

U.S. Customs Service

General Notices

EXPANSION OF GENERAL PROGRAM TEST: QUOTA PREPROCESSING

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces that the quota preprocessing program test, which provides for the electronic processing of certain quota-class apparel merchandise prior to arrival of the carrier, will be expanded to the following additional ports: Atlanta; Boston seaport; Logan Airport, Boston; Buffalo-Niagara Falls; Champlain-Rouses Point; Chicago; Columbus; Memphis; Miami; Miami International Airport; Newport/Portland, Oregon (area port of Portland); Puget Sound (the ports of Seattle; and Seattle/Tacoma International Airport); San Francisco seaport; and San Francisco International Airport.

The program test is currently being conducted at ports located in New York/Newark and Los Angeles. The test is being expanded to the additional ports so that Customs can evaluate the program's effectiveness on a much larger scale and determine whether the program should be established nationwide on a permanent basis through appropriate amendments to the Customs Regulations. Public comments concerning any aspect of the program test as well as applications to participate in the test are requested.

DATES: The expansion of the test to include the additional ports is effective on January 1, 2002. The program test is currently scheduled to run until December 31, 2002. Applications to participate in the test and comments concerning the test will continue to be accepted throughout the testing period.

ADDRESSES: Written comments regarding this notice or any aspect of the program test should be addressed to Stephen Silvestri, Quota Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Room 5.3-D, Washington, D.C. 20229, or may be sent via e-mail to Stephen.Silvestri@customs.treas.gov. An application to participate in the program test must be sent to the program coordinator for each port where the applicant intends to submit quota entries for preprocessing. The list of ports and corresponding program coordinators are as follows:

- (1) Port of Atlanta: Spaulding Wyche, 4641 International Parkway, Suite 600, Atlanta, GA 30354;
- (2) Boston seaport and/or Logan Airport: Harry Spirytus, 10 Causeway St., Boston, MA 02222;

- (3) Port of Buffalo-Niagara Falls: Jim Neubert, 111 West Huron St., Buffalo, NY 14202;
- (4) Port of Champlain-Rouses Point: Brenda Harrigan, 198 West Service Rd., Champlain, NY 12919;
- (5) Port of Chicago: Bonita Hooks, 2571 Busse Rd., Elk Grove, IL 60007;
- (6) Port of Columbus: Thomas Barnhart, 7400 Alum Creek Drive, Columbus, OH 43217;
- (7) Port of Los Angeles: Nancy Petagna, 300 S. Ferry St., Terminal Island, CA 90731;
- (8) Los Angeles International Airport: Tony Piscitelli, 11099 S. La Cienega Blvd., Los Angeles, CA 90045;
- (9) Port of Memphis: Terry Wright, 3150 Tchulahoma, Suite 1, Memphis, TN 38118;
- (10) Port of Miami; and/or Miami International Airport: Constance Price, P.O. Box 025280, Miami, FL 33102;
- (11) Ports of New York/Newark: John Lava, 1210 Corbin Street, Elizabeth, NJ 07201;
- (12) JFK Airport: Barry Goldberg, JFK Building 77, Jamaica, NY 11430;
- (13) Port of Newport/Portland, Oregon (area port of Portland): Megan Fishel, P.O. Box 55580, Portland, OR 97238;
- (14) Port of Puget Sound (ports of Seattle; and Seattle-Tacoma International Airport): Sharon Delawyer, 1000 Second Ave., Suite 2000, Seattle, WA 98104;
- (15) San Francisco seaport; and/or San Francisco International Airport: Diana Santiago, 555 Battery St., San Francisco, CA 94111; and/or

FOR FURTHER INFORMATION CONTACT: Stephen Silvestri, Quota Branch, (202-927-5397).

SUPPLEMENTARY INFORMATION:

On July 24, 1998, Customs published a general notice in the Federal Register (63 FR 39929) announcing the limited testing, pursuant to the provisions of § 101.9(a), Customs Regulations (19 CFR 101.9(a)), of a new operational procedure regarding the electronic processing of quota-class apparel merchandise. The test was to be conducted at the ports located in New York/Newark and Los Angeles.

Quota preprocessing permits certain quota entries (merchandise classifiable in chapter 61 or 62 of the Harmonized Tariff Schedule of the United States (HTSUS)) to be filed, reviewed for admissibility, and to have their quota priority and status determined by Customs prior to arrival of the carrier, similar to the method of preliminary review by which non-quota entries are currently processed. The purpose of quota preprocessing is to reduce Customs processing time for qualified quota entries and to expedite the release of the subject merchandise to the importer. To this end, participants in quota preprocessing have been allowed to submit quota entries to Customs up to 5 days prior to vessel arrival or after the wheels are up on air shipments.

The July 24, 1998, Federal Register notice principally described the new procedure, specified the eligibility and application requirements for participation in the program test, and noted the acts of misconduct for which a participant in the test could be suspended and disqualified from continued participation in the program.

The initial test of the quota preprocessing procedure began on September 15, 1998, and was intended to continue for a six-month period that expired on March 14, 1999. However, on March 25, 1999, and on January 6, 2000, Customs published general notices in the Federal Register (64 FR 14499 and 65 FR 806, respectively) that extended the program test through 1999 and 2000. In addition, on November 30, 2000, Customs published another general notice in the Federal Register (65 FR 71356), further extending the program test through December 31, 2002. These respective extensions of the test procedure were undertaken so that Customs could further evaluate the effectiveness of the program and determine whether the program test should be expanded to other ports.

Customs has now concluded, following successful evaluations of the program to date, that the test should be expanded to other ports in order to enable Customs to evaluate the program's effectiveness on a much larger scale and determine whether the program should be established nationwide on a permanent basis through appropriate amendments to the Customs Regulations.

EXPANSION OF PROGRAM TEST TO ADDITIONAL PORTS

In addition to the ports in Los Angeles and New York/Newark where the test is ongoing, Customs has determined that the program test should be expanded as of January 1, 2002 through December 31, 2002 to a number of additional ports as follows: Atlanta; Boston seaport; Logan Airport, Boston; Buffalo-Niagara Falls; Champlain-Rouses Point; Chicago; Columbus; Memphis; Miami; Miami International Airport; Newport/Portland, Oregon (the area port of Portland); Puget Sound (the ports of Seattle; and Seattle/Tacoma International Airport); San Francisco seaport; and San Francisco International Airport. The expansion of the test to these ports was determined by the volume of quota lines of apparel merchandise entered at these ports.

Furthermore, under the expanded program test, because two of the ports will receive shipments by land (Buffalo-Niagara Falls; and Champlain-Rouses Point), quota entries in these circumstances may be submitted to Customs after the carrier departs from its location in Canada destined for the U.S. border.

ELIGIBILITY AND APPLICATION CRITERIA FOR THE PROGRAM TEST

Given the impending significant expansion of the program test and the consequent influx of additional applications to participate in the test that is anticipated, the eligibility criteria and application instructions for the program, based largely on the July 24, 1998, Federal Register notice, are essentially repeated below, albeit revised as appropriate to re-

flect the expanded test. Prospective applicants may refer to the July 24, 1998, Federal Register notice for a more detailed discussion of the quota preprocessing program.

IMPORTER/ENTRY ELIGIBILITY CRITERIA

Only importers who currently import qualifying apparel through one or more of the ports listed in item “(6)” below may participate in the expanded program test. Participants are not permitted to change their importing patterns in order to take advantage of quota preprocessing. In this regard, during the test, Customs will monitor import volumes for noticeable increases of eligible quota entries through the ports covered by the expanded test.

Customs will only accept consumption entries of apparel merchandise subject to quota (types 02 and 07) for preprocessing which meet the following criteria:

- (1) The entry must be filed using the Automated Broker Interface (ABI);
- (2) Payment must be made electronically through the Automated Clearinghouse (ACH);
- (3) Arriving carriers must use the Automated Manifest System (AMS);
- (4) The quota category must be less than 85% full;
- (5) The entry must contain at least one line classifiable in chapter 61 or 62 of the Harmonized Tariff Schedule of the United States (HTSUS); and
- (6) The entry must be submitted at one of the following ports: the port of Atlanta (Port code: 1704); Boston seaport (Port code: 0401); Logan Airport, Boston (port code: 0417); the port of Buffalo-Niagara Falls (Port code: 0901); the port of Champlain-Rouses Point (Port code: 0712); the port of Chicago (Port code: 3901); the port of Columbus (Port code: 4103); the port of Los Angeles (Port code: 2704); Los Angeles International Airport (Port code: 2740); the port of Memphis (Port code: 2006); the port of Miami (Port code: 5201); Miami International Airport (Port code: 5206); the ports of New York/Newark, including JFK Airport (Port codes: 1001/4601/4701); the port of Newport/Portland, Oregon (area port of Portland (Port code: 2904)); the port of Puget Sound (the ports of Seattle (Port codes: 3001, 3002, 3081); and Seattle/Tacoma International Airport (Port code: 3029)); San Francisco seaport (Port code: 2809); or San Francisco International Airport (Port code: 2801).

If an importer submits a quota entry for preprocessing and the entry does not meet all of the criteria in items “(1)” through “(6)” above, the entry summary will be rejected and the filer may not resubmit the entry summary to Customs until after the carrier has arrived. Upon arrival of the carrier, merchandise covered by a preprocessed entry will be released unless Customs decides to perform an examination. In this respect, the fact that merchandise has been processed under the quota preprocessing program will not interfere with or impede Customs ability to examine the merchandise upon its arrival, should such an examination be found to be warranted. If an examination of the

merchandise is necessary, the examination will occur during the port's regular inspectional hours.

APPLICATION TO PARTICIPATE IN QUOTA PREPROCESSING

An importer wishing to participate in quota preprocessing must submit a written application that includes the following information to the program coordinator for each port where the applicant intends to submit quota entries for preprocessing:

1. The specific port(s) included under the program where entries of the quota merchandise are intended to be made;
2. The importer of record number(s), including suffix(es), and a statement of the importer's/filer's electronic filing capabilities;
3. Names and addresses of any entry filers, including Customs brokers, that will be electronically filing entries at each port under the program on behalf of the importer/participant; and
4. The total number of consumption quota entries (types 02 and 07) filed at each of the ports subject to the program during the preceding 12-month period and the estimated number of eligible entries expected to be filed at each designated port during the course of the test. If it is expected that a significantly higher number of eligible entries will be filed over the test period than were filed over the preceding 12 month-period, an explanation for this increase will be necessary.

Applicants will be notified in writing of their selection or nonselection to participate in quota preprocessing. An applicant denied participation may appeal in writing to the port director at the port where the application was denied.

Current participants in quota preprocessing that also wish to file entries under the program at any of the additional ports must notify in writing, the additional port at least 5 working days before submitting entries at that port. Also, for those that are selected to participate in the test, the July 24, 1998, Federal Register notice should be consulted regarding the acts of misconduct that may result in a participant being suspended from the program and the extent to which a participant may appeal a proposed suspension from the program.

Dated: December 18, 2001.

JOHN H. HEINRICH,
*Acting Assistant Commissioner,
Office of Field Operations.*

[Published in the Federal Register, December 21, 2001 (66 FR 66018)]

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, December 19, 2001.

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs Service field offices to merit publication in the CUSTOMS BULLETIN.

DOUGLAS M. BROWNING,
*Acting Assistant Commissioner,
Office of Regulations and Rulings.*

PROPOSED REVOCATION OF RULING LETTERS AND
TREATMENT RELATING TO TARIFF CLASSIFICATION OF
ELECTRONIC EDUCATIONAL DEVICES

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of ruling letters and treatment relating to tariff classification of electronic educational devices.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke six rulings relating to the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of electronic educational devices, and to revoke any treatment Customs has previously accorded to substantially identical transactions. Customs invites comments on the correctness of the proposed action.

DATE: Comments must be received on or before February 1, 2002.

ADDRESS: Written comments are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at the same location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Deborah Stern, General Classification Branch (202) 927-1638.

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), 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 based on the premise 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 Customs to provide the public with improved information concerning the trade community's rights and responsibilities under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484, 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 declare value on imported merchandise, and to provide other necessary information to enable Customs to properly assess duties, collect accurate statistics and determine whether any other 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 Customs intends to revoke six rulings relating to the tariff classification of electronic educational devices. Although in this notice Customs is specifically referring to six rulings (NY B87626, NY C86650, NY E80895, NY B87631, NY B86267, and NY B87857), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been identified. Any party who has received an interpretative ruling or decision (i.e., ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice, should advise Customs 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, Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the HTSUS. Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise Customs 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 his agents for importations of merchandise subsequent to this notice.

In NY B87626, dated July 21, 1997 (Attachment A), NY C86650, dated April 20, 1998 (Attachment B) and NY E80895, dated April 27, 1999 (Attachment C), certain multi-functional electronic educational devices

were held to be classifiable in subheading 8469.11.00, HTSUS, as word processors. In NY B87631, dated July 22, 1997 (Attachment D), NY B86267, dated June 9, 1997 (Attachment E) and NY B87857, dated July 24, 1997 (Attachment F), other multifunctional electronic educational devices were held to be classifiable in subheading 8472.90.95, HTSUS, and its predecessor subheading 8472.90.90, HTSUS, as other office machines. Although all of these articles have word processing capabilities, the principal function is other than word processing, and the articles are not of a kind of machine that would be found in an office or school for office work. As there is no appropriate provision for educational devices, it has been Customs position that such devices are classifiable in heading 8543, HTSUS, as other electrical machines and apparatus having individual functions, not specified or included elsewhere. *See e.g.* HQ 085758, dated January 2, 1990, HQ 086577, dated May 4, 1990, HQ 087599, dated March 5, 1992, HQ 088086, dated February 7, 1991 and HQ 088494, July 10, 1991.

Therefore, it is now Customs position that the electronic educational devices classified in the aforementioned six New York rulings are classifiable in subheading 8543.89.96, HTSUS, which provides for, "Electrical machines and apparatus having individual functions, not specified or included elsewhere in this chapter; parts thereof: other machines and apparatus: other: other: other: other." Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to revoke NY B87631, NY B87626, NY E80895, NY B86267, NY B87857 and NY C86650, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis in proposed HQ 965319 (Attachment G). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment it previously accorded to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

Dated: December 12, 2001.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, July 21, 1997.

CLA-2-84:RR:NC:1:110 B87626
Category: Classification
Tariff No. 8469.11.0000

MR. A. ARNDT
TEAM CONCEPTS NORTH AMERICA, LTD.
331 *Eisenhower Lane South*
Lombard, IL 60148

Re: The tariff classification of a laptop learning device from China.

DEAR MR. ARNDT:

In your letter dated July 8, 1997, you requested a tariff classification ruling.

The merchandise under consideration involves a model # A0725 "ComQuest Scholar" device which is designed to allow children to type memos and reports. This personal laptop learning device is approximately 10-1/4 inches in length by 8-1/4 inches in width, and has a height of 1-5/8 inches. It consists of a standard typewriter keyboard which includes special function keys. These function keys include various activities such as "Game Code", "Record", "Repeat", and "Title Text". It incorporates built-in memory for saving and storing documents.

The "ComQuest Scholar" device is age graded for kids 6 and above. There are built-in educational games and activities in math, spelling, grammar and more. Also built-in is a mini word processor with a complete spell check as well as the ability to hook up to a plain paper printer so kids can print reports, messages, and pictures. There are 40 total built-in activities. This composite machine has the ability to perform word processing, storage, data retrieval, and game functions. The principal use of the "ComQuest Scholar" appears to be its word processing capacity. NY Ruling Letter B86269 was the subject of a similar device.

The applicable subheading for the model number A0725 "ComQuest Scholar" device will be 8469.11.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for automatic typewriters and word processing machines. The rate of duty will be 0.6 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 Art Brodbeck at 212-466-5490.

ROBERT B. SWIERUPSKI,
Chief, Metals & Machinery Branch,
National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, April 20, 1998.
CLA-2-84:RR:NC:1:110 C86650
Category: Classification
Tariff No. 8469.11.0000

MR. A. ARNDT
TEAM CONCEPTS NORTH AMERICA, LTD.
*331 Eisenhower Lane South
Lombard, IL 60148*

Re: The tariff classification of a laptop learning device from China.

DEAR MR. ARNDT:

In your letter dated April 7, 1998, you requested a tariff classification ruling.

The merchandise under consideration involves a model #A0800 "ComQuest Gold" device which is designed to allow children to type memos, reports, build computer skills, and play strategy games. This personal laptop learning device is approximately 11-3/4 inches in length by 9-3/4 inches in width, and has a height of 1-3/8 inches. It consists of a standard QWERTY typewriter keyboard in addition to special function keys. The function keys include various activities such as "Player", "New Name", "Lunar Tool", and "Sound On/Off". The "ComQuest Gold" incorporates built-in memory for saving and storing documents.

The "ComQuest Gold" device is age graded for kids 9 and above. There are built-in educational games and activities in Math, Strategy, Publishing, and more. Also built-in is a mini-word processor with spell check, and a printer port to connect this device to a paper printer.

The "ComQuest Gold" device is not an ADP computer, and does not meet the requirements of Legal Note 5(A) to Chapter 84 of the Harmonized Tariff Schedules. This composite good does have the ability to perform word processing, storage, data retrieval, and game functions. The principal use of the "ComQuest Gold" appears to be its word processing capacity. NY Ruling Letters B87626 and NY B86269 were the subject of a similar device.

The applicable subheading for the model #A0800 "ComQuest Gold" device will be 8469.11.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for word processing machines. The rate of duty will be 0.3 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 Art Brodbeck at 212-466-5490.

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

[ATTACHMENT C]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, April 27, 1999.
CLA-2-84:RR:NC:1:110 E80895
Category: Classification
Tariff No. 8469.11.0000

MR. A. ARNDT
TEAM CONCEPTS NORTH AMERICA, LTD.
331 Eisenhower Lane South
Lombard, IL 60148

Re: The tariff classification of a "ComQuest Pro" from China.

DEAR MR. ARNDT:

In your letter dated March 30, 1999, you requested a tariff classification ruling.

The merchandise under consideration involves a model number A0920 "ComQuest Pro" which is a learning device targeted for children ages six and up. It is approximately 10-1/4 inches in length by 9-1/2 inches in width, and it has a height of approximately 2-3/4 inches. This device incorporates a LCD display, a QWERTY keyboard, includes a mouse and mousepad; and is compatible with a "Team Concepts Power Printer Plus".

The "ComQuest Pro" has an electronic data bank, which features various activities for strengthening children's learning skills. Among the multi level activities are language and word activities, strategy games and homework helper. This device has a built-in mini word processor with spell checker, thesaurus, and a printer port to connect this device to a "Team Concepts Power Printer Plus". Documents and graphics may also be uploaded to a personal computer.

The "ComQuest Pro" device is not an ADP computer, and does not meet the requirements of Legal Note 5 (A) to Chapter 84 of the Harmonized Tariff Schedules. This composite good does have the ability to perform word processing, storage, data retrieval, and game functions. The principal use of the "ComQuest Pro" appears to be its work processing capacity. NY Ruling Letters C86650 and NY B87626 was the subject of a similar device.

The applicable subheading for the model number A0920 "ComQuest" Pro will be 8469.11.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for word processing machines. The rate of duty will be free.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Art Brodbeck at 212-637-7019.

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

[ATTACHMENT D]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, July 22, 1997.

CLA-2-84:RR:NC:1:110 B87631
Category: Classification
Tariff No. 8472.90.9550

MR. A. ARNDT
TEAM CONCEPTS NORTH AMERICA, LTD.
*331 Eisenhower Lane South
Lombard, IL 60148*

Re: The tariff classification of a "Junior Computer Plus" from China.

DEAR MR. ARNDT:

In your letter dated July 8, 1997, you requested a tariff classification ruling.

The merchandise under consideration involves a model number A0170 "Junior Computer Plus" which is a learning device targeted for children age 5 and up. It is approximately 8-3/4 inches in length by 8 inches in width, and it has a depth of approximately 2 inches. This device incorporates a LCD display; a QWERTY keyboard, and it includes a mouse.

The "Junior Computer Plus" is a multi functional unit which incorporates a base for placing it on the table. This electronic data bank features various activities for reinforcing children's learning skills. Among the activities are spelling, number, and musical activities. There are also riddle, memory, and grammar games. This device can function in 1 or 2 player mode. NY Ruling Letter B86267 was the subject of a similar device.

Noting Legal Note 5(A) to Chapter 84, the "Junior Computer Plus" would not meet the definition of a digital processing unit. Noting the Explanatory Notes to the Harmonized Tariff Schedules for heading 8472, this device would meet the definition of an "office machine". It appears to be principally designed and used for data storage and retrieval functions.

The applicable subheading for the model number A0170 "Junior Computer Plus" will be 8472.90.9550, Harmonized Tariff Schedule of the United States (HTS), which provides for other office machines. The rate of duty will be 2.6 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 Art Brodbeck at 212-466-5490.

ROBERT B. SWIERUPSKI,
*Chief, Metals & Machinery Branch,
National Commodity Specialist Division.*

[ATTACHMENT E]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, June 9, 1997.
CLA-2-84:RR:NC:1:110 B86267
Category: Classification
Tariff No. 8472.90.9000

MR. A. ARNDT
TEAM CONCEPTS NORTH AMERICA, LTD.
331 Eisenhower Lane South
Lombard, IL 60148

Re: The tariff classification of a Comquest Smart Station from China.

DEAR MR. ARNDT:

In your letter dated May 27, 1997, you requested a tariff classification ruling. The merchandise under consideration involves a model A0700 Comquest Smart Station that is basically a learning device for middle school children for performing such functions as word processing, game functions, data bank/retrieval, calculations, and homework helper functions.

The Smart Station operates by itself but can also be connected to a color TV for full color animation. It is approximately 10 inches in length and width, incorporates an LCD display, a full-stroke keyboard, and a mouse. Although not included, a PC Link 2 accessory can connect the device to a computer. This multi functional device incorporates a base for placing it on a table. The electronic data bank includes such tools as address book, scheduler, calculator, unit conversion, clock, alarm, stopwatch, and doodle faces. By connecting this device to a dedicated "Power Printer", the Smart Station can produce documents, letters, and greeting cards.

Noting Legal Note 5 (A) to Chapter 84, this device would not meet the definition of a digital processing unit. Although performing word processing functions, this device performs numerous other functions, such as data storage and retrieval, game functions, homework helper functions such as dictionary skills, vocabulary, and spelling and grammar tutorials. Noting the Explanatory Notes to the HTS, for heading 8472, this device would meet the definition of an "office machine", and appears to be principally designed and used for data storage and retrieval functions.

The applicable subheading for the Smart Station will be 8472.90.9000, Harmonized Tariff Schedule of the United States (HTS), which provides for other office machines. The rate of duty will be 2.6 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 Art Brodbeck at 212-466-5490.

ROBERT B. SWIERUPSKI,
Chief, Metals & Machinery Branch,
National Commodity Specialist Division.

[ATTACHMENT F]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, July 24, 1997.
CLA-2-84:RR:NC:1:110 B87857
Category: Classification
Tariff No. 8472.90.9550

MR. A. ARNDT
TEAM CONCEPTS NORTH AMERICA, LTD.
*331 Eisenhower Lane South
Lombard, IL 60148*

Re: The tariff classification of a "ComQuest Explorer" from China.

DEAR MR. ARNDT:

In your letter dated July 8, 1997, you requested a tariff classification ruling.

The merchandise under consideration involves a model number AO735 "ComQuest Explorer" which is a learning device targeted for children ages 5 and up. It is approximately 9-1/4 inches in length by 8 inches in width, and it has a height of approximately 2-1/4 inches. This device incorporates a LCD display, a QWERTY keyboard, includes a mouse and mousepad; and is compatible with a "Team Concepts Power Printer".

The "ComQuest Explorer" is a multi functional unit which incorporates a base for placing it on the table. This electronic data bank features various activities for reinforcing children's learning skills. Among the activities are music and time activities, mini text processor, talking clock, and talking calculator activities. There are also word, spelling, math, and memory games.

Noting Legal Note 5(A) to Chapter 84, the "ComQuest Explorer" would not meet the definition of a digital processing unit. Noting the Explanatory Notes to the Harmonized Tariff Schedules for heading 8472, this device would meet the definition of an "office machine" since it performs office related functions such as typing, information retrieval, and calculating activities. NY Ruling Letter B87631 was the subject of a similar device.

The applicable subheading for the model number AO735 "ComQuest Explorer" will be 8472.90.9550, Harmonized Tariff Schedule of the United States (HTS), which provides for other office machines. The rate of duty will be 2.6 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 Art Brodbeck at 212-466-5490.

ROBERT B. SWIERUPSKI,
*Chief, Metals & Machinery Branch,
National Commodity Specialist Division.*

[ATTACHMENT G]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2 RR: CR: GC
Category: Classification
Tariff No. 8543.89.96

MR. A. ARNDT
TEAM CONCEPTS NORTH AMERICA, LTD.
331 Eisenhower Lane South
Lombard, IL 60148

Re: NY B86267, NY C86650, NY E80895, NY B87631, NY B87626 and NY B87857 re-
voked; Electronic educational devices.

DEAR MR. ARNDT:

In NY B87626, issued to you on July 21, 1997, NY C86650, issued to you on April 20, 1998 and NY E80895, issued to you on April 27, 1999, the Director, National Commodity Specialist Division, New York, classified various electronic educational devices in subheading 8469.11.00, Harmonized Tariff Schedule of the United States (HTSUS), as word processors. In NY B87631, issued to you on July 22, 1997, and NY B87857, issued to you on July 24, 1997, the Director, National Commodity Specialist Division, New York, classified various other electronic educational devices in subheading 8472.90.95, HTSUS, as other office machines. NY B86267, issued to you on June 9, 1997, similar merchandise was classified in subheading 8472.90.90, HTSUS, which was the predecessor provision for other office machines. We have reconsidered the classification of these articles and now believe they are incorrect.

Facts:

The merchandise described in B87626 is a model A0725 "ComQuest Scholar." It is a multi-functional educational device designed for children ages 6 and up, grades 1-3. It consists of a liquid crystal display (LCD), a mouse and a QWERTY keyboard with special function keys for various activities. This multifunctional device has an electronic data bank of 40 multi-level educational games and activities for math, spelling, grammar, Homework Helper™ games and more. The device also has a mini word processor with built-in memory and spell checker.

The merchandise described in NY C86650 is a model A0800 Electronic Talking "ComQuest Gold" multi-functional educational device designed for children ages 9 and up. It consists of a LCD screen, a QWERTY keyboard with special function keys for various activities, and a mouse. The electronic data bank of educational activities include math, strategy, publishing and more. It incorporates a mini word processor and built-in memory.

The merchandise described in NY E80895 is a model A0920 Electronic Talking "ComQuest Pro." It is a multi-functional educational device designed for children ages 6 and up, or grades 1-3. This device consists of a LCD screen, a QWERTY keyboard, a mouse and a mousepad. The electronic data bank features 64 activities to strengthen children's learning skills, including language and word activities, strategy games, artistic games, math games, Homework Helper™ games and more. The device also incorporates a mini word processor with chart maker and spell checker. Additional memory cartridges to expand storing capabilities are sold separately.

The merchandise described in NY B87631 is a model A0170 Electronic Talking "Junior Computer Plus," which is an educational device for children ages 5 and up. It incorporates a LCD screen, a QWERTY keyboard and a mouse. The "Junior Computer Plus" is a multi-functional unit that features a data bank with 29 activities for reinforcing children's learning skills. Up to two children can participate in activities and games for spelling, numbers, music, time, riddles, memory and grammar.

The merchandise described in B87857 is a model A0735 Electronic Talking "ComQuest Explorer." It is a multi-functional educational device designed for children ages 5 and up, grades K-2. It consists of a LCD screen, QWERTY keyboard, a mouse and a mousepad. The device incorporates an electronic databank of 36 educational activities that enhance spelling, reading, counting, math, time-telling and more. It also has a mini word processor and memory. Additional memory cartridges to expand storing capabilities are sold separately.

The merchandise described in NY B86267 is a model A0700 Electronic Talking "Com-Quest Smart Station". It is a multi-functional educational device designed for grades 4-7, ages 9 and up. It consists of a LCD screen, QWERTY keyboard and mouse. It connects to your color television set for full color animation. It incorporates 52 educational activities for math vocabulary, spelling, grammar and it has various Homework HelperTM games. It performs databank activities such as address book, scheduler, unit conversion, alarm, stopwatch and doodle faces. The device also includes word processing and data retrieval. Additional memory cartridges to expand storing capabilities are sold separately.

Each of the six models has a printer port and are compatible with paper printers that are sold separately.

Issue:

What is the classification of the described multi-functional electronic educational devices?

Law and Analysis:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRIs"). GRI 1 provides that articles are to be classified by the terms of the headings and relative Section and Chapter Notes. For an article to be classified in a particular heading, the heading must describe the article, and not be excluded therefrom by any legal note. 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 GRIs may then be applied.

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

The HTSUS provisions under consideration are as follows:

8469	Typewriters other than printers of heading 8471; word processing machines:
	Automatic typewriters and word processing machines:
8469.11.00	Word processing machines
*	* * * * *
8472	Other office machines (for example, hectograph or stencil duplicating machines, addressing machines, automatic banknote dispensers, coin-sorting machines, coin-counting or wrapping machines, pencil sharpening machines, perforating or stapling machines):
8472.90	Other:
8472.90.95	Other
*	* * * * *
8543	Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof:
	Other machines and apparatus:
8543.89	Other:
	Other:
8543.89.96	Other

The models subject to NY B87626, NY C86650 and NY E80895 were classified as word processing machines in subheading 8469.11.00, HTSUS. EN 84.69(5) provides, in pertinent part, that word processing machines are comprised of:

* * * a keyboard, one or more large-capacity memories (e.g., disc, minidisc or cassette), a visual display unit and a printer. The various components may be housed in a single unit or be in separate units connected by cables. Word-processing machines may be fitted with interfaces permitting, for example, relay to other word-processing machines, to phototype-setting equipment, to automatic data processing machines, or to telecommunications systems. Their ability to correct or compose texts is greater than that of automatic typewriters. Their ability to perform arithmetical operations does not compare with that of automatic data processing machines * * * they cannot take the logical decision during processing to modify the execution of a program.

Further, the commercial definition of word processing machines is best summarized by the definition found in *The Computer Glossary*, sixth edition: **“word processing machine:** Computer that is specialized only for word processing functions.”

There is no question that the ComQuest Scholar, ComQuest Gold and ComQuest Pro have word processing capabilities. However, they are not word processors for purposes of tariff classification because they are not word processing machines as defined in the EN’s, nor do they satisfy the commercial meaning. These machines do not have large-capacity memory and they do not incorporate printers. The machines have educational games and other features not associated with word processing machines. Further, the letters submitted to the National Commodity Specialist Division, New York requesting rulings on these articles state that the machines incorporate “mini” word processors. Thus, the machines have admittedly limited word processing capabilities.

Moreover, word processing is simply one of the learning tools. In fact, Professor Helen C. Barrett of the University of Alaska Anchorage published an article in 1994 about teaching elementary school children on word processors in school. She found that the goal of increasing the children’s writing was achieved by using the medium of a laptop word processor. And some authors suggest that keyboarding is less laborious than handwriting for young children. See *The Computing Teacher*, October, 1994, reprinted at <http://transition.alaska.edu/www/SOE/ed626readings/Laptops.html>, visited on December 5, 2001.

Section XVI, note 3, HTSUS, states:

Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines adapted for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.

The subject models incorporate word processing features with educational games, computing tools, etc. They are not word processors, but rather are adapted for the purpose of performing two or more complimentary or alternative functions. They are composite machines that should be classified according to principal function. The principal function of these machines is that of an educational article or device.

The subject models’ purpose, composition, advertising, etc. is that of an educational device to aid children’s learning process in various areas, including computer skills, writing, math, spelling, vocabulary, grammar and even geography and other subjects. The word processing capabilities reinforce what children learn in school, just as the games and Homework Helper™ do. Thus, the ComQuest Scholar, ComQuest Gold and ComQuest Pro are electronic educational devices.

Educational devices are not specifically provided for in the HTSUS. Heading 8543 provides for other electrical machines and apparatus having individual functions not specified or included elsewhere in the chapter. The EN to heading 8543 states that all electrical appliances and apparatus having individual functions not falling in any other heading in Chapter 85 and not covered more specifically in any other Chapter of the Nomenclature falls under that heading. Accordingly, the ComQuest Scholar, ComQuest Gold and ComQuest Pro are properly classified in subheading 8543.89.96, HTSUS which provides for other electrical machines and apparatus having individual functions, not specified or included elsewhere in this chapter; parts thereof: other machines and apparatus: other: other: other: other.

We turn now to the models subject to NY B87631, NY B86267 and NY B87857, which were classified as other office machines in subheading 8472.90.95, HTSUS and predecessor subheading 8472.90.90, HTSUS. EN 84.72 provides, in pertinent part:

The term “office machines” is to be taken in a wide general sense to include all machines used in offices, shops factories, workshops, schools, railway stations, hotels, etc., for doing “office work” (i.e., work concerning the writing, recording, sorting, filing, etc., of correspondence, documents, forms, records, accounts, etc.).

In HQ 086649, dated May 4, 1990, Customs determined that the Precomputer 1000 junior was not an office machine because it was not the type of machine used in an office, school, railways station, hotel, etc. for doing office work of the kind listed in the EN. The machine was determined to be an educational article classifiable in heading 8543 as other electrical machines and apparatus having individual functions, not specified or included elsewhere in Chapter 85. Several other electronic educational devices were also classified under heading 8543, and not under heading 8472 for the same reason. See, e.g., HQ

086577, dated May 4, 1990, HQ 087599, dated March 5, 1991, HQ 088494, dated April 19, 1991 and HQ 955845, dated August 22, 1994.

Similarly, the Junior Computer Plus, ComQuest Explorer and ComQuest SmartStation are not office machines because they are not designed to be used in an office, school, railway station, hotel, etc., for office work of the kind listed above. Like the ComQuest Scholar, ComQuest Gold and ComQuest Pro, these three are composite machines whose principal function is that of an educational device. As stated above, education devices are not specifically provided for in the HTSUS. Thus, the Junior Computer Plus, ComQuest Explorer and ComQuest SmartStation are properly classified in subheading 8543.89.96, HTSUS, which provides for, "Electrical machines and apparatus having individual functions, not specified or included elsewhere in this chapter; parts thereof: other machines and apparatus: other: other: other: other."

Holding:

For the reasons stated above, the subject six models of multi-functional electronic educational articles are classified in subheading 8543.89.96, HTSUS, as "electrical machines and apparatus having individual functions, not specified or included elsewhere in this chapter; parts thereof: other machines and apparatus: other: other: other: other."

NY B87626, dated July 21, 1997, NY C86650, dated April 20, 1998, NY E80895, dated April 27, 1999, NY B87631, dated July 22, 1997, and NY B87857, dated July 24, 1997, NY B86267, dated June 9, 1997, are hereby revoked.

JOHN DURANT,
Director,
Commercial Rulings Division.

PROPOSED MODIFICATION OF RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO TARIFF
CLASSIFICATION OF SMALL COMPUTER SYSTEM
INTERFACE (SCSI) CONTROLLER CARDS INCLUDED IN "BUZ"
MULTIMEDIA BOX SYSTEMS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed modification of ruling letter and treatment relating to tariff classification of Small Computer System Interface ("SCSI") controller cards that come included in a complete "Buz" Multimedia box system.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify a ruling letter pertaining to the tariff classification of SCSI controller cards that are included in complete "Buz" Multimedia box systems under the Harmonized Tariff Schedule of the United States ("HTSUS"). Similarly, Customs proposes to revoke any treatment previously accorded by Customs to substantially identical transactions. Comments are invited on the correctness of the proposed action.

DATE: Comments must be received on or before February 1, 2002.

ADDRESS: Written comments are to be addressed to the U.S. Customs Service, Office of Regulations & Rulings. Attention: Regulations Branch, 1300 Pennsylvania Avenue N.W., Washington, D.C. 20229. Comments submitted may be inspected at the same address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Tom Peter Beris, General Classification Branch, (202) 927-1726.

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 Customs 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 Customs 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 Customs 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 Customs intends to modify a ruling letter pertaining to the tariff classification of SCSI controller cards that are included in complete "Buz" Multimedia box systems. Although in this notice Customs is specifically referring to one ruling, NY C83022, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs person-

nel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States. Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise Customs 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 this notice.

In NY C83022, dated January 9, 1998, (Attachment A), Customs classified a complete "Buz" multimedia box under subheading 8471.80.90, HTSUS, which provides for other, other units of an automatic data processing system. The ruling also stated that if imported separately, the SCSI controller cards for a complete "Buz" multimedia box are classifiable under subheading 8473.30.10, HTSUS, as parts and accessories of machines of heading 8471, HTSUS.

It is now Customs position that SCSI controller cards are properly classifiable under subheading 8471.80.1000, HTSUS, which provides for automatic data processing machines and units thereof * * * other units of automatic data processing machines: control or adapter units.

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to modify NY C83022 and any other ruling not specifically identified to the extent that it reflects the proper classification of SCSI controller cards pursuant to the analysis set forth in proposed HQ 964939 (*see* "Attachment B" to this document). All other classifications in NY C83022 remain unaffected. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

Dated: December 13, 2001.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
 U.S. CUSTOMS SERVICE,
 New York, NY, January 9, 1998.
 CLA-2-84:RR:NC:1:110 C83022
 Category: Classification
 Tariff No. 8471.80.9000, 8473.30.1000,
 8544.41.8000, and 8524.39.4000

MR. DIPAN KARUMSI
 ALLYN INTERNATIONAL SERVICES, INC.
 6290 Corporate Court, Suite C201
 Ft. Myers, FL 33919

Re: The tariff classification of a "Buz" Multimedia Box from either Singapore or Malaysia.

DEAR MR. KARUMSI:

In your letter dated December 23, 1997, on behalf of Iomega Corporation, you requested a tariff classification ruling.

The merchandise under consideration involves a "Buz" box, that is a desktop unit that provides an easy interface for audio, video, and photo multimedia into a personal computer. When shipped as a complete unit, the finished device includes the following:

1. A break-out box which itself is encased in a plastic box that houses a circuit board and the mounting for the four sets of RCA plugs.
2. A video patch cable that is used to connect the break-out box to an external video source, such as a VCR, video camera, laser disk, DVD, or a television.
3. A SCSI controller card that is installed in the back of a PC and used for connecting the break-out box to the central processing unit. The SCSI card functions to digitize analog signals from video sources.
4. Two CD-ROM software packages for editing and enhancing video, photo, and audio. The disks contain MGI Video Wave SE plus, Picture Works Hot Shots, Iomega RecordIt, and various Tutorials.

The break-out box allows quality real-time motion-JPEG video capture-720 x 480 resolution at 30 fps, through an ultra SCSI controller card which connects to a PCI slot into the back of the CPU. Permanently attached to the box is a 15 position female D-subconnector which connects into the PC through the SCSI card, and two 3.5mm stereoplugs which connect directly to the back of the PC.

The inquirer asks us to rule on the complete finished system, shipped as a kit, when the major components are shipped separately, and when the break-out box and SCSI card only are shipped together.

When shipped as a complete kit and a good put up in sets for retail sale, noting GRI-3 (b), the essential character of this set would be exemplified by the break-out box. The break-out box would meet the definition of a "unit" of an ADP system as per Legal Note 5 (B) to Chapter 84 of the HTS. Noting Ruling letters HQ 955873 and NY C80545, this set would be classified as other units of an ADP system. Noting Legal Note 6 to Chapter 85 of the HTS, the two software disks would be separately classifiable as recorded media.

The applicable subheading for the complete Buz multimedia system will be 8471.80.9000, Harmonized Tariff Schedule of the United States (HTS), which provides for other, other units of an automatic data processing system. The rate of duty will be free.

The applicable subheading for the two CD-ROM disks that are part of the set will be 8524.39.4000, HTS, which provides for other recorded media for reproducing representations of instructions, data, sound, and image. The rate of duty will be 1.9 percent ad valorem.

When the three major components are separately shipped, they would be classifiable as follows:

1. The break-out box	8471.80.9000	Free of duty
2. SCSI controller card	8473.30.1000	Free of duty
3. Video patch cable	8544.41.8000 (if V is less than 80)	3.1%
	8544.51.9000 (if V exceeds 80 but not over 1,000 V)	3.1%

When the break-out box and SCSI card are shipped together, but without any other components, and appear to meet the definition of a retail set as per GRI-3 (b), the essential

character of this retail set would be exemplified by the break-out box. The applicable sub-heading for this set will be 8471.80.9000, HTS, which provides for other units of an automatic data processing system. The rate of duty will be free.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Art Brodbeck at 212-466-5490.

ROBERT B. SWIERUPSKI,

Director,

National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2 RR: CR: GC 964939 TPB
Category: Classification
Tariff No. 8471.80.10

MR. DIPAN KARUMSI
ALLYN INTERNATIONAL SERVICES, INC.
6290 Corporate Court, Suite C201
Ft. Myers, FL 33919

Re: "Buz" Multimedia System; SCSI Controller Card; NY C83022 Modified.

DEAR MR. KARUMSI:

This is in reference to NY C83022, issued to you on January 9, 1998, by the Director, National Commodity Specialist Division ("NCS"), New York, in response to your letter dated December 23, 1997, on behalf of the Iomega Corporation, requesting the classification of a "Buz" multimedia box under the Harmonized Tariff Schedule of the United States ("HTSUS"). We have had an opportunity to review that ruling and that find it is inconsistent with previous rulings as to the classification of the SCSI controller card. This ruling modifies NY C83022 to the extent noted.

Facts:

According to your letter, the "Buz" Box is a desktop unit that provides an interface for audio, video and photo multimedia into a personal computer ("PC"). The break-out box allows real-time-motion-JPEG video capture—729 x 480 resolution at 30 fps, through an ultra SCSI (small computer system interface) controller card which connects to a PCI slot in the back of the central processing unit ("CPU"). Permanently attached to the box is a 15 position female D-subconnector which connects into the PC through the SCSI card, and two 3.5mm stereo plugs which connect directly to the back of the PC.

The finished package includes:

- 1) The break-out box itself: a plastic box encasing a circuit board, which is the mounting for the four sets of RCA plugs. The plugs include:
 - a) right audio In/Out
 - b) left audio In/Out
 - c) S-video In/Out
 - d) Composite video In/Out
- 2) A video patch cable, used to connect the break-out box to an external video source (ex: VCR; video camera; etc.).
- 3) A SCSI controller card, installed in the back of a PC, used for connecting the break-out box to the CPU. The SCSI card functions to digitize analog signals from video sources.
- 4) Two CD-ROM software packages for editing and enhancing video, photo and audio.

You had requested classification of the complete system, as well as of all of the major components if imported separately.

NY C83022 determined that the proper classification for the complete Buz multimedia system would be under subheading 8471.80.90, HTSUS. The break-out box, SCSI controller card and video patch cable, when imported separately were classified under subheadings 8471.80.90; 8473.30.10 and 8544.41.80 (if V is less than 80) or 8544.51.90 (if V exceeds 80, but not over 1,000 V), HTSUS, respectively. The applicable subheading for the two CD-ROM disks was 8524.39.40, HTSUS. As a retail set pursuant to GRI 3(b) the break-out box and SCSI card together, are classifiable in subheading 8471.80.90, HTSUS, with the essential character provided by the break-out box.

Issue:

Are the SCSI controller cards contained within the "Buz" multimedia system properly classified under subheading 8471.80.10, HTSUS, as units of automatic data processing machines, other, control or adapter units, or under 8473.30.10, HTSUS, as parts and accessories * * * suitable for use solely or principally with machines of headings 8469 to 8472: parts and accessories of the machines of heading 8471: not incorporating a cathode ray tube: printed circuit assemblies?

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 may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions that are under consideration are as follows:

8471	Automatic data processing machines and units thereof * * *:
8471.80	Other units of automatic data processing machines:
8471.80.10	Control or adapter units.
8473	Parts and accessories * * * suitable for use solely or principally with machines of heading 8469 to 8472:
8473.30	Parts and accessories of the machines of heading 8470: Not incorporating a cathode ray tube:
8473.30.10	Printed circuit assemblies.

SCSI cards are generally printed circuit boards ("PCBs") populated with a SCSI controller, memory chip that stores identification information, power source, diodes, resistors, capacitors and buffers used for driving current. Generally speaking, SCSI cards allow personal computers to communicate with peripheral hardware such as disk drives, tape drives, CD-ROM drives, printers and scanners faster and more flexibly than previous interfaces. SCSI cards are adapters by virtue of enabling the transfer of data from the host computer to the peripherals and vice-versa, where the data remains intact and the adapting function is to implement the standard protocols on both sides of the transfer. The SCSI card presently at issue also has the additional function of digitizing analog signals from a video source.

As per Section XVI, Note 2(a), (subject to note 1 of Section XVI, note 1 to chapter 84 and note 1 to chapter 85) parts which are goods included in any of the headings of chapters 84 and 85 are in all cases to be classified in their respective headings.

NY 879916, dated November 9, 1992, classified a remote SCSI controller under subheading 8471.99.15, HTSUS (precursor to subheading 8471.80.10, HTSUS), as a control or adapter unit. In operation, these SCSI controllers received commands from the host computer, which were then translated by the controller into proprietary commands to control document scanners. Noting GRI 2(a), this SCSI controller board had the essential character of a finished or complete controller unit that was designed and used with automatic data processing machines.

GRI 2(a) states that any reference to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfin-

ished article has the essential character of the complete or finished article. In this case, the SCSI controller board has the essential character of a finished or complete controller unit that was designed and used with automatic data processing machines.

Legal Note 5(B) to chapter 84, HTSUS, provides guidance regarding units of automatic data processing machines. It states that “[a]utomatic data processing machines may be in the form of systems consisting of a variable number of separate units.” A unit is to be regarded as a part of the complete system if it meets all of the following conditions:

- (a) It is of a kind solely or principally used in an automatic data processing system;
- (b) It is connectable to the central processing unit wither directly or through on or more other units; and
- (c) It is able to accept or deliver data in a form (codes or signals) which can be used by the system.

The Harmonized Commodity Description and Coding System ENs for 84.71—Automatic Data Processing Machines and units thereof, Part (I) (D) describe separately presented ADP units as follows:

This heading also covers separately presented constituent units of data processing systems. Constituent units are those defined in Parts (A) (Digital machines) and (B) (Analogue machines) as being parts of a complete system.

* * * * *

Apart from central processing units and input and output units, examples of such units include:

* * * * *

- (4) *Control and adaptor units* such as those to effect interconnection of the central processing unit to other digital processing machines or to groups of input or output units which may comprise visual display units, remote terminals, etc.

This category includes channel to channel adaptors used to connect two digital systems to each other.

- (5) *Signal converting units.* At input, these enable an external signal to be understood by the machine, while at output, they convert the output signals that result from the processing carried out by the machine into signals which can be used externally.

* * * * *

The SCSI card presently at issue incorporates both functions of a control and adapter unit and a signal-converting unit. Control and adapter boards usually incorporate signal conversion or signal formatting functions (see HQ 951331, dated September 18, 1992, and HQ 952659, dated October 7, 1992, which modifies the former). The “Buz” box effects interconnection of a PC to the break-out box, which is an ADP unit. The fact that the SCSI card needs to be incorporated within a system housing or chassis does not mandate their classification as a part (see *General Electric Company v. United States*, 2 CIT 84, 1981). Although it is a part of the “Buz” box, the SCSI card is more fully described by terms of subheading 8471.80.10, HTSUS, and is thus properly classified under that subheading, rather than in subheading 8473.30.10, HTSUS. This decision is consistent with previous Customs classifications on similar merchandise (see NY 879916, November 9, 1992).

Holding:

For the reasons stated above, by authority of GRI 1 and 2(a), the SCSI controller card is classified under subheading 8471.80.10, HTSUS, which provides for “Automatic data processing machines and units thereof * * *: Other units of automatic data processing machines: Control or adapter units.”

Effect on Other Rulings:

NY C83022 is modified to the extent described above, i.e., the SCSI controller card is classifiable as a control or adapter unit of an ADP machine. All other classification determinations in NY C83022 remain unaffected.

JOHN DURANT,
Director,
Commercial Rulings Division.

REVOCATION OF RULING LETTER AND TREATMENT
RELATING TO TARIFF CLASSIFICATION OF SOCKET SETS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of ruling letter and treatment relating to tariff classification of socket sets.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is revoking a ruling relating to the tariff classification of socket sets, and revoking any treatment Customs has previously accorded to substantially identical transactions. Notice of the proposed revocation was published on November 7, 2001, in the CUSTOMS BULLETIN.

EFFECTIVE DATE: This revocation is effective for merchandise entered or withdrawn from warehouse for consumption on or after March 4, 2002.

FOR FURTHER INFORMATION CONTACT: James A. Seal, Commercial Rulings Division (202) 927-0760.

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), 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 based on the premise 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 Customs to provide the public with improved information concerning the trade community's rights and responsibilities under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484, 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 declare value on imported merchandise, and to provide other necessary information to enable Customs to properly assess duties, collect accurate statistics and determine whether any other legal requirement is met.

Pursuant to Customs obligations, a notice was published on November 7, 2001, in the CUSTOMS BULLETIN, Volume 35, Number 45, proposing to revoke NY 814887, dated September 28, 1995, which classified power socket sets as other interchangeable tools for handtools, in sub-

heading 8207.90.60, Harmonized Tariff Schedule of the United States (HTSUS). The only comment received opposed the proposed revocation. This comment is discussed in the attached ruling *HQ* 964841.

As stated in the proposed notice, this revocation will cover any rulings on this merchandise which may exist but have not been specifically identified. Any party who has received an interpretative 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 Customs during the comment period. Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the HTSUS. Any person involved in substantially identical transactions should have advised Customs during this notice period. An importer's reliance on a treatment of substantially identical transactions or on a specific ruling concerning the merchandise covered by this notice which was not identified in this notice may raise the rebuttable presumption of lack of reasonable care on the part of the importer or its agents for importations subsequent to the effective date of this final decision.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is revoking *NY* 814887 to reflect the proper classification of power socket sets in subheading 8204.20.00, HTSUS, as socket wrenches, pursuant to the analysis in *HQ* 964841, which is set forth as the Attachment to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment it previously accorded to substantially identical transactions.

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

Dated: December 14, 2001.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, December 14, 2001.
CLA-2 RR:CR:GC 964841 JAS
Category: Classification
Tariff No. 8204.20.00

Ms. BARBARA Y. WIERBICKI
TOMPKINS & DAVIDSON, LLP
1515 Broadway
New York, NY 10036-8901

Re: NY 814887 Revoked; Power Socket sets.

DEAR Ms. WIERBICKI:

In NY 814887, which the Director of Customs National Commodity Specialist Division, New York, issued to Tower Group International, Inc., on September 28, 1995, on behalf of Ingersoll-Rand Co., certain power socket sets were held to be classifiable as other interchangeable tools for handtools, in subheading 8207.90.60, Harmonized Tariff Schedule of the United States (HTSUS).

In a submission on behalf of Ingersoll-Rand Co., dated February 6, 2001, which included a sample socket set for use with hand-operated air wrenches, you advance facts and legal arguments in support both of the heading 8207 classification, and also an alternative classification.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY 814887 was published on November 7, 2001, in the CUSTOMS BULLETIN, Volume 35, Number 45. You submitted the only comment in response to that notice, opposing the proposed revocation. This ruling will address all relevant claims and supporting arguments made in your submissions of February 6 and December 5, 2001.

Facts:

The merchandise at issue is impact sockets or power socket sets. The submitted sample contains eight (8) individual impact sockets in drive sizes 1/2, 3/4, 3/8, 5/8, 5/16, 7/16, 9/16 and 11/16 inch. They come packaged in a metal storage tray inside a cardboard box. The sockets are of specially heat-treated steel to withstand the torque of Ingersoll-Rand's powerful line of air impact wrenches, hand-operated tools commonly used for tightening or removing lug nuts on automobile and truck wheels. Each socket has a contoured ridge at the base that permits the socket to fit loosely in the tool holder for increased impacting action. Each socket also has two equidistant holes drilled at the base. Pins on the toolholder fit into these holes to insure proper alignment of the socket.

The ruling request that resulted in NY 814887 recommended subheading 8207.90.60, HTSUS, as the appropriate classification, on the basis that the sockets were interchangeable tools for handtools, whether or not power-operated. You continue to maintain that classification is correct, but advance no arguments to support it. In your February 6, 2001, submission, however, you assert an alternative claim under a provision of heading 8467, HTSUS, parts of pneumatic tools for working in the hand. You note Section XVI, Note 2(a), HTSUS, states that parts which are goods included in any heading of Chapter 84 or Chapter 85 are in all cases to be classified in their respective headings. Because heading 8467 includes both pneumatic tools for working in the hand and their parts, you conclude that the sockets at issue are "goods included" in heading 8467. Further, you contend that Customs ignored Section XV, Note 1(f), HTSUS, which excludes from Chapter 82 articles of Section XVI which includes heading 8467. You contend that heading 8204 does *not* apply as that heading is limited to sockets for use in manually operated tools, and these sockets are for use with pneumatically operated tools. You also note that these Section Notes do not mutually exclude each other but rather instruct that classification be in the chapter and provision that properly includes the sockets which, in your opinion, is heading 8467. Finally, you argue that heading 8207 provides a more specific description for the sockets than does heading 8204, as the former heading has requirements that are more difficult to satisfy.

The HTSUS provisions under consideration are as follows:

8204	Hand-operated spanners and wrenches * * *; socket wrenches, with or without handles, drives or extensions; base metal parts thereof:
8204.20.00	Socket wrenches, with or without handles, drives and extensions, and parts thereof
*	* * * * *
8207	Interchangeable tools for handtools, whether or not power operated, or for machine tools (for example, for pressing stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning or screw-driving), * * *; base metal parts thereof:
8207.90	Other interchangeable tools, and parts thereof
	Not suitable for cutting metal, and parts thereof:
8207.90.60	For handtools, and parts thereof
*	* * * * *
8467	Tools for working in the hand, pneumatic, hydraulic, or with self-contained nonelectric motor, and parts thereof:
	Parts:
8467.92.00	Of pneumatic tools

Issue:

Whether the power sockets are socket wrenches of heading 8204, other interchangeable tools of heading 8207, or tools for working in the hand of heading 8467.

Law and Analysis:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified 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. GRI 3(a) states in part that where goods are *prima facie* classifiable under two or more headings, the heading which provides the most specific description shall be preferred to headings providing a more general description.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. Though not dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS. Customs believes the ENs should always be consulted. *See* T.D. 89-80. 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Initially, Section XV, Note 1(f), HTSUS, excludes articles of Section XVI (machinery, mechanical appliances and electrical goods). This note does *not* exclude parts of these articles. So, if your claim is as parts under heading 8467, the sockets would not be excluded from Chapter 82 if otherwise qualified. Notwithstanding this, and noting the competing exclusionary legal notes at issue, it is appropriate first to establish the classification of the good in question, then apply the applicable notes.

Considering the terms of headings 8204 and 8207, sockets are provided for in both headings, as each *prima facie* prima facie describes sockets. This requires the application of GRI 3, HTSUS. The subheading 8204.20 language in the ENs on p. 1200 in part reads "Interchangeable spanner sockets, with or without handles," while the corresponding EN narrative includes the phrase "including drives and extensions." The legal text of subheading 8204.20.00 in part reads "Socket wrenches, with or without handles, drives and extensions." From this, it is apparent that in a tariff context sockets are to be regarded as a type of wrench. This conclusion is corroborated by information we independently obtained from the Hand Tool Institute, Terrytown, NY, indicating that in the trade a "socket" is in fact a wrench and the term "wrench" refers to the wrenching end of a tool. Also, of note is heading 8206, HTSUS, tools of two or more headings 8202 to 8205, put up in sets for retail sale. The corresponding ENs on p. 1203 state, among other things, that the heading includes sets of car mechanic's tools including socket sets. While not controlling, this is certainly a further indication that sockets, like wrenches, are considered tools. In our opinion, the logical conclusion is that sockets are types of wrenches and such articles are provided for specifically in heading 8204 as socket wrenches. Under GRI 3(a), therefore, heading 8204 provides a more narrow and specific description for the sockets at issue than does heading 8207, other interchangeable tools.

Turning now to the Section Notes, Section XV, Note I(f), HTSUS, assuming it applies, excludes articles of Section XVI. But Section XVI, Note 1(k), HTSUS, excludes articles of

Chapter 82. So, the sockets at issue, being articles of Chapter 82, cannot be classified in Section XVI. This eliminates heading 8467 from consideration.

Holding:

Under the authority of GRI 3(a), HTSUS, the power socket sets at issue are provided for in heading 8204. They are classifiable in subheading 8204.20.00, HTSUS.

Effect on Other Rulings:

NY 814887, dated September 28, 1995, is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

PROPOSED REVOCATION OF RULING LETTER AND
TREATMENT RELATING TO TARIFF CLASSIFICATION OF
CONTROL PADS FOR USE WITH TOY SETS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of ruling letter and revocation of treatment relating to the classification of control pads for use with toy sets.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling and to revoke any treatment previously accorded by Customs to substantially identical transactions, concerning the tariff classification of control pads for use with toy sets under the Harmonized Tariff Schedule of the United States (HTSUS). Comments are invited on the correctness of the intended action.

DATE: Comments must be received on or before February 1, 2002.

ADDRESS: Written comments are to be addressed to the U.S. Customs Service, Office of Regulations & Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Room 3.4-A, Washington, D.C. 20229. Comments submitted may be inspected at the same address.

FOR FURTHER INFORMATION CONTACT: Andrew M. Langreich, General Classification Branch: (202) 927-2318.

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 Customs 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 Customs 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 Customs 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 Customs intends to revoke New York Ruling Letter D84425, dated November 18, 1998, which pertains to the classification of control pads for toy sets. The control pads are similar in form and function to those used with video games for home use via a television set. NY D84425 is set forth as “Attachment A” to this document.

Although in this notice Customs is specifically referring to one ruling, NY D84425, this notice covers any rulings on this merchandise that may exist but has not been specifically identified. Customs has undertaken reasonable efforts to search existing databases; 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, other than the referenced ruling (see above), should advise Customs 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, Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer’s reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer’s or Customs previous interpretation of the HTSUS. Any person involved in substantially identical transactions should advise Customs during this notice period. An importer’s failure to advise Customs 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 his agents for importations of merchandise subsequent to this notice.

Customs, pursuant to 19 U.S.C. 1625(c)(1), intends to revoke NY D84425 and to revoke any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed HQ 965360 (see "Attachment B" to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: December 18, 2001.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, November 18, 1998.
CLA-2-85: RR:NC:1:108 D84425
Category: Classification
Tariff No. 8529.90.1960

Ms. SUSAN KOHN ROSS
S.K. ROSS & ASSOC. P. C.
5777 West Century Blvd., Suite 520
Los Angeles, CA 90045 5659

Re: The tariff classification of control pads from china.

DEAR Ms. ROSS:

In your letter dated November 3, 1998, on behalf of your client Rokenbok Toy Company, you requested a tariff classification ruling.

The item, marketed as Rokenbok's Control Pads, are designed to be used in conjunction with Rokenbok's toy building sets. These control pads are specifically designed for facilitating the operation, by a child, of radio controlled toy vehicles.

There is no disagreement that the various Rokenbok sets mentioned in the Binding Ruling request are toys. The point is made that Chapter 95, Note 3 states "* * * parts and accessories which are suitable for use solely or principally with articles of this chapter are to be classified with those articles". However, the beginning of Note 3 states "Subject to Note 1 above, parts and accessories * * *". The item being imported is affected by the beginning of Note 3. The control pad (which is being imported alone) plugs into an item called the control desk which is built to accept four control pads. The two pieces together make a functioning radio remote control apparatus. Clearly, the control pad is part of a functioning radio remote control apparatus.

Chapter 95 Note 1 (m) excludes radio remote control apparatus. Since we would exclude the control pad and control desk from Chapter 95, if imported together, it follows that we would exclude from Chapter 95 either of those units if imported alone.

The applicable subheading for the control pad will be 8529.90.1960, Harmonized Tariff Schedule of the United States (HTS), which provides for parts suitable for use solely or principally with the apparatus of headings 8525 to 8528: Other: Of radar, radio navigational aid or radio remote control apparatus: Other * * * Other. The rate of duty will be 3.5 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 Michael Contino at 212-466-5672.

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

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2 RR:CR:GC 965360 AML
Category: Classification
Tariff No. 8537.10.9070

MS. SUSAN KOHN ROSS
S. K. ROSS & ASSOC., P. C.
ATTORNEYS AT LAW
5777 West Century Blvd.
Suite 520
Los Angeles, CA 90045-5659

Re: Control pads for toy sets; NY D84425 revoked.

DEAR MS. ROSS:

This is in reference to New York Ruling Letter (NY) D84425, issued to you by the Director, Customs National Commodity Specialist Division on November 18, 1998, which concerned the classification of a control pad for toy sets under the Harmonized Tariff Schedule of the United States (HTSUS). We have reconsidered NY D84425 and now believe that the classification set forth is incorrect. This letter sets forth the correct classification.

Facts:

The articles were described in New York Ruling Letter (NY) D84425, dated November 18, 1998, as follows:

The item (# 04710), marketed as Rokenbok's Control Pads, are designed to be used in conjunction with Rokenbok's toy building sets. These control pads are specifically designed for facilitating the operation, by a child, of radio controlled toy vehicles.

In a related ruling (NY D82030, dated September 16, 1998), Customs described the toy set, in pertinent part, as follows:

The Command Deck incorporates a technology called "Addressable Multi-Player Digital Radio Control" (ARM-RC), which uses digital Multi-plexing so that a single radio transmitter is capable of simultaneously controlling multiple RC toys. The Command Deck utilizes an AC adapter for electrical power and incorporates a single frequency radio transmitter. It is white in color and measures approximately 9 inches x 1-1/2 inches x 8-1/2 inches in width, height and depth, respectively. It has an 8 inch antenna in its center which is surrounded by slots for eight "radio keys." It also has four ports on the front which allow for the connection of up to four (4) hand-held Control Pads, which players use to control up to eight (8) RC vehicles. The white hand-held Control Pad contains eight (8) light emitting diode indicators which show the player(s) which of the eight (8) possible RC vehicles has been selected.

Issue:

Whether the control pads, imported separately from any other article, are classifiable under subheading 8529.90.19, HTSUS, which provides for parts suitable solely or princi-

pally with apparatus of headings 8525 to 8528: other: of radar * * * or remote control apparatus: other: other; under subheading 8537.10.00, HTSUS, which provides for boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity, for a voltage not exceeding 1000V, other; or under subheading 9503.70.00, HTSUS, which provides for other toys, put up in sets or outfits, and parts and accessories thereof?

Law and Analysis:

The General Rules of Interpretation (GRIs) to the HTSUS govern the classification of goods in the tariff schedule. GRI 1 states in pertinent part that “for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes[.]”

The HTSUS provisions under consideration are as follows:

8526	Radar apparatus, radio navigational aid apparatus and radio remote control apparatus: Other:
8526.92.00	Radio remote control apparatus.
*	* * * * *
8529	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528: Other:
8529.90	Printed circuit assemblies: Of radar, radio navigational aid or radio remote control apparatus:
8529.90.16	Assemblies and subassemblies, consisting of 2 or more parts or pieces fastened or joined together:
8529.90.19	Other.
*	* * * * *
8537	Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of chapter 90, and numerical control apparatus, other than switching apparatus of heading 8517: For a voltage not exceeding 1,000 V: Other:
8537.10	Other:
8537.10.90	Other.
8537.10.9070	Other.
*	* * * * *
9503	Other toys; reduced-size (“scale”) models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof:
9503.70.00	Other toys, put up in sets or outfits, and parts and accessories thereof.

We reiterate that the issue being considered is the classification of the control pad when it is imported separately from any other article. The classification of machinery and mechanical appliances, electrical equipment and parts thereof, among other things, are classifiable pursuant to the Notes to Section XVI, HTSUS. The Notes to Section XVI provide in pertinent part that the section does not cover: “(p) articles of Chapter 95.” The General ENs to Section XVI provide, in pertinent part, that:

(A) Subject to certain exclusions provided for in the Notes to this Section and to Chapters 84 and 85 and apart from goods covered more specifically in other Sections, this Section covers all mechanical or electrical machinery, plant, equipment, apparatus and appliances and parts thereof[.]

* * * * *

The main exclusions from the Section are:

(h) Machinery and apparatus having the character of toys, games or sports requisites and identifiable parts and accessories thereof (including non-electric motors and engines but **excluding** pumps for liquids and filtering or purifying machinery for liquids or gases, which fall in **heading 84.13** or **84.21**, respectively, and also **excluding** electric motors, electric transformers and radio remote control apparatus, which fall

in heading **85.01, 85.04 or 85.26**, respectively) which are suitable for use solely or principally with toys, games or sports requisites (**Chapter 95**)[bold in original].

We interpret this language to mean the following: toys, games or sports requisites and identifiable parts and accessories thereof are excluded from Section XVI and non-electric motors and engines are included in the exclusion. Pumps for liquids and filtering or purifying machinery for liquids or gases (which fall in heading 84.13 or 84.21, respectively) and electric motors, electric transformers and radio remote control apparatus, which fall in heading 85.01, 85.04 or 85.26, respectively) are excluded parenthetically from the exclusion; that is, those articles fall to be classifiable within Section XVI. Based on this interpretation, we conclude that radio remote control apparatus are included within the ambit of Section XVI.

Thus, if the control pad is classifiable under either heading 8529 or 8537, HTSUS, it cannot be classified under heading 9503, HTSUS. Contrariwise, if the control pad is classifiable in Chapter 95, it cannot be classified in Chapter 85.

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

Heading 8526, HTSUS, covers radar apparatus, radio navigational aid apparatus and radio remote control apparatus. The ENs to the heading provide, in pertinent part, that the heading includes "(11) radio apparatus for the remote control of * * * toys" and that, subject to the Notes to Section XVI, "parts of the apparatus of this heading are classified in heading 8529." Heading 8529, HTSUS, covers parts suitable for use solely or principally with the apparatus of headings 8525 to 8528. The ENs to the heading provide, in pertinent part, that "subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), this heading covers parts of the apparatus of the four preceding headings," including obviously heading 8526, HTSUS.

Heading 8537, HTSUS, covers electronic control apparatus. The ENs to the heading provide that the articles classifiable therein generally "consist of an assembly of apparatus of the kind referred to in the two preceding headings (e.g., switches and fuses) on a board, panel, console, etc., or mounted in a cabinet, desk, etc." and that the articles "vary from small switchboards with only a few switches, fuses, etc. (e.g., for lighting installations) to complex control panels for machine-tools, rolling mills, power stations, radio stations, etc., including assemblies of several of the articles cited in the text of this heading." We assume for the purposes of this ruling that the control pads convert the tactile depression of its buttons to electronic signals that are transmitted over its attached wire. We believe that it is by these means that the control pad functions.

Note 3 to Chapter 95, HTSUS, provides in pertinent part that "subject to Note 1 above, parts and accessories which are suitable for use solely or principally with articles of this chapter are to be classified with those articles." Note 1(m) to Chapter 95 provides that radio remote control apparatus are excluded from classification in Chapter 95. See also the ENs to heading 9503, HTSUS.

An article is to be classified according to its condition as imported. See, *XTC Products, Inc. v. United States*, 771 F.Supp. 401, 405 (1991). See also, *United States v. Citroen*, 223 U.S. 407 (1911). In its condition as imported, the control pad is a hand held electrical device incapable of providing amusement. It is our opinion that the control pad, imported separately from any other article, is provided for as a control device. Therefore, the article, in its condition as imported, cannot be classified under heading 9503, HTSUS.

Holding:

The control pads are classifiable under subheading 8537.10.9070, HTSUS, which provides for boards, panels, consoles, desks, cabinets and other bases, equipped with two or

more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity, for a voltage not exceeding 1000V, other, other.

Effect on Other Rulings:

NY D84425 is revoked.

JOHN DURANT,
Director,
Commercial Rulings Division.

PROPOSED REVOCATION OF RULING LETTER AND
TREATMENT RELATING TO TARIFF CLASSIFICATION OF
HOUR METERS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of a ruling letter and treatment relating to tariff classification of hour meters.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930, (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling letter pertaining to the tariff classification of hour meters under the Harmonized Tariff Schedule of the United States ("HTSUS"). Customs also intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Comments are invited on the correctness of the proposed action.

DATE: Comments must be received on or before February 1, 2002.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the same address.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, General Classification Branch, (202) 927-2388.

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 Customs 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 Customs 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 Customs 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, as amended (19 U.S.C. 1625(c)(1)), this notice advises interested parties that Customs intends to revoke a ruling letter pertaining to the tariff classification of hour meters. Although in this notice Customs is specifically referring to one ruling, NY H81276, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States. Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise Customs 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 notice of this proposed action.

In NY H81276 dated June 14, 2001, set forth as Attachment A to this document, Customs classified certain hour meters in subheading 9106.10.00, HTSUS, as: "Time of day recording apparatus and apparatus for measuring, recording or otherwise indicating intervals of time, with clock or watch movement or with synchronous motor * * *: Time registers; time-recorders."

It is now Customs position that the subject hour meters are properly classifiable under subheading 9106.90.55, HTSUS, as: "Time of day re-

ording apparatus and apparatus for measuring, recording or otherwise indicating intervals of time, with clock or watch movement or with synchronous motor * * *: * * * Other: * * * Other: Apparatus for measuring, recording, or otherwise indicating intervals of time, with clock or watch movements, battery powered: With opto-electronic display only." Proposed HQ 965244, revoking NY H81276, is set forth as Attachment B to this document.

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to revoke NY H81276 and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed HQ 965244. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

Dated: December 18, 2001.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
New York, NY, June 14, 2001.
CLA-2-90:RR:NC:MM:114 H81276
Category: Classification
Tariff No. 9106.10.0000

MR. ROBERT STEIN
ROBERT STEIN CHB
*1265 Scottsville Road
Rochester, NY 14624*

Re: The tariff classification of hour meters.

DEAR MR. STEIN:

In your letter dated May 16, 2001, on behalf of SenDEC Corporation, you requested a tariff classification ruling.

The devices are panel mounted hour meters (AC, DC and inductive input). Two sample meters were furnished with your request. You indicate that the base function of the meters is time measurement. After importation the items must be programmed, epoxy encapsulated and pad printed. The AC and DC meters are time measurement devices only. The inductive units are generally programmed as hour meters but some time have a tachometer function programmed as well. The meters do not have a standard clock or watch movement. They contain an internal microprocessor that can be programmed to display in hours, and tenths of an hour. The hour meters are used to record the accumulated running time of small gasoline engines used in such equipment as lawn mowers, rototillers, log splitters, etc.

The applicable subheading for the hour meters will be 9106.10.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for time registers and time recorders. The rate of duty will be 36 cents each plus 5.6 percent plus 2 cents per jewel.

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 Barbara Kiefer at 212-637-7058.

ROBERT B. SWIERUPSKI,

Director,

National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2 RR:CR:GC 965244 GOB
Category: Classification
Tariff No. 9106.90.55

ARTHUR K. PURCELL
SANDLER, TRAVIS & ROSENBERG, P.A.
551 Fifth Avenue
New York, NY 10176

Re: Hour Meters; NY H81276 revoked.

DEAR MR. PURCELL:

This is in reply to your letter of August 2, 2001, in which you request reconsideration of NY H81276 dated June 14, 2001, issued to a customs broker on behalf of SenDEC Corporation, by the Director, Customs National Commodity Specialist Division, New York, regarding the classification, under the Harmonized Tariff Schedule of the United States ("HTSUS"), of certain hour meters. We have reviewed the classification set forth in NY H81276 and have determined that it is incorrect. This ruling sets forth the correct classification.

Facts:

In your letter of August 2, 2001, you describe the hour meters as follows:

* * * two (2) styles (rectangular and round) of panel mounted hour meters. These articles are battery-powered, solid-state opto-electronic display (LCD) devices designed to measure and display intervals of time, specifically the running time of a small engine * * * The only difference between the two article styles is the shape of the case; all other components and functions are identical.

* * * * *
They have "clock movements" as defined in the tariff. Clock movements are broadly defined in Additional U.S. Note 1(d) to Chapter 91 as "devices regulated by a balance wheel and hairspring, quartz crystal or any other system capable of determining intervals of time" (emphasis supplied). The subject hour meters determine intervals of time through the following system. An internal 3V lithium battery powers a custom control circuit and an opto-electronic display. The custom control circuit looks for an external input signal as a trigger to initiate monitoring functions of the engine. Measurement of engine running time is the base function of the article (although other monitoring functions are possible after programming). The signals generated from the engine can be spark plug noise (inductive pick up), DC input signal, or AC input signal, depending upon the model. These input signals are received from the engine and in no way power the hour meters; rather, the units are battery powered. An internal microprocessor records time when prompted by the input signal.

* * * * *
* * * at the time of importation, the Inductive Input hour meters are generally programmed as hour meters. This is their condition as imported * * * such articles could

be programmed as hour meters with tachometer functions after importation, but prior to shipment to customers * * * at the time of importation the circuit boards that will be used for hour meters and tachometers are identical, and * * * each unit is programmed after importation.

In NY H81276, Customs classified the hour meters in subheading 9106.10.00, HTSUS, as: "Time of day recording apparatus and apparatus for measuring, recording or otherwise indicating intervals of time, with clock or watch movement or with synchronous motor * * *; Time registers; time-recorders."

Issue:

What is the classification under the HTSUS of the subject hour meters?

Law and Analysis:

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

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions under consideration are as follows:

- 9106 Time of day recording apparatus and apparatus for measuring, recording or otherwise indicating intervals of time, with clock or watch movement or with synchronous motor (for example, time registers, time-recorders):
- 9106.10.00 Time registers; time-recorders
* * * * *
- 9106.90 Other:
Other:
Apparatus for measuring, recording, or otherwise indicating intervals of time, with clock or watch movements, battery powered:
- 9106.90.55 With opto-electronic display only
* * * * *
- 9029 Revolution counters, production counters, taximeters, odometers, pedometers and the like; speedometers and tachometers, other than those of heading 9014 or 9015; stroboscopes; parts and accessories thereof:
- 9029.10 Revolution counters, production counters, taximeters, odometers, pedometers and the like:
- 9029.10.80 Other
- 9029.20 Speedometers and tachometers; stroboscopes:
- 9029.20.40 Other speedometers and tachometers

EN 90.29 provides in pertinent part as follows:

This heading includes: (A) Counters indicating a total number of units of any kind (revolutions, items, length, etc.) * * *

- (A) **COUNTING DEVICES**
- (1) **Revolution counters.** These instruments count the number of revolutions of a mechanical part (e.g., machine shaft).
* * * * *

(3) **Counters for indicating the working hours of machines, motors, etc., (time or hour meters).** In practice, these are revolution counters calibrated in working hours. [All emphasis in original.]

EN 91.06 provides in pertinent part as follows:

Provided they are operated by a movement of the watch or clock type (including secondary or synchronous motor clock movements) or by a synchronous motor with or

without reduction gear, this heading covers: * * * (ii) Apparatus, **not** elsewhere specified, for measuring, recording or otherwise indicating intervals of time.

* * * * *

The heading includes:

(1) **Time-registers** for recording the arrival and departure of employees in factories, workshops, etc * * *

(2) **Time-recorders** similar to the time-registers described in (1) above but marking also the month, the year, a serial number or other indications; some of these instruments are also equipped with a device for totalling up working hours (e.g., per day or per week) * * * [All emphasis in original.]

Our review of this matter indicates that the hour meters are goods described in the text of heading 9106, HTSUS, i.e., they are apparatus for measuring intervals of time, with clock or watch movements. However, the hour meters are neither time registers nor time-recorders. See the descriptions of time registers and time-recorders in EN 91.06, excerpted above. Accordingly, they are not properly classified in subheading 9106.10.00, HTSUS. We find that the hour meters are described in subheading 9106.90.55, HTSUS, as: “* * * apparatus for measuring, recording or otherwise indicating intervals of time, with clock or watch movement * * * : * * * Other: * * * Other: Apparatus for measuring, recording, or otherwise indicating intervals of time, with clock or watch movements, battery powered: With opto-electronic display only.”

Consideration has been given to classification of the hour meters in heading 9029, HTSUS. See EN 90.29, excerpted above, which provides that counting devices within heading 9029, HTSUS, include: “Counters for indicating the working hours of machines, motors, etc. (time or hour meters).” However, the next sentence of EN 90.29 provides: “In practice, these are revolution counters calibrated in working hours.” The subject hour meters are not revolution counters. Moreover, the subject hour meters are not any of the specific items stated in heading 9029, i.e., they are not revolution counters, production counters, taximeters, odometers, pedometers, speedometers, or tachometers. Accordingly, we find that the subject hour meters are not described in heading 9029, HTSUS.

Classification of the hour meters in subheading 9106.90.55, HTSUS, is consistent with the following rulings. In HQ 955626 dated February 7, 1995, we stated that the “trip elapsed time” component of an automobile trip computer was classified in heading 9106, HTSUS. HQ 955626 was affirmed in HQ 958997 dated October 21, 1996. In NY 854538 dated July 30, 1990, we classified a solid-state electronic engine hour meter (a “running time meter”) in subheading 9106.90.80, HTSUS.

Holding:

The hour meters are classified in subheading 9106.90.55, HTSUS, as: “* * * apparatus for measuring, recording or otherwise indicating intervals of time, with clock or watch movement * * * : * * * Other: * * * Other: Apparatus for measuring, recording, or otherwise indicating intervals of time, with clock or watch movements, battery powered: With opto-electronic display only.”

Effect on Other Rulings:

NY H81276 is revoked.

JOHN DURANT,
Director,
Commercial Rulings Division.