

# U.S. Customs and Border Protection

## *General Notices*

### **AGENCY INFORMATION COLLECTION ACTIVITIES**

#### **ANDEAN TRADE PREFERENCES**

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

**ACTION:** 60-Day Notice and request for comments; Extension of an existing collection of information: 1651-0091

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, U.S. Customs and Border (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Andean Trade Preferences. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments should be received on or before January 27, 2009, to be assured of consideration.

**ADDRESS:** Direct all written comments to U.S. Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to U.S. Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

#### **SUPPLEMENTARY INFORMATION:**

CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the in-

formation collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Andean Trade Preferences

**OMB Number:** 1651-0091

**Form Number:** None

**Abstract:** The information is to be used by CBP officers to document preferential tariff treatment under the provisions of the Andean Trade Preferences Act 19 U.S.C. 3201 through 3206.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

**Type of Review:** Extension (without change)

**Affected Public:** Businesses

**Estimated Number of Respondents:** 48,000

**Estimated Time Per Respondent:** 10 minutes

**Estimated Total Annual Burden Hours:** 7,968

Dated: November 19, 2008

TRACEY DENNING,  
*Agency Clearance Officer;*  
*Customs and Border Protection.*

[Published in the Federal Register, November 28, 2008 (73 FR 72500)]

## AGENCY INFORMATION COLLECTION ACTIVITIES

### Application for Withdrawal of Bonded Stores For Fishing Vessels and Certification of Use

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

**ACTION:** 60-Day Notice and request for comments; Extension of an existing collection of information: 1651-0092

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, U.S. Customs and Border (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application for Withdrawal of Bonded Stores For Fishing Vessels and Certification of Use. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments should be received on or before January 27, 2009, to be assured of consideration.

**ADDRESS:** Direct all written comments to U.S. Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to U.S. Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:**

CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Application for Withdrawal of Bonded Stores for Fishing Vessels and Certification of Use

**OMB Number:** 1651-0092

**Form Number:** CBP Form 5125

**Abstract:** The CBP Form 5125 is used for the withdrawal and lading of bonded merchandise (especially alcoholic beverages) for use on board fishing vessels. The form also certifies the use: total consumption or partial consumption with secure storage for use on the next voyage.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

**Type of Review:** Extension (without change)

**Affected Public:** Businesses

**Estimated Number of Respondents:** 500

**Estimated Time Per Respondent:** 5 minutes

**Estimated Total Annual Burden Hours:** 42

Dated: November 19, 2008

TRACEY DENNING,  
*Agency Clearance Officer,  
Customs and Border Protection.*

## **AGENCY INFORMATION COLLECTION ACTIVITIES**

### **Declaration of a Person Abroad Who Receives and is Returning Merchandise to the United States**

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

**ACTION:** 60-Day Notice and request for comments; Extension of an existing collection of information: 1651-0094.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, U.S. Customs and Border (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Declaration of a Person Abroad Who Receives and is Returning Merchandise to the U.S.. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments should be received on or before January 27, 2009, to be assured of consideration.

**ADDRESS:** Direct all written comments to U.S. Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to U.S. Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

#### **SUPPLEMENTARY INFORMATION:**

CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Declaration of a Person Abroad Who Receives and is Returning Merchandise to the U.S.

**OMB Number:** 1651-0094

**Form Number:** None

**Abstract:** This declaration is used under conditions where articles are imported, and then exported and reimported free of duty. The declaration is to insure CBP control over duty-free merchandise.

**Current Actions:** There are no changes to the information collection. This submission is being submitted to extend the expiration date.

**Type of Review:** Extension (without change)

**Affected Public:** Businesses

**Estimated Number of Respondents:** 1500

**Estimated Time Per Respondent:** 10 minutes

**Estimated Total Annual Burden Hours:** 250

Dated: November 19, 2008

TRACEY DENNING,  
*Agency Clearance Officer,  
Customs and Border Protection.*

[Published in the Federal Register, November 28, 2008 (73 FR 72501)]

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## AGENCY INFORMATION COLLECTION ACTIVITIES

### JADE Act

**AGENCY:** Customs and Border Protection (CBP), Department of Homeland Security

**ACTION:** 60-Day Notice and request for comments; Extension of an existing information Collection: 1651-0133.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the JADE Act. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before January 27, 2009, to be assured of consideration.

**ADDRESS:** Direct all written comments to U.S. Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2.C, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to U.S. Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, D.C. 20229, Tel. (202) 344-1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** JADE Act

**OMB Number:** 1651–0133

**Form Numbers:** None

**Abstract:** The JADE Act amends previous Burmese sanctions by providing for import restrictions on certain categories of goods. In order to enforce these sanctions, CBP will require a certification from the exporter as part of the entry package certifying that the goods were not mined in, or extracted from Burma. This certification is provided for by the Act.

**Current Actions:** This submission is being made to extend the expiration date.

**Type of Review:** Extension without change

**Affected Public:** Businesses

**Estimated Number of Respondents:** 22,197

**Estimated Time Per Response:** 10 minutes

**Estimated Total Annual Burden Hours:** 74,005

Dated: November 19, 2008

TRACEY DENNING,  
*Agency Clearance Officer,  
Customs and Border Protection.*

[Published in the Federal Register, November 28, 2008 (73 FR 72501)]

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

**(No. 10 2008)**

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

SUMMARY: Presented herein are the copyrights, trademarks, and trade names recorded with U.S. Customs and Border Protection during the month of October 2008. The last notice was published in the CUSTOMS BULLETIN on November 6, 2008.

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

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

Dated: November 26, 2008

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

CBP IPR RECORDATIONS - OCTOBER 2008

Recordation No.	Effective Date	Expiration Date	Name of Copr/Tmk/Tm	Owner Name	GM Restrictive
TMK 99-00026	10/3/2008	9/12/2018	UTICA	COOPER TECHNOLOGIES COMPANY	Yes
TMK 05-01058	10/3/2008	6/28/2018	ECONOLINE	FORD MOTOR COMPANY	No
TMK 09-00007	10/3/2008	7/6/2019	W3 (STYLIZED)	WROUGHT WASHER MFG. INC.	No
COP 08-00406	10/3/2008	10/3/2038	MIKADO M'OGANO	PHILFRAMICA S.P.A.	No
TMK 03-00473	10/3/2008	9/22/2018	VERSACE	GIANNI VERSACE S.P.A.	No
TMK 05-00217	10/3/2008	8/11/2018	MIAMI HEAT	MIAMI HEAT LIMITED PARTNERSHIP	No
TMK 06-01021	10/3/2008	3/18/2018	CONFIGURATION OF A HAND-HELD SAFETY AIR GUN	GIARDAR CORPORATION	No
TMK 08-01022	10/3/2008	5/4/2014	RAPIVA	GENENTECH, INC.	No
TMK 08-01023	10/3/2008	8/12/2018	MARLBORO VIRGINIA BLEND FINE TOBACCO VIRGINIA LEAF, 400 YEARS ALSO PERFECTED IN	PHILIP MORRIS USA INC.	No
TMK 08-01024	10/3/2008	7/15/2018	LMV FULL FLAVOR	TRADEMARKS LLC	No
TMK 08-01025	10/3/2008	11/16/2013	SEXUAL	STEVEN M. BAILEY	No
TMK 08-01027	10/3/2008	9/9/2018	SEXUAL FEMME	STEVEN M. BAILEY	No
TMK 08-01026	10/3/2008	7/29/2018	MARLBORO SINUS SPICE	PHILIP MORRIS USA INC.	No
TMK 08-01028	10/3/2008	7/22/2018	MARLBORO SINUS MILD	PHILIP MORRIS USA INC.	No
TMK 08-01029	10/3/2008	7/22/2018	MARLBORO SINUS SPICE	PHILIP MORRIS USA INC.	No
TMK 08-01039	10/3/2008	7/15/2018	MARLBORO SINUS	PHILIP MORRIS USA INC.	No
TMK 08-01040	10/3/2008	7/12/2018	MARLBORO VIRGINIA BLEND 100'S VIRGINIA LEAF, 400 YEARS AGO PERFECTED IN VIRGINIA	PHILIP MORRIS USA INC.	No
TMK 08-01038	10/3/2008	7/15/2018	SEXUAL POUR HOMME	STEVEN M. BAILEY	No
TMK 08-01033	10/3/2008	8/18/2018	LOFT	ANNCO, INC.	No
TMK 08-01037	10/3/2008	5/28/2015	MAXIM	MAXIM INTEGRATED PRODUCTS, INC.	No
TMK 08-01036	10/3/2008	6/24/2018	TABOKA	PHILIP MORRIS USA INC.	No
TMK 08-01035	10/3/2008	6/3/2018	TABOKA	PHILIP MORRIS USA INC.	No
TMK 08-01031	10/3/2008	5/27/2018	BENSON & HEDGES MENTHOL	PHILIP MORRIS USA INC.	No
TMK 08-01032	10/3/2008	9/14/2018	WORD MARK	INVERNESS MEDICAL, LLC	No
TMK 08-01034	10/3/2008	10/26/2013	PROTEGRA	INVERNESS MEDICAL, LLC	No
TMK 98-00781	10/12/2008	7/25/2018	HUNCA MUNCA	FREDERICK WARNE & CO., INC.	No
TMK 06-00117	10/12/2008	9/27/2015	DESIGN ONLY	DICK'S SPORTING GOODS, INC.	No
TMK 06-00126	10/12/2008	2/20/2013	MAXFLI	DICK'S SPORTING GOODS, INC.	No
TMK 04-00159	10/12/2008	8/8/2018	ROLAND	AMERICAN ROLAND FOOD CORP.	No
TMK 07-00471	10/12/2008	2/23/2019	SS AND DESIGN	STUSSY, INC.	No
TMK 08-01040	10/12/2008	1/30/2016	JAGERMEISTER & DESIGN (LABEL)	MAST-JAGERMEISTER AG	No
TMK 08-01041	10/12/2008	10/9/2017	AQUA STAR	ADMIRALTY ISLAND FISHERIES, INC.	No
TMK 08-01073	10/12/2008	8/29/2016	TED HARDY	HARDY LIFE, LLC	No

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TMK 08-01076	10/12/2008	7/13/2013	TRIBUTE	BENZIGER FAMILY WINERY LLC	No
TMK 08-01077	10/12/2008	9/23/2018	BELT POWER & DESIGN	BELT POWER LLC	No
TMK 08-01075	10/12/2008	5/20/2018	MARLBORO VIRGINIA BLEND FINE TOBACCO'S 20 CLASS A CIGARETTES	PHILIP MORRIS USA INC.	No
TMK 08-01074	10/12/2008	5/6/2018	MARLBORO FINE CUT ORIGINAL	PHILIP MORRIS USA INC.	No
TMK 08-01072	10/12/2008	5/6/2018	MARLBORO FINE CUT WINTERGREEN	PHILIP MORRIS USA INC.	No
TMK 08-01076	10/12/2008	12/7/2014	BAD TO THE BONE	BUD K WORLDWIDE, INC.	No
TMK 08-01071	10/12/2008	4/22/2013	MICHAEL KORS	MICHAEL KORS, LLC	No
TMK 08-01052	10/12/2008	5/6/2018	MARLBORO LONG CUT ORIGINAL	PHILIP MORRIS USA INC.	No
TMK 08-01053	10/12/2008	5/6/2018	MARLBORO LONG CUT WINTERGREEN	PHILIP MORRIS USA INC.	No
TMK 08-01054	10/12/2008	4/29/2018	MARLBORO	PHILIP MORRIS USA INC.	No
TMK 08-01055	10/12/2008	4/8/2018	MENTHOL PM USA MARLBORO SMOOTH UNIQUELY RICH & SMOOTH	PHILIP MORRIS USA INC.	No
TMK 08-01056	10/12/2008	6/16/2018	JAGERMEISTER (BOTTLE DESIGN AND LABEL)	MAST-JAGERMEISTER AG	No
TMK 08-01057	10/12/2008	5/20/2018	MARLBORO SMOOTH 100'S MENTHOL	PHILIP MORRIS USA INC.	No
TMK 08-01058	10/12/2008	5/20/2018	MARLBORO VIRGINIA BLEND 100'S	PHILIP MORRIS USA INC.	No
TMK 08-01059	10/12/2008	5/20/2018	PAD AND DESIGN	FACE ENTERPRISES LLC	No
TMK 08-01060	10/12/2008	2/19/2018	TABOKA GREEN	PHILIP MORRIS USA INC.	No
TMK 08-01061	10/12/2008	1/15/2018	MARLBORO SINUS MILD	PHILIP MORRIS USA INC.	No
TMK 08-01062	10/12/2008	5/13/2018	MARLBORO SINUS SPICE	PHILIP MORRIS USA INC.	No
TMK 08-01063	10/12/2008	7/7/2017	VAN CLEEF & ARPELS	VAN CLEEF & ARPELS SA	No
TMK 08-01064	10/12/2008	2/12/2018	PURE & NATURAL	AQUA STAR (USA) CORP.	No
TMK 08-01065	10/12/2008	1/15/2018	MARLBORO SINUS MINT	PHILIP MORRIS USA INC.	No
TMK 08-01066	10/12/2008	1/15/2018	MARLBORO SINUS RICH	PHILIP MORRIS USA INC.	No
TMK 08-01067	10/12/2008	3/13/2017	SMOOSH DESIGN	RIKE, INC.	No
TMK 08-01068	10/12/2008	3/15/2015	COLORMETRICS	HAIRMARKER, LLC	No
TMK 08-01069	10/12/2008	12/11/2017	TOUCHBACK	HAIRMARKER, LLC	No
TMK 08-01070	10/12/2008	9/12/2016	ED HARDY	HARDY LIFE, LLC	No
TMK 08-01042	10/12/2008	6/3/2018	FENS FOOD SAFETY NET SERVICES AND DESIGN	FOOD SAFETY NET SERVICES, LTD.	No
TMK 08-01043	10/12/2008	10/23/2017	STAR CUT	ADMIRALTY ISLAND FISHERIES, INC.	No
TMK 08-01044	10/12/2008	10/20/2012	AQUA STAR AND LOGO DESIGN	ADMIRALTY ISLAND FISHERIES, INC.	No
TMK 08-01045	10/12/2008	7/27/2014	HAIRMARKER	HAIRMARKER, LLC	No
TMK 08-01046	10/12/2008	10/23/2017	AQUA STAR RESERVE	ADMIRALTY ISLAND FISHERIES, INC.	No
TMK 08-01047	10/12/2008	9/11/2011	INPALE	RANI A. CHAOUT	No
TMK 08-01048	10/12/2008	11/28/2016	WHEN YOU CAN'T CATCH YOUR OWN	ADMIRALTY ISLAND FISHERIES, INC.	No
TMK 08-01049	10/12/2008	1/14/2017	OCEAN BISTRO	ADMIRALTY ISLAND FISHERIES, INC.	No

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TMK 08-01050	10/12/2008	3/2/2014	COLOR MARK	HAIRMARKER LLC	No
TMK 08-01051	10/12/2008	3/16/2014	STRECKERS	HAIRMARKER LLC	No
TMK 99-00209	10/16/2008	7/28/2018	STUSSY	STUSSY, INC.	No
TMK 00-00343	10/16/2008	8/2/2018	CLARITIN	SCHERING CORPORATION	No
TMK 04-00473	10/16/2008	9/29/2018	98X	HEWLETT-PACKARD DEVELOPMENT COMPANY, L.P.	No
TMK 08-01081	10/16/2008	8/12/2016	LOT29 LUXE	WICKED FASHIONS, INC.	No
TMK 08-01079	10/16/2008	11/20/2017	SOUTH POLE	WICKED FASHIONS, INC.	No
TMK 08-01080	10/16/2008	12/13/2015	HOOTER HIDDERS	BEBE AU LAIN LLC	No
TMK 08-01084	10/16/2008	5/11/2014	XADO	HADO HOLDING	No
TMK 08-01082	10/16/2008	1/15/2018	L29	WICKED FASHIONS, INC.	No
TMK 08-01083	10/16/2008	3/18/2018	SOUTHPOLE	WICKED FASHIONS, INC.	No
TMK 08-01085	10/16/2008	7/8/2018	LOT29	WICKED FASHIONS, INC.	No
TMK 08-01089	10/16/2008	10/7/2018	L-TRYPTOPHAN SIGNATURE	AMINO ACIDS, INC.	No
TMK 08-01088	10/16/2008	11/9/2014	BLU-RAY DISC	BLU-RAY DISC ASSOCIATION	No
TMK 08-01090	10/16/2008	9/23/2018	HAIRFREEE	GROOMEZ, INC.	No
TMK 08-01086	10/16/2008	6/10/2018	MIDOL	BAYER HEALTHCARE LLC	No
TMK 08-01087	10/16/2008	12/11/2011	BOSU	BOSU FITNESS, LLC	No
TMK 04-01080	10/20/2008	11/24/2018	CISCO SYSTEMS	CISCO TECHNOLOGY, INC.	No
TMK 08-01091	10/20/2008	1/6/2014	BLUE DISC B AND DESIGN	BLU-RAY DISC ASSOCIATION	No
TMK 99-00322	10/24/2008	9/8/2018	FLIRT	BEAUTYBANK INC.	No
TMK 99-00328	10/24/2008	8/4/2018	PX	ESTEE LAUDER INC.	No
TMK 99-00333	10/24/2008	3/22/2018	LAUDER PLEASURES FOR MEN	ESTEE LAUDER INC.	No
TMK 08-01092	10/24/2008	2/27/2010	TEST STEVE CHAU	STEVE CHAU	No
TMK 08-01022	10/24/2008	9/19/2018	WHITE LINEN	ESTEE LAUDER INC.	No
TMK 07-00113	10/24/2008	3/1/2008	STEVE TEST	TEST TBC	No
TMK 08-01094	10/24/2008	5/29/2017	NHL & SHIELD DESIGN	NATIONAL HOCKEY LEAGUE	No
COP 08-00107	10/24/2008	10/24/2028	SECRET TO SEXY ABS DVD COVER	DANCESPORT VIDEOS, LLC,	No
TMK 08-01095	10/24/2008	11/23/2014	DESIGN	WICKED FASHIONS, INC.	No
TMK 08-01096	10/24/2008	8/5/2018	SP	WICKED FASHIONS, INC.	No
TMK 08-01097	10/24/2008	5/13/2018	WICKD	WICKED FASHIONS, INC.	No
TMK 08-01098	10/24/2008	10/2/2017	SOUTHPOLE	WICKED FASHIONS, INC.	No
TMK 08-01099	10/24/2008	9/19/2018	RANCHLAND SECURITY	LEGACY SPORTS INTERNATIONAL LLC	No
COP 08-00108	10/24/2008	7/5/2018	COLD STEEL	COLD STEEL, INC.	No
TMK 08-01101	10/24/2008	10/24/2028	LOWER BODY SCULPT DVD COVER.	DANCESPORT VIDEOS, LLC,	No
TMK 08-01104	10/24/2008	11/3/2011	PAUL STUART	PAUL STUART, INC.	No
TMK 08-01102	10/24/2008	2/10/2010	THE AMAZING SPIDER-MAN	PAUL STUART, INC.	No
TMK 08-01103	10/24/2008	9/18/2011	PUMA	MARVEL CHARACTERS, INC.	No
TMK 08-01105	10/24/2008	9/2/2018	SPEEDX	LEGACY SPORTS INTERNATIONAL LLC	No
TMK 08-01093	10/24/2008	9/9/2018	WII	MOLL SYSTEMS CORPORATION	No
CDP 08-00109	10/24/2008	10/24/2028	CORE RHYTHMS DANCE EXERCISE PROGRAM SWING SENSATION	NINTENDO OF AMERICA, INC.	No

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TMK 93-00114	10/28/2008	8/30/2018	TIMBERLAND STYLIZED TOLEDO TORCH	TIMBERLAND COMPANY, THE	No
TMK 99-00136	10/28/2008	11/10/2018	FISHER BARTON BLADES INC.	FISHER BARTON BLADES INC.	No
TMK 04-01105	10/28/2008	7/28/2018	BALTIMORE RAVENS PARTNERSHIP	BALTIMORE RAVENS LIMITED PARTNERSHIP	No
TMK 04-01114	10/28/2008	6/30/2018	JACKSONVILLE JAGUARS HELMET WITH DESIGN	JACKSONVILLE JAGUARS LTD.	No
TMK 08-01106	10/28/2008	4/4/2016	RENEASAS	RENEASAS TECHNOLOGY CORP.	No
COP 08-00110	10/28/2008	10/28/2028	SCULPTING SERIES DR PACKAGE WRAP	DANCESPORT VIDEOS, LLC	No
COP 08-00111	10/28/2008	10/28/2028	CORE RHYTHMS DANCE EXERCISE PROGRAM BODY SCULPTING COLLECTION	DANCESPORT VIDEOS, LLC	No
TMK 08-01107	10/28/2008	7/10/2017	CONFIGURATION OF A BLENDER BASE	VITA-MIX CORPORATION	No
COP 08-00112	10/28/2008	10/28/2028	LATIN CARDIO JAM DVD COVER	DANCESPORT VIDEOS, LLC	No
TMK 08-01108	10/28/2008	6/17/2018	STEALTH S.S.A.	ANGEL SALES, INC.	No
COP 08-00113	10/28/2008	10/28/2028	PERFECT PUSHUP FITNESS DEVICE PACKAGE - BASIC VERSION	BODYREV, LLC, TRANSFER	No
TMK 08-01110	10/28/2008	8/19/2018	NEO FACIALE AND DESIGN	JCN INTERNATIONAL, INC.	No
COP 08-00115	10/28/2008	10/28/2028	CORE RHYTHMS STARTER PACKAGE (DR) PACKAGE	DY CREATIONS, INC.,	No
TMK 08-01109	10/28/2008	2/13/2017	CORE RHYTHMS DANCE EXERCISE POINTER	LEGACY SPORTS INTERNATIONAL LLC	No
COP 08-00114	10/28/2008	10/28/2028	CORE RHYTHMS DANCE EXERCISE PROGRAM LATIN SYNERGY	DANCESPORT VIDEOS, LLC	No
TMK 08-01111	10/30/2008	3/8/2016	FENDER	FENDER MUSICAL INSTRUMENTS CORPORATION	No

Total Records: 124  
Date as of: 11/18/2008

DEPARTMENT OF HOMELAND SECURITY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS.  
*Washington, DC, December 3, 2008*

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

Myles B. Barman for SANDRA L. BELL,  
*Executive Director,  
Regulations and Rulings,  
Office of International Trade.*

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**REVOCAION AND MODIFICATION OF TWO RULING LETTERS AND REVOCAION OF TREATMENT RELATING TO THE CLASSIFICATION OF FRONT LOAD WASHING, DRYING AND WASHER/DRYER COMBINATION MACHINES**

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

**ACTION:** Revocation and modification of two classification ruling letters and revocation of treatment relating to the classification of front load washing, drying and washer/dryer combination machines.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)), this notice advises interested parties that the Bureau of Customs and Border Protection (CBP) is revoking one ruling letter and modifying one ruling letter relating to the classification of front load washing, drying and washer/dryer combination machines. CBP is also revoking any treatment previously accorded by it to substantially identical merchandise. Notice of the proposed action was published on August 28, 2008, in Volume 42, Number 36, of the Customs Bulletin. CBP received no comments in response to the notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after February 16, 2009.

**FOR FURTHER INFORMATION CONTACT:** Kelly Herman, Tariff Classification and Marking Branch: (202) 325-0026.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke one ruling letter and modify one ruling letter pertaining to the classification of washing, drying, and washer/dryer combination machines was published in the August 28, 2008, *Customs Bulletin*, Volume 42, Number 36. No comments were received in response to the notice.

As stated in the proposed notice, this revocation will cover any rulings on this merchandise that may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the notice period.

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

In NY M85545 and NY M85993, front load washing machines were classified in subheading 8450.11.0080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “Household- or laundry-type washing machines, including machines which both wash and dry; parts thereof: Machines, each of a dry linen capacity not exceeding 10kg: Fully automatic machines . . .

Other: Other.” In NY M85993, a front load washer/dryer combination machine was also classified in subheading 8450.11.0080, HTSUS. In NY M85545 and M85993, front load dryers were classified in subheading 8451.21.0090, HTSUS, which provides for “Machinery (other than machines of heading 8450) for washing, cleaning . . . drying . . . textile yarns, fabrics or made up textile articles . . . : Drying machines: Each of a dry linen capacity not exceeding 10 kg . . . Other.” Since the issuance of those rulings, CBP has reviewed the classification of the washing, drying and washer/dryer combination machines and has determined that the cited rulings are in error.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking M85993, modifying NY M85545 and revoking or modifying any other ruling not specifically identified, to reflect the correct classification of the washing, drying and washer/dryer combination machines according to the analysis contained in Headquarters Ruling Letters (HQ) H007662 and HQ H015049, set forth as Attachments A and B to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

DATED: November 26, 2008

Gail A. Hamill for MYLES B. HARMON,  
*Acting Executive Director,*  
*Office of Regulations and Rulings,*  
*Office of International Trade.*

Attachments



## [ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ H007662  
November 26, 2008  
CLA-2: OT:RR:CTF:TCM H007662 KSH  
CATEGORY: Classification  
TARIFF NO.: 8450.20.0090; 8451.29.0090

MS. LYNNE GILLESPIE  
LG ELECTRONICS, USA, INC.  
1000 Sylvan Avenue  
Englewood Cliffs, NJ 07632

RE: Modification of NY M85545 dated August 24, 2006; Classification of washers and dryers

DEAR Ms. GILLESPIE:

This is in reply to your letters dated August 31, 2006 and January 2, 2007, in which you have requested reconsideration of New York Ruling Letter (NY) M85545, dated August 24, 2006. In NY M85545, two front load washing machines, model numbers WM2077CW and WM2277H, and a front load washer/dryer, model number WM3431H, were classified in subheading 8450.11.0080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Household- or laundry-type washing machines, including machines which both wash and dry; parts thereof: Machines, each of a dry linen capacity not exceeding 10kg: Fully automatic machines . . . Other: Other." Two front load dryers, model numbers DLE2514W and DLE3777W, were classified in subheading 8451.21.0090, HTSUS, which provides for "Machinery (other than machines of heading 8450) for washing, cleaning . . . drying . . . textile yarns, fabrics or made up textile articles . . . : Drying machines: each of a dry linen capacity not exceeding 10 kg . . . Other."

In your request for reconsideration with respect to washer model numbers WM2077CW and WM2277H and dryer model number DLE3777W, you have provided additional information regarding the performance of the washers and dryer as measured by the International Electrochemical Association (IEC) standards 60456 and 61126. In accordance with your request for reconsideration of NY M85545, CBP has reviewed the classification of these items and has determined that the cited ruling is in error with respect to washer models WM2077CW and WM2277H and dryer model number DLE3777W. NY M85545 remains correct with respect to washer/dryer combination model WM3431H and dryer model number DLE2514W.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed action was published on August 28, 2008, in Volume 42, Number 36, of the Customs Bulletin. CBP received no comments in response to the notice.

## FACTS:

The merchandise at issue consists of front load washing machines, identified as model numbers WM2077CW and WM2277H and a front load dryer, identified as model number DLE3777W. Model numbers WM2077CW and WM2277H measure 27 inches by 39 inches by 29.75 inches and have a tub volume of 3.72 cubic feet. Submitted performance testing of the model num-

ber WM2077CW in accordance with the IEC standard 60456 indicates that the performance ratio<sup>1</sup> of a 9.0 kg load of linen averages .83% while 10.1 kg load of linens averages .85%. Submitted performance testing of model number WM2277H in accordance with the IEC standard 60456 indicates that the performance ratio of a 9.0 kg load of linen averages .86% while 10.1 kg load of linens averages .88%.

Model number DLE3777W measures 27 inches by 39 inches by 29 15/16 inches and has a tub volume of 7.3 cubic feet. Submitted performance testing of model number DLE3777W in accordance with the IEC standard 61126 indicates that the drying time<sup>2</sup> of a 9.0 kg load of linen averages 69 minutes while 10.5 kg load of linens averages 72 minutes.

**ISSUE:**

Whether the washing machines are classified in subheading 8450.11.0080, HTSUS, as machines of a dry linen capacity not exceeding 10kg or in subheading 8450.20.0090, HTSUS, as machines of a dry linen capacity exceeding 10kg.

Whether the drying machine is classified in subheading 8451.21.0090, HTSUS, as machines of a dry linen capacity not exceeding 10 kg or in subheading 8451.29.0090, HTSUS, as an other drying machine.

**LAW AND ANALYSIS:**

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

The Harmonized Commodity Description and Coding System Explanatory Notes (EN), constitute the official interpretation at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUSA and are generally indicative of the proper interpretation of the headings. It is Customs and Border Protection (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Heading 8450, HTSUSA, provides in relevant part:

8450: Household- or laundry-type washing machines, including machines which both wash and dry; parts thereof:

Machines, each of a dry linen capacity not exceeding 10 kg:

8450.11.00 Fully automatic machines . . . . .

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<sup>1</sup>The performance ratio is determined by dividing the average sum of the soiling values (typical soil removal performance) for each of the four soiling types (carbon black/mineral oil, blood, chocolate and milk and red wine) for the washing machine under test and the reference washing machine.

<sup>2</sup>The drying time is determined by multiplying the measured program time by the nominal initial moisture content less the nominal final moisture content multiplied by the rated capacity divided by the actual moisture content less the actual final moisture content of the test load multiplied by the conditioned mass of the test load the for the dryer under test and the reference dryer.

- 8540.12.00 Other machines with built-in centrifugal dryer . . . . .
- 8450.19.00 Other . . . . .
- 8450.20.00 Machines, each of a dry linen capacity exceeding 10 kg . . .
- Heading 8451, HTSUSA, provides in relevant part:
- 8451: Machinery (other than machines of heading 8450) for washing, cleaning, wringing, drying, ironing, pressing (including fusing presses), bleaching, dyeing, dressing, finishing, coating or impregnating textile yarns, fabrics or made up textile articles and machines for applying the paste to the base fabric or other support used in the manufacture of floor coverings such as linoleum; machines for reeling, unreeling, folding, cutting or pinking textile fabrics; parts thereof:
- Drying machines:
- 8451.21.00 Each of a dry linen capacity not exceeding 10 kg . . . . .
- 8451.21.0010 Coin operated . . . . .
- 8451.21.90 Other . . . . .
- 8451.29.00 Other . . . . .
- 8451.29.0020 For drying made up articles . . . . .
- 8451.29.0090 Other . . . . .

The term “dry linen capacity” is neither defined in the HTSUS nor the EN’s. Where not defined in a legal note under the HTSUS or clearly described in the ENs, tariff terms are construed in accordance with their common and commercial meanings which are presumed to be the same. Nippon Kogaku (USA), Inc. v. United States, 69 CCPA 89, 673 F.2d 380 (1982). Common and commercial meaning may be determined by consulting dictionaries, lexicons, scientific authorities and other reliable sources. C.J. Tower & Sons v. United States, 69 CCPA 128, 673 F.2d 1268 (1982).

The International Electrochemical Association (IEC), a global organization that prepares and publishes international standards for all electrical, electronic and related technologies which serve as a basis for national standardization, utilizes a standard referred to as “rated capacity.” See IEC standards 60456 and 61121. “Rated capacity” is defined as the “maximum mass of dry textiles which the manufacturer declares can be treated in a specific programme.” See IEC 60456. IEC 61121 defines “rated capacity” as the “mass in kg of dry textiles of a particular defined type, which the manufacturer declares can be treated in a specific programme.”

Further, we have reviewed several Binding Tariff Information letters issued by various member states of the European Union (EU) and note that the washing machines’ “dry linen capacity” is expressed as the maximum amount of textiles that can be cleaned in all operations by the washing machine.

In an effort to achieve uniformity in the interpretation of the Harmonized System (HS) at the international level, CBP regards rulings from other countries that classify identical or substantially similar merchandise as instructive. However, such rulings do not constitute the official interpretation of the HS. For this and other reasons, these rulings shall not be treated as dispositive and CBP is not bound by them. Nevertheless, while neither le-

gally binding nor dispositive, they may provide a commentary on the scope of the term at issue. Accordingly, we are of the opinion that the term “dry linen capacity” is synonymous with “rated capacity” as defined by the IEC. Further, we are applying IEC standards 60456 and 61121 as the means by which “dry linen capacity” should be determined.

IEC standards 60456 and 61121 section 7 state that a washing machine with a rated capacity of 10kg shall consist of a base load (textile load without strips of standardized soiling) of 3 sheets and 22 pillowcases. The sheets and pillowcases are required to meet specific values also identified in section 7 of IEC standard 60456. Further, IEC standards 60456 and 61121 section 9 set forth the performance testing to be completed on a test (i.e., base) load of the specified rated capacity.

You have submitted performance tests you conducted in accordance with the IEC standards 60456 and 61121 that demonstrated that the washing machines and drying machine were able to meet the standards of the IEC standards 60456 and 61121 performance test using 10.1 or 10.5 kg loads of linens with marginal impact on performance results. Specifically, model number WM2077CW yielded a performance ratio of .83% with a 9.0 kg load of linens and a performance ratio of .85% with 10.1 kg load of linens. Model number WM2277H yielded a performance ratio of .86% with a 9.0 kg load of linens and a performance ratio of .88% with 10.1 kg load of linens. Dyer model DLE3777W yielded a drying time of 69 minutes with a 9.0 kg load of linens and a drying time of 72 minutes with a 10.5 kg load of linens. Based on the negligible differences of performance ratios for the two different loads, we conclude that the washing machines and dryer have a dry linen capacity exceeding 10.0 kg.

**HOLDING:**

The washing machines, model numbers WM2077CW and WM2277H, are classified in heading 8450, HTSUS. They are specifically provided for in subheading 8450.20.0090 HTSUS, which provides for “Household- or laundry-type washing machines, including machines which both wash and dry; parts thereof: Machines, each of a dry linen capacity exceeding 10kg . . . other.” The column one, general rate of duty is 1% *ad valorem*.

The drying machine, model number DLE3777W is classified in heading 8451, HTSUS. It is specifically provided for in subheading 8451.29.0090, HTSUS, which provides for “Machinery (other than machines of heading 8450) for washing, cleaning, wringing, drying, ironing, pressing (including fusing presses), bleaching, dyeing, dressing, finishing, coating or impregnating textile yarns, fabrics or made up textile articles and machines for applying the paste to the base fabric or other support used in the manufacture of floor coverings such as linoleum; machines for reeling, unreeling, folding, cutting or pinking textile fabrics; parts thereof: Drying machines: Other . . . Other.” The general column one rate of duty is 2.6% *ad valorem*.

**EFFECT ON OTHER RULINGS:**

NY M85545, dated August 24, 2006, is hereby modified.

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

Gail A. Hamill for MYLES B. HARMON,  
*Acting Executive Director,  
Office of Regulations and Rulings,  
Office of International Trade.*

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY,  
U.S. CUSTOMS AND BORDER PROTECTION,  
HQ H015049  
November 26, 2008  
CLA-2: OT:RR:CTF:TCM H015049 KSH  
CATEGORY: Classification  
TARIFF NO.: 8450.20.0090; 8451.29.0090

MS. LYNNE GILLESPIE  
LG ELECTRONICS, USA, INC.  
1000 Sylvan Avenue  
Englewood Cliffs, NJ 07632

RE: Revocation of NY M85993 dated August 28, 2006; Classification of washers, dryers and combination washer/dryer

DEAR MS. GILLESPIE:

This is in reply to your letters dated August 31, 2006 and January 2, 2007, in which you have requested reconsideration of New York Ruling Letter (NY) M85993, dated August 28, 2006. In NY M85993, two front load washing machines and a front load washer/dryer combination were classified in subheading 8450.11.0080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Household- or laundry-type washing machines, including machines which both wash and dry; parts thereof: Machines, each of a dry linen capacity not exceeding 10kg: Fully automatic machines . . . , Other: Other." Three front load dryers were classified in subheading 8451.21.0090, HTSUS, which provides for "Machinery (other than machines of heading 8450) for washing, cleaning . . . drying . . . textile yarns, fabrics or made up textile articles . . . : Drying machines: each of a dry linen capacity not exceeding 10 kg."

In your request for reconsideration, you have provided additional information regarding the performance of the washers, dryers and washer/dryer as measured by the International Electrochemical Association (IEC) standards 60456 and 61126. In accordance with your request for reconsideration of NY M85993, CBP has reviewed the classification of these items and has determined that the cited ruling is in error.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed action was published on August 28, 2008, in Volume 42, Number 36, of the Customs Bulletin. CBP received no comments in response to the notice

## FACTS:

The merchandise at issue consists of front load washing machines, identified as model numbers WM2688H and WM0642HW, a front load combination washer/dryer identified as model number WM3677HW and three front load dryers, identified as model numbers DLE5977, DLE0442W and DLE8377. Model number WM2688H measures 27 inches by 39 inches by 29.75 inches and has a tub volume of 4.0 cubic feet. Submitted performance testing of the model number WM2688H in accordance with the IEC standard 60456 indicates that the performance ratio<sup>3</sup> of a 9.0 kg load of linens averages .86% while a 10.5 kg load of linens averages .88%. Model number WM0642HW measures 27 inches by 44 inches by 29.5 inches and has a tub volume of 3.83 cubic feet. Submitted performance testing of model number WM0642HW in accordance with the IEC standard 60456 indicates that the performance ratio of a 9.0 kg load of linens averages .88% while a 10.4 kg load of linens averages .89%. Model number WM3677HW measures 27 inches by 38 11/16 inches by 29.75 inches and has a tub volume of 3.72 cubic feet. Submitted performance testing of model number WM3677HW in accordance with the IEC standard 60456 indicates that the performance ratio of a 9.0 kg load of linens averages .88% while a 10.1 kg load of linens averages .89%.

Model number DLE5977 measures 27 inches by 39 inches by 29 15/16 inches and has a tub volume of 7.3 cubic feet. Submitted performance testing of model number DLE5977 in accordance with the IEC standard 61126 indicates that the drying time<sup>4</sup> of a 9.0 kg load of linens averages 68 minutes while a 10.5 kg load of linens averages 72 minutes. Model number DLE0442W measures 27 inches by 42.75 inches by 28.33 inches and has a tub volume of 7.3 cubic feet. Submitted performance testing of model number DLE0442W in accordance with the IEC standard 61126 indicates that the drying time of a 9.0 kg load of linens averages 69 minutes while a 10.5 kg load of linens averages 73 minutes. Model number DLE8377 measures 27 inches by 39 inches by 28.33 inches and has a tub volume of 7.3 cubic feet. Submitted performance testing of model number DLE8377 in accordance with the IEC standard 61126 indicates that the drying time of a 9.0 kg load of linens averages 68 minutes while a 10.5 kg load of linens averages 72 minutes.

## ISSUE:

Whether the washing machines and washer/dryer combination are classified in subheading 8450.11.0080, HTSUS, as machines of a dry linen capacity not exceeding 10kg or in subheading 8450.20.0090, HTSUS, as machines of a dry linen capacity exceeding 10kg.

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<sup>3</sup>The performance ratio is determined by dividing the average sum of the soiling values (typical soil removal performance) for each of the four soiling types (carbon black/mineral oil, blood, chocolate and milk and red wine) for the washing machine under test and the reference washing machine.

<sup>4</sup>The drying time is determined by multiplying the measured program time by the nominal initial moisture content less the nominal final moisture content multiplied by the rated capacity divided by the actual moisture content less the actual final moisture content of the test load multiplied by the conditioned mass of the test load the for the dryer under test and the reference dryer.

Whether the drying machines are classified in subheading 8451.21.0090, HTSUS, as machines of a dry linen capacity not exceeding 10 kg or in subheading 8451.29.0090, HTSUS, as an other drying machine.

**LAW AND ANALYSIS:**

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

The Harmonized Commodity Description and Coding System Explanatory Notes (EN), constitute the official interpretation 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 the headings. It is Customs and Border Protection (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Heading 8450, HTSUS, provides in relevant part:

8450: Household- or laundry-type washing machines, including machines which both wash and dry; parts thereof:

Machines, each of a dry linen capacity not exceeding 10 kg:

8450.11.00	Fully automatic machines . . . . .
8450.12.00	Other machines with built-in centrifugal dryer . . . . .
8450.19.00	Other . . . . .
8450.20.00	Machines, each of a dry linen capacity exceeding 10 kg . . . . .

Heading 8451, HTSUS, provides in relevant part:

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

Drying machines:

8451.21.00	Each of a dry linen capacity not exceeding 10 kg . . . . .
8451.21.0010	Coin operated . . . . .
8451.21.90	Other . . . . .
8451.29.00	Other . . . . .
8451.29.0020	For drying made up articles . . . . .
8451.29.0090	Other . . . . .

The term "dry linen capacity" is neither defined in the HTSUS nor the EN's. Where not defined in a legal note under the HTSUS or clearly de-

scribed in the ENs, tariff terms are construed in accordance with their common and commercial meanings which are presumed to be the same. Nippon Kogaku (USA), Inc. v. United States, 69 CCPA 89, 673 F.2d 380 (1982). Common and commercial meaning may be determined by consulting dictionaries, lexicons, scientific authorities and other reliable sources. C.J. Tower & Sons v. United States, 69 CCPA 128, 673 F.2d 1268 (1982).

The International Electrochemical Association (IEC), a global organization that prepares and publishes international standards for all electrical, electronic and related technologies which serve as a basis for national standardization, utilizes a standard referred to as "rated capacity." See IEC standards 60456 and 61121. "Rated capacity" is defined as the "maximum mass of dry textiles which the manufacturer declares can be treated in a specific programme." See IEC 60456. IEC 61121 defines "rated capacity" as the "mass in kg of dry textiles of a particular defined type, which the manufacturer declares can be treated in a specific programme."

Further, we have reviewed several Binding Tariff Information letters issued by various member states of the European Union (EU) and note that the washing machines' "dry linen capacity" is expressed as the maximum amount of textiles that can be cleaned in all operations by the washing machine.

In an effort to achieve uniformity in the interpretation of the Harmonized System (HS) at the international level, CBP regards rulings from other countries that classify identical or substantially similar merchandise as instructive. However, such rulings do not constitute the official interpretation of the HS. For this and other reasons, these rulings shall not be treated as dispositive and CBP is not bound by them. Nevertheless, while neither legally binding nor dispositive, they may provide a commentary on the scope of the term at issue. Accordingly, we are of the opinion that the term "dry linen capacity" is synonymous with "rated capacity" as defined by the IEC. Further, we are applying IEC standards 60456 and 61121 as the means by which "dry linen capacity" should be determined.

IEC standards 60456 and 61121 section 7 state that a washing machine with a rated capacity of 10kg shall consist of a base load (textile load without strips of standardized soiling) of 3 sheets and 22 pillowcases. The sheets and pillowcases are required to meet specific values also identified in section 7 of IEC standard 60456. Further, IEC standards 60456 and 61121 section 9 set forth the performance testing to be completed on a test (i.e., base) load of the specified rated capacity.

You have submitted performance tests you conducted in accordance with the IEC standard 60456 and 61121 that demonstrated that the washing machines, washer/dryer combination and drying machines were able to meet the standards of the IEC standard 60456 and 61121 performance test using 10.1, 10.4 or 10.5 kg loads of linens with marginal impact on performance results. Specifically, model number WM2688H yielded a performance ratio of .86% with a 9.0 kg load of linens and a performance ratio of .88% with a 10.5 kg load of linens. Model number WM0642HW with a 9.0 kg load of linens yielded a performance ratio of .88% while a 10.4 kg load of linens yielded a performance ratio of .89%. Model number WM3677HW with a 9.0 kg load of linens yielded a performance ratio of .88% and a performance ratio of .89% with a 10.1 kg load of linens. Dryer model DLE5977 with a 9.0 kg load of linens yielded a drying time of 68 minutes and a drying time of 72 minutes with a 10.5 kg load of linens. Dryer model DLE0442W with a 9.0 kg

load of linens yielded a drying time of 69 minutes and a drying time of 73 minutes with a 10.5 kg load of linens. Dryer model DLE8377 with a 9.0 kg load of linens yielded a drying time of 68 minutes and a drying time of 72 minutes with a 10.5 kg load of linens. Based on the negligible differences of performance ratios for the two different loads, we conclude that the washing machines and dryer have a dry linen capacity greater than 10.5 kg.

**HOLDING:**

The washing machines, model numbers WM2688H and WM0642HW, and washer/dryer combination, model number WM3677HW, are classified in heading 8450, HTSUS. They are specifically provided for in subheading 8450.20.0090 HTSUS, which provides for "Household- or laundry-type washing machines, including machines which both wash and dry; parts thereof: Machines, each of a dry linen capacity exceeding 10kg . . . Other." The column one, general rate of duty is 1% *ad valorem*.

The drying machines, model numbers DLE 5977, DLE0442W and DLE8377, are classified in heading 8451, HTSUS. They are provided for in subheading 8451.29.0090, HTSUS, which provides for "Machinery (other than machines of heading 8450) for washing, cleaning, wringing, drying, ironing, pressing (including fusing presses), bleaching, dyeing, dressing, finishing, coating or impregnating textile yarns, fabrics or made up textile articles and machines for applying the paste to the base fabric or other support used in the manufacture of floor coverings such as linoleum; machines for reeling, unreeling, folding, cutting or pinking textile fabrics; parts thereof: Drying machines: Other . . . Other." The general column one rate of duty is 2.6% *ad valorem*.

**EFFECT ON OTHER RULINGS:**

NY M85993, dated August 28, 2006, is hereby revoked.

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

Gail A. Hamill for MYLES B. HARMON,  
*Acting Executive Director,  
Office of Regulations and Rulings,  
Office of International Trade.*

**REVOCATION OF ONE RULING LETTER, MODIFICATION  
OF ONE RULING LETTER AND REVOCATION OF  
TREATMENT RELATING TO THE CLASSIFICATION OF A  
CERTAIN SATELLITE RADIO "BOOMBOX" AND CERTAIN  
OTHER SATELLITE RADIO RECEIVER DOCKING  
STATIONS**

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

ACTION: Notice of revocation of one ruling letter, modification of one ruling letter, and revocation of treatment relating to the classification of a certain satellite radio "boombox" and certain other satellite radio receiver docking stations.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking one ruling letter and modifying one ruling letter relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of a certain satellite radio boombox and certain satellite radio receiver docking stations. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after February 16, 2009.

**FOR FURTHER INFORMATION CONTACT:** Heather K. Pinnock, Tariff Classification and Marking Branch, at (202) 325–0034.

**SUPPLEMENTARY INFORMATION:**

### **BACKGROUND**

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI, a notice was published on August 28, 2008, in the *Customs Bulletin*, Volume 42, Number 36, proposing to revoke one ruling letter relating to the tariff classification of a certain satellite radio boombox and to modify

one ruling letter relating to the tariff classification of certain satellite radio receiver docking stations. Two comments were received in response to the notice. Based on the arguments presented in one of those comments, CBP has changed its position on the classification of the boombox, including the applicable legal basis, as well as on the legal basis for the classification of the docking stations. These changes are reflected in the decisions set forth as attachments to this notice. As stated in the proposed notice, this action covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during this notice period.

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

In our previous notice, CBP proposed that a certain satellite radio boombox with loudspeakers and an antenna was properly classified in subheading 8518.22.00, HTSUS, which provides for, *inter alia*: "[L]oudspeakers, whether or not mounted in their enclosures; . . . : Loudspeakers, whether or not mounted in their enclosures: Multiple loudspeakers, mounted in the same enclosure," pursuant to a GRI 3(b) analysis. Based on a comment we received, we have reconsidered our position on classification. It is now our position that the correct classification of the boombox is in subheading 8529.10.90, which provides for: "Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528: Antennas and antenna reflectors of all kinds; parts suitable for use therewith: Other", pursuant to GIR 1 and Note 3 to Section XVI. The boombox, when imported as a "kit", is classified in the subheading 8529.10.90, HTSUS, by application of GRI 1 (Note 3 to Section XVI) and 3(b).

In our previous notice, we proposed that certain satellite radio receiver docking stations with an antenna and power adapter were properly classified in subheading 8529.10.90, HTSUS, which provides for: "Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528: Antennas and antenna reflectors of all kinds; . . . : Other: Other," pursuant to a GRI 3(b) analysis. It is

now our position that the docking stations are classified in subheading 8529.10.90, HTSUS, by application of GRI 1 and Note 3 to Section XVI, HTSUS.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY M80558 and modifying NY J89049 and any other ruling not specifically identified that is contrary to the determination set forth in this notice to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letters (HQ) H003733 (Attachment A) and HQ H008626 (Attachment B). Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions that are contrary to the determination set forth in this notice.

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

DATED: November 28, 2008

Gail A. Hamill for MYLES B. HARMON,  
*Acting Executive Director,  
Office of Regulations and Rulings,  
Office of International Trade.*

Attachments

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[ATTACHMENT A]

**HQ H003733**  
November 28, 2008  
**CLA-2 OT:RR:CTF:TCM H003733 HkP**  
**CATEGORY:** Classification  
**TARIFF NO.:** 8529.10.90

NANCY A. FISCHER, ESQ.  
ADA Loo, ESQ.  
PILLSBURY WINTHROP SHAW PITTMAN LLP  
2300 N Street, NW  
Washington, D.C. 20037-1128

**RE:** Revocation of NY M80558; XM PAL/Rocky Boombox

DEAR MS. FISCHER AND MS. LOO:

This is in response to your letter of November 20, 2006, in which you requested reconsideration of New York Ruling Letter ("NY") M80558, issued to you on March 28, 2006, on behalf of your client, XM Radio Satellite, Inc. ("XM"). At issue in that ruling was the classification of the PAL/Rocky Convertible Boombox™ ("Boombox") docking station under the Harmonized Tariff Schedule of the United States ("HTSUS"). In NY M80558, CBP classified the docking station under heading 8543, HTSUS, as electrical machines and apparatus, having individual functions, not specified or included elsewhere in Chapter 85. For the reasons set forth below, we hereby revoke NY M80558.

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 was published on August 28, 2008, in the *Customs Bulletin*, Volume 42, Number 36. One comment was received from your firm in response to this notice regarding the proposed revocation of NY M80558. A discussion of the comment and CBP's reasoning is found in the "Law and Analysis" section below.

**FACTS:**

The merchandise at issue, in its imported condition, consists of a package for retail sale containing the Boombox and an associated wireless remote control unit. The Boombox is a portable, waterproof device with the following features:

1. A docking station specifically designed to cradle an XM PAL or Rocky receiver.
2. A satellite radio antenna for receiving satellite radio transmissions from the ether.
3. Two loudspeakers, audio amplification capability and volume control.
4. A headphone jack for connecting headphone speakers.
5. A power source (batteries or an attached power cord).

The Boombox is imported packaged together with a wireless remote control (collectively, the "Boombox kit"). The XM PAL or Rocky receiver is not imported with the Boombox.

You have told us that the Boombox's antenna receives radio waves broadcast over the ether by XM's satellites and terrestrial repeaters and converts those radio waves into a small electric current, that is, a radiofrequency ("RF") signal. When a receiver is inserted into the Boombox the RF signal produced by the antenna passes to the receiver through the antenna module located inside the receiver. That signal is then selected, amplified, detected and recorded and ultimately heard through the speakers as XM programming.

U.S. Customs and Border Protection ("CBP") previously classified the Boombox as "other" electrical machines and apparatus not specified or included elsewhere, in subheading 8543.89.9695,<sup>5</sup> HTSUSA. We note that pursuant to the 2007 changes to the HTSUS, the goods of subheading 8543.89.96, HTSUS, have been transferred to subheading 8543.70.96, HTSUS, among other subheadings. It is your belief that the proper classification of this merchandise is under heading 8529, HTSUS, as a part suitable for use solely or principally with satellite radio receivers. In addition, you state that the Boombox with wireless remote is a set for classification purposes and that the Boombox imparts the essential character of the set.

**ISSUE:**

What is the correct classification of the Boombox under the HTSUS?

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<sup>5</sup> We note that subheading 8543.89.9695, HTSUSA, does not exist in the 2006 version of the tariff; the article description provided in NY M80558 corresponds to subheading 8543.89.9795, HTSUSA (2006).

**LAW AND ANALYSIS:**

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

The 2008 HTSUS provisions under consideration are as follows:

**8504** Electrical transformers, static converters (for example, rectifiers) and inductors; parts thereof:

8504.40 Static converters:

8504.40.95 Other . . . . .

**8518** Microphones and stands therefore; loudspeakers, whether or not mounted in their enclosures; headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers; audio-frequency electric amplifiers; electric sound amplifier sets; parts thereof:

Loudspeakers, whether or not mounted in their enclosures:

8518.22.00 Multiple loudspeakers, mounted in the same enclosure . . . . .

**8529** Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528:

8529.10 Antennas and antenna reflectors of all kinds; parts suitable for use therewith:

8529.10.90 Other . . . . .

**8543** Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof:

8543.70 Other machines and apparatus:

Other:

Other:

8543.70.96 Other . . . . .

The Harmonized Commodity Description and Coding System Explanatory Notes ("ENs") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80, 54 Fed. Reg. 35127 (Aug. 23, 1989).

You contend that the Boombox qualifies as a part suitable for use with the XM PAL and Rocky satellite radio receivers because it is directly related to the satellite receivers and is dedicated solely for use with these receivers. CBP previously found that the Boombox was an accessory rather than a part because the receivers do not need the Boombox to operate. In doing so, you

claim that CBP failed to apply relevant court precedents when classifying the merchandise at issue.

In our proposed ruling, we stated that the courts have considered the nature of “parts” under the HTSUS and two distinct though not inconsistent tests have resulted. (See Bauerhin Technologies Limited Partnership, & John V. Carr & Son, Inc. v. United States, (“Bauerhin”) 110 F.3d 774 (“We conclude that these cases are not inconsistent and must be read together.” At 779)). The first, articulated in United States v. Willoughby Camera Stores, (“Willoughby Camera”) 21 C.C.P.A. 322 (1933) requires a determination of whether the imported item is “an integral, constituent, or component part, without which the article to which it is to be joined, could not function as such article.” At 324. The second test of whether an article is a part is applied to imported articles dedicated to a specific use and “must be determined from the nature of the article as it is applied to that use.” United States v. Pompeo, (“Pompeo”) 43 C.C.P.A. 9, 14 (1955). Explaining further and using the reasoning in United States v. Carl Zeiss, Inc., 24 C.C.P.A. (Customs) 145, T.D. 48624, (concerning the classification of view finders for cameras) as an example, the court in Pompeo noted that, “[t]he court did not consider whether the involved finders were parts of cameras *in vacuo*, but whether they were parts of cameras when they were applied to their intended use on the cameras.”

We also stated that we did not dispute that the subject merchandise is dedicated solely for use with XM satellite receivers. However, after applying the test in Pompeo to this merchandise, we did not agree with your contention that the Boombox is a “part” of the satellite receivers because, we reasoned, whether or not the Boombox is applied to its specific use, the receivers still function as receivers. Instead, we found that the Boombox was an “accessory”, as that term is defined in Rollerblade, Inc., v. United States, 116 F. Supp. 2d 1247, (citations omitted) (Ct. Int’l Trade 2000) because it is “of or to another thing” (internal quotation marks omitted), at 1253, cited with approval in Rollerblade, Inc., v. United States (“Rollerblade”), 282 F.3d 1349, 1351 (Fed. Cir. 2002). As heading 8529, HTSUS, does not provide for accessories, we found that classification of the Boombox under that heading was precluded.

In the comment submitted, it was argued that both Willoughby Camera and Pompeo have been superseded by the Court of Appeals for the Federal Circuit’s decisions in Bauerhin and Rollerblade. In light of this comment, we reviewed both these cases again. We now conclude that we erred when we proposed to apply this line of cases to the good at issue because these cases do not concern the classification of composite machines, as is the good in this case. Further, these cases do not provide any instruction on the classification of composite machines. In Bauerhin, the court considered whether a canopy was a part of a car seat. In Rollerblade, the court considered whether “protective gear” (including elbow pads, knee pads and wrist guards) were parts of or accessories to in-line skates. Because these cases are not instructive on the classification of composite machines, we will not address further the arguments made in the comment concerning these cases.

In our proposed ruling, we stated that the Boombox is a composite good, the essential character of which is imparted by the loudspeakers by virtue of their bulk, quantity, weight and value in relation to the other components. As such, we proposed classification under heading 8518, HTSUS, by virtue of a GRI 3 analysis. However, Note 3 to Section XVI provides:

Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed 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.

Note 5 to Section XVI provides, "For the purposes of these notes, the expression "machine" means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of chapter 84 or 85."

The Boombox consists of loudspeakers, classified under heading 8518, an antenna, classified under heading 8529, and a power supply, classified under heading 8504, HTSUS. Therefore, under the principle of GRI 1, by application of Notes 3 and 5 to Section XVI, the Boombox is a composite machine because it is two or more machines fitted together to form a whole. However, after considering the nature and function of the Boombox, we are unable to determine its principal function because the loudspeakers, antenna and power supply all perform important functions and all contribute to how the machine is used. The General EN to Section XVI provides, in relevant part:

**(VI) MULTI-FUNCTION MACHINES  
AND COMPOSITE MACHINES**

(Section Note 3)

Where it is not possible to determine the principal function, and where, as provided in Note 3 to the Section, the context does not otherwise require, it is necessary to apply General Interpretative Rule 3 (c); such is the case, for example, in respect of multi-function machines potentially classifiable in several of the headings 84.25 to 84.30, in several of the headings 84.58 to 84.63 or in several of the headings 84.69 to 84.72.

GRI 3(c) provides, "When goods cannot be classified by reference to GRI 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration." Accordingly, the Boombox is classified under heading 8529, HTSUS, as an antenna, by application of GRI 1 and Note 3 to Section XVI.

With regard to our previous classification of your merchandise in heading 8543, HTSUS, we note that because the Boombox is provided for in heading 8529, HTSUS, it cannot be classified under heading 8543. By the terms of heading 8543, HTSUS, electrical machines and apparatus that are provided for elsewhere in Chapter 85 are precluded from classification in heading 8543.

Finally, you argue that the Boombox kit should be classified under one HTSUS item. We agree. We find that the subject articles imported together are a set for classification purposes under GRI 3(b), which states that goods put up in sets for retail sale shall be classified as if they consisted of the material or component which gives them their essential character. The items are classifiable in different headings (the Boombox in heading 8529 and the remote controller in heading 8543), are "put up together" to enable a user to operate the Boombox by remote control, and are offered for sale directly to users without repacking. Consequently, the items may not be classified separately under their respective classifications. Furthermore, CBP finds that the item which imparts the essential character of this set is the

Boombox. It is the dominant component, by use and cost in relation to the other constituent components of the set. It is also the reason why a consumer would purchase the set.

**HOLDING:**

By application of GRI 1 (Note 3 to Section XVI) and 3(b), the Boombox kit is classified under heading 8529, HTSUS. It is specifically provided for in subheading 8529.10.90, which provides for: "Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528: Antennas and antenna reflectors of all kinds; parts suitable for use therewith: Other." The column one, general rate of duty is 3% *ad valorem*. If imported separately, the Boombox would be classified in subheading 8529.10.90, HTSUS, by application of GRI 1 and Note 3 to Section XVI.

**EFFECT ON OTHER RULINGS:**

NY M80558 is hereby revoked. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

Gail A. Hamill for MYLES B. HARMON,  
*Acting Executive Director,  
Office of Regulations and Rulings,  
Office of International Trade.*

[ATTACHMENT B]

**HQ H008626**  
**November 28, 2008**  
**CLA-2 OT:RR:CTF:TCM H008626 HkP**  
**CATEGORY:** Classification  
**TARIFF NO.:** 8529.10.90

MR. PATRICK E. MOFFETT  
AUDIOVOX CORPORATION  
150 Marcus Blvd.  
Hauppauge, NY 11788

**RE:** XM satellite radio devices from Korea; Modification of NY J89049

DEAR MR. MOFFETT:

This is in reference to New York Ruling Letter ("NY") J89049, issued to you on November 4, 2003, concerning the classification of certain XM satellite radio devices, the SIR-CK2 and SIR-HK1 docking stations, under the Harmonized Tariff Schedule of the United States ("HTSUS"). In that ruling, CBP classified the docking stations under heading 8543, HTSUS, as electrical machines and apparatus, having individual functions, not specified or included elsewhere in Chapter 85. We have determined that the tariff classification of these items is incorrect. For the reasons set forth below, we are modifying NY J89049.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed modification was published on August 28, 2008, in the Customs Bulletin, Vol. 42, No. 36. One comment

on behalf of your corporation was received in response to this notice. A discussion of the comment and CBP's response is found in the "Effect on Other Rulings" section below because the comment does not relate to the reclassification of the docking stations.

**FACTS:**

In NY J89049 the merchandise at issue was described as follows:

SIR-CK2 is a docking station designed for use with the SIR-PNP1. It employs a power adapter, a roof mounted antenna, mounting bracket and an RCA cable. The device provides power for the SIR-PNP1 as well as receiving the analog signal from it through interconnecting pins. It further transmits that signal through the RCA cable directly to the radiobroadcast receiver. It can only transmit via the cable.

SIR-HK1 is a docking station for the SIR-PNP1. It employs an AC power adapter, antenna and RCA cable. This device provides power for the SIR-PNP1, receives the signal from through interconnecting pins and transmits that signal via the RCA cable to the radiobroadcast receiver within the automobile.

U.S. Customs and Border Protection ("CBP") previously classified these docking stations in subheading 8543.89.9695, HTSUSA. We note that pursuant to the 2007 changes to the HTSUS, the goods of subheading 8543.89.96 have been transferred to subheading 8543.70.96, HTSUS, among other subheadings.

**ISSUE:**

What is the correct classification of the XM docking stations under the HTSUS?

**LAW AND ANALYSIS:**

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

The 2008 HTSUS provisions under consideration are as follows:

- 8504** Electrical transformers, static converters (for example, rectifiers) and inductors; parts thereof:
- 8504.40 Static converters:
- 8504.40.95 Other . . . . .
- 8529** Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528:
- 8529.10 Antennas and antenna reflectors of all kinds; parts suitable for use therewith:
- 8529.10.90 Other . . . . .
- 8543** Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof:

8543.70 Other machines and apparatus:

Other:

Other:

8543.70.96 Other . . . . .

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89–80, 54 Fed. Reg. 35127 (Aug. 23, 1989).

In our proposed ruling we stated that the docking stations are composite goods, the essential character of which is imparted by their antennas by virtue of their value and role in relation to the power supply. As such, we proposed classification under heading 8529, HTSUS, by virtue of a GRI 3(b) analysis. However, Note 3 to Section XVI, HTSUS, provides:

Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed 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.

Note 5 to Section XVI, HTSUS, provides, “For the purposes of these notes, the expression “machine” means any machine, machinery, plant, equipment, apparatus or appliance cited in the headings of chapter 84 or 85.”

The docking stations consist of an antenna, classified under heading 8529, HTSUS, and a power supply, classified under heading 8504, HTSUS. Therefore, under the principle of GRI 1, by application of Notes 3 and 5 to Section XVI, the docking stations are composite machines because they are two or more machines fitted together to form a whole. However, after considering the nature and function of the docking stations, we are unable to determine their principal function because the antenna and power supply both perform important functions and contribute to how the machines are used. The General EN to Section XVI provides, in relevant part:

**(VI) MULTI-FUNCTION MACHINES  
AND COMPOSITE MACHINES**

(Section Note 3)

Where it is not possible to determine the principal function, and where, as provided in Note 3 to the Section, the context does not otherwise require, it is necessary to apply General Interpretative Rule 3 (c); such is the case, for example, in respect of multi-function machines potentially classifiable in several of the headings 84.25 to 84.30, in several of the headings 84.58 to 84.63 or in several of the headings 84.69 to 84.72.

GRI 3(c) provides, “When goods cannot be classified by reference to GRI 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.” Accordingly, the docking stations are classified under heading 8529, HTSUS, as antennas. Further, we find that the docking stations are precluded from classifica-

tion under heading 8543, HTSUS, by the terms of that heading because they are provided for elsewhere in Chapter 85 of the tariff.

**HOLDING:**

By application of GRI 1 and Note 3 to Section XVI, we find that the docking stations identified as SIR-CK2 and SIR-HK1 are classified under heading 8529, HTSUS. They are specifically provided for in subheading 8529.10.90, HTSUS, which provides for: "Parts suitable for use solely or principally with the apparatus of heading 8525 to 8528: Antennas and antenna reflectors of all kinds, parts suitable for use therewith: Other." The 2008 column one, general rate of duty is 3% *ad valorem*.

**EFFECT ON OTHER RULINGS:**

In our proposed ruling we stated that NY J89049, dated November 4, 2003, would be modified with respect to the classification of the SIR-CK2 and SIR-HK1 docking stations and that the classification of the other items described therein would remain unchanged. In the comment we received it was stated that one of the products in NY J89049, the SIR-PNP1 satellite radio receiver/tuner, was subsequently reclassified by CBP in NY K87747, dated June 20, 2004.

We find that the classification decision in NY K87747 regarding the SIR-PNP1 satellite radio receiver/tuner is without effect. This is because rulings which have been in effect for at least 60 days may only be modified in accordance with the provisions of 19 U.S.C. § 1625(c), which require that notice of the proposed action be published in the Customs Bulletin and that the public be allowed to comment on the proposed action for a period of at least 30 days. This procedure was not followed with respect to the purported reclassification of the SIR-PNP1 receiver/tuner. The original classification decision was effective on November 4, 2003, (NY J89049) and the purported reclassification was attempted on June 20, 2004 (NY K87747), more than 60 days later. NY K87747 and NY J89049 will both be subject to modification as they concern the classification of the SIR-PNP1 receiver/tuner.

Accordingly, NY J89049, dated November 4, 2003, is hereby modified with respect to the classification of the SIR-CK2 and SIR-HK1 docking stations. The classification of the other items described therein is unchanged. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

Gail A. Hamill for MYLES B. HARMON,  
*Acting Executive Director,  
Office of Regulations and Rulings,  
Office of International Trade.*