or smaller dimensions. Noritake asserts that a provision in the Tariff Classification Study, a report prepared by the United States Tariff Commission in 1960 supports this interpretation.

ISSUE:

Whether an article may exceed the dimensional requirements of Additional U.S. Note 6 to Chapter 69, HTSUSA, and be classified as being "available in specified sets" in heading 6911 or 6912, HTSUSA.

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." In the event that 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 the proper interpretation of the headings. CBP believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127-28 (Aug. 23, 1989).

Additional U.S. Note 6 to Chapter 69 reads:

6. For the purposes of headings 6911 and 6912:

The term "available in specified sets" embraces plates, cups, saucers and other articles principally used for preparing, serving or storing food or beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being "available in specified sets" unless it is of a pattern in which at least the articles listed below in (b) of this note are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in subheadings 6911.10.35, 6911.10.37, 6911.10.38, 6912.00.35 or 6912.00.39, of all articles of such pattern shall be governed by the aggregate value of the following articles in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

12 plates of the size nearest to 26.7 cm in maximum dimension, sold or offered for sale, 12 plates of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale, 12 tea cups and their saucers, sold or offered for sale, 12 soups of the size nearest to 17.8 cm in maximum dimension, sold or offered for sale, 12 fruits of the size nearest to 12.7 cm in maximum dimension, sold or offered for sale, 1 platter or chop dish of the size nearest to 38.1 cm in maximum dimension, sold or offered for sale, 1 open vegetable dish or bowl of the size nearest to 25.4 cm in maximum dimension, sold or offered for sale, 1 sugar of largest capacity, sold or offered for sale, 1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale, shall be substituted therefor.

The meaning of Additional U.S. Note 6 to Chapter 69 is plain and unambiguous. As a general rule, where the meaning of the statute is plain and unambiguous, that meaning prevails. See *Muwwakkil v. Office of Personnel Management*, 18 F.3d 921 (Fed. Cir. 1994). If the statute's text answers the question of Congress' intent, "that is the end of the matter" and it is not necessary to examine legislative history or employ other means of statutory interpretation. *International Business Machines Corp. v. United States*, 201 F.3d 1367, 1372 (Fed. Cir. 2000); *Timex V.I., Inc. v. United States*, 157 F.3d

879, 882 (Fed. Cir. 1998); *Brookside Veneers, Ltd. v. United States*, 847 F.2d 786, 788 (Fed. Cir. 1988); *Koyo Seiko Co., Ltd. v. United States*, 24 CIT 364, 110 F.Supp.2d 934, 936 (2000). CBP has applied the plain meaning of “maximum” in Additional U.S. Note 6 to Chapter 69, HTSUSA, beginning at least as far back as August 8, 1994, the date of issuance of HQ 955838, which we believe to be the first ruling issued concerning the dimensional requirements of the HTSUSA note. In HQ 955838, we addressed whether a 20.3 cm plate could be substituted for the “12 cereals of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale” [which can be substituted for soups or fruits]. In that ruling, we stated:

Customs is of the opinion that the subject articles do not meet the necessary size requirements to be considered “available in specified sets”. As the measurements in the note above indicate, a “cereal” cannot exceed 15.3 cm. Protestant’s plate is 20.3 cm. It is too large to be substituted for a fruit plate or a cereal bowl. Therefore, the dinnerware is not considered “available for sale in specified sets”. The protested pieces are classifiable in subheading 6912.00.48, HTSUS, as other ceramic tableware and kitchenware.

The language of Additional U.S. Note 6 to Chapter 69 is unequivocal. See Headquarters Ruling Letter (“HQ”) 967792 and HQ 967920, which revoke New York Ruling Letter (“NY”) B88253 dated July 30, 1997, and NY 813612, dated September 13, 1995, respectively, because these NY rulings were not in accord with the plain meaning of the note. Proposed revocations of these NY rulings, along with proposed versions of HQ 967792 and HQ 967920 appeared in Vol. 39, No 50 of the Customs Bulletin dated December 7, 2005. Final versions of these HQ rulings will be published in Vol. 34, No 8 of the Customs Bulletin dated February 15, 2006. As stated in these rulings, the word “maximum” in the note means “the greatest possible quantity or degree; the greatest quantity or degree reached or recorded; the upper limit of variation.”

In this case, Additional U.S. Note 6 to Chapter 69, HTSUSA, plainly permits classification of articles in headings 6911 and 6912, HTSUSA, as being “available in specified sets” only if they meet the note’s specific and definite terms. The intent of the provision is clear and, hence, that is the end of the matter; it is unnecessary to examine legislative history or employ other means of statutory interpretation. Additionally, the application of the plain meaning of the note is not absurd; articles are consistently evaluated according to their dimensions.

Even had it been necessary to examine the legislative history of Additional U.S. Note 6 to Chapter 69, HTSUSA, in this matter, note that the Tariff Classification Study provides legislative history for interpreting and understanding the Tariff Schedule of the United States Annotated (“TSUSA”), the defunct predecessor of the HTSUSA. While this report did indicate that the dimensions for table and kitchen pottery claimed to be “available in specified sets” could be larger or smaller than the dimensional requirements set forth for such articles in the TSUSA, no similar note was adopted for the HTSUSA. We believe that this evidences Congress’ intent that no such tolerances should apply to Additional U.S. Note 6 to Chapter 69, HTSUSA. In fact, there is nothing in terms of the headings or legal notes of the HTSUSA, or the EN, evidencing that the “maximum” dimensional requirements of Additional U.S. Note 6 to Chapter 69, HTSUSA, mean anything other than “maximum.” HOLDING:

The language of Additional U.S. Note 6 to Chapter 69 is unequivocal. "Maximum" means maximum. An article cannot exceed the dimensional requirements of Additional U.S. Note 6(b) to chapter 69, HTSUSA, and be classified as being "available in specified sets" in heading 6911 or 6912, HTSUSA.

You are to mail this decision to the internal advice applicant no later than 60 days from the date of this letter. On that date, the Office of Regulations and Rulings will make the decision available to CBP personnel, and to the public on the CBP Home Page on the World Wide Web at www.cbp.gov, by means of the Freedom of Information Act, and other means of public distribution.

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

[ATTACHMENT B]

HQ 955838
August 8, 1994
CLA-2 CO:R:C:M: 955838 MMC
CATEGORY: Classification
TARIFF NO.: 6912.00.48

REGIONAL COMMISSIONER OF CUSTOMS
c/o PROTEST AND CONTROL SECTION
6 World Trade Center Room 761
New York, New York 10048

RE: Protest 1001-93-105468; Ceramic tableware; Additional U.S. Note 6 (a) and (b) Chapter 69.

DEAR AREA DIRECTOR:

The following is our response to the request for further review of Protest 1001-93-105468 concerning your action in classifying and assessing duty on various pieces of ceramic tableware under the Harmonized Tariff Schedule of the United States (HTSUS).

FACTS:

The articles in question are ceramic rice platters, salad bowls, and 5 piece pasta sets. All three articles were imported in the "Caffe Italia" pattern. A sample of a 20.3 cm plate was provided. Additionally, some of the salad bowls were imported in a "Morning Mist" pattern and some rice platters were imported in a "San Remo" pattern.

Protestant has provided a manufacturer's price list purporting to indicate that each pattern is available in a 77 piece set valued over \$38. The price lists indicate that all three patterns contain the following:

12 26.42 cm dinner plates 12 21.34 cm soup plates 12 20.32 cm fruit plates
12 12.7 cm bread plates 12 teacups with saucers 1 39.88 cm x 61.31 cm oval
plate 1 21.59 cm salad bowl 1 sugar with cover 1 creamer
The merchandise was entered under subheading 6912.00.39, HTSUS, as other ceramic tableware "available in specified sets". However, the entry was liquidated on July 23, 1993, under subheading 6912.00.48, HTSUS, as other ceramic household tableware not specified in sets. The protest was timely filed on August 10, 1993.

The subheadings under consideration are as follows:

6912.00.39 Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china: Tableware or kitchenware:

Other: Available in specified sets: In any pattern for which the aggregate value of the articles listed in additional U.S. Note 6(b) of this chapter is over \$38 . . .

6912.00.48 Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china: Tableware or kitchenware:

Other: Other: Other: Other . . .

ISSUE:

Whether the dinnerware meets the “available in specified sets” requirements of U.S. Note 6(b) to chapter 69, HTSUS.

LAW AND ANALYSIS:

Classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRI's). GRI 1, HTSUS, states in part that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes.

U.S. Additional note 6 (a) and (b), to Chapter 69, HTSUS, state:

6. For purposes of headings 6911 and 6912:

(a) The term “available in specified sets” embraces plates, cups, saucers and other articles principally used for preparing, serving or storing food or beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being “available in specified sets” unless it is of a pattern in which at least the articles listed below in (b) of this note are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in subheadings 6911.10.35, 6911.10.39, 6912.00.35 or 6912.00.39, of all articles of such pattern shall be governed by the aggregate value of the following articles in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

12 plates of the size nearest to 26.7 cm in maximum dimension, sold or offered for sale, 12 plates of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale, 12 tea cups and their saucers, sold or offered for sale, 12 soups of the size nearest to 17.8 cm in maximum dimension, sold or offered for sale, 12 fruits of the size nearest to 12.7 cm in maximum dimension, sold or offered for sale, 1 platter or chop dish of the size nearest to 38.1 cm in maximum dimension, sold or offered for sale, 1 sugar of largest capacity, sold or offered for sale, 1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale, shall be substituted therefor.

Protestant claims that the 20.3 cm plate has been substituted for the required “12 fruits of the size nearest 12.7 cm in maximum dimension, sold or offered for sale” to create a pattern available in specified sets. According to protestant, this substitution may be effected by the “cereal” portion of the note which indicates that if either fruits or soups are not sold, cereals of the size nearest to 15.3 cm in maximum dimension may replace them. We disagree.

Customs is of the opinion that the subject articles do not meet the necessary size requirements to be considered "available in specified sets". As the measurements in the note above indicate, a "cereal" can not exceed 15.3 cm. Protestant's plate is 20.3 cm. It is too large to be substituted for a fruit plate or a cereal bowl. Therefore, the dinnerware is not considered "available for sale in specified sets". The protested pieces are classifiable in subheading 6912.00.48, HTSUS, as other ceramic tableware and kitchenware.

HOLDING:

The subject dinnerware is not "available in specified sets" and therefore the protested pieces are classifiable under subheading 6912.00.48, HTSUS, which provides for other ceramic tableware and kitchenware.

The protest should be denied. In accordance with Section 3A (11)(b) of Customs Directive 0993550-065, dated August 4, 1993, Subject: Revised Protest Directive, this decision, together with the Customs Form 19, should be mailed by your office to the protestant no later than 60 days from the date of this letter. Any reliquidation of the entry in accordance with the decision must be accomplished prior to mailing of the decision. Sixty days from the date of the decision, the Office of Regulations and Rulings will take steps to make the decision available to Customs personnel via the Customs Ruling Module in ACS and the public via the Diskette Subscription Service, Lexis, Freedom of Information Act and other public access channels.

JOHN DURANT,
Director,
Commercial Rulings Division.

[ATTACHMENT C]

HQ 967920
January 20, 2006
CLA-2 RR:CTF:TCM 967920 AML
CATEGORY: Classification
TARIFF NO.: 6911.10.8010

MR. CURT DEVLIN
ACTION INDUSTRIES, INC.
460 Nixon Rd.
Cheswick, PA 15024

RE: Tariff classification of porcelain dinnerware "available in specified sets"; NY 813612 revoked

DEAR MR. DEVLIN:

This is in reference to New York Ruling Letter ("NY") 813612, dated September 13, 1995, issued to you regarding the tariff classification of certain porcelain dinnerware "available in specified sets" under the Harmonized Tariff Schedule of the United States Annotated ("HTSUSA"). We have reconsidered the decision made in NY 813612 and have determined that the conclusions reached therein are incorrect. This letter sets forth the correct classification of the porcelain dinnerware "available in specified sets."

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 5 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 was published on

December 7, 2005, in Vol. 39, No. 50 of the Customs Bulletin. Two comments were received in response to the notice.

FACTS:

We described the merchandise in NY 8136 12 as follows:

The merchandise at issue is porcelain dinnerware that is identified as in the Joy Of Christmas pattern, Item Number 17637. The information submitted indicates that the pattern is principally for household use and is "available in specified sets" in accordance with Chapter 69, additional U.S. Note 6(b) of the Harmonized Tariff Schedule of the United States.

After considering the cost per item information you provided, we held that:

The applicable subheading for the Joy of Christmas porcelain dinnerware set will be 6911.10.35, Harmonized Tariff Schedule of the United States (HTS), which provides for ceramic household tableware, of porcelain or china, available in specified sets, in a pattern for which the aggregate value of the articles listed in additional U.S. Note 6(b) of Chapter 69 is not over \$56. The duty rate will be 26 percent ad valorem.

Included in your submission were measurements, in inches, of the various articles that comprised the specified set. The relevant measurements and our conversion from inches to centimeters (multiplying the number of inches by 2.54) are as follows:

10 112" Dinner Plate 26.7 centimeters

7 112" Salad Plate 19.1 centimeters

8 Soup/Cereal 20.32 centimeters

15" Oval Platter 38.1 centimeters

10 Oval Shape Veg. Dish 25.4 centimeters

On August 8, 1994, we issued Headquarters Ruling Letter ("HQ") 955838, which, in classifying a set of ceramic tableware, held that the maximum sizes set forth in Additional U.S. Note 6 to Chapter 69 could not be exceeded by any piece within the set.

ISSUE:

Whether any piece of table- or kitchenware "available in specified sets" may exceed the maximum size requirements of Additional U.S. Note 6 to chapter 69, HTSUS?

LAW AND ANALYSIS:

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation ("GRIs"). GRI 1 states, in part that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

Additional U.S. Note 6 to Chapter 69 provides as follows:

6. For the purposes of headings 69 11 and 69 12:

(a) The term "available in specified sets" embraces plates, cups, saucers and other articles principally used for preparing, serving or storing food or beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being "avail- able in

specified sets” unless it is of a pattern in which at least the articles listed below in (b) of this note are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in subheadings 69 11.10.35, 6911.10.37, 6911.10.38, 6912.00.35 or 6912.00.39, of all articles of such pattern shall be governed by the aggregate value of the following articles in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

12 plates of the size nearest to 26.7 cm in maximum dimension, sold or offered for sale, 12 plates of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale, 12 tea cups and their saucers, sold or offered for sale, 12 soups of the size nearest to 17.8 cm in maximum dimension, sold or offered for sale, 12 fruits of the size nearest to 12.7 cm in maximum dimension, sold or offered for sale, 1 platter or chop dish of the size nearest to 38.1 cm in maximum dimension, sold or offered for sale, 1 open vegetable dish or bowl of the size nearest to 25.4 cm in maximum dimension, sold or offered for sale, 1 sugar of largest capacity, sold or offered for sale, 1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale, shall be substituted therefor.

The language of the additional U.S. note is unequivocal. The word “maximum” means “the greatest possible quantity or degree; the greatest quantity or degree reached or recorded; the upper limit of variation.” See www.thefreedictionary.com. This plain understanding was employed in HQ 955838. In deciding whether certain articles could be substituted for others, we stated:

Customs is of the opinion that the subject articles do not meet the necessary size requirements to be considered “available in specified sets”. As the measurements in the note above indicate, a “cereal” cannot exceed 15.3 cm. Protestant’s plate is 20.3 cm. It is too large to be substituted for a fruit plate or a cereal bowl. Therefore, the dinnerware is not considered “available for sale in specified sets”. The protested pieces are classifiable in subheading 6912.00.48, HTSUS, as other ceramic tableware and kitchenware.

The crux of the holding above is that “maximum” is taken in its ordinary meaning and denotes the upper allowable limit that cannot be exceeded. Stated plainly, articles of table- and kitchenware “available in specified sets” cannot exceed the maximum dimensions set forth in Additional U.S. Note 6 to Chapter 69.

We did not apply the dimension standards in NY 813612, in contravention of the plain language of the Additional U.S. Note 6 and HQ 955838. Both the salad plates which measure 19.1 cm and the soup/cereal bowls which measure 20.32 cm exceed the 15.3 and 17.8 cm size limits set forth in the Additional U.S. Note 6. Thus, NY 8 136 12 must be revoked.

The HTSUS provisions under consideration are as follows:

6911 Tableware, kitchenware, other household articles and toilet articles, of porcelain or china:

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6911.10 Tableware and kitchenware:

Other:

Other:

Available in specified sets:

In any pattern for which the aggregate value of the articles listed in additional U.S. note 6(b) of this chapter is not over \$56

Other:

6911.10.80 Other.

Given the size of some of the articles in the porcelain dinnerware, which exceed the maximum dimensions set forth in the tariff, the goods fall to be classified under subheading, HTSUSA. This comports with the holding in HQ 955838.

HOLDING:

The porcelain dinnerware is classified under subheading 6911.10.8010, HTSUSA which provides for ceramic tableware, kitchenware . . . of porcelain or china, tableware and kitchenware, other, other, other, other. The general, column 1 duty rate is 20.8% ad valorem.

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

EFFECT ON OTHER RULINGS:

NY 813612 is revoked. In accordance with 19 U.S.C. 51625 (c)(2), this ruling will become effective sixty days after its publication in the Customs Bulletin.

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

cc: National Commodity Specialist Division NIS Bunin

[ATTACHMENT D]

January 20, 2006
CLA-2 RR:CTF:TCM 967792 AML
CATEGORY: Classification
TARIFF NO.: 691 2.00.481 0

MR. DONALD F. WRIGHT
EXCEL IMPORTING CORPORATION
100 Andrews Road
Hicksville, NY 11801

RE: The tariff classification of stoneware dinnerware "available in specified sets"; NY 888253 revoked

DEAR MR. WRIGHT:

This is in reference to New York Ruling Letter ("NY") B88253, dated July 30, 1997, issued to you regarding the tariff classification of certain stone-

ware dinnerware “available in specified sets” under the Harmonized Tariff Schedule of the United States Annotated (“HTSUSA”). We have reconsidered the decision made in NY B88253 and have determined that the conclusions reached therein are incorrect. This letter sets forth the correct classification of the stoneware dinnerware “available in specified sets.”

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, 21 86 (1993)), notice of the proposed revocation was published on December 7, 2005, in Vol. 39, No. 50 of the *Customs Bulletin*. Two comments were received in response to the notice.

FACTS:

We described the merchandise in NY B88253 as follows:

The merchandise is stoneware dinnerware that is identified as in the patterns English Garden, Dorchester, Orchard and Cosmos. Previous information submitted indicates that the patterns are principally for household use and are “available in specified sets” in accordance with Chapter 69, additional U.S. Note 6(b) of the Harmonized Tariff Schedule of the United States, with an aggregate value of over \$38.

We held that:

The applicable subheading for the above stoneware dinnerware sets will be 6912.00.39, Harmonized Tariff Schedule of the United States (HTS), which provides for ceramic household tableware, other than of porcelain or china, available in specified sets, in a pattern for which the aggregate value of the articles listed in additional U.S. Note 6(b) of Chapter 69 is over \$38. The duty rate will be 4.5 percent ad valorem.

In reaching that holding, we reasoned that:

The term “of the size nearest to 15.3 cm in maximum dimension” in headnote 2(b) of chapter 69 means either more or less than the dimension specified and within a rather wide range. For example a salad plate may actually be up to 20.38 cm in diameter or as small as 10.22 cm in diameter.

On August 8, 1994, we issued Headquarters Ruling Letter (“HQ”) 955838, which, in classifying a set of ceramic tableware, held that the maximum sizes set forth in Additional U.S. Note 6 to Chapter 69 could not be exceeded by any piece within the set.

ISSUE:

Whether any piece of table- or kitchenware “available in specified sets” may exceed the maximum size requirements of Additional U.S. Note 6 to chapter 69, HTSUS?

LAW AND ANALYSIS:

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (“GRIs”). GRI 1 states, in part that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

Additional U.S. Note 6 to Chapter 69 provides as follows:

6. For the purposes of headings 6911 and 6912:

(a) The term “available in specified sets” embraces plates, cups, saucers and other articles principally used for preparing, serving or storing food or beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being “available in specified sets” unless it is of a pattern in which at least the articles listed below in (b) of this note are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in subheadings 6911.10.35, 6911.10.37, 6911.10.38, 6912.00.35 or 6912.00.39, of all articles of such pattern shall be governed by the aggregate value of the following articles in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

- 12 plates of the size nearest to 26.7 cm in maximum dimension, sold or offered for sale,
- 12 plates of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale,
- 12 tea cups and their saucers, sold or offered for sale,
- 12 soups of the size nearest to 17.8 cm in maximum dimension, sold or offered for sale,
- 12 fruits of the size nearest to 12.7 cm in maximum dimension, sold or offered for sale,
- 1 platter or chop dish of the size nearest to 38.1 cm in maximum dimension, sold or offered for sale,
- 1 open vegetable dish or bowl of the size nearest to 25.4 cm in maximum dimension, sold or offered for sale,
- 1 sugar of largest capacity, sold or offered for sale,
- 1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale, shall be substituted therefor.

The language of the additional U.S. note is unequivocal. The word “maximum” means “the greatest possible quantity or degree; the greatest quantity or degree reached or recorded; the upper limit of variation.” See www.thefreedictionary.com. This plain understanding was employed in HQ 955838. In deciding whether certain articles could be substituted for others, we stated:

Customs is of the opinion that the subject articles do not meet the necessary size requirements to be considered “available in specified sets”. As the measurements in the note above indicate, a “cereal” cannot exceed 15.3 cm. Protestant’s plate is 20.3 cm. It is too large to be substituted for a fruit plate or a cereal bowl. Therefore, the dinnerware is not considered “available for sale in specified sets”. The protested pieces are classifiable in subheading 691 2.00.48, HTSUS, as other ceramic tableware and kitchenware.

The crux of the holding above is that “maximum” is taken in its ordinary meaning and denotes the upper allowable limit that cannot be exceeded. Stated plainly, articles of table- and kitchenware “available in specified sets” cannot exceed the maximum dimensions set forth in Additional U.S. Note 6 to Chapter 69.

Given that NY B88253 explicitly stated that Additional U.S. Note 6 to Chapter 69 "means either more or less than the dimension specified and within a rather wide range," in contravention of the plain language of the note and HQ 955838, NY B88253 must be revoked.

The HTSUS provisions under consideration are as follows:

6912.00 Ceramic tableware, kitchenware, other household articles
and toilet articles, other than of porcelain or china:

Tableware and kitchenware:

6912.00.10 Of coarse-grained earthenware, or of coarse-grained
stoneware; of fine-grained earthenware, whether or
not decorated, having a reddish-colored body and a
lustrous glaze which, on teapots, may be any color,
but which, on other articles, must be mottled,
streaked or solidly colored brown to black with me-
tallic oxide or salt:

* * *

Other:

Available in specified sets:

6912.00.35 In any pattern for which the aggregate
value of the articles listed in additional U.S.
note 6(b) of this chapter is not over \$38

Other:

6912.00.48 Other.

Given the statement in NY B88253 that the term "maximum" in Additional U.S. Note 6 to Chapter 69 means "more or less" and given that the size of some of the articles in the stoneware dinnerware apparently (NY B88253 was lost on September 11, 2001) exceeded the maximum dimension set forth in the tariff, the goods fall to be classified under subheading 6912.00.4810, HTSUSA. This comports with the holding in HQ 955838.

HOLDING:

The stoneware dinnerware is classified under subheading 6912.00.4810, HTSUSA which provides for ceramic tableware, kitchenware . . . other than porcelain or china, other, other. The general, column 1 duty rate is 9.8% *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY B88253 is revoked. In accordance with 19 U.S.C. §1625 (c)(2), this ruling will become effective sixty days after its publication in the *Customs Bulletin*.

MYLES B. HARMON,
Director,

Commercial and Trade Facilitation Division.

cc: National Commodity Specialist Division
NIS Bunin

[ATTACHMENT E]

NY K87695

August 5, 2004

CLA-2-70:RR:NC1:126:K87695

CATEGORY: Classification

TARIFF NO.: 6911.10.8000; 6911.10.4500; 6911.10.4100

MR. DONALD STEIN
GREENBERG TRAUIG
800 Connecticut Avenue, NW Suite 500
Washington, DC 20006

RE: The tariff classification of porcelain tableware and kitchenware from Hungary

DEAR MR. STEIN:

In your letter dated July 13, 2004, on behalf of Martin's Herend Imports, you requested a tariff classification ruling regarding three porcelain products described as a heart-shaped bonbon dish, pepper shaker and coffee mug.

Samples were submitted with your ruling request. These samples will be returned to you in accordance with your request.

In your letter you claim that the pattern on these products is identical to a pattern on an available set of 77 pieces produced by the same manufacturer in Hungary. You submitted information on the values and dimensions of the products in the claimed "specified set."

Based on this information, you suggested that the three porcelain products at issue should be classified in subheading 6911.10.38, Harmonized Tariff Schedule of the United States (HTS). This provision covers tableware, kitchenware, other household articles and toilet articles, of porcelain and china: Tableware and kitchenware: other: other: available in specified sets: in any pattern for which the aggregate value of the articles listed in additional U.S. note 6(b) of this chapter is over \$56; aggregate value over \$200.

For purposes of classification in subheading 6911.10.38, the guidelines for the 77 piece "specified set" are found in U.S. Note 6(b) to Chapter 69. This note indicates that the specified set should contain the following: "12 plates of the size nearest to 26.7 cm in maximum dimension, sold or offered for sale; 12 plates of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale; 12 tea cups and their saucers, sold or offered for sale; 12 soups of the size nearest to 17.8 cm in maximum dimension, sold or offered for sale; 12 fruits of the size nearest to 12.7 cm in maximum dimension, sold or offered for sale; 1 platter or chop dish of the size nearest to 38.1 cm in maximum dimension, sold or offered for sale; 1 open vegetable dish or bowl of the size nearest to 25.4 cm in maximum dimension, sold or offered for sale; 1 sugar of largest capacity, sold or offered for sale; and 1 creamer of largest capacity, sold or offered for sale." In order for a product to be classified in subheading 6911.10.38, the items in the specified set must match the types of articles as well as the dimensions indicated in U.S. Note 6(b) to Chapter 69 of the HTS.

The information which you submitted regarding the proposed "specified set" for the pattern at issue in this ruling request did not conform to the specifications of U.S. Note 6(b) to Chapter 69. The fruit dishes within your proposed specified set have a diameter larger than the 12.7 cm maximum diameter indicated in the U.S. Note. Therefore, the three porcelain articles at

issue in your ruling request – pepper shaker, mug and the heart-shaped article described as a “bonbon dish” – cannot be classified in subheading 6911.10.38, HTS.

In your letter you suggested that if subheading 6911.10.38 did not apply, the pepper shaker could be classified in subheading 6911.10.41, HTS, under the provision for tableware, kitchenware, other household articles and toilet articles, of porcelain and china: tableware and kitchenware: other: other: other . . . salt and pepper shaker sets. However, the product at issue in your ruling request is a single pepper shaker, not a salt and pepper shaker set. Subheading 6911.10.41 provides for salt and pepper shaker sets, not single salt shakers or single pepper shakers. Therefore, subheading 6911.10.41 does not apply to the single pepper shaker.

The applicable subheading for the porcelain pepper shaker will be 6911.10.8000, HTS, which provides for tableware, kitchenware, other household articles and toilet articles, of porcelain and china: tableware and kitchenware: other: other: other. The rate of duty will be 20.8 percent ad valorem.

The applicable subheading for the porcelain mug will be 6911.10.4500, HTS, which provides for tableware, kitchenware, other household articles and toilet articles, of porcelain and china: tableware and kitchenware: other: other: mugs and other steins. The rate of duty will be 14 percent ad valorem.

Assuming the heart-shaped porcelain item described as a “bonbon dish” is principally used as a bonbon dish (i.e., principally used to hold candy), the applicable subheading for this item will be 6911.10.4100, HTS, which provides for tableware, kitchenware, other household articles and toilet articles, of porcelain and china: tableware and kitchenware: other: other: other . . . bonbon dishes. The rate of duty will be 6.3 percent ad valorem. However, if the principal use of the heart-shaped porcelain item is to hold various food materials (i.e., if it is not principally used as a bonbon dish), the applicable subheading for this article will be 6911.10.8000, HTS, which provides for tableware, kitchenware, other household articles and toilet articles, of porcelain and china: tableware and kitchenware: other: other: other. The rate of duty will be 20.8 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 Jacob Bunin at 646-733-3027.

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

[ATTACHMENT F]

HQ W968400
CLA-2 RR:CTF:TCM W968400 KSH
CATEGORY: Classification
TARIFF NO.:

STUART P. SEIDEL, ESQ.
BAKER & MCKENZIE LLP
815 Connecticut Avenue, NW
Washington, D.C. 20006

RE: Revocation of Headquarters Ruling Letter (HQ) 967989, dated February 14, 2006; Interpretation of "available in specified sets" maximum size descriptions of Additional U.S. Note 6 to Chapter 69, HTSUSA

DEAR MR. SEIDEL:

On February 14, 2006, we issued Headquarters Ruling Letter (HQ) 967989, Internal Advice 05-028, to the Port of Los Angeles (Seaport) regarding the interpretation of "available in specified sets" maximum size language of Additional U.S. Note 6 to Chapter 69, of the Harmonized Tariff Schedule of the United States (HTSUS). The request for internal advice was initiated on behalf of Noritake Co., Inc. In that decision, it was determined that the language of Additional U.S. Note 6 to Chapter 69 is unequivocal such that an article cannot exceed the dimensional descriptions of Additional U.S. Note 6(b) to chapter 69, HTSUSA, and still allow for goods described in U.S. Note 6(a) to be classified as being "available in specified sets" in heading 6911 or 6912, HTSUSA.

By letter dated September 5, 2006, you requested, on behalf of Noritake Co. Inc., reconsideration of HQ 967989. We have reviewed that ruling and found it to be in error. Therefore, this ruling revokes HQ 967989.

FACTS:

Noritake imports ceramic tableware articles in specific patterns. It offers sets for sale consisting of the articles listed in Additional U.S. Note 6(b) in such patterns. Some of the tableware articles in these sets, however, exceed the maximum dimensions set forth in Additional U.S. Note 6 to Chapter 69, HTSUSA, for such respective articles.

ISSUE:

Whether an article described in U.S. Note 6(b) to Chapter 69 may exceed the dimensional descriptions therein and not preclude classification of articles described in U.S. Note 6(a) as "available in specified sets" in heading 6911 or 6912, HTSUS.

LAW AND ANALYSIS:

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

The Harmonized Commodity Description and Coding System Explanatory Notes (EN), constitute the official interpretation of the Harmonized System 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. It is

Customs and Border Protection's (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Additional U.S. Note 6 to Chapter 69, HTSUS, reads:

6. For the purposes of headings 6911 and 6912:

(a) The term "available in specified sets" embraces plates, cups, saucers and other articles principally used for preparing, serving or storing food or beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being "available in specified sets" unless it is of a pattern in which at least the articles listed below in (b) of this note are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in subheadings 6911.10.35, 6911.10.37, 6911.10.38, 6912.00.35 or 6912.00.39, of all articles of such pattern shall be governed by the aggregate value of the following articles in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

12 plates of the size nearest to 26.7 cm in maximum dimension, sold or offered for sale,

12 plates of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale,

12 tea cups and their saucers, sold or offered for sale,

12 soups of the size nearest to 17.8 cm in maximum dimension, sold or offered for sale,

12 fruits of the size nearest to 12.7 cm in maximum dimension, sold or offered for sale,

1 platter or chop dish of the size nearest to 38.1 cm in maximum dimension, sold or offered for sale,

1 open vegetable dish or bowl of the size nearest to 25.4 cm in maximum dimension, sold or offered for sale,

1 sugar of largest capacity, sold or offered for sale,

1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale, shall be substituted therefor.

Additional U.S. Note 6 to Chapter 69, HTSUS, was adopted from the former Tariff Schedules of the United States (TSUS). Schedule 5 of the TSUS (1987) contained the following headnotes:

2. (a) For the purposes of this subpart, the term "available in specified sets" (items 533.22, 533.24, 533.62 and 533.64) embraces plates, cups, saucers and other articles chiefly used for preparing, serving or storing food or beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being "available in specified sets" unless it is of a pattern in which at least the articles listed below in (b) of this headnote are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in items 533.22, 533.24, 533.62 or 533.64, of all articles of such pattern shall be governed by the aggregate

value of the following articles in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

- 12 plates of the size nearest to 10.5 inches in maximum dimension, sold or offered for sale,
- 12 plates of the size nearest to 6 inches in maximum dimension, sold or offered for sale,
- 12 tea cups and their saucers, sold or offered for sale,
- 12 soups of the size nearest to 7 inches in maximum dimension, sold or offered for sale,
- 12 fruits of the size nearest to 5 inches in maximum dimension, sold or offered for sale,
- 1 platter or chop dish of the size nearest to 15 inches in maximum dimension, sold or offered for sale,
- 1 open vegetable dish or bowl of the size nearest to 10 inches in maximum dimension, sold or offered for sale,
- 1 sugar of largest capacity, sold or offered for sale,
- 1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 6 inches in maximum dimension, sold or offered for sale, shall be substituted therefor.

Appendix C to the Seventh Supplemental Report of the United States Tariff Commission titled "Additional Explanatory Notes and Background Materials" explained the meaning of the term "maximum dimension" as it appeared in the TSUS. It stated in relevant part:

The term "of the size nearest to" in headnote 2(b) of this subpart means either more or less than the dimension specified, and within a rather wide range. For example, as indicated in the original explanatory notes on page 84, "the size nearest to 6 inches in maximum dimension" may actually be a salad plate of more than 8-inch diameter. The size nearest to 10-1/2 inches in maximum dimension is intended to designate a dinner plate, however, and even though any plate over 8-1/4 inches in diameter would be nearer to 10-1/2 inches than to 6 inches in diameter, it could hardly be considered to be a dinner plate unless it were over 9 inches in maximum dimension. The term "maximum dimension" means the maximum straight-line distance from edge to edge across the face or top of the article whose dimension is specified.

Despite the minor changes in the provisions converted from the TSUS to the HTSUS, we determined in HQ 967989, that while the Seventh Supplemental Report "did indicate that the dimensions for table and kitchen pottery claimed to be 'available in specified sets' could be larger or smaller than the dimensional requirements set forth for such articles in the TSUS, no similar note was adopted for the HTSUS" and we concluded that this evidenced Congress' intent that no such tolerances should apply to Additional U.S. Note 6 to Chapter 69, HTSUS.

Unless a contrary legislative intent is shown, tariff terms are construed in accordance with their common and commercial meanings, which are presumed to be the same. See, e.g., Nippon Kogaku (USA), Inc. v. United States, 673 F.2d 380, 382 (1982); Schott Optical Glass, Inc. v. United States, 612

F.2d 1283, 1285 (1979). The common meaning of a tariff term presents a question of law to be decided by the court. American Express Co. v. United States, 10, C.A.D. 456 (1951). In cases where a term is defined by statute, the court need not undertake a common-meaning inquiry, for the statutory definition is controlling. Overton & Co. v. United States, 85 Cust. Ct. 76, 80–81 (1980). Absent an express definition, however, dictionaries, lexicons, scientific authorities, and other such reliable sources may be consulted to determine common meaning. C.J. Tower & Sons of Buffalo, Inc. v. United States, 673 F.2d 1268, 1271 (1982).

It may appear that the TSUS interpretation of “maximum dimension” was deliberately abandoned as the HTSUS failed to provide any alternative definition despite retaining the term in Additional Note 6 to Chapter 69, HTSUS. However, “the common meaning of a tariff term, once established, remains controlling until a subsequent change in statute compels a revised construction of the term’s meaning.” United States v. Great Pacific Co., 324, T.D. 48192 (1936); see Sears, Roebuck & Co. v. United States, 83, C.A.D. 701(1959). Absent clear evidence of legislative intent to embrace an alternative statutory definition, and in light of its historical pedigree, the TSUS definition of the term “maximum dimension” survives as the common and commercial meaning of the term under the HTSUS. Lonza, Inc. v. United States, 46 F.3d 1098 (Fed. Cir. 1995).

Where the text of a tariff provision has undergone only minor changes from the TSUS to the HTSUS, the high values of uniformity and predictability — not to mention the merits of honoring Congress’ decision to retain prior policy — counsel courts to credit prior decisions interpreting the TSUS provision. See, e.g., Pima Western, Inc. v. United States, 915 F. Supp. 399, 404–05 (Ct. Int’l Trade 1996) (“[O]n a case-by-case basis prior decisions should be considered instructive in interpreting the HTS[US], particularly where the nomenclature previously interpreted in those decisions remains unchanged and no dissimilar interpretation is required by the text of the HTS[US].”) (quoting the Conference Report on the Omnibus Trade Act of 1988, H.R. Conf. Rep. No. 576, 100th Cong., 2d Sess. 515, 549–50 (1988)). Hewlett-Packard Co. v. United States, 189 F.3d 1346 at 1349 (Fed. Cir. 1999).

As there have been no major changes to the tariff provisions for articles “available in specified sets” from the TSUS to the HTSUS and no dissimilar interpretation is required by the text of the HTSUS, there is no clear evidence which would require a different interpretation than that given under the TSUS. The term “maximum dimension” refers to the straight-line distance across the face or top of the article whose dimension is specified. It does not place a limit on the size of the item. An article specified in U.S. Note 6(b) to Chapter 69 may exceed the noted dimension so long as it is a reasonable variation. Accordingly, an article described in U.S. Note 6(a) may be classified as being “available in specified sets” in heading 6911 or 6912, HTSUS, even if it, or another article listed in U.S. Note 6(b), exceeds the dimensional descriptions of Additional U.S. Note 6, HTSUS, so long as the dimensional variation is reasonable and provided sufficient evidence is submitted that all 77 pieces of the set are being sold or offered for sale.

HOLDING:

An article may exceed the dimensional descriptions of Additional U.S. Note 6 to Chapter 69, HTSUS, and be classified as being “available in speci-

fied sets" in heading 6911 or 6912, HTSUS, and not preclude classification of matching articles described in U.S. Note 6(a) to Chapter 69 as "available in specified sets", so long as the dimensional variation is reasonable and provided sufficient evidence is submitted that all 77 pieces of the set are being sold or offered for sale.

EFFECT ON OTHER RULINGS:

HQ 967989 is hereby revoked.

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

[ATTACHMENT G]

HQ H004625
CLA-2 OT:RR:CTF:TCM H004625 KSH
TARIFF NO.: 6912.00.39

HIMARK ENTERPRISES, INC.
155 Commerce Drive
Hauppauge, NY 11787

RE: Revocation of Headquarters Ruling Letter (HQ) 955838, dated August 8, 1994; Classification of Ceramic tableware; Additional U.S. Note 6 (a) and (b), Chapter 69.

DEAR SIR OR MADAM:

This is in reference to Headquarters Ruling Letter (HQ) 955838 issued to the Regional Commissioner of Customs, New York, NY, on August 8, 1994, with regard to protest 1001-93-105468 concerning the classification, under the Harmonized Tariff Schedule of the United States (HTSUSA), of ceramic tableware. The articles were classified in subheading 6912.00.48, HTSUS, as other ceramic tableware and kitchenware. Since the issuance of that ruling, the Bureau of Customs and Border Protection (CBP) has reviewed the classification of this item and has determined that the cited ruling is in error.

HQ 955838 is a decision on a specific protest. A protest is designed to handle entries of merchandise which have entered the U.S. and been liquidated by CBP. A final determination of a protest, pursuant to Part 174, Customs and Border Protection (CBP) Regulations (19 CFR 174), cannot be modified or revoked as it is applicable only to the merchandise which was the subject of the entry protested. Furthermore, CBP lost jurisdiction over the protested entries in HQ 955838 when notice of denial of the protest was received by the protestant. See, *San Francisco Newspaper Printing Co. v. U.S.*, 9 CIT 517, 620 F.Supp. 738 (1935).

However, CBP can modify or revoke a protest review decision to change the legal principles set forth in the decision. Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103-182, 107 Stat. 2057), 60 days after the date of issuance, CBP may propose a modification or revocation of a prior interpretive ruling or decision by publication and solicitation of comments in the CUSTOMS BULLETIN. This revocation will not affect the entries which were the subject of Protest 1001-93-105468, but will be applicable to any

unliquidated entries, or future importations of similar merchandise 60 days after publication of the final notice of revocation in the CUSTOMS BULLETIN, unless an earlier date is requested pursuant to 19 CFR 177.12(e)(2)(ii).

FACTS:

The articles in question are ceramic rice platters, salad bowls, and 5 piece pasta sets. All three articles were imported in the "Caffe Italia" pattern. A sample of a 20.3 cm plate was provided. Additionally, some of the salad bowls were imported in a "Morning Mist" pattern and some rice platters were imported in a "San Remo" pattern.

You provided a manufacturer's price list that indicates that each pattern is available in a 77 piece set valued over \$38. The price lists indicate that all three patterns contain the following:

- 12 26.42 cm dinner plates
- 12 21.34 cm soup plates
- 12 20.32 cm fruit plates
- 12 12.7 cm bread plates
- 12 teacups with saucers
- 1 39.88 cm × 61.31 cm oval plate
- 1 21.59 cm salad bowl
- 1 sugar with cover
- 1 creamer

ISSUE:

Whether the tableware meets the "available in specified sets" requirements of U.S. Note 6(b) to chapter 69, HTSUS.

LAW AND ANALYSIS:

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

The Harmonized Commodity Description and Coding System Explanatory Notes (EN), constitute the official interpretation of the Harmonized System 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. It is Customs and Border Protection's practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Additional U.S. Note 6 to Chapter 69, HTSUS, reads:

6. For the purposes of headings 6911 and 6912:

(a) The term "available in specified sets" embraces plates, cups, saucers and other articles principally used for preparing, serving or storing food or beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being "available in specified sets" unless it is of a pattern in which at least the articles listed below in (b) of this note are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in subheadings 6911.10.35, 6911.10.37, 6911.10.38, 6912.00.35 or 6912.00.39, of all articles of such pattern shall be governed by the aggregate value of the following articles

in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

- 12 plates of the size nearest to 26.7 cm in maximum dimension, sold or offered for sale,
- 12 plates of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale,
- 12 tea cups and their saucers, sold or offered for sale,
- 12 soups of the size nearest to 17.8 cm in maximum dimension, sold or offered for sale,
- 12 fruits of the size nearest to 12.7 cm in maximum dimension, sold or offered for sale,
- 1 platter or chop dish of the size nearest to 38.1 cm in maximum dimension, sold or offered for sale,
- 1 open vegetable dish or bowl of the size nearest to 25.4 cm in maximum dimension, sold or offered for sale,
- 1 sugar of largest capacity, sold or offered for sale,
- 1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale, shall be substituted therefor.

Additional U.S. Note 6 to Chapter 69, HTSUS, was adopted from the former Tariff Schedules of the United States (TSUS). Schedule 5 of the TSUS (1987) contained the following headnotes:

2. (a) For the purposes of this subpart, the term “available in specified sets” (items 533.22, 533.24, 533.62 and 533.64) embraces plates, cups, saucers and other articles chiefly used for preparing, serving or storing food or beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being “available in specified sets” unless it is of a pattern in which at least the articles listed below in (b) of this headnote are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in items 533.22, 533.24, 533.62 or 533.64, of all articles of such pattern shall be governed by the aggregate value of the following articles in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

- 12 plates of the size nearest to 10.5 inches in maximum dimension, sold or offered for sale,
- 12 plates of the size nearest to 6 inches in maximum dimension, sold or offered for sale,
- 12 tea cups and their saucers, sold or offered for sale,
- 12 soups of the size nearest to 7 inches in maximum dimension, sold or offered for sale,
- 12 fruits of the size nearest to 5 inches in maximum dimension, sold or offered for sale,
- 1 platter or chop dish of the size nearest to 15 inches in maximum dimension, sold or offered for sale,

- 1 open vegetable dish or bowl of the size nearest to 10 inches in maximum dimension, sold or offered for sale,
- 1 sugar of largest capacity, sold or offered for sale,
- 1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 6 inches in maximum dimension, sold or offered for sale, shall be substituted therefor.

Appendix C to the Seventh Supplemental Report of the United States Tariff Commission titled “Additional Explanatory Notes and Background Materials” explained the meaning of the term “maximum dimension” as it appeared in the TSUS. It stated in relevant part:

The term “of the size nearest to” in headnote 2(b) of this subpart means either more or less than the dimension specified, and within a rather wide range. For example, as indicated in the original explanatory notes on page 84, “the size nearest to 6 inches in maximum dimension” may actually be a salad plate of more than 8-inch diameter. The size nearest to 10-1/2 inches in maximum dimension is intended to designate a dinner plate, however, and even though any plate over 8-1/4 inches in diameter would be nearer to 10-1/2 inches than to 6 inches in diameter, it could hardly be considered to be a dinner plate unless it were over 9 inches in maximum dimension. The term “maximum dimension” means the maximum straight-line distance from edge to edge across the face or top of the article whose dimension is specified.

Unless a contrary legislative intent is shown, tariff terms are construed in accordance with their common and commercial meanings, which are presumed to be the same. See, e.g., Nippon Kogaku (USA), Inc. v. United States, 673 F.2d 380, 382 (1982); Schott Optical Glass, Inc. v. United States, 612 F.2d 1283, 1285 (1979). The common meaning of a tariff term presents a question of law to be decided by the court. American Express Co. v. United States, 10, C.A.D. 456 (1951). In cases where a term is defined by statute, the court need not undertake a common-meaning inquiry, for the statutory definition is controlling. Overton & Co. v. United States, 85 Cust. Ct. 76, 80–81 (1980). Absent an express definition, however, dictionaries, lexicons, scientific authorities, and other such reliable sources may be consulted to determine common meaning. C.J. Tower & Sons of Buffalo, Inc. v. United States, 673 F.2d 1268, 1271 (1982).

“The common meaning of a tariff term, once established, remains controlling until a subsequent change in statute compels a revised construction of the term’s meaning.” United States v. Great Pacific Co., 324, T.D. 48192 (1936); see Sears, Roebuck & Co. v. United States, 83, C.A.D. 701(1959). Absent clear evidence of legislative intent to embrace an alternative statutory definition, and in light of its historical pedigree, the TSUS definition of the term “maximum dimension” survives as the common and commercial meaning of the term under the HTSUS. Lonza, Inc. v. United States, 46 F.3d 1098 (Fed. Cir. 1995).

Where the text of a tariff provision has undergone only minor changes from the TSUS to the HTSUS, the high values of uniformity and predictability — not to mention the merits of honoring Congress’ decision to retain prior policy — counsel courts to credit prior decisions interpreting the TSUS provision. See, e.g., Pima Western, Inc. v. United States, 915 F. Supp. 399, 404–05 (Ct. Int’l Trade 1996) (“[O]n a case-by-

case basis prior decisions should be considered instructive in interpreting the HTS[US], particularly where the nomenclature previously interpreted in those decisions remains unchanged and no dissimilar interpretation is required by the text of the HTS[US].’ ”) (quoting the Conference Report on the Omnibus Trade Act of 1988, H.R. Conf. Rep. No. 576, 100th Cong., 2d Sess. 515, 549–50 (1988)). Hewlett-Packard Co. v. United States, 189 F.3d 1346 at 1349 (Fed. Cir. 1999).

In HQ 955838, we determined that the tableware at issue:

. . . do not meet the necessary size requirements to be considered “available in specified sets”. As the measurements in the note above indicate, a “cereal” can not exceed 15.3 cm. Protestant’s plate is 20.3 cm. It is too large to be substituted for a fruit plate or a cereal bowl. Therefore, the dinnerware is not considered “available for sale in specified sets.”

However, as there have been no major changes to the tariff provisions for articles “available in specified sets” from the TSUS to the HTSUS and no dissimilar interpretation is required by the text of the HTSUS, there is no clear evidence which would require a different interpretation than that given under the TSUS. The term “maximum dimension” refers to the straight-line distance across the face or top of the article whose dimension is specified. It does not place a limit on the size of the item. An article specified in US Note 6(b) to Chapter 69 may exceed the noted dimension so long as it is a reasonable variation. Accordingly, an article described in U.S. Note 6(a) may be classified as being “available in specified sets” in heading 6911 or 6912, HTSUS, even if it, or another article listed in U.S. Note 6(b), exceeds the dimensional descriptions of Additional U.S. Note 6, HTSUS, so long as the dimensional variation is reasonable and provided sufficient evidence is submitted that all 77 pieces of the set are being sold or offered for sale. The ceramic tableware at issue is classified in subheading 6912.00.39, HTSUS.

HOLDING:

The ceramic tableware is classified in heading 6912, HTSUS (2007). Specifically, it is provided for in subheading 6912.00.3900, HTSUS, which provides for “Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china: Tableware and kitchenware: Other: Other: Available in specified sets: In any pattern for which the aggregate value of the articles listed in additional U.S. Note 6(b) of this chapter is over \$38.” The applicable rate of duty is 4.5 percent *ad valorem*.

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 CBP office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

EFFECT ON OTHER RULINGS:

HQ 955838, dated August 8, 1994, is hereby revoked.

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

CC: Port of New York/Newark

U.S. CUSTOMS AND BORDER PROTECTION

69

[ATTACHMENT H]

HQ H004642
CLA-2 OT:RR:CTF:TCM H004642 KSH
CATEGORY: Classification
TARIFF NO.: 6911.10.35

MR. CURT DEVLIN
ACTION INDUSTRIES, INC.
460 Nixon Rd.
Cheswick, PA 15024

RE: Revocation of Headquarters Ruling Letter (HQ) 967920, dated January 20, 2006; Interpretation of "available in specified sets" maximum size descriptions of Additional U.S. Note 6 to Chapter 69, HTSUSA

DEAR MR. DEVLIN:

On January 20, 2006, we issued Headquarters Ruling Letter (HQ) 967920, to you regarding the tariff classification of certain porcelain tableware "available in specified sets" under the Harmonized Tariff Schedule of the United States ("HTSUS"). In HQ 967920, we determined that inasmuch as some of the articles in the porcelain dinnerware at issue exceeded the maximum dimension set forth in the HTSUS, the goods were classifiable under subheading 6911.10.8010, HTSUS.

We have reviewed that ruling and found it to be in error. Therefore, this ruling revokes HQ 967920.

FACTS:

The merchandise is porcelain dinnerware that is identified as in the Joy Of Christmas pattern, Item Number 17637. Previous information submitted indicated that the patterns are principally for household use. It was stated that the aggregate value of the porcelain dinnerware was not over \$56.

ISSUE:

Whether an article described in U.S. Note 6(b) to Chapter 69 may exceed the dimensional descriptions therein and not preclude classification of articles described in U.S. Note 6(a) as "available in specified sets" in heading 6911 or 6912, HTSUS.

LAW AND ANALYSIS:

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

The Harmonized Commodity Description and Coding System Explanatory Notes (EN), constitute the official interpretation of the Harmonized System 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. It is Customs and Border Protection's (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Additional U.S. Note 6 to Chapter 69, HTSUS, reads:

6. For the purposes of headings 6911 and 6912:

(a) The term "available in specified sets" embraces plates, cups, saucers and other articles principally used for preparing, serving or storing food or

beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being "available in specified sets" unless it is of a pattern in which at least the articles listed below in (b) of this note are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in subheadings 6911.10.35, 6911.10.37, 6911.10.38, 6912.00.35 or 6912.00.39, of all articles of such pattern shall be governed by the aggregate value of the following articles in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

- 12 plates of the size nearest to 26.7 cm in maximum dimension, sold or offered for sale,
- 12 plates of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale,
- 12 tea cups and their saucers, sold or offered for sale,
- 12 soups of the size nearest to 17.8 cm in maximum dimension, sold or offered for sale,
- 12 fruits of the size nearest to 12.7 cm in maximum dimension, sold or offered for sale,
- 1 platter or chop dish of the size nearest to 38.1 cm in maximum dimension, sold or offered for sale,
- 1 open vegetable dish or bowl of the size nearest to 25.4 cm in maximum dimension, sold or offered for sale,
- 1 sugar of largest capacity, sold or offered for sale,
- 1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale, shall be substituted therefor.

Additional U.S. Note 6 to Chapter 69, HTSUS, was adopted from the former Tariff Schedules of the United States (TSUS). Schedule 5 of the TSUS (1987) contained the following headnotes:

2. (a) For the purposes of this subpart, the term "available in specified sets" (items 533.22, 533.24, 533.62 and 533.64) embraces plates, cups, saucers and other articles chiefly used for preparing, serving or storing food or beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being "available in specified sets" unless it is of a pattern in which at least the articles listed below in (b) of this headnote are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in items 533.22, 533.24, 533.62 or 533.64, of all articles of such pattern shall be governed by the aggregate value of the following articles in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

- 12 plates of the size nearest to 10.5 inches in maximum dimension, sold or offered for sale,
- 12 plates of the size nearest to 6 inches in maximum dimension, sold or offered for sale,
- 12 tea cups and their saucers, sold or offered for sale,

12 soups of the size nearest to 7 inches in maximum dimension, sold or offered for sale,

12 fruits of the size nearest to 5 inches in maximum dimension, sold or offered for sale,

1 platter or chop dish of the size nearest to 15 inches in maximum dimension, sold or offered for sale,

1 open vegetable dish or bowl of the size nearest to 10 inches in maximum dimension, sold or offered for sale,

1 sugar of largest capacity, sold or offered for sale,

1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 6 inches in maximum dimension, sold or offered for sale, shall be substituted therefor.

Appendix C to the Seventh Supplemental Report of the United States Tariff Commission titled “Additional Explanatory Notes and Background Materials” explained the meaning of the term “maximum dimension” as it appeared in the TSUS. It stated in relevant part:

The term “of the size nearest to” in headnote 2(b) of this subpart means either more or less than the dimension specified, and within a rather wide range. For example, as indicated in the original explanatory notes on page 84, “the size nearest to 6 inches in maximum dimension” may actually be a salad plate of more than 8-inch diameter. The size nearest to 10-1/2 inches in maximum dimension is intended to designate a dinner plate, however, and even though any plate over 8-1/4 inches in diameter would be nearer to 10-1/2 inches than to 6 inches in diameter, it could hardly be considered to be a dinner plate unless it were over 9 inches in maximum dimension. The term “maximum dimension” means the maximum straight-line distance from edge to edge across the face or top of the article whose dimension is specified.

Unless a contrary legislative intent is shown, tariff terms are construed in accordance with their common and commercial meanings, which are presumed to be the same. See, e.g., Nippon Kogaku (USA), Inc. v. United States, 673 F.2d 380, 382 (1982); Schott Optical Glass, Inc. v. United States, 612 F.2d 1283, 1285 (1979). The common meaning of a tariff term presents a question of law to be decided by the court. American Express Co. v. United States, 10, C.A.D. 456 (1951). In cases where a term is defined by statute, the court need not undertake a common-meaning inquiry, for the statutory definition is controlling. Overton & Co. v. United States, 85 Cust. Ct. 76, 80–81 (1980). Absent an express definition, however, dictionaries, lexicons, scientific authorities, and other such reliable sources may be consulted to determine common meaning. C.J. Tower & Sons of Buffalo, Inc. v. United States, 673 F.2d 1268, 1271 (1982).

In HQ 967920, we determined that “the language of the additional U.S. note is unequivocal. The word ‘maximum’ means ‘the greatest possible quantity or degree; the greatest quantity or degree reached or recorded; the upper limit of variation.’ See www.thefreedictionary.com.” Thus, we concluded, “[s]tated plainly, articles of table- and kitchenware ‘available in specified sets’ cannot exceed the maximum dimensions set forth in Additional U.S. Note 6 to Chapter 69.”

However, “the common meaning of a tariff term, once established, remains controlling until a subsequent change in statute compels a revised construc-

tion of the term's meaning." United States v. Great Pacific Co., 324, T.D. 48192 (1936); see Sears, Roebuck & Co. v. United States, 83, C.A.D. 701(1959). Absent clear evidence of legislative intent to embrace an alternative statutory definition, and in light of its historical pedigree, the TSUS definition of the term "maximum dimension" survives as the common and commercial meaning of the term under the HTSUS. Lonza, Inc. v. United States, 46 F.3d 1098 (Fed. Cir. 1995).

Where the text of a tariff provision has undergone only minor changes from the TSUS to the HTSUS, the high values of uniformity and predictability — not to mention the merits of honoring Congress' decision to retain prior policy — counsel courts to credit prior decisions interpreting the TSUS provision. See, e.g., Pima Western, Inc. v. United States, 915 F. Supp. 399, 404–05 (Ct. Int'l Trade 1996) (" '[O]n a case-by-case basis prior decisions should be considered instructive in interpreting the HTS[US], particularly where the nomenclature previously interpreted in those decisions remains unchanged and no dissimilar interpretation is required by the text of the HTS[US].'") (quoting the Conference Report on the Omnibus Trade Act of 1988, H.R. Conf. Rep. No. 576, 100th Cong., 2d Sess. 515, 549–50 (1988)). Hewlett-Packard Co. v. United States, 189 F.3d 1346 at 1349 (Fed. Cir. 1999).

As there have been no major changes to the tariff provisions for articles "available in specified sets" from the TSUS to the HTSUS and no dissimilar interpretation is required by the text of the HTSUS, there is no clear evidence which would require a different interpretation than that given under the TSUS. Accordingly, an article described in U.S. Note 6(a) may be classified as being "available in specified sets" in heading 6911 or 6912, HTSUS, even if it, or another article listed in U.S. Note 6(b), exceeds the dimensional descriptions of Additional U.S. Note 6, HTSUS, so long as the dimensional variation is reasonable and provided sufficient evidence is submitted that all 77 pieces of the set are being sold or offered for sale. The porcelain tableware is classified in subheading 6911.10.3800, HTSUS.

HOLDING:

An article may exceed the dimensional descriptions of Additional U.S. Note 6 to Chapter 69, HTSUS, and be classified as being "available in specified sets" in heading 6911 or 6912, HTSUS, and not preclude classification of matching articles described in U.S. Note 6(a) to Chapter 69 as "available in specified sets", so long as the dimensional variation is reasonable and provided sufficient evidence is submitted that all 77 pieces of the set are being sold or offered for sale. The porcelain dinnerware is classified in heading 6911, HTSUS. Specifically, it is provided for in subheading 6911.10.35, HTSUS, which provides for "Tableware, kitchenware, other household articles and toilet articles, of porcelain or china: Tableware and kitchenware: Other: Other: Available in specified sets: In any pattern for which the aggregate value of the articles listed in additional U.S. note 6(b) of this chapter is not over \$56. The column one general rate of duty is 26% *ad valorem*."

EFFECT ON OTHER RULINGS:

HQ 967920, is hereby revoked.

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

[ATTACHMENT I]

HQ H004643
CLA-2 OT:RR:CTF:TCM H004643 KSH
CATEGORY: Classification
TARIFF NO.: 6912.00.39

MR. DONALD F. WRIGHT
EXCEL IMPORTING CORPORATION
100 Andrews Road
Hicksville, NY 11801

RE: Revocation of Headquarters Ruling Letter (HQ) 967792, dated January 20, 2006; Interpretation of "available in specified sets" maximum size requirements of Additional U.S. Note 6 to Chapter 69, HTSUSA

DEAR MR. WRIGHT:

On January 20, 2006, we issued Headquarters Ruling Letter (HQ) 967792, to you regarding the tariff classification of certain stoneware dinnerware "available in specified sets" under the Harmonized Tariff Schedule of the United States ("HTSUS"). In HQ 967792, we determined that inasmuch as some of the articles in the stoneware dinnerware at issue exceeded the maximum dimension set forth in the HTSUS, the goods were classified under subheading 6912.00.4810, HTSUS.

HQ 967792 revoked NY B88253. We have reviewed HQ 967792 and found it to be in error. Therefore, this ruling revokes HQ 967792.

FACTS:

The merchandise is stoneware dinnerware that is identified as in the patterns English Garden, Dorchester, Orchard and Cosmos. Previous information submitted indicated that the patterns are principally for household use. They are stated to be "available in specified sets" in accordance with Note 6(b), HTSUS, with an aggregate value over \$38. Some of the pieces in the stoneware dinnerware exceed the maximum dimensions set forth in U.S. Note 6(b), HTSUS.

ISSUE:

Whether an article described in U.S. Note 6(b) to Chapter 69 may exceed the dimensional descriptions therein and not preclude classification of articles described in U.S. Note 6(a) as "available in specified sets" in heading 6911 or 6912, HTSUS.

LAW AND ANALYSIS:

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

The Harmonized Commodity Description and Coding System Explanatory Notes (EN), constitute the official interpretation of the Harmonized System 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. It is Customs and Border Protection's (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Additional U.S. Note 6 to Chapter 69, HTSUS, reads:

6. For the purposes of headings 6911 and 6912:

(a) The term "available in specified sets" embraces plates, cups, saucers and other articles principally used for preparing, serving or storing food or beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being "available in specified sets" unless it is of a pattern in which at least the articles listed below in (b) of this note are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in subheadings 6911.10.35, 6911.10.37, 6911.10.38, 6912.00.35 or 6912.00.39, of all articles of such pattern shall be governed by the aggregate value of the following articles in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

12 plates of the size nearest to 26.7 cm in maximum dimension, sold or offered for sale,

12 plates of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale,

12 tea cups and their saucers, sold or offered for sale,

12 soups of the size nearest to 17.8 cm in maximum dimension, sold or offered for sale,

12 fruits of the size nearest to 12.7 cm in maximum dimension, sold or offered for sale,

1 platter or chop dish of the size nearest to 38.1 cm in maximum dimension, sold or offered for sale,

1 open vegetable dish or bowl of the size nearest to 25.4 cm in maximum dimension, sold or offered for sale,

1 sugar of largest capacity, sold or offered for sale,

1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale, shall be substituted therefor.

Additional U.S. Note 6 to Chapter 69, HTSUS, was adopted from the former Tariff Schedules of the United States (TSUS). Schedule 5 of the TSUS (1987) contained the following headnotes:

2. (a) For the purposes of this subpart, the term "available in specified sets" (items 533.22, 533.24, 533.62 and 533.64) embraces plates, cups, saucers and other articles chiefly used for preparing, serving or storing food or beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being "available in specified sets" unless it is of a pattern in which at least the articles listed below in (b) of this headnote are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in items 533.22, 533.24, 533.62 or 533.64, of all articles of such pattern shall be governed by the aggregate value of the following articles in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

12 plates of the size nearest to 10.5 inches in maximum dimension, sold or offered for sale,
12 plates of the size nearest to 6 inches in maximum dimension, sold or offered for sale,
12 tea cups and their saucers, sold or offered for sale,
12 soups of the size nearest to 7 inches in maximum dimension, sold or offered for sale,
12 fruits of the size nearest to 5 inches in maximum dimension, sold or offered for sale,
1 platter or chop dish of the size nearest to 15 inches in maximum dimension, sold or offered for sale,
1 open vegetable dish or bowl of the size nearest to 10 inches in maximum dimension, sold or offered for sale,
1 sugar of largest capacity, sold or offered for sale,
1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 6 inches in maximum dimension, sold or offered for sale, shall be substituted therefor.

Appendix C to the Seventh Supplemental Report of the United States Tariff Commission titled "Additional Explanatory Notes and Background Materials" explained the meaning of the term "maximum dimension" as it appeared in the TSUS. It stated in relevant part:

The term "of the size nearest to" in headnote 2(b) of this subpart means either more or less than the dimension specified, and within a rather wide range. For example, as indicated in the original explanatory notes on page 84, "the size nearest to 6 inches in maximum dimension" may actually be a salad plate of more than 8-inch diameter. The size nearest to 10-1/2 inches in maximum dimension is intended to designate a dinner plate, however, and even though any plate over 8-1/4 inches in diameter would be nearer to 10-1/2 inches than to 6 inches in diameter, it could hardly be considered to be a dinner plate unless it were over 9 inches in maximum dimension. The term "maximum dimension" means the maximum straight-line distance from edge to edge across the face or top of the article whose dimension is specified.

Unless a contrary legislative intent is shown, tariff terms are construed in accordance with their common and commercial meanings, which are presumed to be the same. See, e.g., Nippon Kogaku (USA), Inc. v. United States, 673 F.2d 380, 382 (1982); Schott Optical Glass, Inc. v. United States, 612 F.2d 1283, 1285 (1979). The common meaning of a tariff term presents a question of law to be decided by the court. American Express Co. v. United States, 10, C.A.D. 456 (1951). In cases where a term is defined by statute, the court need not undertake a common-meaning inquiry, for the statutory definition is controlling. Overton & Co. v. United States, 85 Cust. Ct. 76, 80-81 (1980). Absent an express definition, however, dictionaries, lexicons, scientific authorities, and other such reliable sources may be consulted to determine common meaning. C.J. Tower & Sons of Buffalo, Inc. v. United States, 673 F.2d 1268, 1271 (1982).

In HQ 967792, we determined that “the language of the additional U.S. note is unequivocal. The word ‘maximum’ means ‘the greatest possible quantity or degree; the greatest quantity or degree reached or recorded; the upper limit of variation.’ See www.thefreedictionary.com.” Thus, we concluded, “[s]tated plainly, articles of table- and kitchenware ‘available in specified sets’ cannot exceed the maximum dimensions set forth in Additional U.S. Note 6 to Chapter 69.”

However, “the common meaning of a tariff term, once established, remains controlling until a subsequent change in statute compels a revised construction of the term’s meaning.” United States v. Great Pacific Co., 324, T.D. 48192 (1936); see Sears, Roebuck & Co. v. United States, 83, C.A.D. 701(1959). Absent clear evidence of legislative intent to embrace an alternative statutory definition, and in light of its historical pedigree, the TSUS definition of the term “maximum dimension” survives as the common and commercial meaning of the term under the HTSUS. Lonza, Inc. v. United States, 46 F.3d 1098 (Fed. Cir. 1995).

Where the text of a tariff provision has undergone only minor changes from the TSUS to the HTSUS, the high values of uniformity and predictability — not to mention the merits of honoring Congress’ decision to retain prior policy — counsel courts to credit prior decisions interpreting the TSUS provision. See, e.g., Pima Western, Inc. v. United States, 915 F. Supp. 399, 404–05 (Ct. Int’l Trade 1996) (“[O]n a case-by-case basis prior decisions should be considered instructive in interpreting the HTS[US], particularly where the nomenclature previously interpreted in those decisions remains unchanged and no dissimilar interpretation is required by the text of the HTS[US].”) (quoting the Conference Report on the Omnibus Trade Act of 1988, H.R. Conf. Rep. No. 576, 100th Cong., 2d Sess. 515, 549–50 (1988)). Hewlett-Packard Co. v. United States, 189 F.3d 1346 at 1349 (Fed. Cir. 1999).

As there have been no major changes to the tariff provisions for articles “available in specified sets” from the TSUS to the HTSUS and no dissimilar interpretation is required by the text of the HTSUS, there is no clear evidence which would require a different interpretation than that given under the TSUS. Accordingly, an article described in U.S. Note 6(a) may be classified as being “available in specified sets” in heading 6911 or 6912, HTSUS, even if it, or another article listed in U.S. Note 6(b), exceeds the dimensional descriptions of Additional U.S. Note 6, HTSUS, so long as the dimensional variation is reasonable and provided sufficient evidence is submitted that all 77 pieces of the set are being sold or offered for sale. The stoneware tableware is classified in subheading 6912.00.3500, HTSUS.

HOLDING:

An article may exceed the dimensional descriptions of Additional U.S. Note 6 to Chapter 69, HTSUS, and be classified as being “available in specified sets” in heading 6911 or 6912, HTSUS, and not preclude classification of matching articles described in U.S. Note 6(a) to Chapter 69 as “available in specified sets”, so long as the dimensional variation is reasonable and provided sufficient evidence is submitted that all 77 pieces of the set are being sold or offered for sale. The stoneware dinnerware is classified in heading 6912, HTSUS. It is provided for in subheading 6912.00.39, HTSUS, which provides for “Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china: Tableware and kitchenware:

Other: Other: Available in specified sets: In any pattern for which the aggregate value of the articles listed in additional U.S. note 6(b) of this chapter is over \$38. The general column one rate of duty is 4.5% *ad valorem*.

EFFECT ON OTHER RULINGS:

HQ 967792 is hereby revoked.

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

[ATTACHMENT J]

HQ H010776
CLA-2 OT:RR:CTF:TCM H010776 KSH
CATEGORY: Classification
TARIFF NO.: 6911.10.38

MR. DONALD STEIN
GREENBERG TRAUIG
800 Connecticut Avenue, N.W.
Suite 500
Washington, D.C. 20006

RE: Revocation of New York Ruling Letter (NY) K87695, dated August 5, 2004; Interpretation of "available in specified sets" maximum size descriptions of Additional U.S. Note 6 to Chapter 69, HTSUSA

DEAR MR. STEIN:

On August 5, 2004, New York Ruling Letter (NY) K87695 was issued to you on behalf of your client, Martin's Herend Imports regarding the tariff classification of certain porcelain tableware and kitchenware "available in specified sets" under the Harmonized Tariff Schedule of the United States ("HTSUS"). In NY K87695, CBP determined that inasmuch as an article in the porcelain dinnerware and kitchenware at issue exceeded the maximum dimension set forth in the HTSUS, the goods were classifiable under sub-headings 6911.10.80, HTSUS, 6911.10.45, HTSUS and 6911.10.41, HTSUS.

We have reviewed that ruling and found it to be in error. Therefore, this ruling revokes NY K87695.

FACTS:

The merchandise at issue is three porcelain products described as a heart-shaped bonbon dish, pepper shaker and coffee mug. The merchandise is manufactured in Hungary. It was stated to have an aggregate value over \$200.

ISSUE:

Whether an article described in U.S. Note 6(b) to Chapter 69 may exceed The dimensional descriptions therein and not preclude classification of articles described in U.S Note 6(a) as "available in specified sets" in heading 6911 or 6912, HTSUS.

LAW AND ANALYSIS:

Classification of goods under the HTSUS is governed by the General Rules of Interpretation (GRI). GRI 1 provides that classification shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be clas-

sified 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 Harmonized System 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. It is Customs and Border Protections' (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Additional U.S. Note 6 to Chapter 69, HTSUS, reads:

6. For the purposes of headings 6911 and 6912:

(a) The term "available in specified sets" embraces plates, cups, saucers and other articles principally used for preparing, serving or storing food or beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being "available in specified sets" unless it is of a pattern in which at least the articles listed below in (b) of this note are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in subheadings 6911.10.35, 6911.10.37, 6911.10.38, 6912.00.35 or 6912.00.39, of all articles of such pattern shall be governed by the aggregate value of the following articles in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

12 plates of the size nearest to 26.7 cm in maximum dimension, sold or offered for sale,

12 plates of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale,

12 tea cups and their saucers, sold or offered for sale,

12 soups of the size nearest to 17.8 cm in maximum dimension, sold or offered for sale,

12 fruits of the size nearest to 12.7 cm in maximum dimension, sold or offered for sale,

1 platter or chop dish of the size nearest to 38.1 cm in maximum dimension, sold or offered for sale,

1 open vegetable dish or bowl of the size nearest to 25.4 cm in maximum dimension, sold or offered for sale,

1 sugar of largest capacity, sold or offered for sale,

1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 15.3 cm in maximum dimension, sold or offered for sale, shall be substituted therefor.

Additional U.S. Note 6 to Chapter 69, HTSUS, was adopted from the former Tariff Schedules of the United States (TSUS). Schedule 5 of the TSUS (1987) contained the following headnotes:

2. (a) For the purposes of this subpart, the term "available in specified sets" (items 533.22, 533.24, 533.62 and 533.64) embraces plates, cups, saucers and other articles chiefly used for preparing, serving or storing food or beverages, or food or beverage ingredients, which are sold or offered for sale in the same pattern, but no article is classifiable as being "available

in specified sets” unless it is of a pattern in which at least the articles listed below in (b) of this headnote are sold or offered for sale.

(b) If each of the following articles is sold or offered for sale in the same pattern, the classification hereunder in items 533.22, 533.24, 533.62 or 533.64, of all articles of such pattern shall be governed by the aggregate value of the following articles in the quantities indicated, as determined by the appropriate customs officer under section 402 of the Tariff Act of 1930, as amended, whether or not such articles are imported in the same shipment:

- 12 plates of the size nearest to 10.5 inches in maximum dimension, sold or offered for sale,
- 12 plates of the size nearest to 6 inches in maximum dimension, sold or offered for sale,
- 12 tea cups and their saucers, sold or offered for sale,
- 12 soups of the size nearest to 7 inches in maximum dimension, sold or offered for sale,
- 12 fruits of the size nearest to 5 inches in maximum dimension, sold or offered for sale,
- 1 platter or chop dish of the size nearest to 15 inches in maximum dimension, sold or offered for sale,
- 1 open vegetable dish or bowl of the size nearest to 10 inches in maximum dimension, sold or offered for sale,
- 1 sugar of largest capacity, sold or offered for sale,
- 1 creamer of largest capacity, sold or offered for sale.

If either soups or fruits are not sold or offered for sale, 12 cereals of the size nearest to 6 inches in maximum dimension, sold or offered for sale, shall be substituted therefor.

Appendix C to the Seventh Supplemental Report of the United States Tariff Commission titled “Additional Explanatory Notes and Background Materials” explained the meaning of the term “maximum dimension” as it appeared in the TSUS. It stated in relevant part:

The term “of the size nearest to” in headnote 2(b) of this subpart means either more or less than the dimension specified, and within a rather wide range. For example, as indicated in the original explanatory notes on page 84, “the size nearest to 6 inches in maximum dimension” may actually be a salad plate of more than 8-inch diameter. The size nearest to 10-1/2 inches in maximum dimension is intended to designate a dinner plate, however, and even though any plate over 8-1/4 inches in diameter would be nearer to 10-1/2 inches than to 6 inches in diameter, it could hardly be considered to be a dinner plate unless it were over 9 inches in maximum dimension. The term “maximum dimension” means the maximum straight-line distance from edge to edge across the face or top of the article whose dimension is specified.

Unless a contrary legislative intent is shown, tariff terms are construed in accordance with their common and commercial meanings, which are presumed to be the same. See, e.g., Nippon Kogaku (USA), Inc. v. United States, 673 F.2d 380, 382 (1982); Schott Optical Glass, Inc. v. United States, 612 F.2d 1283, 1285 (1979). The common meaning of a tariff term presents a question of law to be decided by the court. American Express Co. v. United States, 10, C.A.D. 456 (1951). In cases where a term is defined by statute, the court need not undertake a common-meaning inquiry, for the statutory

definition is controlling. Overton & Co. v. United States, 85 Cust. Ct. 76, 80–81 (1980). Absent an express definition, however, dictionaries, lexicons, scientific authorities, and other such reliable sources may be consulted to determine common meaning. C.J. Tower & Sons of Buffalo, Inc. v. United States, 673 F.2d 1268, 1271 (1982).

“The common meaning of a tariff term, once established, remains controlling until a subsequent change in statute compels a revised construction of the term’s meaning.” United States v. Great Pacific Co., 324, T.D. 48192 (1936); see Sears, Roebuck & Co. v. United States, 83, C.A.D. 701(1959). Absent clear evidence of legislative intent to embrace an alternative statutory definition, and in light of its historical pedigree, the TSUS definition of the term “maximum dimension” survives as the common and commercial meaning of the term under the HTSUS. Lonza, Inc. v. United States, 46 F.3d 1098 (Fed. Cir. 1995).

Where the text of a tariff provision has undergone only minor changes from the TSUS to the HTSUS, the high values of uniformity and predictability — not to mention the merits of honoring Congress’ decision to retain prior policy — counsel courts to credit prior decisions interpreting the TSUS provision. See, e.g., Pima Western, Inc. v. United States, 915 F. Supp. 399, 404–05 (Ct. Int’l Trade 1996) (“[O]n a case-by-case basis prior decisions should be considered instructive in interpreting the HTS[US], particularly where the nomenclature previously interpreted in those decisions remains unchanged and no dissimilar interpretation is required by the text of the HTS[US].”) (quoting the Conference Report on the Omnibus Trade Act of 1988, H.R. Conf. Rep. No. 576, 100th Cong., 2d Sess. 515, 549–50 (1988)). Hewlett-Packard Co. v. United States, 189 F.3d 1346 at 1349 (Fed. Cir. 1999).

As there have been no major changes to the tariff provisions for articles “available in specified sets” from the TSUS to the HTSUS and no dissimilar interpretation is required by the text of the HTSUS, there is no clear evidence which would require a different interpretation than that given under the TSUS. Accordingly, an article may exceed the dimensional descriptions of Additional U.S. Note 6 to Chapter 69, HTSUS, and be classified as being “available in specified sets” in heading 6911 or 6912, HTSUS, so long as it is reasonable and provided sufficient evidence is submitted that all 77 pieces of the set are being sold or offered for sale. The porcelain tableware is classified in subheading 6911.10.38, HTSUS.

HOLDING:

An article may exceed the dimensional descriptions of Additional U.S. Note 6 to Chapter 69, HTSUS, and be classified as being “available in specified sets” in heading 6911 or 6912, HTSUS, and not preclude classification of matching articles described in U.S. Note 6(a) to Chapter 69 as “available in specified sets”, so long as the dimensional variation is reasonable and provided sufficient evidence is submitted that all 77 pieces of the set are being sold or offered for sale. The porcelain dinnerware is classified in heading 6911, HTSUS. Specifically, it is provided for in subheading 6911.10.38, HTSUS, which provides for “Tableware, kitchenware, other household articles and toilet articles, of porcelain or china: Tableware and kitchenware: Other: Other: Available in specified sets: In any pattern for which the aggregate value of the articles listed in additional U.S. note 6(b) of this chapter is

over \$56: Aggregate value over \$200. The column one general rate of duty is 6% *ad valorem*.

EFFECT ON OTHER RULINGS:

NY K87695 is hereby revoked.

MYLES B. HARMON,

Director,

Commercial and Trade Facilitation Division.

19 CFR PART 177

**MODIFICATION OF A RULING LETTER AND REVOCATION
OF TREATMENT RELATING TO THE CLASSIFICATION OF
GREENHOUSE FILM**

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

ACTION: Notice of modification of a ruling letter and revocation of treatment relating to the classification of greenhouse film.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is modifying one ruling letter relating to the tariff classification of greenhouse film under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed action was published in the Customs Bulletin, Volume 41, Number 5, on January 24, 2007. No comments were received in response to this notice.

EFFECTIVE DATE: This revocation is effective for merchandise entered or withdrawn from warehouse for consumption on or after July 29, 2007.

FOR FURTHER INFORMATION CONTACT: Heather K. Pinnock, Tariff Classification and Marking Branch, at (202) 572-8828.

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, a notice was published in the Customs Bulletin, Volume 41, Number 5, on January 24, 2007, proposing to modify one ruling letter relating to the tariff classification of Hyplast greenhouse film. No comments were received in response to this notice. However, CBP has decided to further clarify our position on the applicability of the decision in Ludvig Svensson to greenhouse film. As stated in the proposed notice, this modification 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 rulings identified above. 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.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is modifying NY H89973 and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper tariff classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letters (HQ) W968283 (Attachment B). Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is revoking

any treatment previously accorded by CBP to substantially identical transactions that are contrary to the determination set forth in this notice.

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

DATED: May 9, 2007

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

Attachment



HQ W968283

May 9, 2007

CLA-2 OT:RR:CTF:TCM W968283 HkP

CATEGORY: Classification

TARIFF NO.: 8436.99.00

PHILIP YALE SIMONS, ESQ.
SIMONS AND WISKIN, ATTORNEYS AT LAW
924 Route 9 South
South Amboy, NJ 08879

RE: Modification of NY H89973; greenhouse film from Belgium

DEAR MR. SIMONS:

This is in reference to New York Ruling Letter ("NY") H89973, issued to your client, Klerk's Plastic Products Manufacturing, Inc. ("KPPM"), on April 22, 2002, in which greenhouse film made of ethylene butyl acrylate (EBA) was classified under the Harmonized Tariff of the United States ("HTSUS"). We have reconsidered NY H89973 and determined that the tariff classification of the greenhouse film is incorrect. This letter sets forth the correct classification.

In reaching our decision we have taken into consideration information provided by you in your original reconsideration request, dated May 4, 2006, in additional submissions, dated August 25, and 30, 2006, made in response to requests from this office, and in several telephone conversations.

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 modification was published on January 24, 2007, in the Customs Bulletin, Volume 41, No. 5. No comments were received in response to this notice.

FACTS:

In New York Ruling Letter ("NY") H89973, U.S. Customs and Border Protection ("CBP") classified greenhouse film made of EBA and in which ethylene predominated by weight, in subheading 3920.10.0000, HTSUSA, which provides for: "Other plates, sheets, film, foil and strip, of plastics, non-cellular and not reinforced, laminated, supported or similarly combined with other materials: of polymers of ethylene." In addition, CBP did not find the

film eligible for duty-free treatment accorded to agricultural machinery, equipment and implements under subheading 9817.00.5000, HTSUSA. You contend that the greenhouse film is properly classified under subheading 8436.99.00, HTSUSA, which provides for, *inter alia*: "Other agricultural, horticultural, . . . machinery, . . .; parts thereof: Parts, other." In the alternative, you contend that the film is entitled to duty-free entry under subheading 9817.00.5000, HTSUSA.

In your letter of May 4, 2006, received by CBP on May 22, 2006, requesting reconsideration of NY H89973, you informed CBP that KPPM imports a variety of plastic film products for use exclusively in the agricultural industry. One type of greenhouse film, "Hypplast films" manufactured by Hypalst NV in Belgium, is the subject of this reconsideration request. The film is imported in rolls between 1,600 and 3,200 feet in length, depending on the width of the roll. The importer only cuts the film to size before it is sold. KPPM also imports greenhouse films of standard sizes – 100 feet and 150 feet in length, which are sold as imported without any post-importation operations performed by KPPM. You state that KPPM agricultural film is used as greenhouse roofs and to enclose greenhouses.

According to the information provided, the subject greenhouse films are specially made to control the environment in a greenhouse. These films are made by a process known as co-extrusion blown film process, in which plastic pellets or flakes and additives, if any, are premixed, melted into an extruder, propelled into a die which causes the molten material to flow around a mandrel and emerge through a ring-shaped opening in the form of a tube. A die with multiple flow channels is used in co-extrusion to form multiple individual layers. Air is introduced into the tube causing it to expand and bubble. The air is contained in the bubble by the die at one end and by nip rollers at the other end. Even air pressure is maintained to ensure uniform thickness of the bubble. Airflow around the outside of the bubble cools and solidifies the melt. The bubble is stretched to orient the plastic and improve its strength and properties. After solidification the film bubble moves into a set of pinch rollers to flatten and roll the material onto a winder. The Hypplast website (<http://www.hyplast.be/html/faq.php>) describes a substantially similar process for manufacturing their films.

You state that greenhouse films typically contain three layers of extruded plastic with special additives used in certain of the layers to impart specific properties to the greenhouse films, and that films with up to seven individual layers can be produced. By mixing additives with the plastic polymer, multi-layer films can be made with specific additives in specific layers of the film to tailor-make the film to the particular needs of a customer. In a typical three-layer film, the outer layer will have anti-dusting and UV stabilizers, the middle layer will have diffusion additives and UV stabilizers, and the inner layer will have anti-drip and UV stabilizers.

According to the information provided, the Hypplast films under consideration are specially manufactured and feature:

- (1) UV-stabilization – UV stabilizers and UV absorbers are added to the raw materials and neutralize the negative effects of ultraviolet radiation on the films and extend the lifetime of the films;
- (2) Thermicity barriers – mineral fillers and/or co-polymers are added to form a barrier to long wavelength infrared radiation to prevent large temperature drops due to radiation loss from the greenhouse;

- (3) Infrared fillers – the use of infrared fillers scatters light in different directions so that diffuse light enters the greenhouse;
- (4) Anti-drip Additives – additives are used to produce films with special anti-condensation properties;
- (5) Energy saving – use of special pigments that retard infra-red light and hold in radiant heat.

You have provided samples of five types of greenhouse film: K50 IR/AC, K50 CLR, K50 WHT 55%, KL380, and HYTITHERMIC, which vary in degrees of translucency. However, we note that although NY H89973 states that samples and literature were provided as part of the prospective ruling request, we are not told which variety of Hyplast film is the subject of the ruling request.

In addition, you told us that greenhouse film is not commercially interchangeable with films used to wrap foods or with other films, such as construction films. This is because the plastic used to make food wrap is different than the plastic used to make greenhouse film and is usually made much thinner than greenhouse film. Greenhouse film typically cost twice as much as the cost of construction or silage film.

In response to CBP's request for further information regarding the manner in which the film is attached to greenhouses, you state in a letter dated August 25, 2006, that:

There are several ways in which greenhouse films are attached to a greenhouse: These include tie down ropes, plastic poly clips, batten taps (for use with wooden greenhouses), wiggle wire, and fastening systems in which the film is pinched between metal plates. . . .

The type of system used is up to the individual greenhouse owner and [KPPM] does not sell or recommend which attachment system to use. The choice is left to the greenhouse owner and the system used depends upon the type of green house. However, you should be aware that KPPM's greenhouse films are used as received by greenhouse owners and no additional processing, other than cutting to length, is required by the greenhouse owner before installing the film.

By letter dated August 30, 2006, in response to CBP's query regarding whether the greenhouse films under consideration are used with mechanical equipment on greenhouses, you informed us that the films are used with retractable greenhouse roof systems or side-wall systems and provided documentary evidence to this effect.

ISSUE:

Whether the film is "parts" of agricultural or horticultural equipment properly classified in subheading 8436.99.00, HTSUSA, or whether it is classified in subheading 3920.00.10, HTSUSA, as films of polymers of ethylene.

Whether the film is eligible for duty-free importation into the U.S. under subheading 9817.00.50, HTSUSA.

LAW AND ANALYSIS:

Classification of merchandise under the HTSUS is 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:

3920 Other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated, supported or similarly combined with other materials:

3920.10.0000 Of polymers of ethylene. . . .

8436 Other agricultural, horticultural, forestry, poultry-keeping or bee-keeping machinery, including germination plant fitted with mechanical or thermal equipment; . . . ; parts thereof:

* * *

Parts:

* * *

8436.99.00 Other

9817.00.50 Machinery, equipment and implements to be used for agricultural or horticultural purposes. . . .

You contend that KPPM's agricultural films are exclusively used as greenhouse roofs and as sides of greenhouse walls for retractable greenhouse systems and, as such, are classifiable under subheading 8436.99.00, HTSUS, which provides for, among other things, parts of agricultural machinery. You base your argument on the U.S. Court of International Trade ("CIT") case Ludvig Svensson, Inc. v. United States, ("Ludvig Svensson") 62 F. Supp 2d 1171 (C.I.T. 1999), in which the court found that specialized plastic laminated screens used as greenhouse roofs and imported in rolls several hundred feet long were parts of agricultural machinery. The court had to consider whether these goods in their condition as imported were sufficiently advanced so as to be considered parts of agricultural equipment. In particular, the court noted that the imported goods used as greenhouse roofs were incorporated into shade and heat retention systems, which consisted of screens, drive motors, cables, aluminum and steel supports, brackets, pulleys, fasteners, and support wires. The court noted further, shade and heat retention systems are installed inside almost all commercial greenhouses. Greenhouse manufacturers either produce greenhouses with the shade and heat retention system installed as original equipment or build greenhouses with enough space in the roof area to accommodate such a system. At 1174. The court found "no question that greenhouses are used in agriculture and that the shade and heat retention systems, which incorporate some of the imported screens . . . are used to regulate and control the environment within a greenhouse." *Id.* at 1177-78.

In considering whether the specialized plastic laminated goods were "parts" the Ludvig Svensson court had to determine: first, whether the imported item was "an integral, constituent, or component part, without which the article to which it is to be joined, could not function as such article" (quoting United States v. Willoughby Camera Stores, ("Willoughby Camera") 21 C.C.P.A. 322, 324 (1933); and second, whether the imported item was dedicated solely for use with the article in question (following United States v. Pompeo, 43 C.C.P.A 9 (1955)). Applying this as a two-part test, the court found that "without the screens, the walls in commercial greenhouses would

be bare, adorned only by the skeleton of shade and heat retention systems, i.e. drive motors, cables, aluminum and steel supports, brackets, pulleys, fasteners, and support wires; there would be no control of temperature and humidity and no shade and heat retention system". The court also found that the screens were in an advanced state of manufacture, and had no other commercial use. The court took into consideration the fact that the screens were "products of high technology, design and planning", that is, they were complex screens incorporating several different types of materials, manufactured for the specific goal of controlling various aspects of a greenhouse environment. Moreover, each type of screen could only have been used for the purpose for which it was manufactured, and the function and purpose of each screen was clearly identifiable upon importation.

CBP previously classified the greenhouse film at issue in subheading 3920.10.0000, HTSUSA, which provides for, among other things, other sheets and film of plastics, noncellular and not reinforced, laminated, supported or similarly combined with other materials: of polymers of ethylene. However, in reaching this decision, CBP did not consider the applicability of the decision in Ludvig Svensson to the product being classified. As previously stated, the film under consideration is specially manufactured and features UV-stabilization, thermicity barriers, infrared fillers, anti-drip additives, and energy saving pigments. These features prevent the film from being commercially interchangeable with film used to wrap foods or with other film, such as construction film. Further, the film is used with retractable greenhouse roof and side-wall systems. Based on the samples and the information provided, we find the film at issue to be substantially similar to the greenhouse screens imported in rolls classified in Ludvig Svensson. For this reason, it is our view that the greenhouse film was incorrectly classified under heading 3920, HTSUS. We now find that the film is classified under heading 8436, HTSUS, as parts of agricultural machinery, specifically under subheading 8436.99.00, HTSUSA.

In reaching this determination, CBP finds that the Ludvig Svensson decision is not applicable to all types of greenhouse film. In Ludvig Svensson the court was provided with evidence that the screens used as greenhouse roofs were incorporated into shade and heat retention systems, i.e., "systems consist[ing] of the screens along with drive motors, cables, aluminum and steel supports, brackets, pulleys, fasteners, and support wires." At 1174. Based on this evidence the court classified the screens in subheading 8436.99.00, HTSUSA, as parts of agricultural machinery. Consequently, in any case in which CBP is presented with evidence that greenhouse film is incorporated into agricultural machinery, we are bound to classify it in subheading 8436.99.00, HTSUSA. See, for example, NY J87840, dated August 13, 2003, in which insect screens were classified in subheading 8436.99.00, HTSUSA, because their only use was as part of a pest control system. Cf. NY J84551, dated June 3, 2003, in which polypropylene fabric used as ground cover was precluded from classification in subheading 8436.99.00, HTSUSA, partly because it was not attached to machinery, did not form part of a heat retention system and was not used for any similar purpose. In this case, we have been provided with evidence that the merchandise at issue is used in mechanized agricultural systems similar to that described in Ludvig Svensson.

Finally, because subheading 8436.99.00, HTSUSA, is a duty-free provision we need not address your alternative argument that the film is entitled to duty-free treatment under subheading 9817.00.50, HTSUSA.

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HOLDING:

We find that the greenhouse film at issue is classified under heading 8436, HTSUS, and is specifically provided for under subheading 8436.99.00, HTSUSA, which provides for: "Other agricultural, horticultural, forestry, poultry-keeping or bee-keeping machinery, including germination plant fitted with mechanical or thermal equipment; . . . parts thereof: Parts: Other."

EFFECT ON OTHER RULINGS:

NY H899735, dated April 22, 2002, is hereby modified with respect to the classification of greenhouse film composed of EBA. The classification of the other item described therein is unchanged.

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.