

U.S. Customs and Border Protection



19 CFR PART 177

REVOCATION OF TWO RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE INSTRUMENT OF INTERNATIONAL TRAFFIC DESIGNATION OF CERTAIN PLASTIC GARMENT HANGERS

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

ACTION: Notice of revocation of two ruling letters and revocation of treatment relating to the instrument of international traffic (“IIT”) designation of certain plastic garment hangers.

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 two ruling letters concerning the duty and entry-free treatment of certain plastic garment hangers as instruments of international traffic. Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 53, No. 13, on May 1, 2019. Three comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after September 23, 2019.

FOR FURTHER INFORMATION CONTACT: Austen Walsh, Cargo Security, Carriers, and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, at (202) 325–0030.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obli-

gation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public 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 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 53, No. 13, on May 1, 2019, proposing to revoke one ruling letter pertaining to the IIT designation of certain plastic garment hangers. 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 comment period. During the comment period, we became aware of Headquarters Ruling Letter ("HQ") H079697, dated October 26, 2009, designating substantially similar plastic garment hangers as IITs, and include its revocation here.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), 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 comment 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 subsequent to the effective date of this notice.

In HQ H058876, dated May 14, 2009, and HQ H079697, dated October 26, 2009, CBP designated certain plastic garment hangers as instruments of international traffic pursuant to 19 U.S.C. § 1322 and 19 C.F.R. § 10.41a, which enables the items to be released without entry or the payment of duty. In order to qualify as an IIT pursuant to 19 U.S.C. § 1322(a) and 19 C.F.R. § 10.41a(a)(1), CBP has traditionally held that an article must be: used as a container or holder in international traffic, substantial, suitable for and capable of repeated use, and used in significant numbers in international traffic. CBP has reviewed its prior rulings and determined these ruling letters to be in error. It is now CBP's position that plastic garment hangers cannot be granted IIT status when they are not used to physically suspend garments during transportation in international traffic. The final revocation does not foreclose the possibility that CBP will grant IIT

status to certain plastic garment hangers in response to future ruling requests that satisfy this analysis, however.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking HQ H058876 and HQ H079697, and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H300587, set forth as an attachment to this notice. 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: July 5, 2019

CRAIG T. CLARK
Director
Border Security and
Trade Compliance Division

Attachment

ATTACHMENT

HQ H300587

July 5, 2019

OT:RR:BSTC:CCR H300587 AMW

CATEGORY: Carriers

MS. LYNNE W. WENDT, ESQUIRE
WENDT & TEMPLES, LLC
401 WESTPARK COURT
PEACHTREE CITY, GEORGIA 30269

RE: Instruments of International Traffic; 19 U.S.C. § 1322(a); 19 C.F.R. § 10.41a; Subheading 9803.00.50, HTSUS; Plastic Garment Hangers; Revocation of HQ H058876 (May 14, 2009) and HQ H079697 (Oct. 26, 2009)

DEAR MS. WENDT:

This is in response to your correspondence, dated August 22, 2018, and follow-up information submitted on September 30, 2018, on behalf of Braiform Enterprises, LLC (“Braiform”). In your submission, you requested a ruling regarding whether certain styles of plastic garment hangers qualify as “instruments of international traffic” (“IITs”) within the meaning of 19 U.S.C. § 1322(a) and 19 C.F.R. § 10.41a and may be released without entry or the payment of duty. Our ruling is set forth below.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI, a notice was published in the *Customs Bulletin*, Vol. 53, No. 13, on May 1, 2019, proposing to revoke HQ H058876, dated May 14, 2009, and any treatment accorded to substantially similar transactions. One comment supporting the proposed action and two comments opposing the proposed action were received. A discussion of the comments and CBP’s reasoning are found in the “Law and Analysis” section below.

FACTS:

Braiform is a producer and provider of hanging and packaging solutions to garment manufacturers and retailers. U.S. Customs and Border Protection (“CBP”) has previously designated 40 different styles of Braiform plastic garment hangers as IITs. *See* HQ H058876 (May 14, 2009). You have requested that CBP issue an IIT designation for approximately 40 new hanger styles, which are designed to “enhance functionality, garment retention and retail display.”

Each of the subject hangers is made of Polypropylene or Polystyrene plastic and consists of a molded, one-piece construction. The subject styles include hangers of various sizes for children and adults. The styles include hangers for tops, bottoms, and intimate garments. Many of the hangers have recessed spaces on their hooks intended to carry a size cap. Most styles possess plastic hooks, although your request also includes several modular hangers without hooks, which attach to hangers with hooks to combine multiple garments. You have provided a complete list of the subject hangers, including product identification numbers, descriptions, and photographs. You have also provided samples of several of the hangers and technical specifications for the remaining hangers.

Your submission indicates that the primary purpose of the subject hangers is to display garments in a retail setting:

Braiform clients set high standards for the hangers in the program as the quality of the hanger is the most significant impact on the presentation of the garments to the customer. Garments must stay on the hangers while they are being displayed, and the hangers must hold the garment in such a way that it can be fully viewed by the customer. The hangers must also have an attractive design.

You state that the subject hangers will be used exclusively by [] (“Retailer”) and will join Braiform’s existing closed-loop hanger “Re-Use Program.”¹ Under this program, Braiform sells hangers to Retailer’s foreign manufacturers, who place garments on the hangers and fold the combined garments and hangers into cartons for shipment. The garments on hangers are then sold to Retailer and are transported to the United States. After arriving in the United States, the garments on hangers are distributed to Retailer’s stores, where they are hung for display. After the garments are sold, Retailer employees retain the hangers and place them into a collection box. The hanger collection boxes are taken to a central site where the hangers are loaded into a larger box called the “Hanger Big Box” (“HBB”). The HBBs are transported to a Braiform facility for re-use processing, which includes sorting, inspection, and removal of damaged hangers. You state that Retailer returns approximately 80% of its hangers for reuse.

Below are images you provided that depict how the garments on hangers typically arrive at Retailer’s locations in the United States. As shown in the pictures, the garments and hangers are combined, folded, and flat packed into a cardboard carton and are either placed without support or anchored to the cardboard box via a loop embedded into the side of the box.



ISSUE:

Whether the subject plastic garment hangers are instruments of international traffic pursuant to 19 U.S.C. § 1322(a) and 19 C.F.R. § 10.41a.

¹ You have asked this office for confidential treatment of the name of Braiform’s customer. If this office receives a Freedom of Information Act request for your submission, CBP Regulations (19 C.F.R. § 103.35, *et seq.*) regarding the disclosure of business information provide that the submitter of business information will be advised of receipt of a request for such information whenever the business submitter has in good faith designated the information as commercially or financially sensitive information. We accept your request for confidential treatment as a good faith request.

LAW AND ANALYSIS:

Pursuant to 19 U.S.C. § 1322(a), “[v]ehicles and other instruments of international traffic...shall be excepted from the application of the customs laws to such extent and subject to such terms and conditions as may be prescribed in regulations....” The relevant CBP regulations implementing this statute are found at 19 C.F.R. § 10.41a, which authorizes the CBP Commissioner to designate as IITs such additional articles not specifically noted in that section. Once designated as such, an IIT may be released without entry or payment of duty.

Subheading 9803.00.50, Harmonized Tariff Schedule of the United States (“HTSUS”) provides, in pertinent part, for the duty free treatment of:

Substantial containers and holders, if products of the United States . . . , or if of foreign production and previously imported and duty (if any) thereon paid, or *if of a class specified by the Secretary of the Treasury*² as *instruments of international traffic*, repair components for containers of foreign production which are instruments of international traffic, and accessories and equipment for such containers, whether the accessories and equipment are imported with a container to be reexported separately or with another container, or imported separately to be reexported with a container . . . (footnote and emphasis supplied).

Subchapter III to Chapter 98 of the HTSUS only applies to:

- (a) Substantial containers or holders which are subject to tariff treatment as imported articles and are:
 - (i) Imported empty and not within the purview of a provision which specifically exempts them from duty; or
 - (ii) Imported containing or holding articles, and which are not of a kind normally sold therewith or are entered separately therefrom; and
- (b) Certain repair components, accessories and equipment.

See U.S. Note 1, *et seq.*, Subchapter III to Chapter 98, HTSUS.

CBP has held in its published rulings that in order to qualify as an IIT pursuant to 19 U.S.C. § 1322(a) and 19 C.F.R. § 10.41a(a)(1), an article must be used as a container or holder in international traffic. See 19 C.F.R. 10.41a (“in use or to be used in the shipment of merchandise in international traffic”); see also, *e.g.*, HQ H016491 (Oct. 1, 2007); HQ 114150 (Dec. 12, 1997); and HQ 107545 (May 7, 1985). Next, the article must be substantial, suitable for and capable of repeated use, and used in significant numbers in international traffic. See, *e.g.*, HQ H016491 (Oct. 1, 2007); HQ 114150 (Dec. 12, 1997); HQ 107545 (May 7, 1985); Treas. Dec. 71–159, Cust. B. & Dec. 296 (June 18, 1971); 99 Treas. Dec. 533, No. 56247 (Aug. 26, 1964). CBP has interpreted “reuse” in this context to mean commercial shipping or transportation purposes, not incidental reuse. See, *e.g.*, HQ 116032 (Oct. 30, 2003) (incorporating the analysis of reuse as outlined with respect to General Headnote 6(b), TSUS in *Holly Stores, Inc. v. United States*, 697 F.2d 1387, 1388 (Fed. Cir. 1982), *aff’d* 534 F. Supp. 818 (Ct. Int’l Trade 1981)). We have, furthermore,

² This function has been delegated to the Commissioner of CBP pursuant to 31 U.S.C. § 321(b) and Treas. Dep’t Order 100–16 (May 15, 2003).

held that “repeated use” means “more than twice.” *See, e.g.*, HQ 108658 (Nov. 21, 1986).³ CBP has previously designated certain plastic garment hangers as IITs pursuant to this framework. *See* HQ H217477 (Dec. 11, 2012); HQ H183436 (Jan. 19, 2012); HQ H117917 (Oct. 13, 2010); HQ H079697 (Oct. 26, 2009); HQ H064655 (June 16, 2009); HQ H058876 (May 14, 2009); HQ H050604 (Mar. 18, 2009); HQ H042107 (Nov. 24, 2008); and HQ 115684 (Aug. 5, 2002).

Although no statutory or regulatory definition exists for the terms “holder” or “hanger” in the IIT context, we find that the plain meaning of the term “hanger” and prior precedent indicate that a garment hanger must physically suspend the underlying garment during transportation to satisfy the requirement that it act as a holder in international traffic. Merriam-Webster Dictionary, for example, defines “clothes hanger” as, “a curved piece of metal, plastic, or wood that is used for hanging clothing.”⁴ The word “hang,” in turn, is defined as follows: “to fasten to some elevated point without support from below.”⁵ As such, it is clear that a garment hanger must physically suspend (*i.e.*, hang) clothing in order to be used as a holder. As discussed in response to the comments below, we find that it is insufficient for a hanger to be horizontally affixed within a cardboard carton during transportation.

This determination is in line with prior CBP rulings. In HQ H282408 (Apr. 12, 2017) we found that metal locking fixtures attached to secure moving parts on modular assemblies during shipment, which are not attached to the pallet carrying the machine, are not IITs even where they protect the machine from shock and vibration during transportation. In doing so, we held that instead of “holding” the underlying machines, the locking fixtures “simply secure parts of the . . . machine to itself.” Similarly, even if unsecured plastic hangers are combined with the underlying garments to reinforce the garment’s form during transportation, the hangers merely secure the garment to itself, but serve no holding function. This also comports with our analysis in HQ H286142 (July 6, 2017) in which we declined to grant IIT status to “engine hooks” used to load engines on and off of steel engine racks for transportation, but did not attach to the racks in which the engines were transported, on the basis that such hooks “neither contain nor hold anything.”

The subject garment hangers cannot be classified as IITs because they do not hold the garments during transportation. According to your follow-up submission, manufacturers typically use Braiform’s hangers “to hang the garments, then packs [sic] the garments, mostly in cartons, for transport.” The photographs you provided further show that the subject hangers are combined with the corresponding garments and folded into cardboard boxes for shipment to Retailer’s stores.⁶ We also understand that the hangers are

³ Because this ruling analyzes Braiform’s application for IIT status on the basis below, we do not reach the question of whether the remaining IIT criteria are met (*i.e.*, whether the subject hangers are of durable construction, capable of repeated use, and used in significant numbers in international traffic).

⁴ <https://www.merriam-webster.com/dictionary/clothes%20hanger> (Oct. 5, 2018).

⁵ <https://www.merriam-webster.com/dictionary/hang> (Oct. 11, 2018).

⁶ We note here that, in a follow-up communication you stated that Retailer occasionally transports hanging garments in “garment on hanger” shipping containers, “but not often.” You provided no assertion that the subject hangers would be used to transport garments in this fashion.

periodically affixed to the inside of a carton via a rod or loop. Instead of being suspended by the subject hangers during transportation, the movement of the subject garments through international traffic is effected by the cartons into which they are placed, instead functioning more as packing material during transit. And, although your submission specifies that the subject hangers' design will improve the retail display of garments, you have provided no evidence that the hangers have been specially designed for use in hanging garments in international traffic. See HQ H266818 (May 23, 2016) ("The onus is on the importer to provide that evidence. For example, an importer could provide evidence that the hangers are made of durable molded plastic and are *specially designed by the manufacturer for international transit*") (emphasis added).

Finally, based on the additional information now supplied to us, it is clear that, as is the case with the subject hanger models, the Braiform hanger models previously designated as IITs in HQ H058876 (May 14, 2009) are also not used to contain or hold garments during shipment. In granting IIT status to these hangers, we described their role during transportation as follows: "the apparel is *hung* on the appropriate hangers for transportation to the U.S. After receipt in the U.S., the apparel is removed from its packaging while still *hanging* and moved to display racks on the retail floor." HQ H058876 (May 14, 2009) (emphasis added). Nevertheless, your follow-up submission indicates that the word "hang" as used in HQ H058876 imprecisely referred to the mere combination of hangers and garments. Instead of suspending garments during transportation, you state that the hangers are packed "mostly in cartons" for transportation. In addition, photographs you have provided clearly show Braiform's current IIT hangers being folded into boxes for transportation rather than being used to vertically suspend garments.

With regard to the three comments received by CBP, two commenters, including the original requestor, opposed the revocation of ruling HQ H058876. One commenter supported the revocation. One comment was received from the requester in HQ H079697 (Oct. 26, 2009), which identified the transaction in that ruling as substantially similar to the ruling revoked in HQ H058876; we therefore are revoking ruling HQ H079697 as well.

One commenter states that flat-packed garment hangers, whether anchored to the inside of a box or free-floating within the box, are IIT holders based on the plain meaning of the term. In doing so, the commenter provides several conflicting definitions for the term "hold," including: "to have or maintain in the grasp"; "to support in a particular position or keep from falling or moving"; or "to enclose and keep in a container or within bounds."⁷ We note that these definitions are not uniform, with some supporting the interpretation that a clothes hanger should be affixed vertically (*i.e.*, "to support in a particular position to keep from falling or moving"). As such, we interpret the term "hold" with reference to the form and function of other items defined or designated as IITs pursuant to 19 C.F.R. § 10.41a. This regulation specifically designates as IITs, "[l]ift vans, cargo vans, shipping tanks, skids, pallets, caul boards, and cores for textile fabrics, arriving (whether loaded or empty) in use or to be used in the shipment of merchandise in international traffic...." The items listed in 19 C.F.R. § 10.41a are all

⁷ <https://www.merriam-webster.com/dictionary/hold> (June 4, 2019).

intended for use in containing or holding merchandise during their movement through international traffic, with any related use as packing material or retail display being of ancillary importance. As such, to be used as a “holder” in the IIT context, we find that a clothes hanger must be used in accordance with its plain meaning (*i.e.*, to physically hang garments as outlined above) while transporting merchandise through international traffic.

In addition, two commenters cite *Holly Stores, Inc. v. United States*, 534 F. Supp. 818 (Ct. Int’l Trade 1981), *aff’d* 697 F.2d 1387, 1388 (Fed. Cir. 1982), to argue that the subject hangers function as holders even when used in a lay-flat position. Specifically, the commenters note that the U.S. Court of International Trade (“CIT”) decision refers to certain plastic hangers as “shipping holders,” including those combined with garments in a lay-flat position. *See Holly Stores*, 534 F. Supp. at 821. To begin with, we note that the *Holly Stores* decisions are not binding because neither the CIT nor the U.S. Court of Appeals for the Federal Circuit (“Federal Circuit”) considered whether plastic garment hangers qualified for IIT designation.⁸ Instead, both decisions analyzed whether certain garment hangers could be classified separately from the underlying garments under General Headnote 6(b), Tariff Schedule of the United States (“TSUS”). *See, Holly Stores*, 534 F. Supp. at 821. The CIT’s analysis of GRI 6(b), TSUS is also not dispositive because this provision has since been superseded by General Rule of Interpretation (“GRI”) 5(b), HTSUS, which relates to the separate classification of certain “packing materials and packing containers.” *See JVC Co. of Am. V. United States*, 234 F.3d 1348, 1355 (Fed. Cir. 2000) (citing H.R. Conf. Rep. No. 100–576, at 549–50 (1988)) (“in light of the significant number and nature of changes in nomenclature from the TSUS to the HTSUS, decisions by the Customs Service and the courts interpreting the TSUS are not deemed to be dispositive in interpreting the HTSUS”).

Even to the extent *Holly Stores* is relevant in interpreting GRI 5(b), this analysis is distinct from the present matter. GRI 5(b) specifies that “packing materials and packing containers” entered with the underlying product should be classified with that product so long as the packing containers and materials are “of a kind normally used for packing such goods” and are “not suitable for repetitive use.” However, the distinction between “packing” containers controlled by GRI 5(b) and IITs is a significant one. The term “packing” can be defined as “material (such as a covering or stuffing) used to protect packed goods (as for shipping).”⁹ In keeping with this definition, prior CBP rulings interpreting GRI 5(b) have largely related to products intended to be packed with the underlying merchandise, often into a cardboard box or another container, for the purpose of protecting merchandise in transit or at retail. *See, e.g.*, HQ 083436 (Dec. 22, 1989) (canvas cases used to hold personal weighing scales); HQ 086611 (May 17, 1990) (textile drawstring pouches used to protect liquor bottles); and HQ H81389 (June 4, 2001) (form-fitted leather zippered cases used to carry house slippers). In contrast, IIT designation, as outlined above, is typically reserved for items that

⁸ We also note that CBP has incorporated the standard for “commercial reuse” outlined in *Holly Stores* into IIT designations, but has not referenced the decisions in defining the term holder or container in the IIT context. *See, e.g.*, HQ H102988 (Apr. 29, 2010).

⁹ <https://www.merriam-webster.com/dictionary/packing> (June 10, 2019).

primarily operate to convey merchandise through international traffic, such as lift vans, cargo vans, shipping tanks, skids, pallets, caul boards, and cores for textile fabrics as outlined in 19 C.F.R. § 10.41a. In this context, it is clear that plastic garment hangers, when used in a lay-flat position, are more similar to packing material as contemplated under GRI 5(b) than instruments of international traffic outlined in 19 C.F.R. § 10.41a.

In addition, two commenters argue that the subject plastic garment hangers, when flat packed with the underlying garments, should be considered holders because they ostensibly protect garments from creasing and wrinkling during transportation. To support this assertion, the commenters again reference the CIT's non-dispositive decision in *Holly Stores*, in which the court found that certain flat-packed plastic hangers prevent the creasing and wrinkling of garments during transportation. *See Holly Stores*, 534 F. Supp. 818 at 826, fn. 11. Here, we note that consideration of an item's protective function is not a criterion for designation as an IIT holder, but is again more germane to the determination of whether an item represents packing materials or packing containers as controlled by GRI 5(b). *See, e.g.*, HQ H264893 (May 18, 2016) (discussing certain cardboard pallets as packing material where they "protect shoeboxes from being crushed during transport and display"). Further, as outlined above, prior CBP IIT rulings support the proposition that items used to stabilize or maintain merchandise during transportation do not automatically qualify for IIT designation where they provide no holding function. For instance, in HQ H282408, we found that metal locking fixtures attached to secure a machine to itself, but did not attach to the steel pallet carrying the machine, are not IITs even where they protect the machine from shock and vibration during transportation.

Furthermore, the CIT's decision in *Holly Stores* does not even support a finding that flat-packed hangers prevent creasing and wrinkling in all instances. The CIT's decision involves two classes of hangers: (1) plastic hangers flat packed in combination with light-weight garments such as blouses and tops, and (2) metal hangers covered in plastic used to physically hang items such as blazers, heavy coats, and suits in transit. *See Holly Stores*, 534 F. Supp. 818 at 821. Accordingly, the distinction between lighter garments flat packed with hangers and heavier garments that are hung vertically indicates that physical suspension is a more suitable method of preserving the form and function of many garments during transportation. CBP understands, furthermore, that the subject garment hangers, as well as those in the previously issued rulings, are not exclusively used to transport light garments such as tops and blouses. Instead, the subject ruling request and supplemental information indicate that the subject hangers will also be used in combination with a variety of heavier garments, including blue jeans, jackets, sweaters, and vests.

Two commenters state that hangers and garments are periodically affixed to the inside of a carton during transportation (*e.g.*, by operation of an internal rod or loop). The commenters argue that this arrangement provides protection from shifting or damage similar to the support provided if the garments were hung vertically from a pole or rope. First, CBP's review of apparel industry sources indicates that this is not uniformly true. One industry source notes, for example, that flat packing garments made from delicate fabrics, as opposed to hanging them vertically, "can cause crushing and creasing requiring reworking (pressing or steaming) before the retailer

can display them for sale.”¹⁰ In addition, granting IIT status to plastic garment hangers anchored inside a non-IIT cardboard box would be nearly impossible for CBP to administer as neither this comment nor the underlying request articulates which types of hanger/garment pairings are typically affixed horizontally during transportation or whether this practice varies between vendors.

One commenter also notes that, in some circumstances, garments may be hung vertically within cardboard boxing. This comment did not specify which type of garments this process is used for or when this might occur, however. As such, we find this comment is outside the scope of the present ruling.

One commenter also argues that plastic garment hangers are analogous to plastic spacers used to separate imported axle housings during shipment, which we granted IIT status in HQ 113999 (July 2, 1997), and paper “air bags” used to fill gaps between pallets, which we granted IIT status in HQ 112474 (Feb. 22, 1993). We find that these rulings are inapplicable in the present matter. Unlike the IIT locking fixtures analyzed in HQ H282408 or engine hooks discussed in HQ H286142, both of which we determined not to be holders, the axle housings and air bags act as holders by applying pressure between the merchandise and external objects (*i.e.*, pallets or other axles). In contrast, the photographs of the subject merchandise provided above show that the flat-packed garment hangers leave ample room for the garments to shift while in transit.

One commenter argues that by revoking HQ H058876, CBP will negatively affect importers of other IIT-designated merchandise. Specifically, the commenter asserts that CBP has long held that “not all IIT-designated merchandise must actually be ‘in use’ at the time of importation.” The commenter cites HQ H036108 (Aug. 27, 2008), in which CBP granted IIT designation to pallet boxes imported empty into the United States, claiming that CBP did not analyze whether the pallets were “carrying,” “holding,” or “supporting” items during international traffic. This is a misreading of HQ H036108. The ruling specifically states that, although the subject pallet boxes are imported empty, they are used to export automotive parts to Mexico, which is a clear use of the pallet boxes in international traffic. Indeed, it has long been CBP’s position that the term “international traffic,” as found in § 10.41a(a)(1), applies to a container or other such instrument brought empty into the United States for use in an exportation planned at or before the time of importation. *See* HQ H115672 (May 14, 2002).

One commenter identifies several additional rulings in which we classified plastic garment hangers as IITs and states that the subject companies ship the subject hangers in the same manner as Braiform. Because these rulings do not specifically discuss the manner of shipment, and because this commenter is unrelated to the requesters in these rulings, we have not specifically revoked these rulings. We note, however, that any person involved in a substantially identical transaction should have notified CBP during the comment period. This commenter also argues that using the subject hangers to display merchandise at the point of sale constitutes diversion. Because this ruling does not discuss diversion, we find this comment outside the scope of

¹⁰ *How to decide the right shipping method for the garments you import*, Rag Trader (Dec. 13, 2016), <http://www.ragtrader.com.au/insights/how-to-decide-the-right-shipping-method-for-the-garments-you-import>.

our ruling. This commenter also urges CBP to require country of origin labeling for the subject hangers; this comment is also outside the scope of our ruling.

Based on the analysis above, the plastic garment hangers described in the instant request as well as those subject to CBP rulings HQ H058876 and HQ H079697 do not qualify for IIT designation because they are not used as holders in international traffic. This ruling therefore revokes HQ H058876 and HQ H079697, which granted IIT status to several similar models of hangers, to the extent that those hangers are not used to hang garments in international traffic.

HOLDING:

The subject plastic garment hangers are not “instruments of international traffic” within the meaning of 19 U.S.C. § 1322(a) and 19 C.F.R. § 10.41a to the extent that they are not used to vertically suspend garments in international traffic.

EFFECT ON OTHER RULINGS:

HQ H058876, dated May 14, 2009, and HQ H079697, dated October 26, 2009, are REVOKED.

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

Sincerely,

CRAIG T. CLARK

Director

Border Security and Trade Compliance Division

Cc: Ms. Margaret R. Polito, Esq.
Neville Peterson LLP
17 State Street, 19th Floor
New York, NY 10004

19 CFR PART 177

MODIFICATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF THE “THERMO ACTION” DIETARY SUPPLEMENT

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

ACTION: Notice of modification of one ruling letter and of revocation of treatment relating to the tariff classification of the “Thermo Action” dietary supplement.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is modifying one ruling letter concerning tariff classification of the “Thermo Action” dietary supplement under the Harmonized Tariff Schedule of the United States (“HTSUS”). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 53, No. 13, on May 1, 2019. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after September 23, 2019.

FOR FURTHER INFORMATION CONTACT: Tatiana Salnik Matherne, Food, Textiles and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0351.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the public 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 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 53, No. 13, on May 1, 2019, proposing to modify one ruling letter pertaining to the tariff classification of the “Thermo Action” dietary supplement. 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 comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), 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 comment period. An importer’s failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this notice.

In New York Ruling Letter (“NY”) N293615, dated February 9, 2018, CBP classified the “Thermo Action” dietary supplement in heading 2101, HTSUS, specifically in subheading 2101.20.90, HTSUS, which provides for “Extracts, essences and concentrates, of coffee, tea or mate and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof: Extracts, essences and concentrates, of tea or maté, and preparations with a basis of these extracts, essences or concentrates or with a basis of tea or maté: Other: Other: Other.” CBP has reviewed NY N293615 and has determined this ruling letter to be in error. It is now CBP’s position that the “Thermo Action” supplement is properly classified in heading 2106, HTSUS, specifically in subheading 2106.90.98, HTSUS, which provides for “Food preparations not elsewhere specified or included: Other: Other: Other: Other: Other: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is modifying NY N293615 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H295066, set forth as an attachment to this notice. 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: June 28, 2019

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H295066

June 28, 2019

CLA-2 OT:RR:CTF:FTM H295066 TSM

CATEGORY: Classification

TARIFF NO.: 2106.90.98

MR. JOSEPH WALTER
LIVINGSTON INTERNATIONAL
670 YOUNG STREET
TONAWANDA, NY 14150

RE: Modification of New York Ruling Letter (“NY”) N293615; The tariff classification of the “Thermo Action” dietary supplement.

DEAR MR. WALTER:

This is in reference to New York Ruling Letter (“NY”) N293615, dated February 9, 2018, issued to you on behalf of Immunotec, Inc., concerning the tariff classification of the “Thermo Action” dietary supplement under the Harmonized Tariff Schedule of the United States (“HTSUS”). In that ruling, U.S. Customs and Border Protection (“CBP”) classified the “Thermo Action” product under heading 2101, HTSUS, which provides for “Extracts, essences and concentrates, of coffee, tea or mate and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof.” Upon additional review, we have found this classification to be incorrect. For the reasons set forth below we hereby modify NY N293615 with regard to the tariff classification of the “Thermo Action” product.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), a notice was published in the *Customs Bulletin*, Volume 53, No. 13, on May 1, 2019, proposing to modify NY N293615 and revoke any treatment accorded to substantially identical transactions. No comments were received in response to the notice.

FACTS:

NY N293615 states that the “Thermo Action” product contains approximately 59 percent green tea extract and 18 percent guarana. The remaining ingredients are magnesium stearate, microcrystalline cellulose, vegetable capsule (hydroxypropyl methyl cellulose), and a trace amount of chromium. The product is said to function as a dietary supplement that provides weight management. The product is imported for retail sale in bottles containing 120 capsules.

ISSUE:

What is the tariff classification of the “Thermo Action” product at issue?

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (“GRIs”). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the

goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

The HTSUS provisions under consideration are as follows:

2101 Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof

* * *

2106 Food preparations not elsewhere specified or included

* * *

When interpreting the HTSUS, the Explanatory Notes (“ENs”) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. See T.D. 89–80, 54 Fed. Reg. 35127 (August 23, 1989).

* * *

Explanatory Note to heading 21.01 provides as follows:

The heading covers:

- (1) Coffee extracts, essences and concentrates. These may be made from real coffee (whether or not caffeine has been removed) or from a mixture of real coffee and coffee substitutes in any proportion. They may be in liquid or powder form, usually highly concentrated. This group includes products known as instant coffee. This is coffee which has been brewed and dehydrated or brewed and then frozen and dried by vacuum.
- (2) Tea or maté extracts, essences and concentrates. These products correspond, *mutatis mutandis*, to those referred to in paragraph (1).
- (3) Preparations with a basis of the coffee, tea or maté extracts, essences or concentrates of paragraphs (1) and (2) above. These are preparations based on extracts, essences or concentrates of coffee, tea or maté (and not on coffee, tea or maté themselves), and include extracts, etc., with added starches or other carbohydrates.

* * *

These products may be presented in lump, granular or powder form, or as liquid or solid extracts. They may also be mixed either with one another or with other ingredients (e.g., salt or alkaline carbonates), and may be put up in various types of containers.

* * *

Explanatory Note to heading 21.06 provides, in relevant part, as follows:

Provided that they are not covered by any other heading of the Nomenclature, this heading covers:

- (B) Preparations consisting wholly or partly of foodstuffs, used in the making of beverages or food preparations for human consumption. The heading includes preparations consisting of mixtures of chemicals (organic acids, calcium salts, etc.) with foodstuffs (flour, sugar, milk powder, etc.), for incorporation in food preparations either as

ingredients or to improve some of their characteristics (appearance, keeping qualities, etc.)(see the General Explanatory Note to Chapter 38).

The heading includes, *inter alia* :

- (16) Preparations, often referred to as *food supplements*, based on extracts from plants, fruit concentrates, honey, fructose, etc. and containing added vitamins and sometimes minute quantities of iron compounds. These preparations are often put up in packagings with indications that they maintain general health or well-being. Similar preparations, however, intended for the prevention or treatment of diseases or ailments are **excluded (heading 30.03 or 30.04)**.

* * *

Upon additional review, we find that the “Thermo Action” dietary supplement is covered by heading 2106, HTSUS.¹ According to the ENs cited above, this heading provides for preparations, often referred to as food supplements, based on extracts from, among others, plants, and containing mixtures of chemicals (organic acids, calcium salts, etc.) and foodstuffs, for incorporation in food preparations either as ingredients or to improve some of their characteristics (appearance, keeping qualities, etc.)

The “Thermo Action” is a dietary supplement based on tea extract, which is a plant extract, and also contains guarana, a plant ingredient, along with several ingredients intended to improve the supplement’s characteristics, such as: (1) magnesium stearate, which functions to prevent capsule contents from sticking; (2) microcrystalline cellulose, which functions as a texturizer, an anti-caking agent, an emulsifier and a bulking agent; and (3) hydroxypropyl cellulose, which is used as a binder, a thickening agent, and a viscosity increasing agent. In addition, the “Thermo Action” supplement is imported in capsule form. *See* HQ 956890, dated December 12, 1994 (classifying food supplements in tablet and capsule forms in heading 2106, HTSUS).

Although in NY N293615, dated February 9, 2018, the “Thermo Action” product was classified in heading 2101, HTSUS, we find this classification to be incorrect. According to the ENs to heading 21.01, this heading provides for preparations based on extracts of coffee, tea or maté, with added starches or other carbohydrates, and presented in lump, granular or powder form. While the “Thermo Action” product is based on tea extract, it also contains other ingredients that are not “added starches or other carbohydrates.” Finally, the “Therma Action” product is not imported in lump, granular or powder form.

Based on the foregoing, we find that the “Thermo Action” product is classified in heading 2106, HTSUS, and specifically in subheading 2106.90.98, HTSUS, which provides for “Food preparations not elsewhere specified or included: Other: Other: Other: Other: Other: Other.”

HOLDING:

By application of GRIs 1 and 6, we find that the “Thermo Action” product is classified under heading 2106, HTSUS, and specifically in subheading 2106.90.98, HTSUS, which provides for “Food preparations not elsewhere specified or included: Other: Other: Other: Other: Other: Other.” The 2018 column one, general rate of duty is 6.4% *ad valorem*.

¹ Food supplements are also called dietary or nutritional supplements. *See* <https://www.efuc.org/en/healthy-living/article/food-supplements-who-needs-them-and-when>.

EFFECT ON OTHER RULINGS:

NY N293615, dated February 9, 2018, is hereby MODIFIED.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

REVOCATION OF THREE RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF TEXTILE CAR COVERS

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

ACTION: Notice of revocation of three ruling letters, and revocation of treatment relating to the tariff classification of textile car covers.

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 three ruling letters concerning tariff classification of textile car covers under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 53, No. 15, on May 15, 2019. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after September 23, 2019.

FOR FURTHER INFORMATION CONTACT: Parisa J. Ghazi, Food, Textiles and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0272.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community’s responsibilities and rights under the customs and related laws. In addition, both the public 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 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 53, No. 15, on May 15, 2019, proposing to

revoke three ruling letters pertaining to the tariff classification of textile car covers. 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 comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), 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 comment period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this notice.

In NY 864763, dated July 8, 1991, NY 866826, dated September 20, 1991, and Headquarters Ruling Letter ("HQ") 088040, dated January 16, 1991, CBP classified textile car covers in heading 8708, HTSUS, specifically in subheading 8708.99.50, HTSUS, which provided for "Parts and accessories of the motor vehicles of headings 8701 to 8705: Other parts and accessories: Other: Other: Other." CBP has reviewed NY 864763, NY 866826, and HQ 088040 and has determined the ruling letters to be in error. It is now CBP's position that textile car covers are properly classified, in heading 6307, HTSUS, specifically in subheading 6307.90.98, HTSUS, which provides for "Other made up articles, including dress patterns: Other: Other: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY 864763, NY 866826, and HQ 088040, insofar as the textile covers are concerned, and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H260066, set forth as an attachment to this notice. 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: July 9, 2019

YULIYA A. GULIS
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H260066

July 9, 2019

OT:RR:CTF:FTM H260066 PJG

CATEGORY: Classification

TARIFF NO.: 6307.90.98

MR. MARK SOMMER

2 POPPYTRAIL

ROLLING HILLS, CA 90274

RE: Revocation of NY 864763, NY 866826, and HQ 088040; tariff classification of textile car covers

DEAR MR. SOMMER:

On July 8, 1991, U.S. Customs and Border Protection (“CBP”) issued to you New York Ruling Letter (“NY”) 864763. It concerned the tariff classification of a car cover under the Harmonized Tariff Schedule of the United States (“HTSUS”). We have reconsidered NY 864763 and found it to be in error.

CBP is also revoking NY 866826, dated September 20, 1991, which involved the classification of three automobile covers in heading 8708, HTSUS. The ruling is being revoked with regard to the non-woven polypropylene car cover and the non-woven polyester/nylon car cover.¹ We are revoking the classification of the vinyl car cover in a separate revocation ruling.

Finally, CBP is revoking HQ 088040, dated January 16, 1991, which concerned the classification of an automobile sun protection system, which permanently mounted to the vehicle, and was imported with its hardware for installation.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. No. 103–182, 107 Stat. 2057, 2186 (1993), notice of the proposed action was published on May 15, 2019, in Volume 53, Number 15, of the *Customs Bulletin*. No comments were received in response to this notice.

FACTS:

In NY 864763, the subject car cover was described as follows:

The imported product is a car cover made primarily of nylon material, with elastic straps and a leather piece. You indicate that the cover is specifically designed and fitted to cover the windows and roof area of a Chevrolet Corvette automobile. The cover is affixed to the automobile by means of the elastic straps with VELCRO fasteners.

In NY 864763, CBP classified the subject merchandise in heading 8708, HTSUS, and specifically under subheading 8708.99.5085, HTSUSA², which provided for “Parts and accessories of the motor vehicles of headings 8701 to 8705: Other parts and accessories: Other: Other: Other.”

In HQ 088040, the automobile sun protection system called the “Car-Shadow” was described as follows:

¹ Although this ruling only affects two of the articles which are the subject of NY 866826, the effect will be that the classification of all the articles will be changed, effectively revoking NY 866826.

² This language is from the 1991 version of the HTSUSA, and this particular subheading does not exist in the 2019 version of the HTSUSA.

a weather protection system for automobiles, vans, and trucks. The apparatus is permanently mounted to the vehicle. The inquirer states that the product is suited to those areas of the country that are subject to extreme heat caused by the hot, bright sun. It is stated that the Car-Shadow can reduce interior heat in a vehicle by as much as 30 degrees Celsius (54 degrees Fahrenheit). It also helps protect the upholstery from fading, keeps the steering wheel from getting hot, and lessens the chances of dashboard cracking due to the continual exposure to heat buildup in the vehicle. In cold climates the Car-Shadow prevents ice and frost on the car.

The Car-Shadow operates as a roller shade which is integrated into a rear spoiler. When needed to reduce interior heat the cover is pulled over the parked vehicle and fastened to the hood of the vehicle by means of a clasp. The shade covers the roof, front, rear, and side windows of the automobile. It is available in different sizes and will fit most models of automobiles. The Car-Shadow is imported with its hardware (two mounting plates with fastening screws, nuts, washers, wrench and hex wrench). Installation instructions indicate that the mounting plates are positioned on the trunk lid and the Car-Shadow housing (with the cover positioned over a roller mechanism) is mounted on the outer surface of the trunk.

ISSUE:

Whether the subject car covers are classifiable in heading 6307, HTSUS, which provides for “Other made up articles, including dress patterns,” or under heading 8708, HTSUS, which provides for “Parts and accessories of the motor vehicles of headings 8701 to 8705.”

LAW AND ANALYSIS:

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

GRI 2(b) provides as follows:

Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

GRI 3(b) provides as follows:

When, by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they

consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

The 2019 HTSUS provisions under consideration are as follows:

6307 Other made up articles, including dress patterns:

8708 Parts and accessories of the motor vehicles of headings 8701 to 8705:

Note 3 to Section XVII states as follows:

References in chapters 86 to 88 to “parts” or “accessories” do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those chapters. A part or accessory which answers to a description in two or more of the headings of those chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the “official interpretation of the Harmonized System” at the international level. *See* 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989). 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 id.*

ENs (XII) to GRI 2(b) states:

(XII) It does not, however, widen the heading so as to cover goods which cannot be regarded, as required under Rule 1, as answering the description in the heading; this occurs where the addition of another material or substance deprives the goods of the character of goods of the kind mentioned in the heading.

EN to Section XVII states, in pertinent part:

* * *

(III) PARTS AND ACCESSORIES

* * *

It should, however, be noted that these headings apply **only** to those parts or accessories which comply with **all three** of the following conditions:

(a) They must not be excluded by the terms of Note 2 to this Section (see paragraph (A) below).

and (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88 (see paragraph (B) below).

and (c) They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C) below).

* * *

EN to 63.06 states, in pertinent part:

This heading covers a range of textile articles usually made from strong, close-woven canvas.

(1) **Tarpaulins.** These are used to protect goods stored in the open or loaded on ships, wagons, lorries, etc., against bad weather. They are generally made of coated or uncoated man-made fibre fabrics, or heavy to fairly heavy canvas (of hemp, jute, flax or cotton). They are waterproof. Those made of canvas are usually rendered waterproof or rotproof by

treatment with tar or chemicals. Tarpaulins are generally in the form of rectangular sheets, hemmed along the sides, and may be fitted with eyelets, cords, straps, etc. Tarpaulins which are specially shaped (e.g., for covering hayricks, decks of small vessels, lorries, etc.) also fall in this heading **provided** they are flat.

Tarpaulins should not be confused with loose covers for motor-cars, machines, etc., made of tarpaulin material to the shape of these articles, nor with flat protective sheets of lightweight material made up in a similar manner to tarpaulins (**heading 63.07**).

EN to 63.07 states, in pertinent part:

This heading covers made up articles of any textile material which are **not included** more specifically in other headings of Section XVI or elsewhere in the Nomenclature.

It includes, in particular:

* * *

(7) Loose covers for motor-cars, machines, suitcases, tennis rackets, etc.

* * *

EN to 87.08 states, in pertinent part:

This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05, **provided** the parts and accessories fulfil **both** the following conditions:

- (i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles;
- and (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

Parts and accessories of this heading include :

(A) Assembled motor vehicle chassis-frames (whether or not fitted with wheels **but without engines**) and parts thereof (side-members, braces, cross-members; suspension mountings; supports and brackets for the coachwork, engine, running-boards, battery or fuel tanks, etc.).

(B) Parts of bodies and associated accessories, for example, floor boards, sides, front or rear panels, luggage compartments, etc.; doors and parts thereof; bonnets (hoods); framed windows, windows equipped with heating resistors and electrical connectors, window frames; running-boards; wings (fenders), mudguards; dashboards; radiator cowlings; number-plate brackets; bumpers and over-riders; steering column brackets; exterior luggage racks; visors; non-electric heating and defrosting appliances which use the heat produced by the engine of the vehicle; safety seat belts designed to be permanently fixed into motor vehicles for the protection of persons; floor mats (**other than** of textile material or unhardened vulcanised rubber), etc. Assemblies (including unit construction chassis-bodies) **not** yet having the character of incomplete bodies, e.g., not yet fitted with doors, wings (fenders), bonnets (hoods) and rear compartment covers, etc., are classified in this heading and not in heading 87.07.

(C) Clutches (cone, plate, hydraulic, automatic, etc., but **not** the electro-magnetic clutches of **heading 85.05**), clutch casings, plates and levers, and mounted linings.

(D) Gear boxes (transmissions) of all types (mechanical, overdrive, pre-selector, electro-mechanical, automatic, etc.); torque converters; gear box (transmission) casings; shafts (**other than** internal parts of engines or motors); gear pinions; direct-drive dog-clutches and selector rods, etc.

(E) Drive-axles, with differential; non-driving axles (front or rear); casings for differentials; sun and planet gear pinions; hubs, stub-axles (axle journals), stub-axle brackets.

(F) Other transmission parts and components (for example, propeller shafts, half-shafts; gears, gearing; plain shaft bearings; reduction gear assemblies; universal joints). But the heading **excludes** internal parts of engines, such as connecting-rods, push-rods and valvelifters of **heading 84.09** and crank shafts, cam shafts and flywheels of **heading 84.83**.

(G) Steering gear parts (for example, steering column tubes, steering track rods and levers, steering knuckle tie rods; casings; racks and pinions; servo-steering mechanisms).

(H) Brakes (shoe, segment, disc, etc.) and parts thereof (plates, drums, cylinders, mounted linings, oil reservoirs for hydraulic brakes, etc.); servo-brakes and parts thereof.

(I) Suspension shock-absorbers (friction, hydraulic, etc.) and other suspension parts (**other than** springs), torsion bars.

(K) Road wheels (pressed steel, wire-spoked, etc.), whether or not fitted with tyres; tracks and sets of wheels for tracked vehicles; rims, discs, hub-caps and spokes.

(L) Control equipment, for example, steering wheels, steering columns and steering boxes, steering wheel axles; gear-change and hand-brake levers; accelerator, brake and clutch pedals; connecting-rods for brakes, clutches.

(M) Radiators, silencers (mufflers) and exhaust pipes, fuel tanks, etc.

(N) Clutch cables, brakes cables, accelerator cables and similar cables, consisting of a flexible outer casing and a moveable inner cable. They are presented cut to length and equipped with end fittings.

(O) Safety airbags of all types with inflator system (e.g., driver-side airbags, passenger-side airbags, airbags to be installed in door panels for side-impact protection or airbags to be installed in the ceiling of the vehicle for extra protection for the head) and parts thereof. The inflator systems include the igniter and propellant in a container that directs the expansion of gas into the airbag. The heading **excludes** remote sensors or electronic controllers, as they are not considered to be parts of the inflator system.

* * *

In *Bauerhin Techs. Ltd. P'ship. v. United States*, 110 F.3d 774 (Fed. Cir. 1997), the court identified two distinct lines of cases defining the word "part."

Consistent with *United States v. Willoughby Camera Stores, Inc.*, 21 C.C.P.A. 322, 324 (1933) (citations omitted), one line of cases holds that a part of an article “is something necessary to the completion of that article. . . . [W]ithout which the article to which it is to be joined, could not *function as such article*.” The other line of cases evolved from *United States v. Pompeo*, 43 C.C.P.A. 9, 14 (1955), which held that a device may be a part of an article even though its use is optional and the article will function without it, if the device is dedicated for use upon the article, and, once installed, the article will not operate without it. The definition of “parts” was also discussed in *Rollerblade, Inc. v. United States*, 282 F.3d 1349, 1353 (Fed. Cir. 2002), wherein the United States Court of Appeals for the Federal Circuit (“CAFC”) defined parts as “an essential element or constituent; integral portion which can be separated, replaced, etc.” *Id.* at 1353 (citing Webster’s New World Dictionary 984 (3d College Ed. 1988)). This line of reasoning has been applied in previous CBP rulings. *See e.g.*, HQ H255093 (Jan. 14, 2015); HQ H238494 (June 26, 2014); HQ H027028 (Aug. 19, 2008).

Insofar as the term “accessory” is concerned, the Court of International Trade (“CIT”) has previously referred to the common meaning of the term because the term is not defined by the HTSUS or its legislative history. *See Rollerblade, Inc. v. United States*, 24 Ct. Int’l Trade 812, 815–819 (2000), *aff’d*, 282 F.3d 1349 (Fed. Cir. 2002)). We also employ the common and commercial meanings of the term “accessory”, as the CIT did in *Rollerblade, Inc.*, wherein the court derived from various dictionaries “that an accessory must relate directly to the thing accessorized.” *See Rollerblade, Inc.*, 24 Ct. Int’l Trade at 817. In *Rollerblade, Inc.*, the CAFC noted that “an ‘accessory’ must bear a direct relationship to the primary article that it accessorizes.” 282 F.3d at 1352 (holding that inline roller skating protective gear is not an accessory because it “does not directly act on” or “contact” the roller skates). In support of its finding that the protective gear was not an accessory to roller skates, the CAFC also noted that the “protective gear does not directly affect the skates’ operation.” *Id.* at 1353.

The subject merchandise in this case is not a “part” under any of the tests provided in the judicial decisions described above. It is not a “part” under the *Willoughby* test because a car can function without the instant cover. It is also not a “part” under the Pompeo test because firstly, it is secured onto the car using its elastic straps with VELCRO fasteners, which likely would not constitute being “installed”, but also because even if it were considered “installed”, the car can still operate without the cover. *See also Rollerblade, Inc.*, 282 F.3d at 1353 (the CAFC found that the protective gear was not a part to the roller skates because they did not “attach to or contact” the roller skates, they were “not necessary to make the skates ... work”, nor were “they necessary to make the skates ... work efficiently or safely.”) In any case, the subject merchandise is not a “part” because it is not essential, constituent or integral to the vehicle. *See id.*

The subject merchandise is also not an “accessory” of motor vehicles. Like the protective gear in *Rollerblade, Inc.* and the truck tents classified in HQ H242603 (April 3, 2015), the car cover at issue does not directly affect the car’s operation nor does it contribute to the car’s effectiveness. *See Rollerblade, Inc.*, 282 F.3d at 1353; HQ 960950 (Jan. 16, 1998) (stating that “[a]ccessories are of secondary importance,” but must “somehow contribute to the effectiveness of the principal article”). Instead, the instant car cover provides protection to a car when it is not in use. In fact, like the truck tents in HQ

H242603, in order for the car cover to be usable thereon, the car must be parked. Also, like the truck tents in HQ H242603 (April 3, 2015), the car cover does not contribute to the car's safe and efficient use.

Although the subject car cover is sometimes in contact with the car (unlike the protective gear in *Rollerblade, Inc.*, which was never in contact with roller skates), the car cover is not in contact with the car while the car is in use. In this regard, we note that the exemplars of parts and accessories provided in EN 87.08, such as mudguards, exterior luggage racks, number-plate brackets, and floor mats, stay on the motor vehicle when it is in use and when it is not in use. Therefore, the car cover is neither a part nor an accessory because unlike the exemplars in the EN and unlike the articles in *Rollerblade*, it is in contact with the car only when the car is not in use and consequently cannot bear a direct relationship to the operation of the car. Since the subject merchandise is neither a "part" nor an "accessory" we need not consider General Explanatory Note (III) to Section XVII or the remainder of EN 87.08.

In HQ 953273, dated February 16, 1993, CBP cited to HQ 087596, dated January 31, 1991, wherein CBP distinguished between "loose" and fitted motor vehicle covers and classified fitted motor vehicle covers as parts and accessories for motor vehicles. In HQ 953273, CBP determined on the basis of EN 63.06, that "there is no reason to distinguish between 'loose' motor vehicle covers and fitted covers" and that "the authors of the Harmonized Commodity Description and Coding System did not intend for motor vehicle covers to be classified as parts and accessories for motor vehicles. Instead, automobile covers must be viewed as items related to tarpaulins." CBP proceeded to note that motor vehicle covers are not classifiable as tarpaulins because they are not flat, but "this fact does not transform the covers into parts and accessories. Rather, they are to be classified as other made up textile articles not more particularly described in the Nomenclature under heading 6307." Ultimately, CBP classified the subject motor vehicle covers under subheading 6307.90.9986, HTSUS, which provided for "Other made up articles, including dress patterns: Other: Other: Other: Other: Other." This same reasoning was used in HQ 953272 and HQ 953274, both dated February 16, 1993.

In NY 864763, we stated that the subject merchandise is made primarily of nylon material, with elastic straps and VELCRO fasteners, and a leather piece. After applying GRI 2(b) and EN (XII) to GRI 2(b), we do not find that the existence of the elastic straps with VELCRO fasteners and the leather piece preclude the merchandise from being considered a made up article of textile material under heading 6307, HTSUS, because the article itself, the car cover, is composed of textile fabric, and the elastic straps with VELCRO fasteners, and presumably, the leather piece, are used to secure the car cover to the car, and do not deprive the article of the character of a textile article.

In accordance with the reasoning in HQ 953272, HQ 953273, and HQ 953274, we find that the subject merchandise is classified in heading 6307, HTSUS, specifically under subheading 6307.90.98, HTSUS, which provides for "Other made up articles, including dress patterns: Other: Other: Other."

We are also revoking NY 866826, which involved the classification of three automobile covers in heading 8708, HTSUS. The ruling is being revoked with regard to the non-woven polypropylene car cover and the non-woven polyester/nylon car cover. We are revoking the classification of the vinyl car cover in a separate revocation ruling. The non-woven polypropylene car cover and the non-woven polyester/nylon car cover are both made up articles of

textile material and are properly classified in subheading 6307.90.98, HTSUS, which provides for “Other made up articles, including dress patterns: Other: Other: Other.”

Finally, we are revoking HQ 088040 because the sun protection system, which was classified under heading 8708, HTSUS, is neither a part nor an accessory. Specifically, the sun protection system is not a part under *Willoughby* or *Pompeo* because it is not “necessary to the completion” of the car and the car can still function without it. *See Willoughby*, 21 C.C.P.A. at 324; *Pompeo*, 43 C.C.P.A. at 14. Finally, it is not a part under *Rollerblade*, because it is not “an essential element or constituent” of the car, nor is it an “integral portion” of the car, as it is not necessary to the operation of the car nor does it impact its ability to function. *See* 282 F.3d at 1353. Although the sun protection system is in direct contact with the car when it is mounted, the sun protection system is not an accessory because it does not directly affect the car’s operation. *See id.* Moreover, unlike the exemplars provided in EN 87.08, the sun protection system is only meant to be used when the car is not in use. Accordingly, the sun protection system in HQ 088040 is not classifiable under heading 8708, HTSUS, as a part or accessory of motor vehicles. In accordance with the reasoning in HQ 953272, HQ 953273, and HQ 953274, we find that the sun protection system is classified in heading 6307, HTSUS, specifically under subheading 6307.90.98, HTSUS, which provides for “Other made up articles, including dress patterns: Other: Other: Other.”

However, HQ 088040 states that the sun protection system is imported together with its hardware (two mounting plates with fastening screws, nuts, washers, wrench and hex wrench) for installation and these articles are classifiable under more than one heading so we must consider GRI 3 for the classification of this merchandise. GRI 3(b) addresses the classification of goods put up in sets for retail sale and it states that retail sets shall be classified as if they consisted of the component which gives them their essential character. EN(X) to GRI 3(b) states the following:

(X) For the purposes of this Rule, the term “goods put up in sets for retail sale” shall be taken to mean goods which:

- (a) consist of at least two different articles which are, *prima facie*, classifiable in different headings. Therefore, for example, six fondue forks cannot be regarded as a set within the meaning of this Rule;
- (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and
- (c) are put up in a manner suitable for sale directly to end users without repacking (e.g., in boxes or cases or on boards).

Applying the definition of the phrase “goods put up in sets for retail sale” provided in EN(X) to GRI 3(b), the sun protection system and its accompanying hardware meet the first requirement because they consist of at least two different articles that are *prima facie* classifiable in different headings of the HTSUS. The products also meet the second requirement because the hardware is provided together with the sun protection system in order to facilitate the mounting of the sun protection system onto a car. Finally, HQ 088040 does not provide any reason to believe that the sun protection system and its hardware will need to be repacked. Therefore, the sun protection system and its hardware are “goods put up in sets for retail sale,” which must be classified using GRI 3(b).

EN GRI 3(b) (VIII) lists factors to help determine the essential character of such goods, specifically: “the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.” The U.S. Court of International Trade has indicated that the factors listed in EN GRI 3(b) (VIII) are “instructive” but “not exhaustive” and has indicated that the goods must be “reviewed as a whole.” *The Home Depot, U.S.A., Inc. v. United States*, 30 Ct. Int’l Trade 445, 459–460 (2006) (citing *A.N. Deringer, Inc. v. United States*, 66 Cust. Ct. 378, 384 (1971) (citation omitted)). With regard to the good which imparts the essential character, the court has stated that it is “that which is indispensable to the structure, core or condition of the article, i.e., what it is.” *Id.* at 460 (citing *A.N. Deringer, Inc.*, 66 Cust. Ct. at 383).

The bulk, weight and value of the sun protection system supersedes that of its hardware. Moreover, the sun protection system is indispensable to the core of the set because the set is designed to protect a car from extreme heat caused by the sun and to protect it from the accumulation of ice and frost. Therefore, the essential character of the sun protection system and its hardware is imparted by the sun protection system. Accordingly, by application of GRIs 3(b) and 6, the sun protection system and its hardware is properly classified under 6307.90.98, HTSUS.

HOLDING:

Under the authority of GRIs 1, 2(b)³, 3(b)⁴, and 6 the subject textile car covers are classified under heading 6307, HTSUS, specifically under sub-heading 6307.90.98, HTSUS, which provides for “Other made up articles, including dress patterns: Other: Other: Other.” The 2019 column one, general rate of duty is 7 percent *ad valorem*.

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

EFFECT ON OTHER RULINGS:

HQ 088040, dated January 16, 1991, is REVOKED.

NY 864763, dated July 8, 1991, is REVOKED.

NY 866826, dated September 20, 1991, 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*.

Sincerely,

YULIYA A. GULIS
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

³ GRI 2(b) only applies to the subject merchandise in NY 864763, dated July 8, 1991.

⁴ GRI 3(b) only applies to the subject merchandise in HQ 088040, dated January 16, 1991.

19 CFR PART 177

MODIFICATION OF TWO RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION AND STATUS UNDER THE AFRICAN GROWTH AND OPPORTUNITY ACT OF FRUIT PRODUCTS CONTAINING PINEAPPLE AND MANGO WITH LIME JUICE AND PINEAPPLE AND BANANA WITH LIME JUICE

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

ACTION: Notice of modification of two ruling letters and revocation of treatment relating to the tariff classification of products containing pineapple and mango with lime juice, and pineapple and banana with lime juice.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is modifying two ruling letters concerning tariff classification under the Harmonized Tariff Schedule of the United States (“HTSUS”) and status under the African Growth and Opportunity Act (“AGOA”), of fruit products containing pineapple and mango with lime juice and pineapple and banana with lime juice. Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 53, No. 15, on May 15, 2019. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after September 23, 2019.

FOR FURTHER INFORMATION CONTACT: Tatiana Salnik Matherne, Food, Textiles and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0351.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the

trade community's responsibilities and rights under the customs and related laws. In addition, both the public 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 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 53, No. 15, on May 15, 2019, proposing to modify two ruling letters pertaining to the tariff classification and status under the AGOA of fruit products containing pineapple and mango with lime juice, and pineapple and banana with lime juice. 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 comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), 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 comment period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this notice.

In NY N296311, dated May 18, 2018, CBP classified fruit products containing pineapple and mango with lime juice and pineapple and banana with lime juice, in heading 2008, HTSUS, specifically in subheading 2008.97.90, HTSUS, which provides for "Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included: Other, including mixtures other than those of subheading 2008.19: Mixtures: Other." Further, in NY N296311 CBP determined that the fruit products at issue are not entitled to duty-free treatment under the AGOA.

In NY N293259, dated February 7, 2018, CBP classified fruit products containing pineapple and mango with lime juice, and pineapple and banana with lime juice in heading 2008, specifically in subheading 2008.97.10, HTSUS, which provides for "Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included: Other, including mixtures other than

those of subheading 2008.19: Mixtures: In airtight containers and not containing apricots, citrus fruits, peaches or pears.”

CBP has reviewed NY N296311 and NY N293259, and has determined these ruling letters to be in error. It is now CBP’s position that the fruit products at issue are properly classified in heading 0813, HTSUS, specifically in subheading 0813.50.00, HTSUS, which provides for “Fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter: Mixtures of nuts or dried fruits of this chapter.” Further, it is now CBP’s position that the fruit products at issue are entitled to duty-free treatment under the AGOA.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is modifying NY N293259 and NY N296311, and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H298338, set forth as an attachment to this notice. 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: July 8, 2019

YULIYA A. GULIS
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H298338

July 8, 2019

CLA-2 OT:RR:CTF:FTM H298338 TSM

CATEGORY: Classification

TARIFF NO.: 0813.50.00

Ms. JAN FOREST

J. FOREST CONSULTING

5604 CHEVY CHASE PARKWAY, NW

WASHINGTON, DC 20015

RE: Modification of NY N296311 and NY N293259; Tariff classification and status under the African Growth and Opportunity Act of fruit products from Ghana

DEAR Ms. FOREST:

This is in reference to New York Ruling Letter (NY) N296311, issued to J. Forest Consulting on May 18, 2018, concerning the tariff classification of certain fruit products containing pineapple and mango with lime juice, and pineapple and banana with lime juice. In that ruling, U.S. Customs and Border Protection (“CBP”) classified the subject merchandise under subheading 2008.97.90, Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for “Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included: Other, including mixtures other than those of subheading 2008.19: Mixtures: Other.” The fruit products at issue, classified under subheading 2008.97.90, HTSUS, were determined not to be entitled to duty-free treatment under the African Growth and Opportunity ACT (AGOA).

This is also in reference to NY N293259, issued to J. Forest Consulting on February 7, 2018. In that ruling, CBP classified the fruit products containing pineapple and mango with lime juice, and pineapple and banana with lime juice under subheading 2008.97.10, HTSUS, which provides for “Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included: Other, including mixtures other than those of subheading 2008.19: Mixtures: In airtight containers and not containing apricots, citrus fruits, peaches or pears.” The fruit products at issue, classified under subheading 2008.97.10, HTSUS, were determined to be entitled to duty free treatment under the AGOA.

Upon additional review, we have found NY N296311 to be incorrect with respect to the tariff classification and status under the AGOA of the fruit products containing pineapple/mango with lime juice and pineapple/banana with lime juice. We have also found NY N293259 to be incorrect with regard to the tariff classification of the fruit products containing pineapple/mango with lime juice and pineapple/banana with lime juice. The tariff classification of the other products at issue in those rulings, as well as their status under the AGOA, are not at issue here. For the reasons set forth below, we hereby modify NY N296311 with respect to the tariff classification and status under the AGOA of the fruit products containing pineapple/mango with lime juice and pineapple/banana with lime juice. We also modify NY N293259 with respect to the tariff classification of the fruit products containing pineapple/mango with lime juice and pineapple/banana with lime juice.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)(1)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), a notice was published in the *Customs Bulletin*, Volume 53, No. 15, on May 15, 2019, proposing to modify NY N296311 and NY N293259, and revoke any treatment accorded to substantially identical transactions. No comments were received in response to the notice.

FACTS:

NY N296311, describes the subject merchandise as follows:

The pineapple/mango with lime juice products are said to be 49 percent pineapple, 49 percent mango, and 2 percent lime juice. The pineapple/banana with lime juice products are said to be 49 percent pineapple, 49 percent banana, and 2 percent lime juice.

The fruit products will be imported in the shape of round balls for retail sale in airtight printed packaging weighing 2.5 grams, net or 5 grams, net, depending on the customer request. Some of the 2.5 gram, and 5 gram balls will be bulk packed in an airtight bag in Ghana and later coated with chocolate in the U.S.

The product ingredients are locally grown in Ghana. The manufacturing process for all of the products consists of washing, peeling, cutting; drying the fruit in a drying tunnel at temperatures between 60 and 70 degrees Celsius for approximately 14 to 18 hours; mixing, grinding and pressing the fruit into round balls that are each individually wrapped in cellophane.

The applicable subheading for the pineapple/mango with lime juice products, and the pineapple/banana with lime juice products will be 2008.97.9094, HTSUS, which provides for fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included . . . other, including mixtures other than those of subheading 2008.19 . . . mixtures . . . other . . . other . . . other.

* * *

The fruit products classifiable under subheading 2008.97.9094, HTSUS, are not entitled to duty-free treatment under AGOA.

NY N293259, describes the subject merchandise as follows:

The pineapple/mango with lime juice products are said to be 49 percent pineapple, 49 percent mango, and 2 percent lime juice. The pineapple/banana with lime juice products are said to be 49 percent pineapple, 49 percent banana, and 2 percent lime juice.

The product ingredients are locally grown in Ghana. The manufacturing process for all of the products consists of washing, peeling, cutting; drying the fruit in a drying tunnel at temperatures between 60 and 70 degrees Celsius for approximately 14 to 18 hours; mixing, grinding and pressing the fruit into rectangles and squares that are each individually wrapped in cellophane.

The applicable subheading for the pineapple/mango with lime juice, and pineapple/banana with lime juice products will be 2008.97.1040, HTSUS,

which provides for fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included . . . other, including mixtures other than those of subheading 2008.19 . . . mixtures . . . in airtight containers and not containing apricots, citrus fruits, peaches or pears . . . other.

* * *

Based on the information submitted, the fruit products would be “products of” Ghana, and they would satisfy the 35 percent value-content requirement for AGOA purposes. Accordingly, the subject goods, classifiable under subheading 2008.97.1040, HTSUS, are products of Ghana, and will be entitled to duty-free treatment under the African Growth and Opportunity Act (AGOA/“D”), upon satisfaction of the above-described requirements and compliance with all applicable regulations.

ISSUE:

What is the tariff classification of the subject fruit products containing pineapple/mango with lime juice, and pineapple/banana with lime juice?

LAW AND ANALYSIS:

Classification under the HTSUS is determined 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.

General Note 16, HTSUS, provides in relevant parts as follows:

Products of Countries Designated as Beneficiary Countries under the African Growth and Opportunity Act (AGOA).

- (a) The following sub-Saharan African countries, having been designated as beneficiary sub-Saharan African countries for purposes of the African Growth and Opportunity Act (AGOA), have met the requirements of the AGOA and, therefore, are to be afforded the tariff treatment provided in this note, shall be treated as beneficiary sub-Saharan African countries for purposes of this note:

* * *

Republic of Ghana

* * *

- (b) Articles provided for in a provision for which a rate of duty appears in the “Special” subcolumn followed by the symbol “D” in chapters 1 through 97 of the tariff schedule are those designated by the President to be eligible articles pursuant to section 111(a) of the AGOA and section 506A of the Trade Act of 1974 (“the 1974 Act”). Whenever an eligible article which is a good of a designated beneficiary sub-Saharan African country enumerated in subdivision (a) of this note is imported directly into the customs territory of the United States, such article shall be entitled to

receive the duty-free treatment provided for herein, without regard to the limitations on preferential treatment of eligible articles in section 503(c)(2)(A) of the 1974 Act, provided that such good —

- (i) is the growth, product or manufacture of a designated beneficiary sub-Saharan African country enumerated in subdivision (a) of this note, and
- (ii) the sum of —
 - (A) the cost or value of the materials produced in one or more designated beneficiary sub-Saharan African countries, plus
 - (B) the direct costs of processing operations performed in the designated beneficiary sub-Saharan African country or any two or more designated beneficiary sub-Saharan African countries that are members of the same association of countries which is treated as one country under section 507(a)2 of the 1974 Act, is not less than 35 per centum of the appraised value of such article at the time it is entered. If the cost or value of the materials produced in the customs territory of the United States is included with respect to an eligible article, an amount not to exceed 15 per centum of the appraised value of such article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in clause (ii)(B) above. No article or material of a designated beneficiary sub-Saharan African country enumerated in subdivision (a) of this note and receiving the tariff treatment specified in this note shall be eligible for such duty-free treatment by virtue of having merely undergone simple combining or packing operations, or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

* * *

In addition, in interpreting the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs to the Harmonized Commodity Description and Coding System represent the official interpretation of the tariff 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, 35128 (August 23, 1989).

* * *

The General EN to Chapter 8 provides, in pertinent part, the following:

This Chapter covers fruit, nuts and peel of citrus fruit or melons (including watermelons), generally intended for human consumption (whether as presented or after processing). They may be fresh (including chilled), frozen (whether or not previously cooked by steaming or boiling in water or containing added sweetening matter) or dried (including dehydrated,

evaporated or freeze-dried); **provided** they are unsuitable for immediate consumption in that state, they may be provisionally preserved (e.g., by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions).

* * *

Fruit and nuts of this Chapter may be whole, sliced, chopped, shredded, stoned, pulped, grated, peeled or shelled.

It should be noted that homogenisation, by itself, does not qualify a product of this Chapter for classification as a preparation of Chapter 20.

* * *

The EN to heading 08.13 provides in relevant part as follows:

(A) **Dried fruit.**

This heading includes dried fruits which when fresh are classified in headings *08.07* to *08.10*. They are prepared either by direct drying in the sun or by industrial processes (e.g., tunnel-drying).

The fruits most commonly processed in this way are apricots, prunes, apples, peaches and pears. Dried apples and pears are used for the manufacture of cider or perry as well as for culinary purposes. With the exception of prunes, the fruits are usually halved or sliced, and stoned, cored or seeded. They may also be presented (particularly in the case of apricots and prunes) in the form of slices or blocks of pulp, dried or evaporated.

The heading covers tamarind pods. It also includes tamarind pulp, without sugar or other substances added and not otherwise processed, with or without seeds, strings or pieces of the endocarp.

(B) **Mixtures of nuts or dried fruits.**

The heading also covers all mixtures of nuts or dried fruits of this Chapter (including mixtures of nuts or dried fruits falling in the same heading). It therefore includes mixtures of fresh or dried nuts, mixtures of dried fruits (excluding nuts) and mixtures of fresh or dried nuts and dried fruits. These mixtures are often presented in boxes, cellulose packets, etc.

Certain dried fruits or mixtures of dried fruits of this heading may be put up (e.g., in sachets) for making herbal infusions or herbal “teas”. These products remain classified here.

However, the heading **excludes** such products consisting of a mixture of one or more of the dried fruits of this heading with plants or parts of plants of other Chapters or with other substances such as one or more plant extracts (generally **heading 21.06**).

* * *

The HTSUS provisions under consideration are as follows:

0813	Fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter:
0813.50.00	Mixtures of nuts or dried fruits of this chapter

* * *

2008 Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:

* * *

Other, including mixtures other than those of subheading 2008.19:

* * *

2008.97 Mixtures:

2008.97.10 In airtight containers and not containing apricots, citrus fruits, peaches or pears

* * *

2008.97.90 Other

* * *

Upon review, we noted that the pineapple/mango and pineapple/banana fruit products at issue are dried in a drying tunnel at temperatures between 60 and 70 degrees Celsius for approximately 14 to 18 hours. Online research shows that typical fruit drying temperatures range between 140 and 158 degrees Fahrenheit (corresponding to 60 – 70 degrees Celsius), and typical fruit drying times range between 6 and 36 hours.¹ Accordingly, we find that the fruit products at issue are dried fruit products of heading 0813, HTSUS, which provides for “Fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter.” We note that although in NY N296311 and NY N293259 these products were classified under heading 2008, HTSUS, as “products otherwise prepared or preserved,” upon additional review we find that the record does not support a conclusion that they have been “otherwise prepared or preserved” beyond drying. *See also* NY I81943, dated June 7, 2002 (classifying fruit products containing apricot, blackberry, blueberry, passion fruit, raspberry, strawberry, cherry and apple, dried at a temperature of 55 degrees Celsius for 12 hours, under heading 0813, HTSUS).

Based on the foregoing, we conclude that the pineapple/mango and pineapple/banana fruit products at issue are classified in heading 0813, HTSUS, and specifically in subheading 0813.50.00, HTSUS, which provides for “Fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter: Mixtures of nuts or dried fruits of this chapter.”

We next consider whether the products at issue are entitled to duty-free treatment under the AGOA. General Note 16(a), referenced above, lists the sub-Saharan African countries which have been designated as beneficiaries for purposes of the AGOA. One of the designated beneficiaries is the Republic of Ghana. Further, General Note 16(b) states in relevant part that articles provided for in a provision for which a rate of duty appears in the “Special” subcolumn followed by the symbol “D” are eligible for preferential treatment, provided that those articles are: (i) the growth, product or manufacture of a designated beneficiary sub-Saharan African country enumerated in subdivision (a) of note 16, and (ii) the sum of - (A) the cost or value of the materials produced in one or more designated beneficiary Sub-Saharan African countries, plus (B) the direct costs of processing operations performed in the

¹ <http://www.cals.uidaho.edu/edcomm/pdf/pnw/pnw0397.pdf>

designated beneficiary sub-Saharan African country, is not less than 35 per centum of the appraised value of such article at the time it is entered.

The pineapple/mango and pineapple/banana fruit products at issue are classified under subheading 0813.50.00, HTSUS, which is a provision for which a rate of duty of “Free” appears in the “Special” subcolumn followed by the symbol “D.” Further, based on the information provided, we find that (1) the fruit products are produced in Ghana and (2) approximately 69.4 – 71.2 percent of the total cost of production is attributed to the cost or value of the materials produced in Ghana, and approximately 19.9 - 21.2 percent of the total cost of production is attributed to the direct costs of processing operations performed in Ghana. Therefore, the sum of the cost or value of materials produced in Ghana, plus the direct costs of processing operations performed in Ghana, is not less than 35 percent of the appraised value of the subject fruit products at the time they are entered.

Based on the foregoing, we conclude that the pineapple/mango and pineapple/banana fruit products at issue, classified under subheading 0813.50.00, HTSUS, are products of Ghana and will be entitled to duty-free treatment under the African Growth and Opportunity Act (AGOA/“D”), upon satisfaction of the above-described requirements and compliance with all applicable regulations.

HOLDING:

By application of GRI 1, we find that the pineapple/mango and pineapple/banana fruit products at issue are classified in heading 0813, HTSUS. Specifically, they are classified in subheading 0813.50.00, HTSUS, which provides for “Fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter: Mixtures of nuts or dried fruits of this chapter.” The 2018 column one, general rate of duty is 14%. The pineapple/mango and pineapple/banana fruit products at issue will be entitled to duty-free entry upon satisfaction of the relevant AGOA requirements.

EFFECT ON OTHER RULINGS:

NY N296311, dated May 18, 2018, is hereby MODIFIED with regard to the tariff classification and preferential treatment under the AGOA of fruit products containing pineapple and mango with lime juice, and pineapple and banana with lime juice. NY N293259, dated February 7, 2018, is hereby MODIFIED with regard to the tariff classification of fruit products containing pineapple and mango with lime juice, and pineapple and banana with lime juice.

Sincerely,

YULIYA A. GULIS
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

19 CFR PART 177

REVOCATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF WOMEN'S FOOTWEAR FASHION BOOTS WITH A FOLD-DOWN FLEECE-LIKE LINING

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

ACTION: Notice of revocation of one ruling letter and of revocation of treatment relating to the tariff classification of women's footwear fashion boots with a fold-down fleece-like lining.

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 concerning tariff classification of women's footwear fashion boots with a fold-down fleece-like lining under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 53, No. 13, on May 1, 2019. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after September 23, 2019.

FOR FURTHER INFORMATION CONTACT: John Rhea, Food, Textiles and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325–0035.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public 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 19 U.S.C. §1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 53, No. 13, on May 1, 2019, proposing to revoke one ruling letter pertaining to the tariff classification of women's footwear fashion boots with a fold-down fleece-like lining. 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 comment period.

Similarly, pursuant to 19 U.S.C. §1625(c)(2), 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 comment period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this notice.

In New York Ruling Letter ("NY") N196436, dated December 30, 2011, CBP classified women's footwear fashion boots with a fold-down fleece-like lining in heading 6402, HTSUS, specifically in subheading 6402.91.40, HTSUS, which provides for "Other footwear with outer soles and uppers of rubber or plastics: Other: Covering the ankle: Other." CBP has reviewed NY N196436 and has determined the ruling letter to be in error. It is now CBP's position that women's footwear fashion boots with a fold-down fleece-like lining is properly classified, in heading 6402, HTSUS, specifically in subheading 6402.91.70, HTSUS, which provides for "Other footwear with outer soles and uppers of rubber or plastics: Other: Covering the ankle: Other: Other, Other."

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N196436 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H207579, set forth as an attachment to this notice. 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: July 9, 2019

YULIYA A. GULIS
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H207579

July 9, 2019

OT:RR:CTF:FTM H207579 JER

CATEGORY: Classification

TARIFF NO.: 6402.91.70

MR. DENNIS AWANA
INTER-ORIENT SERVICES
1455 MONTEREY PASS RD # 205
MONTEREY PARK, CA 91754

RE: Revocation of NY N196436; tariff classification of women's lace front fashion boots with fold down fleece-like lining

DEAR MR. AWANA:

This letter is to inform you that U.S. Customs and Border Protection ("CBP") has reconsidered New York Ruling Letter ("NY") N196436, dated December 30, 2011, issued to you on behalf of Inter-Orient Services. In NY N196436, CBP classified the subject women's lace front fashion boot, style "Helen 04" in subheading 6402.91.40, HTSUS, which provides for: "Footwear with outer soles and uppers of rubber or plastics: Other footwear: Covering the ankle: Other: In which the upper's external surface area measures over 90% rubber and/or plastics (including accessories or reinforces) which does not have a foxing-like band; which is not designed to be worn over or in lieu of, other footwear as a protection against water, oil, grease or chemicals or cold inclement weather: For women: Other." It has come to our attention that our decision in NY N196436 was incorrect.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. No. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed action was published on May 1, 2019, in Volume 53, Number 13, of the *Customs Bulletin*. No comments were received in response to this notice.

FACTS:

In NY N196436, the women's lace front fashion boot, style "Helen 04" was described as having an inner shaft lined with a fleece-like textile material and an outer sole made up of a rubber or plastic material. The decorative portion of the shaft was designed to be exposed when the shaft is cuffed. The boot features metal snap buttons which connect the upper portion of the shaft to the mid quarter of the boot. Once folded down the approximately three (3) inch exposed shaft is secured in place by the metal snap buttons. Additionally, the "Helen 04" boot presents as being slightly above the ankle when the shaft is cuffed down and far below the calf when not cuffed. The boot does not feature any accessories, foxing or foxing-like bands and therefore is not considered to be protective against cold or inclement weather.

ISSUE:

Whether the subject fashion boot has an external surface area composed of over ninety (90) percent rubber or plastic such that is classifiable in subheading 6402.91.40, HTSUS, or whether the external surface area of the upper is composed of more than 10 percent of a textile material such that the merchandise is classifiable in subheading 6402.91.70, HTSUS.

LAW AND ANALYSIS:

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

The HTSUS provisions under consideration are as follows:

6402 Other footwear with outer soles and uppers of rubber or plastics:

Other:

6402.91 Covering the ankle:

Other:

6402.91.40 Having uppers of which 90 percent of the external surface area (including any accessories or reinforces such as those mentioned in note 4(a) to this chapter) is rubber or plastics except (1) footwear having a foxing or foxing-like band applied or molded at the sole and overlapping the upper...[.]

* * *

6402.91 Covering the ankle:

Other:

6402.91.70 Valued over \$3 but not over \$6.50/
pair

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, 35128 (August 23, 1989).

The EN to 64.02 states, in pertinent part:

(D)

* * *

If the upper consists of two or more materials, classification is determined by the constituent material which has the greatest external surface area. The constituent material of the outer sole shall be taken to be the material having the greatest surface, no account being taken of accessories or reinforcements such as ankle patches, protective or ornamental strips or edging, other ornamentation (e.g., tassels, pompons or braid), buckles, tabs, eyelet stays, laces or side fasteners. The constituent material of any lining has no effect on classification.

Additionally, Note 4 to Chapter 64 provides, in relevant, part:

4. Subject to note 3 to this chapter:

(a) The material of the upper shall be taken to be the constituent material having the greatest external surface area, no account being

taken of accessories or reinforcements such as ankle patches, edging, ornamentation, buckles, tabs, eyelet stays or similar attachments;

(b) The constituent material of the outer sole shall be taken to be the material having the greatest surface area in contact with the ground, no account being taken of accessories or reinforcements such as spikes, bars, nails, protectors or similar attachments.

Our decision in NY N196436 incorrectly concluded that the external surface of the upper (“esau”) for the “Helen 04” was made up of over 90 percent rubber or plastics. More specifically, NY N196436 incorrectly reasoned that the upper portion of the “Helen 04” was not designed to be cuffed and therefore concluded that the textile materials constituted less than 10 percent of the esau. Upon further review, it is now our position that the “Helen 04” boot was designed to be cuffed and therefore more than 10 percent of the external surface area of the upper is comprised of textile material.

It is well settled that when determining the constituent material having the greatest external surface area of a boot, the inner lining is generally not calculated in that analysis. However, certain boot styles are designed to be worn in a cuffed condition with the top shaft rolled or bent downward exposing the inner lining. Such is the case with the Helen 04.

CBP has previously stated that a boot is intended to be “cuffed” when one or more of the factors set forth below are present:

- (1) The country of origin/size label is located far down inside the shaft and will not be visible when the boot is cuffed. OR, the country of origin/size label is easily removed without damaging the underlying material. OR, it is an attractive label and does not detract from the appearance of the boot if exposed. OR, it is an attractive label and sewn into the shaft upside down.
- (2) The top part of the shaft is a poor match (color, design, material) for the lower part of the shaft, thereby indicating that portion will be hidden when the boot is cuffed.
- (3) There is a split at the top rear area of the shaft that facilitates cuffing the boot so that the back edges of the cuff lay flat and not flare out from the shaft.
- (4) The lining at or near the top of the boot shaft is made of a different material than that of the lower part of the shaft, and is equally or more attractive as a cuff than the lower lining material.

What Every Member of the Trade Community Should Know About: Footwear, CBP Informed Compliance Publication, April 2012 (“Footwear ICP”); *See also*, Headquarters Ruling Letter (“HQ”) 088353, dated March 12, 1991 (Wherein CBP applied the aforementioned factors in determining whether a boot was intended to be cuffed); *Cf.* with HQ 960940, dated July 21, 1998 (CBP found that a ladies cold weather boot was not designed or intended to be cuffed as it did not meet any of the criteria set forth above).

In the instant case, the Helen 04 meets three of the four factors set forth above. For instance, the top half of the inner lining of the boot does not match the bottom half of the inner lining. Moreover, the top half of the inner lining is made up of a fleece-like textile material which is more attractive than the lower portion of the inner lining. The distinguishable composition of the fleece-like material and the non-fleeced portion of the inner lining indicates that the lower portion is not intended to be exposed. Furthermore, the retail

labeling is located far down the inner lining lip and is placed on the unattractive non-fleeced material. Lastly, the tongue and front quarter of the Helen 04 boot are constructed in a manner which facilitates cuffing the boot without any flaring from the shaft.

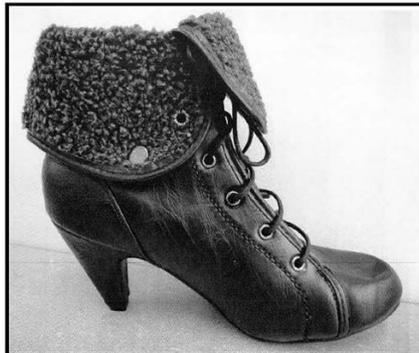
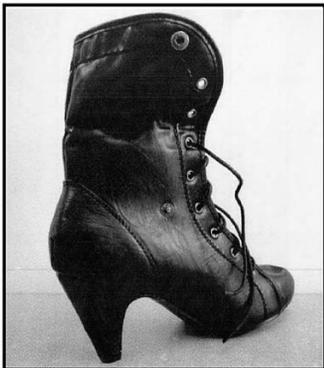


Image A. The subject Helen 04 Boot featuring metal snap buttons. **Image B.** The subject Helen 04 Boot in its “cuffed” position; with exposed fleece-like textile material.

As the images above demonstrate, the Helen 04 features metal snap buttons on each side of the boot. The metal snap buttons are located on the top of the shaft with a connecting snap button located near the mid quarter of the boot. The snap buttons facilitate the folding over of the top half of the shaft exposing the fleece-like textile material while holding the shaft in a cuffed position. As such, more than any other indicator, the snap button feature establishes that the Helen 04 boot is designed and intended to be cuffed.

Similarly, CBP has previously determined that where textile material comprises more than 10 percent of the esau and the rubber or plastic material comprises less than 90 percent of the esau, that the footwear was properly classifiable in subheading 6402.91.70, HTSUS rather than subheading 6402.91.40, HTSUS. For example, in HQ 088353 CBP determined that, based upon its conformity with the definition of a cuffed boot, that a boot with a “Fur Cuff Fold Down” was classified as having a textile material comprising more than 10 percent of the esau. Likewise, in HQ 088403, dated March 22, 1991, CBP found that a fleece lined boot with snaps which held the cuff in place was intended to be cuffed and did not have an esau of more than 90 percent rubber or plastic. Accordingly and based on all of the aforementioned, it is our position that the subject Helen 04 boot is properly classifiable in subheading 6402.91.70, HTSUS.

HOLDING:

Under the authority of GRIs 1 and 6, and by application of Note 4 to Chapter 64, the women’s lace front fashion boot with fleece-like cuffed lining is classified in heading 6402, HTSUS, specifically in subheading 6402.91.70, HTSUS, which provides for: “Other footwear with outer soles and uppers of rubber or plastics: Other: Covering the ankle: Other: Other: Other: Valued over \$3 but not over \$6.50/pair.” The 2019 column one, general rate of duty is 90¢ + 37/5%.

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

EFFECT ON OTHER RULINGS:

NY N196436 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*.

Sincerely,

YULIYA A. GULIS

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

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

(No. 6 2019)

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

SUMMARY: The following copyrights, trademarks, and trade names were recorded with U.S. Customs and Border Protection in June 2019. A total of 172 recordation applications were approved, consisting of 8 copyrights and 164 trademarks. The last notice was published in the Customs Bulletin Vol. 53, No. 20, June 19, 2019.

Corrections or updates may be sent to: Intellectual Property Rights Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, 90 K Street, NE., 10th Floor, Washington, D.C. 20229–1177, or via email at iprrquestions@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT: LaVerne Watkins, Paralegal Specialist, Intellectual Property Rights Branch, Regulations and Rulings, Office of Trade at (202) 325–0095.

CHARLES R. STEUART

Chief,

*Intellectual Property Rights Branch
Regulations and Rulings, Office of Trade*

CBP IPR RECORDATION — JANUARY 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
COP 19-00088	06/07/2019	06/07/2039	Strada.	Artistic Tile, Inc.	No
COP 19-00089	06/13/2019	06/13/2039	Bios.	3-Form Corporation	No
COP 19-00090	06/13/2019	06/13/2039	Float Panel Design.	3form, Inc. d.b.a. 3form	No
COP 19-00091	06/24/2019	03/24/2020	PLIER PRO	Ernst Manufacturing Inc.	No
COP 99-00161	06/07/2019	06/07/2039	Petits et mamans	Bulgari, SPA	No
COP 99-00163	06/07/2019	06/07/2039	Petits et mamans collection of soaps in the shape of animals.	Bulgari, SPA	No
COP 99-00164	06/11/2019	06/11/2039	Hydra the vitalissant body contouring gel	Bulgari, S.P.A.	No
COP 99-00171	06/07/2019	06/07/2039	Petits et mamans	Bulgari, SPA	No
TMK 00-00572	06/28/2019	07/25/2029	DUXIANA	DUX DESIGN AB	No
TMK 02-00117	06/13/2019	06/16/2029	76ERS & Design	Philadelphia 76ers L.P.	No
TMK 03-00656	06/17/2019	08/22/2029	SEATTLE MARINERS	THE BASEBALL CLUB OF SEATTLE, LLLP	No
TMK 03-00680	06/03/2019	11/21/2029	ACTIVATOR	Activator Methods International, LTD	No
TMK 03-00718	06/21/2019	11/04/2029	DRISTAN	WYETH LLC	No
TMK 03-00751	06/20/2019	04/29/2022	VOLCOM	ABG-VOLCOM, LLC	No
TMK 04-00354	06/01/2019	05/21/2029	PRO SEAL	PACER TECHNOLOGY	No
TMK 04-00702	06/28/2019	07/07/2024	GILLETTE	THE GILLETTE COMPANY LLC	No
TMK 05-00212	06/07/2019	06/07/2029	ORLANDO MAGIC	ORLANDO MAGIC LTD.	No
TMK 05-00924	06/28/2019	07/13/2026	GILLETTE	THE GILLETTE COMPANY LLC	No
TMK 06-00686	06/19/2019	11/30/2029	MOTORTRONICS	Phasetronics, Inc.	No
TMK 06-00833	06/20/2019	08/31/2025	THREE LADIES BRAND and DESIGN	VINH-SANH TRADING CORPORATION	No
TMK 06-01318	06/03/2019	08/31/2029	ST Logo	STMICROELECTRONICS, INC.	No

CBP IPR RECORDATION — JANUARY 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 07-00208	06/06/2019	11/10/2029	EUCERIN	BEIERSDORF AKTIENGESELLSCHAFT	No
TMK 07-01089	06/03/2019	07/15/2027	COLDFIRE	NXP USA, INC.	No
TMK 07-01091	06/03/2019	11/07/2027	POWERQUIC	NXP USA, INC.	No
TMK 08-00371	06/05/2019	03/18/2028	FREESCALE SEMICONDUCTOR and DESIGN	NXP USA, INC.	No
TMK 08-00780	06/03/2019	07/08/2028	DESIGN ONLY	NXP USA, INC.	No
TMK 08-01126	06/05/2019	08/30/2026	FUSION	THE GILLETTE COMPANY LLC	No
TMK 08-01141	06/03/2019	12/23/2028	CAROLINA PANTHERS	Panthers Football LLC	No
TMK 08-01144	06/03/2019	01/21/2029	PANTHERS	Panthers Football LLC	No
TMK 09-00009	06/07/2019	04/28/2029	TITANS	Tennessee Football, Inc.	No
TMK 09-00281	06/17/2019	01/01/2026	POLO	PEL USA Holdings, Inc.	No
TMK 09-00431	06/24/2019	10/15/2023	RESTASIS	Allergan, Inc.	No
TMK 09-00432	06/24/2019	09/10/2028	NATRELLE	Allergan, Inc.	No
TMK 09-00595	06/28/2019	07/21/2029	MAGIC OPENER	MAGIC OPENER, LLC	No
TMK 09-01190	06/26/2019	11/22/2029	DESIGN ONLY (Tree Design Logo)	TBL LICENSING LLC	No
TMK 10-00016	06/02/2019	04/20/2029	NXP (Stylized)	NXP B.V.	No
TMK 10-00017	06/03/2019	04/20/2029	NXP	NXP B.V.	No
TMK 10-00057	06/03/2019	04/27/2029	NXP and Design	NXP B.V. Besloten Vennootschap	No
TMK 10-00526	06/02/2019	05/24/2029	INTEL VPRO	Intel Corporation	No
TMK 10-00636	06/04/2019	06/24/2029	BODY GOSPEL	BEACHBODY, LLC	No
TMK 10-00885	06/24/2019	09/29/2029	Design Only Stylized (coda symbol)	CODABOW INTERNATIONAL, LLC	No
TMK 10-01155	06/05/2019	07/07/2029	CARMEX AND DESIGN	Carma Laboratories, Inc.	No
TMK 10-01313	06/07/2019	08/25/2029	Design	Lacoste Alligator S.A.	No

CBP IPR RECORDATION — JANUARY 2019

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 11-00298	06/24/2019	06/30/2029	URBAN ZEN	Karan, Donna	No
TMK 11-00437	06/14/2019	08/18/2029	HUMMER	GENERAL MOTORS LLC	No
TMK 11-01081	06/12/2019	08/12/2029	CARDIOLOGY III	3M Company	No
TMK 11-01109	06/26/2019	10/18/2029	AEROPOSTALE	ABG-AERO IPCO, LLC	No
TMK 12-00821	06/19/2019	06/19/2029	JESSICA SIMPSON (Stylized)	WITH YOU LLC	No
TMK 12-01307	06/03/2019	06/03/2029	BLACKHAWK!	VISTA OUTDOOR OPERATIONS LLC	No
TMK 13-00275	06/28/2019	12/21/2029	DESIGN ONLY (Child Resistant Lighter Configuration)	BIC CORPORATION	No
TMK 13-01100	06/24/2019	06/28/2026	Design Only (Red Paint Cup Ring)	SATA GMBH & CO. KG GMBH & CO. KG	No
TMK 14-00209	06/03/2019	06/03/2029	COVIDIEN	Covidien AG	No
TMK 14-00841	06/13/2019	07/21/2029	CADILLAC	GENERAL MOTORS LLC	No
TMK 14-00895	06/14/2019	08/04/2029	DESIGN ONLY (Corvette C5 Emblem)	GENERAL MOTORS LLC	No
TMK 14-01203	06/06/2019	08/05/2029	KATHY SMITH'S PROJECT: YOU TYPE ₂	BEACHBODY, LLC	No
TMK 15-00013	06/03/2019	11/03/2029	DESIGN ONLY	EVER-TOP HARDWARE CORPORATION	No
TMK 15-00748	06/03/2019	07/05/2029	BEAVER STATE (Stylized)	PENDLETON WOOLEN MILLS, INC.	No
TMK 15-00852	06/19/2019	05/26/2028	Blueteeth Oval and "B" Design (figure mark)	BLUETOOTH SIG, INC.	No
TMK 16-00152	06/07/2019	03/23/2029	M and Design	Mylan Inc.	No
TMK 16-01115	06/07/2019	06/10/2029	GOVINO	govino, LLC	No
TMK 16-01166	06/07/2019	10/21/2028	RALPH	PRJ USA HOLDINGS, INC.	No
TMK 17-00067	06/18/2019	07/12/2029	KOOL (Stylized)	ITG BRANDS, LLC	No
TMK 17-00473	06/07/2019	12/30/2027	RANGE ROVER	JAGUAR LAND ROVER LIMITED	No

CBP IPR RECORDATION — JANUARY 2019

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TMK 17-00474	06/07/2019	11/12/2028	LAND ROVER logo and design	JAGUAR LAND ROVER LIMITED	No
TMK 17-00644	06/18/2019	07/14/2029	MESABI BLACK	Cold Spring Granite Company	No
TMK 17-01026	06/04/2019	09/02/2029	BALMAIN (Stylized)	PIERRE BALMAIN S.A.S.	No
TMK 18-00253	06/26/2019	06/30/2029	PROTAPER and Design	Lacy Distribution, Inc.	No
TMK 19-00356	06/14/2019	08/26/2029	WORLD SERIES	Office of the Commissioner of Baseball	No
TMK 19-00605	06/03/2019	08/09/2027	HOOPSTER	Gaston NA, Inc.	No
TMK 19-00606	06/03/2019	09/21/2026	DESIGN ONLY (PJ MASKS Design Im-age)	ENTERTAINMENT ONE UK LIMITED	No
TMK 19-00607	06/03/2019	08/28/2029	SHOWERBOSS	LaManna, John T.	No
TMK 19-00608	06/03/2019	09/28/2026	CARTIER	Cartier International AG	No
TMK 19-00609	06/03/2019	11/05/2024	REBOUND HOOF PACK	Kehee Enterprises LLC	No
TMK 19-00610	06/03/2019	03/25/2029	HAPPY BOOTY PILLOW BOOTY PERFECTION and Design	Navarro, Arturo	No
TMK 19-00611	06/03/2019	07/30/2029	FLORA SKIN THERAPY	Fields, Josh	No
TMK 19-00612	06/05/2019	08/09/2027	PEEPS and Design	Parkside Optical Inc.	No
TMK 19-00613	06/05/2019	07/16/2029	LOS ANGELES RAMS	THE LOS ANGELES RAMS, LLC	No
TMK 19-00614	06/06/2019	06/28/2027	DOLE WHIP	Dole Packaged Foods, LLC	No
TMK 19-00615	06/06/2019	09/23/2025	HEATSTICKS	Philip Morris Products S.A.	No
TMK 19-00616	06/06/2019	09/30/2025	IQOS	Philip Morris Products S.A.	No
TMK 19-00617	06/06/2019	10/11/2027	HEETS (Stylized)	Philip Morris Products S.A.	No
TMK 19-00618	06/06/2019	02/28/2028	DESIGN ONLY (Three Horizontal Bars Double Device)	Philip Morris Products S.A.	No
TMK 19-00619	06/06/2019	06/26/2029	IQOS THIS CHANGES EVERYTHING	Philip Morris Products S.A.	No
TMK 19-00620	06/06/2019	11/01/2027	IQOS (STYLIZED)	Philip Morris Products S.A.	No

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TMK 19-00621	06/06/2019	01/03/2028	Design Only	Philip Morris Products S.A.	No
TMK 19-00622	06/06/2019	02/14/2028	THIS CHANGES EVERYTHING	Philip Morris Products S.A.	No
TMK 19-00623	06/06/2019	01/31/2028	Design Only	Philip Morris Products S.A.	No
TMK 19-00624	06/06/2019	03/26/2028	Q and Design (Stylized)	Philip Morris Products S.A.	No
TMK 19-00625	06/06/2019	02/14/2028	DESIGN ONLY (Three Horizontal Bars Device)	Philip Morris Products S.A.	No
TMK 19-00626	06/06/2019	12/09/2024	BOTTLEKEEPER	CamCal Enterprises, LLC	No
TMK 19-00627	06/06/2019	08/14/2029	X and Design (PlayStation Shapes (diamond configuration))	(REGISTRANT) Sony Interactive Entertainment Inc. CORPORATION JAPAN 1-7-1, Konan Minato-ku Tokyo JAPAN	No
TMK 19-00628	06/06/2019	10/12/2026	THE SPICE HUNTER	THE C.F. SAUER COMPANY	No
TMK 19-00629	06/07/2019	09/19/2028	DEFENDER	Jaguar Land Rover Limited	No
TMK 19-00630	06/07/2019	08/01/2028	DESIGN ONLY (TRADE DRESS)	Jaguar Land Rover Limited private company limited by shares (pre)	No
TMK 19-00631	06/07/2019	08/17/2026	DESIGN ONLY (TRADE DRESS)	Jaguar Land Rover Limited private company limited by shares (pre)	No
TMK 19-00632	06/07/2019	07/23/2029	DEXYCU	Icon Bioscience, Inc.	No
TMK 19-00633	06/07/2019	08/17/2026	DEFENDER	Jaguar Land Rover Limited	No
TMK 19-00634	06/07/2019	02/14/2028	JAGUAR	Jaguar Land Rover Limited	No
TMK 19-00635	06/07/2019	06/17/2025	JAGUAR	Jaguar Land Rover Limited	No
TMK 19-00636	06/07/2019	10/03/2028	JAGUAR and leaper (design)	Jaguar Land Rover Limited	No
TMK 19-00637	06/07/2019	02/20/2023	JAGUAR and leaper (design)	JAGUAR LAND ROVER LIMITED	No
TMK 19-00638	06/07/2019	04/30/2025	LAND ROVER	JAGUAR LAND ROVER LIMITED	No
TMK 19-00639	06/07/2019	08/30/2027	LAND ROVER	Jaguar Land Rover Limited	No

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TMK 19-00640	06/07/2019	11/10/2019	LAND ROVER	JAGUAR LAND ROVER LIMITED	No
TMK 19-00641	06/07/2019	07/11/2020	LAND ROVER	JAGUAR LAND ROVER LIMITED	No
TMK 19-00642	06/07/2019	03/11/2029	LAND ROVER logo and design	Jaguar Land Rover Limited	No
TMK 19-00643	06/07/2019	07/28/2025	RANGE ROVER	Jaguar Land Rover Limited	No
TMK 19-00644	06/07/2019	02/22/2027	K6S	Kimber IP, LLC	No
TMK 19-00645	06/07/2019	01/30/2029	AIRWIRL	AIRWIRL LLC	No
TMK 19-00646	06/07/2019	09/28/2021	SOLO	Kimber IP, LLC	No
TMK 19-00647	06/10/2019	12/24/2023	GOLIGHT	Golight, Inc.	No
TMK 19-00648	06/10/2019	03/27/2026	STRYKER	Golight, Inc.	No
TMK 19-00649	06/11/2019	06/22/2026	DESIGN ONLY (Growler Device)	Jaguar Land Rover Limited	No
TMK 19-00650	06/11/2019	11/01/2027	DESIGN ONLY (STRYKER searchlight product configuration trade dress)	Golight, Inc.	No
TMK 19-00651	06/11/2019	07/04/2027	NT North Tech and Design	The Registry North, Inc.	No
TMK 19-00652	06/11/2019	04/29/2029	DESIGN ONLY (GOLIGHT/RADIORAY searchlight product configuration trade dress)	Golight, Inc.	No
TMK 19-00653	06/12/2019	06/26/2029	SONG DOG	Song Dog Spirits, LLC	No
TMK 19-00654	06/13/2019	07/30/2029	DESIGN ONLY (100% Goggle Bump Trade Dress)	Saule, LLC.	No
TMK 19-00655	06/13/2019	01/27/2030	AUTOBIOGRAPHY	JAGUAR LAND ROVER LIMITED	No
TMK 19-00656	06/13/2019	04/01/2028	Design Only (A Control Knob)	Automated Processes, Inc.	No
TMK 19-00657	06/14/2019	08/05/2025	BULL	Bull Outdoor Products, Inc.	No
TMK 19-00658	06/14/2019	09/23/2019	BULL OUTDOOR PRODUCTS	Bull Outdoor Products, Inc.	No
TMK 19-00659	06/14/2019	08/14/2029	BLENDET	Miramore Inc.	No

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TMK 19-00660	06/14/2019	12/18/2022	EONSMOKE ELECTRONIC CIGARETTES & Design	Eonsmoke, LLC. DBA Eonsmoke Electronic Cigarettes	No
TMK 19-00661	06/16/2019	07/19/2026	XRVISION	Apelbaum, Yaacov	No
TMK 19-00662	06/17/2019	12/17/2026	JAGUAR	JAGUAR LAND ROVER LIMITED	No
TMK 19-00663	06/17/2019	06/05/2029	VIVE	HTC Corporation	No
TMK 19-00664	06/17/2019	05/28/2027	SUNZONE (Stylized)	Shenzhen Sunzone Electrical Appliances Ltd.	No
TMK 19-00665	06/17/2019	04/27/2029	ASTERION (Stylized)	Shenzhen Sunzone Electrical Appliances Ltd.	No
TMK 19-00666	06/18/2019	06/12/2029	AL (Stylized) and Design (logo)	ALBION CO., LTD.	No
TMK 19-00667	06/18/2019	01/17/2028	JET 5000	SATA GmbH & Co. KG	No
TMK 19-00668	06/18/2019	07/23/2029	SPYFINDER	Shara Taylor Ltd., Inc.	No
TMK 19-00669	06/19/2019	11/12/2028	CORBEAU	CORBEAU USA LLC	No
TMK 19-00670	06/19/2019	06/22/2026	1000	SATA GmbH & Co. KG gmbh & co. kg	No
TMK 19-00671	06/20/2019	01/04/2022	RUBBER B	RUBBER B ,LLC.	No
TMK 19-00672	06/20/2019	03/19/2027	JET 1000 (Stylized)	SATA GmbH & Co. KG GMBH & CO. KG	No
TMK 19-00673	06/20/2019	12/08/2025	HALEY AND THE HOUND	Lookout Designs, LLC	No
TMK 19-00674	06/20/2019	06/15/2026	Lab Silhouette Design	Lookout Designs, LLC	No
TMK 19-00675	06/20/2019	04/06/2025	4000	SATA GmbH & Co. KG	No
TMK 19-00676	06/20/2019	03/19/2027	JET 4000 (STYLIZED FORM)	SATA GmbH & Co. KG	No
TMK 19-00677	06/20/2019	08/05/2025	5000	SATA GmbH & Co.	No
TMK 19-00678	06/20/2019	04/02/2028	WADDLE	Waddle & Friends, Inc.	No
TMK 19-00679	06/21/2019	07/05/2026	INREBIC	IMPACT BIOMEDICINES, INC.	No
TMK 19-00680	06/21/2019	06/19/2029	WHISKEY WOOD	ALBRECHT HOLDINGS LLC	No

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TMK 19-00681	06/21/2019	08/07/2029	STILLHOUSE COLLECTION	ALBRECHT HOLDINGS LLC	No
TMK 19-00682	06/21/2019	08/07/2029	Design Only (Logo)	ALBRECHT HOLDINGS LLC	No
TMK 19-00683	06/21/2019	07/02/2029	F.I.T.	ALBRECHT HOLDINGS LLC	No
TMK 19-00684	06/21/2019	12/26/2027	IMNOVID	Celgene Corporation	No
TMK 19-00685	06/24/2019	11/20/2023	SATA & Design	SATA GmbH & Co. KG	No
TMK 19-00686	06/24/2019	09/07/2026	VRAYLAR	FOREST LABORATORIES HOLDINGS LTD.	No
TMK 19-00687	06/24/2019	07/06/2020	OZURDEX	Allergan, Inc.	No
TMK 19-00688	06/24/2019	06/29/2026	VIBERZI	ALLERGAN HOLDINGS UNLIMITED COMPANY	No
TMK 19-00689	06/24/2019	11/02/2021	VIIBRYD	ALLERGAN SALES, LLC	No
TMK 19-00690	06/24/2019	12/30/2024	Linzees and Design	Ironwood Pharmaceuticals, Inc.	No
TMK 19-00691	06/24/2019	12/12/2027	TRUETEAR	Oculeve, Inc.	No
TMK 19-00692	06/24/2019	11/25/2025	AVYCAZ	ALLERGAN SALES, LLC	No
TMK 19-00693	06/24/2019	05/09/2020	ZENPEP	ALLERGAN PHARMACEUTICALS INTERNATIONAL LIMITED	No
TMK 19-00694	06/24/2019	01/19/2021	Saphris and Design	MERCK SHARP & DOHME B.V.	No
TMK 19-00695	06/24/2019	01/31/2028	REBLOZYL	Celgene Corporation	No
TMK 19-00696	06/24/2019	03/17/2024	RIDGELINE	Pyramex Safety Products, LLC	No
TMK 19-00697	06/25/2019	11/18/2025	KYBELLA	ALLERGAN SALES, LLC	No
TMK 19-00698	06/25/2019	12/29/2025	RPS	SATA GmbH & Co. KG	No
TMK 19-00699	06/25/2019	05/04/2026	SATA	SATA GMBH & CO. KG	No
TMK 19-00700	06/26/2019	09/18/2029	Design Only (Pirate Ship)	BUCCANEERS TEAM LLC	No
TMK 19-00701	06/26/2019	12/26/2027	PALMPRESS	Palm Coffeemaker LLC	No

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TMK 19-00702	06/26/2019	05/23/2029	JAGUAR and Leaper Design	JAGUAR LAND ROVER LIMITED	No
TMK 19-00703	06/26/2019	06/05/2023	HOUWELING'S TOMATOES	Houweling Nurseries Oxnard, Inc.	No
TMK 19-00704	06/27/2019	11/02/2025	ADVION	SYNGENTA PARTICIPATIONS AG	No
TMK 19-00705	06/28/2019	07/14/2025	NINJAGO	LEGO Juris A/S	No
TMK 19-00706	06/28/2019	10/31/2022	ADORE ME (Stylized)	ADOREME, INC.	No
TMK 91-00646	06/12/2019	06/21/2029	CHICAGO BULLS and Design	CHICAGO PROFESSIONAL SPORTS LIMITED PARTNERSHIP	No
TMK 99-00268	06/07/2019	03/15/2029	SENSORY MARK - NO DRAWING	Edgar Rice Burroughs, Inc.	No