

# U.S. Customs and Border Protection



## **PROPOSED REVOCATION OF TWO RULING LETTERS AND MODIFICATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF MACHINE COVERS**

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

**ACTION:** Notice of proposed revocation of two ruling letters and modification of one ruling letter and proposed revocation of treatment relating to the tariff classification of machine 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) intends to revoke two ruling letters concerning the tariff classification of machine covers under the Harmonized Tariff Schedule of the United States (HTSUS) and modify one ruling letter inaccurately describing the merchandise in one of those rulings. Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

**DATE:** Comments must be received on or before October 2, 2020.

**ADDRESS:** Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Cammy Canedo, Regulations and Disclosure Law Division, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Ms. Cammy Canedo at (202) 325–0439.

**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), this notice advises interested parties that CBP is proposing to revoke two ruling letters pertaining to the tariff classification of machine covers and modify one ruling letter inaccurately describing the merchandise in one of those rulings. Although in this notice, CBP is specifically referring to Headquarters Ruling Letter ("HQ") 966911, dated April 1, 2004 (Attachment A), New York Ruling Letter ("NY") N051743, dated February 20, 2009 (Attachment B), and HQ H283893, dated November 15, 2019 (Attachment C), this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the three identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this 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 the final decision on this notice.

In HQ 966911 and NY N051743, CBP classified machine covers in heading 9019, HTSUS, specifically in subheading 9019.10.20, HTSUS, which provides for "Mechano-therapy appliances; massage ap-

paratus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof: Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; parts and accessories thereof: Mechano-therapy appliances and massage apparatus; parts and accessories thereof.” CBP has reviewed HQ 966911 and NY N051743 and has determined the ruling letters to be in error. It is now CBP’s position that the machine covers in HQ 966911 and NY N051743 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.” CBP is also proposing to modify HQ H283893 to correct the inaccurate description of HQ 966911.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke HQ 966911 and NY N051743, and to modify HQ H283893, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ H308383, set forth as Attachment D to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

CRAIG T. CLARK,  
*Director*  
*Commercial and Trade Facilitation Division*

Attachments

HQ H308383  
OT:RR:CTF:FTM H308383 PJG  
CATEGORY: Classification  
TARIFF NO.: 6307.90.98

MR. ROBERT LUM  
MODERN TECHNOLOGIES GROUP, INC.  
#1 MTG WAY @ REEVES STATION ROAD  
MEDFORD, NEW JERSEY 08055

RE: Revocation of HQ 966911 and NY N051743; Modification of HQ H283893;  
tariff classification of machine covers

DEAR MR. LUM:

On April 1, 2004, U.S. Customs and Border Protection (“CBP”) issued Headquarters Ruling Letter (“HQ”) 966911 to you. The ruling pertains to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated (“HTSUSA”) of disposable fleece covers for the Danniflex (CPM 460) machine. We have reviewed HQ 966911 and determined it to be in error with respect to the classification of the merchandise. Accordingly, HQ 966911 is revoked.

Furthermore, CBP has reviewed New York Ruling Letter (“NY”) N051743, dated February 20, 2009, and has determined it to be in error as well. Accordingly, NY N051743 is also revoked. Finally, CBP has reviewed HQ H283893, dated November 15, 2019, and has determined it to be inaccurate with respect to the description of the merchandise in HQ 966911.

**FACTS:**

In HQ 966911, CBP described the disposable fleece covers for the Danniflex (CPM 460) machine as follows:

The merchandise at issue is 100 percent knitted polyester polar fleece covers used to cover the frame of a machine called the Danniflex (CPM 460), a mechano-therapy appliance. The machine is used in hospitals and is a passive motion exerciser for simultaneously flexing the hip and knee joints of a human leg. The cover is placed on the hard pieces of the machine that the patient rests on to prevent sores, friction burns, etc. Hook and loop straps secure the pads to the machine. The fleece covers are disposed of after each patient’s treatment on the machine. The covers are not an integral or necessary part of the machine without which the machine would not operate.

CBP classified the merchandise in heading 9019, HTSUS, because it determined that the merchandise is an accessory to the Danniflex (CPM 460) machine. Specifically, CBP classified the disposable fleece covers in subheading 9019.10.2010, HTSUSA, which provides for “Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof: Mechano-therapy appliances; massage apparatus; psychological aptitude-testing appa-

ratus; parts and accessories thereof: Mechano-therapy appliances and massage apparatus; parts and accessories thereof: Mechano-therapy appliances.”<sup>1</sup>

#### ISSUE:

What is the proper classification under the HTSUS for the disposable fleece covers for the Danniflex (CPM 460) machine?

#### 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 2020 HTSUS provisions under consideration are as follows:

- |             |  |
|-------------|--|
| <b>5911</b> | Textile products and articles, for technical uses, specified in note 7 to this chapter:  |
| <b>6307</b> | Other made up articles, including dress patterns:  |
| <b>9019</b> | Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof: |

Note 7 to Section XI, HTSUS, states, in relevant part, as follows:

For the purposes of this section, the expression “made up” means:

\* \* \*

(b) Produced in the finished state, ready for use (or merely needing separation by cutting dividing threads) without sewing or other working (for example, certain dusters, towels, tablecloths, scarf squares, blankets);

Note 7(b) to Chapter 59, HTSUS, provides as follows:

Heading 5911 applies to the following goods, which do not fall in any other heading of section XI:

\* \* \*

(b) Textile articles (other than those of headings 5908 to 5910) of a kind used for technical purposes (for example, textile fabrics and felts, endless or fitted with linking devices, of a kind used in papermaking or similar machines (for example, for pulp or asbestocement), gaskets, washers, polishing discs and other machinery parts).

\* \* \*

Note 1 to Chapter 63, HTSUS, provides that “Subchapter 1 applies only to made up articles, of any textile fabric.”

<sup>1</sup> While CBP determined that the subject merchandise was an accessory, it erroneously classified it as a mechano-therapy appliance. As an accessory to the Danniflex (CPM 460) machine, it should have been classified in subheading 9019.10.2090, HTSUSA.

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.*

The EN to 59.11(B) provides, in relevant part, as follows:

**(B) TEXTILE ARTICLES OF A KIND USED FOR TECHNICAL PURPOSES**

All textile articles of a kind used for technical purposes (**other than** those of **headings 59.08 to 59.10**) are classified in this heading and **not** elsewhere in Section XI (see Note 7 (b) to the Chapter); for example:

- (1) Any of the fabrics of (A) above which have been made up (cut to shape, assembled by sewing, etc.), for example, straining cloths for oil presses made by assembly of several pieces of fabric; bolting cloth cut to shape and trimmed with tapes or furnished with metal eyelets or cloth mounted on a frame for use in screen printing.
- (2) Textile fabrics and felts, endless or fitted with linking devices, of a kind used in paper-making or similar machines (for example, for pulp or asbestos-cement) (**excluding** machinery belts of **heading 59.10**).
- (3) Articles formed of linked monofilament yarn spirals and having similar uses to the textile fabrics and felts of a kind used in paper-making or similar machines referred to in (2) above.
- (4) Gaskets and diaphragms for pumps, motors, etc., and washers (**excluding** those of **heading 84.84**).
- (5) Discs, sleeves and pads for shoe polishing and other machines.
- (6) Textile bags for oil presses.
- (7) Cords cut to length, with knots, loops, or metal or glass eyelets, for use on Jacquard or other looms.
- (8) Loom pickers.
- (9) Bags for vacuum cleaners, filter bags for air filtration plant, oil filters for engines, etc.

The textile articles of this heading may incorporate accessories in other material **provided** the articles remain essentially articles of textile.

The EN to 63.07 states in pertinent part, the following:

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

It includes, in particular:

\* \* \*

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

\* \* \*

The subject merchandise is not classifiable in Chapter 59, HTSUS, specifically, in heading 5911, HTSUS, which provides for “Textile products and articles, for technical uses, specified in note 7 to this chapter,” because the merchandise is not of a kind used for “technical uses” and it is classifiable in another heading of Section XI, HTSUS. See Note 7(b) to Section XI, HTSUS. The term “technical purposes,” which is used in Note 7(b) to Chapter 59, HTSUS, and “technical uses” are not defined by the HTSUS, however, the subject merchandise is not similar to any of the exemplars provided in Note 7(b) to Chapter 59, HTSUS, or the exemplars provided in EN 59.11(B).

In *Bauerhin Techs. Ltd. Partnership v. United States*, 110 F.3d 774 (Fed. Cir. 1997), the United States Court of Appeals for the Federal Circuit (“CAFC”) 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 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) (holding that inline roller skating protective gear is not an accessory because it “does not directly act on” or “contact” the roller skates)). 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. 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 the disposable fleece cover is not necessary to the completion of the Danniflex (CPM 460) machine and the machine can function without it. It is also not a “part” under the *Pompeo* test because even after the disposable fleece cover is attached to the machine, the machine can function without the cover. The subject merchandise is not a “part” because it is not essential, constituent or integral to the Danniflex (CPM 460) ma-

chine. See *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.”).

The subject merchandise is also not an “accessory” of the Danniflex (CPM 460) machine. Like the protective gear in *Rollerblade, Inc.*, the disposable fleece covers do not directly affect the machine’s operation nor do they contribute to the machine’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 fleece cover is placed on the hard pieces of the machine that the patient rests on to prevent sores, friction burns, etc.

We note that, unlike the protective gear in *Rollerblade, Inc.*, which was never in contact with roller skates, the subject fleece cover does come in contact with the Danniflex (CPM 460) machine while the machine is in use. However, while the fleece cover comes in contact with the machine while it is in use, it does not have a direct relationship to the operation of the machine. As mentioned above, it is used to prevent sores, friction burns, etc. Accordingly, the subject merchandise is neither a “part” nor an “accessory” under heading 9019, HTSUS.

This is similar to HQ H304940, dated December 10, 2019, wherein CBP considered the classification of two stethoscope covers. In that ruling, CBP considered the CIT decision in *Rollerblade, Inc. v. United States*, and determined that “[i]n applying the court’s standard to the instant facts, we must examine whether the subject covers directly contribute to the effectiveness of a stethoscope’s function.” CBP determined that the stethoscope covers “do not directly add to or enhance a stethoscope’s function of detecting sounds in the body. Therefore, the subject stethoscope covers do not rise to the level of an accessory of a medical instrument or appliance of heading 9018, HTSUS.” Similarly, in HQ 966911, the disposable fleece covers for the Danniflex (CPM 460) machine do not contribute to the functioning of the mechano-therapy appliance that it covers. In HQ 966911, CBP specifically states that “[t]he covers are not an integral or necessary part of the machine without which the machine would not operate.” Accordingly, the disposable fleece covers are not an accessory to the Danniflex (CPM 460) machine and therefore, are not classifiable in heading 9019, HTSUS.

The subject merchandise is a “made up” article of textile fabric within the meaning of “made up” provided for in Note 7(b) of Section XI, HTSUS, and the requirement of Note 1 to Chapter 63, HTSUS. Note 7(b) to Section XI, HTSUS, states that “made up” articles are “[p]roduced in the finished state, ready for use (or merely needing separation by cutting dividing threads) without sewing or other working (for example, certain dusters, towels, tablecloths, scarf squares, blankets).” The subject merchandise is imported as finished articles that are ready to be used as covers for the machines without sewing or other working, and they are made of open celled polyester-polyurethane foam covered with polyester fabric with loop finish, polyester hook/loop, and elastic. Therefore, the subject merchandise is classified in heading 6307, HTSUS, and specifically under subheading 6307.90.98, HTSUS, which provides for “Other made up articles, including dress patterns: Other: Other: Other.”

**HOLDING:**

Under the authority of GRIs 1 and 6 the disposable fleece covers for the Danniflex (CPM 460) machine are classified under heading 6307, HTSUS, and specifically in subheading 6307.90.98, HTSUS, which provides for “Other made up articles, including dress patterns: Other: Other: Other.” The 2020 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/](http://www.usitc.gov/tata/hts/).

**EFFECT ON OTHER RULINGS:**

HQ 966911, dated April 1, 2004, is REVOKED.

NY N051743, dated February 20, 2009, is REVOKED.

HQ H283893, dated November 15, 2019, is MODIFIED only insofar as to remove the inaccurate description of HQ 966911. Specifically, it is modified to remove the following language “is integral to the purpose and function of the machine as used for exercise. However,” and replace it with the following language “like.”

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*

*Commercial and Trade Facilitation Division*

HQ 966911

April 1, 2004

CLA-2 RR:CR:TE 966911 RH

CATEGORY: Classification

TARIFF NO.: 9019.10.2010

MR. ROBERT LUM  
MODERN TECHNOLOGIES GROUP, INC.  
#1 MTG WAY @ REEVES STATION RD.  
MEDFORD, NJ 08055

RE: Classification of disposable fleece covers for the Danniflex (CPM 460) machine; Heading 5911, HTSUS; Heading 9019, HTSUS; Note 2(b), Chapter 90, HTSUS

DEAR MR. LUM:

This is in reply to your letters of December 4, 2003 and January 11, 2004, concerning the classification of disposable fleece covers for a Danniflex (CPM (continuous passive motion) 460) machine. A sample cover was submitted with your request.

**FACTS:**

The merchandise at issue is 100 percent knitted polyester polar fleece covers used to cover the frame of a machine called the Danniflex (CPM 460), a mechano-therapy appliance. The machine is used in hospitals and is a passive motion exerciser for simultaneously flexing the hip and knee joints of a human leg. The cover is placed on the hard pieces of the machine that the patient rests on to prevent sores, friction burns, etc. Hook and loop straps secure the pads to the machine. The fleece covers are disposed of after each patient's treatment on the machine. The covers are not an integral or necessary part of the machine without which the machine would not operate.

**ISSUE:**

What is the proper classification of the disposable fleece covers used on the Danniflex (CPM 460) machine?.

**LAW AND ANALYSIS:**

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

Additionally, the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) are 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. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Chapter 59, HTSUS, provides for impregnated, coated, covered or laminated textile fabrics, and textile articles of a kind suitable for industrial use. Where an article is used for technical purposes (other than those of heading 5908 to 5910), and it is not classified elsewhere in Section XI, it is classified

in heading 5911, HTSUS, which provides for “[t]extile products and articles, for technical uses, specified in note 7 to this chapter.” Although the term “technical uses” is not defined in the Tariff, Note 7(b) to Chapter 59 describes “technical purposes” as it relates to “textile articles” as those “of a kind used in papermaking or similar machines (for example, for pulp or asbestos-cement), gaskets, washers, polishing discs and other machinery parts.” In this case, heading 5911 is not applicable because the fleece covers do not meet the definition of “technical uses” in Note 7(b) to Chapter 59, HTSUS. They are used for the comfort of the patient, *i.e.*, to protect the patient from sores, friction burns, etc., but are not an integral or necessary part of the machine’s function.

Chapter 90, HTSUS, provides, in part, for “Optical, Photographic, Cinematographic, Measuring, Checking, Precision, Medical or Surgical Instruments and Apparatus: Parts and Accessories thereof.” Note 2(b), Chapter 90 reads:

Subject to [exclusionary] note 1 above, parts and accessories for machines, apparatus, instruments or articles of this chapter are to be classified according to the following rules:

(b) Other parts and accessories, if suitable for use solely or principally with a particular kind of machine, instrument or apparatus, or with a number of machines, instruments or apparatus of the same heading (including a machine, instrument, or apparatus of heading 9010, 9013 or 9031) are to be classified with the machines, instruments or apparatus of that kind[.]

In accordance with Note 2(b), Chapter 90, and for the reasons set forth above, we find that the polar fleece cover is an accessory suitable for use solely or principally with the Danniflex (CPM 460) machine.

Accordingly, the covers are classifiable with the mechano-therapy machine under heading 9019, HTSUS, which provides for, among other things, mechano-therapy appliances.

**HOLDING:**

The polar fleece covers are classifiable under subheading 9019.10.2010, HTSUSA, which provides for “Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof: Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; parts and accessories thereof: Mechano-therapy appliances and massage apparatus; parts and accessories thereof, Mechano-therapy appliances.” They are dutiable at the general column one rate of Free.

*Sincerely,*

MYLES B. HARMON

*Director,*

*Commercial Rulings Division*

N051743

February 20, 2009

CLA-2-90:OT:RR:NC:N1:105

CATEGORY: Classification

TARIFF NO.: 9019.10.2090

MR. RAUL PARRA  
HARRY F. LONG, INC.  
7300 TURFWAY ROAD  
SUITE 460  
FLORENCE, KY 41042

RE: The tariff classification of a softgoods pad set from China.

DEAR MR. PARRA:

In your letter dated January 5, 2009, for KLC Services, you requested a tariff classification ruling. A sample was provided.

You state: "The softgoods pad set is made in China and is made of open celled polyester-polyurethane foam covered with polyester fabric with loop finish, polyester hook/loop, and elastic. The softgoods pad set is disposable and made to be used by patients only one time."

From the attached flyer we understand the pad to be for K500 Anatomical Knee CPM. Continuous passive motion (CPM) is a treatment method designed to aid in the recovery of joints immediately after trauma or surgery.

The flyer states, "Truly anatomical (Flexion point is at the hip joint)."

The sample pads have sizes and velcro-like straps that match those in the picture of the K500.

Separately imported parts, if identifiable as parts of this kind of device (see General Harmonized System Explanatory Note III to Chapter 90) or of this particular item (see Headquarters Ruling Letter 965546, August 2, 2002), are classified in its heading if not excluded from HTSUS Chapter 90 by its Note 2-a or 1 or by HTSUS Add. US Rule of Interpretation 1-c (see HRLs 965968, December 16, 2002, and 967233, February 18, 2005.)

Note 1-a to HTSUS Chapter 90 excludes, "Articles of a kind used in machines, appliances or for other technical uses ... of textile material (heading 5911)." However, disposable fleece covers for the Danniflex CPM machine were classified in HTSUS 9019.10.20 in Headquarters Ruling Letter 966911 RH, April 1, 2004 (currently in CROSS via CBPnet, but not in CROSS via CBP.gov.) It notes that the "covers are not an integral or necessary part of the machine without which the machine would not operate."

The applicable subheading for these pads will be 9019.10.2090, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Parts and accessories of Mechano-therapy appliances and massage apparatus. The rate of duty will be Free.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist J. Sheridan at 646-733-3012.

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

H283893

November 15, 2019

RR:CTM:CPMMR H283893 MG

CATEGORY: Classification

TARIFF NO.: 3926.90.99 HTSUS

MR. MATHEW MERMIGOUSIS  
PRICEWATERHOUSECOOPERS LLP  
ONE NORTH WACKER,  
CHICAGO, IL, 60606

RE: Request for Binding Ruling; Classification; TIDI Products, LLC (“TIDI”), drapes, covers, and miscellaneous disposables

DEAR MR. MERMIGOUSIS:

This is in response to your request dated November 3, 2015, on behalf of your client, TIDI Products, LLC (“TIDI”), concerning the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of drapes, covers, and miscellaneous disposables (collectively, “drapes”, “covers”, or “urology disposables”). Your request has been forwarded by the National Commodity Specialist Division (NCSA) in New York to this office for a response. Product samples and specifications have been forwarded along with the request. Our decision follows multiple teleconferences between you and your client, and staff of the Office of Regulations and Rulings, and receipt of additional submissions on behalf of TIDI.

**FACTS:**

The merchandise at issue consists of sterilized and packaged disposable drapes, covers, and urology disposables of low density polyethylene to be used as barriers between equipment and patients during medical or surgical procedures. The purpose of such barriers is to prevent contamination of equipment and the subsequent transfer of germs to another patient, which could cause infection. Only the drapes, covers, and urology disposables are being imported and none of the articles have any mechanical or electrical parts.

Representative samples were provided. The C-Arm drape is a flat piece of plastic folded over and connected with hook and loop closures to form a pouch. It is adhered to the existing sterile drapes at the level of the sterile field line during surgery. It maintains its position when opened to cover suction tubing and other equipment. The C-Arm cover fits the profile of a mobile x-ray machine in order to cover it. The Microscope drape fits the profile of a surgical microscope. The Ultrasound probe cover fits the profile of an ultrasound transducer. Urology disposables are sealed to the shape of a funnel and typically include an expandable hose for covering a fluid containment device. Other covers, such as the Band Bag, the Wireless Mouse Bag, and The Slush Drape, are similarly loosely shaped for the device they are meant to cover.

**ISSUE:**

Whether the disposable drapes, covers, and urology disposables at issue are classified as other articles of plastic in heading 3926, HTSUS, or as other instruments and appliances used in medical, surgical science in heading 9018, HTSUS.

**LAW AND ANALYSIS:**

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

The HTSUS provisions under consideration in this case are as follows:

- 3926** Other articles of plastics and articles of other materials of headings 3901 to 3914:  
\* \* \*
- 3926.90 Other:  
\* \* \*
- 3926.90.99 Other.  
\* \* \*
- 9018** Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments; parts and accessories thereof:  
Other instruments and appliances, used in dental sciences, and parts and accessories thereof:  
\* \* \*
- 9018.90 Other instruments and appliances and parts and accessories thereof:  
Optical instruments and appliances and parts and accessories thereof:  
Other:  
\* \* \*
- 9018.90.80 Other.  
\* \* \*

The relevant section and chapter Notes are as follows:

Note 2(u) to chapter 39 states, in relevant part:

1. This chapter does not cover:  
(u) Articles of chapter 90. . . ;

Note 2 to chapter 90, HTSUS, provides, in relevant part:

Subject to note 1 above, parts and accessories for machines, apparatus, instruments or articles of this chapter are to be classified according to the following rules:

\* \* \*

- (b) Other parts and accessories, if suitable for use solely or principally with a particular kind of machine, instrument or apparatus ... are to be classified with the machines, instruments or apparatus of that kind[.]

Note 2(u) to chapter 39 states that this chapter does not cover the “[a]rticles of chapter 90. . .”. In effect, instruments and apparatus of chapter 90, HTSUS, are excluded from chapter 39. Therefore, if the drapes, covers, and

urology disposables are classifiable under chapter 90 and specifically, under heading 9018, HTSUS, they are not classifiable under heading 3926, HTSUS.

The EN to heading 3926, states, in relevant part:

This heading covers articles, not elsewhere specified or included, of plastics (as defined in Note 1 to the Chapter) or of other materials of headings 3901 to 3914.

The EN to heading 9018, states, in relevant part:

This heading covers a very wide range of instruments and appliances which, in the vast majority of cases, are used only in professional practice (e.g., by doctors, surgeons, dentists, veterinary surgeons, midwives), either to make a diagnosis, to prevent or treat an illness or to operate, etc.

The Harmonized Commodity Description and Coding System Explanatory Notes (“EN’s”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN’s provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89–80, 54 Fed. Reg. 35127–28 (Aug. 23, 1989).

You explain that the drapes, covers, and urology disposables at issue are used in the medical field to cover various electrical and hand-held medical instruments. You also explain that they are medical devices as deemed by the Food and Drug Administration (FDA). In *Amersham Corp v. United States*, 5 C.I.T. 49, 56, 564 F.Supp. 813, 817 (1983), the court noted that “statutes, regulations and administrative interpretations relating to, ‘other than tariff purposes’ are not determinative of [CBP] classification disputes.” Therefore, FDA designation as a medical device does not dictate classification in heading 9018, HTSUS. See HQ H265244, dated June 1, 2015, (finding FDA approval has no bearing on classification of a knee protector). See also, HQ 085064, dated August 24, 1990 and HQ 962181, dated January 13, 1999 (Articles are classified by FDA to protect public safety, not as guidance for classification).

You claim that the drapes, covers, and urology disposables are classified under heading 9018, HTSUS, by application of Note 2(b) to chapter 90, because they are specifically designed and used as accessories of the medical instruments and appliances of heading 9018, HTSUS.

We note that drapes for medical equipment have consistently been classified by their material makeup in numerous CBP rulings. For instance, in New York Ruling Letter (NY) NY 883919, dated April 13, 1993, CBP classified plastic disposable banded bags used to cover non-sterile items in the operating room and surgical drapes as other articles of plastic in heading 3926, HTSUS. See also NY C81283, dated November 28, 1997 (a mayo stand cover used to cover equipment in an operating room made from blue polyethylene film); NY N041298, dated November 3, 2008 (a general purpose probe cover used to cover medical apparatus composed of plastic sheeting); NY 870868, dated February 13, 1992 (patient isolation drapes, C-arm and mobile X-ray drapes, microscope, laser and video camera drapes, and X-ray cassette drapes).

Similarly, CBP has classified drapes of other materials outside of heading 9018. In NY I88352, dated December 6, 2002, CBP classified polyethylene or polyester film coated drapes with a strip of adhesive in subheading 3919.90.50, HTSUS. In NY N108695, dated June 10, 2010 CBP classified a magnetic surgical drape in subheading 8505.19.20, HTSUS. In Headquarters Ruling Letter (HQ) 961683, dated August 13, 2002, CBP classified a surgical

drape used primarily in cardiac procedures and comprised of four layers of four different materials, two of which are plastic (polyethylene film), paper (wood pulp), and textile (bonded polyester) in subheading 4818.90.00, HTSUS, which provides for other sanitary or hospital articles of paper. In NY N254836, dated July 17, 2014, CBP classified single-use, sterile-packaged surgical drapes, which were constructed of different materials in subheading 6307.90.68, HTSUS, which provides for surgical drapes, of man-made fibers and in subheading 4818.90.00, HTSUS, which provides for other household, sanitary or hospital articles, of paper pulp, paper, cellulose wadding or webs of cellulose fibers.

In support of classification as a medical device in heading 9018, HTSUS, you cite to NY N245526, dated September 6, 2013, for the proposition that CBP has classified surgical drapes in this heading. However, the item at issue in that ruling is not a surgical drape, but a flexible, tubular, plastic article measuring approximately ten feet in length, with a plastic tray attached to one end. The tray has several electronic connectors which attach to an electrical circuit that will sound an alarm if the item is not used properly. The article in NY N245526 has greater functionality, and is thus distinguishable, from the merchandise at issue in this ruling request.

You have indicated that the urology disposables are sealed to the shape of a funnel and typically include an expandable hose for connecting to a fluid containment device. These products are configured to fit surgical tables that will be utilized in procedures involving large amounts of fluid. They are used in procedures including but not limited to urology and cystoscopy. You claim that the utility of a urology disposable in a medical procedure makes it more specialized than an ordinary disposable and reference HQ 556798, dated September 23, 1993, where CBP classified catheter drainage bags with plastics materials in Chapter 90. We note, however, that the drainage bags at issue in this ruling were connected to a catheter unlike the instant urology disposables, which are configured to fit surgical tables. CBP has ruled that a medical fluid collection pouch designed to hang below an operating table is not classified in heading 9018, HTSUS. See NY N028698, dated Jun 13, 2008. You further cite to HQ 966911, dated April 1, 2004, which classified a fleece lined covers for an exercise machine. The covers at issue in this ruling provide padding during the exercise, which is integral to the purpose and function of the machine as used for exercise. However, the articles at issue in this ruling request are covers and serve no purpose (i.e., to accessorize or assist) in relation to the purpose or functionality of the apparatus, which they cover.

The term “accessory”, as used in Note 2(b) to Chapter 90, is not defined in the HTSUS or in the Harmonized Commodity Description and Coding Explanatory Notes (ENs). However, this office has stated that the term “accessory” is generally understood to mean an article which is not necessary to enable the goods with which they are intended to function. They are of secondary importance, but must, however, contribute to the effectiveness of the principal article (e.g., facilitate the use or handling of the particular article, widen the range of its uses, or improve its operation). See HQ 958710, dated April 8, 1996; HQ 950166, dated November 8, 1991. We also employ the common and commercial meanings of the term “accessory”, as the courts did in *Rollerblade, Inc. v. United States*, wherein the Court of International Trade derived from various dictionaries that an accessory must relate di-

rectly to the thing accessorized. *See, Rollerblade, Inc. v. United States*, 116 F.Supp. 2d 1247 (CIT 2000), *aff'd*, 282 F.3d 1349 (Fed. Cir. 2002) (holding that inline roller skating protective gear is not an accessory because the protective gear does not directly act on or contact the roller skates in any way); *see also* HQ 966216, dated May 27, 2003.

Although the instant drapes, covers, and urology disposables may come in contact with the equipment, their function as a barrier has nothing to do with the operation of the equipment. The drapes, covers, and urology disposables do not facilitate the use or handling of the equipment, widen the range of its uses, or improve its operation and they are used to simply provide a barrier between the equipment and the patient. For these reasons, we find that the drapes, covers, and urology disposables are not accessories to the equipment. Furthermore, because the drapes, covers, and urology disposables are not accessories of the instruments of heading 9018, HTSUS, Note 2(b) to Chapter 90 does not apply. Similarly, because the drapes, covers, and urology disposables are not classifiable in Chapter 90, they are not excluded by Note 2(u) to Chapter 39.

The drapes, covers, and urology disposables at issue are made of plastic as defined in Note 1 to Chapter 39, and are not described more specifically elsewhere in the tariff schedule. We conclude, in accordance with GRI 1, that the articles at issue are properly classified under heading 3926, HTSUS, which provides for “Other articles of plastics and articles of other materials of headings 3901 to 3914”. Specifically, classification is under subheading 3926.90.99, HTSUS, the provision for “Other articles of plastics and articles of other materials of heading 3901 to 3914: Other: Other.”

#### **HOLDING:**

In accordance with GRI I, the drapes, covers, and urology disposables are classified in heading 3926, HTSUS. It is specifically provided for in subheading 3926.90.99, HTSUS as: “Other articles of plastics and articles of other materials of heading 3901 to 3914: Other: Other.” The 2019 general, column one rate of duty is 5.3 percent *ad valorem*.

Duty rates are provided for convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on World Wide Web at <http://www.usitc.gov/tata/hts/>.

*Sincerely,*

ALLYSON MATTANAH,

*Chief*

*Chemicals, Petroleum, Metals and Miscellaneous  
Articles Branch*

## 19 CFR PART 177

### **MODIFICATION OF TWO RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF NOVELTY BACKPACKS**

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

**ACTION:** Notice of modification of two ruling letters and of revocation of treatment relating to the tariff classification of novelty backpacks.

**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 of novelty backpacks 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. 54, No. 22, on June 10, 2020. 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 November 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Karen S. Greene, Chemicals, Petroleum, Metals & Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325–0041.

#### **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. 54, No. 22, on June 10, 2020, proposing to modify two ruling letters pertaining to the tariff classification of novelty backpacks. 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 HQ 081729, U.S. Customs & Border Protection (CBP) classified a textile stuffed figure representing the character Mickey Mouse with a zippered compartment and straps which allow the item to be worn as a backpack in subheading 4202.92.30, HTSUS, as a backpack. In HQ 958308, CBP classified a stuffed figure representing the character Tasmanian Devil with a zippered compartment and straps which allow the item to be worn as a backpack in subheading 4202.92.30, HTSUS, as a backpack of textile material.

CBP has reviewed HQ 081729 and HQ 958308 and has determined the ruling letters to be in error. It is now CBP's position that the novelty backpacks are properly classified pursuant to GRI 1 rather than GRI 3. The novelty backpacks remain classified in subheading 4202.92.30, HTSUS.

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is modifying HQ 081729 and HQ 958308 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in HQ H305441, 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: August 19, 2020

*for*  
CRAIG T. CLARK,  
*Director*  
*Commercial and Trade Facilitation Division*

*Attachment*

HQ H305441

August 19, 2020

OT:RR:CTF:CPMM H305441 KSG

CATEGORY: Classification

TARIFF NO.: 4202.92.31

ALLAN H. KAMNITZ  
SHARRETTS, PALEY, CARTER & BLAUVELT, P.C.  
75 BROAD STREET  
NEW YORK, NY 10004

RE: Modification of HQ 081729 and HQ 958308; tariff classification of novelty backpacks

DEAR MR. KAMNITZ:

This letter is in reference to Headquarters Ruling Letter (HQ) 081729, dated February 16, 1990, and HQ 958308, dated November 7, 1995, regarding the tariff classification of novelty backpacks under the Harmonized Tariff Schedule of the United States (HTSUS).

In HQ 081729, U.S. Customs & Border Protection (CBP) classified a textile stuffed figure representing the character Mickey Mouse with a zippered compartment and straps which allow the item to be worn as a backpack in subheading 4202.92.30, HTSUS, as a backpack. In HQ 958308, CBP classified a stuffed figure representing the character Tasmanian Devil with a zippered compartment and straps which allow the item to be worn as a backpack in subheading 4202.92.30, HTSUS, as a backpack of textile material.

We have reviewed HQ 081729 and HQ 958308 and determined that while the conclusion of the rulings are correct, the reasoning is in error. Accordingly, for the reasons set forth below, CBP is modifying HQ 081729 and HQ 958308.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to modify HQ 081729 and HQ 958308 was published on June 10, 2020, in Volume 54, Number 22 of the Customs Bulletin. No comments were received in response to this notice.

**FACTS:**

HQ 081729 involved a backpack representing the character Mickey Mouse. It is composed of man-made textile and has a compartment with a slide fastener closure. Attached to Mickey's hands and feet are straps which allow the article to be worn as a backpack. The marketing for this article refers to it as a "Mickey's Pals Backpack."

HQ 958308 involved a textile backpack representing the character "Tasmanian Devil." It has a semi-plush body, arms, legs and an oversized head. The mouth of the oversized head has a 6 inch deep compartment. The mouth closes with velcro straps. Backpack straps are attached to the upper back and legs.

Both articles were classified by CBP at heading 4202, HTSUS, which provides for backpacks. Both HQ rulings applied GRI 3(b) to arrive at their conclusion.

**ISSUE:**

Are the novelty backpacks described above properly classified by application of GRI 3(b)?

**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 subheadings under consideration are the following:

- |      |  |
|------|--|
| 4202 | Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: |
| 9503 | Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls, other toys; reduced-scale ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof   |

Chapter Note 2(1), of Chapter 42, HTSUS, excludes articles of chapter 95 (for example, toys, games, sports equipment) from Chapter 42.

Chapter note 1(d), of Chapter 95, HTSUS, excludes containers of heading 4202 from Chapter 95.

The Court of International Trade (CIT) stated in *Rubies Costume Co. v. United States*, 279 F. Supp. 3d 1145 (Ct. Intl' Trade 2017), aff'd, 922 F.3d 1337 (Fed. Cir. 2019), that "the HTSUS is designed so that most classification questions can be answered by GRI 1." The Explanatory Note ("EN") for Rule 1 states at (IV) that "[P]rovision (III) (a) is self-evident, and many goods are classified in the Nomenclature without recourse to any further consideration of the Interpretative Rules (e.g., live horses (heading 01.01), pharmaceutical goods specified in Note 4 to Chapter 30 (heading 30.06))."

The EN for GRI 3, EN (I) provides as follows:

This Rule provides three methods of classifying goods which, prima facie, fall under two or more headings, ...These methods operate in the order in which they are set out in the Rule. Thus Rule 3(b) operates only if Rule 3(a) fails in classification,...

In *Rubies*, the CIT set forth an approach to reconcile exclusionary notes of varying specificity. In *Rubies*, the chapter 95 note was more specific<sup>1</sup> than the section XI Note (which includes chapter 61), which broadly excluded all

<sup>1</sup> Note 1 (e), chapter 95, HTSUS, excludes fancy dress of textiles, of chapter 61 or 62. Note 1(d), chapter 95, HTSUS, excludes containers of heading 4202.

chapter 95 articles. The Court stated that the broad exclusion to chapter 95 operated to eliminate their possible classification as festive articles in chapter 95, HTSUS.

In the instant case, like in *Rubies*, the exclusionary notes at issue are not equal in specificity. Note 1(d), chapter 95, HTSUS, excludes sports bags and other containers of chapter 42. Note 2(l), chapter 42, HTSUS, excludes articles of chapter 95. In accordance with *Rubies*, the exclusionary note in chapter 95 is more specific. Therefore, the backpacks of HQ 081729 and HQ 958308 could not be classified in chapter 95, HTSUS.

Further, CBP incorrectly stated in HQ 958308 that both heading 9503, which describes toys, and heading 4202, which describes backpacks, are “equally descriptive of the subject merchandise.” Upon further reflection, we find that the headings are not equally descriptive; heading 4202 describing backpacks of textile materials is more descriptive of the articles being classified in Headquarters Ruling Letter (HQ) 081729 and HQ 958308 than heading 9503. Both articles in HQ 081729 and HQ 958308 have a functional storage area in which to transport items. This is in contrast to HQ 962670, dated April 20, 1999, and HQ 961502, dated April 19, 1999, in which dolls with a very small compartment with minimal storage capacity were determined to be classified outside of heading 4202. In NY N149435, dated March 18, 2011 and in NY B85711, dated June 12, 1997, a plush stuffed character with a strap and containing a very small compartment with minimal storage capacity were properly classified in heading 9503, HTSUS, because they were dolls or stuffed animals, which are classified as toys and are not excluded from the heading as a container under Chapter 95 Note 1(d). The articles in HQ 081729 and HQ 958308 must be classified in accordance with GRI 1 in heading 4202, HTSUS, as they store, protect, organize and carry in the manner of a backpack. See *Totes, Inc. v. United States*, 18 C.I.T. 919 (1994), *aff’d by Totes, Inc. v. United States*, 69 F.3d 495 (Fed. Cir. 1995). There is no need and it is not proper to proceed to GRI 3.

Based on the above analysis, we affirm the classification in HQ 081729 and in HQ 958308 of the novelty stuffed animal textile backpacks in heading 4202, HTSUS, specifically in subheading 4202.92.31, HTSUS (which replaces the former subheading 4202.92.30, HTSUS), based on the application of GRI 1. We do not proceed to GRI 3 analysis.

#### **HOLDING:**

The textile articles are classified in subheading 4202.92.31, HTSUS, the provision for “...backpacks...: Other: With outer surface of sheeting of plastics or of textile materials: Travel, sports and similar bags: With outer surface of textile materials: of manmade fibers”, by application of GRI’s 1 and 6. The column one general rate of duty is 17.6% *ad valorem*.

Duty rates are provided for your convenience and subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided for at [www.usitc.gov](http://www.usitc.gov).

#### **EFFECT ON OTHER RULINGS:**

HQ 081729 and HQ 958308 are modified in accordance with the above analysis.

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

*Sincerely,*

*for*

CRAIG T. CLARK,

*Director*

*Commercial and Trade Facilitation Division*

**19 CFR PART 177****REVOCAION OF ONE RULING LETTER AND  
REVOCAION OF TREATMENT RELATING TO THE  
TARIFF CLASSIFICATION OF A CERTAIN NECK TIE**

**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 a neck tie.

**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 a neck tie 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. 54, No. 21, on June 3, 2020. 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 November 1, 2020.

**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. 54, No. 21, on June 3, 2020, proposing to revoke one ruling letter pertaining to the tariff classification of a neck tie. 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") N284136, dated March 31, 2017, CBP classified the neck tie at issue in heading 6215, HTSUS, specifically in subheading 6215.10.00, HTSUS, which provides for "Ties, bow ties and cravats: Of silk or silk waste." CBP has reviewed NY N284136 and has determined that ruling letter to be in error. It is now CBP's position that neck tie at issue is properly classified, in heading 6215, HTSUS, specifically in subheading 6215.90.00, HTSUS, which provides for "Ties, bow ties and cravats: Of other textile materials."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N284136 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H304240, 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*.

*For*

CRAIG T. CLARK,  
*Director*

*Commercial and Trade Facilitation Division*

*Attachment*

HQ H304240

August 17, 2020

OT:RR:CTF:FTM H304240 TSM

CATEGORY: Classification

TARIFF NO.: 6215.90.00

MS. ANGIE MCDANIEL  
OXFORD  
555 S. VICTORY DRIVE  
LYONS, GA 30436

RE: Revocation of New York Ruling Letter (“NY”) N284136; The tariff classification of a neck tie from Italy.

DEAR MS. MCDANIEL:

This is in reference to NY N284136, dated March 31, 2017, concerning the tariff classification of a certain neck tie. In that ruling, U.S. Customs and Border Protection (“CBP”) classified the neck tie at issue under subheading 6215.10.00, HTSUS, which provides for “Ties, bow ties and cravats: Of silk or silk waste.” Upon additional review, we have found this classification to be incorrect. For the reasons set forth below we hereby revoke NY N284136.

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 54, No. 21, on June 3, 2020, proposing to revoke NY N284136, and revoke any treatment accorded to substantially identical transactions. No comments were received in response to the notice.

**FACTS:**

In NY N284136, the neck tie at issue was described as follows:

Style 91–21071 is a man’s neck tie. The tie has an outer shell composed of 55% linen, 45% silk woven fabric, interlinings composed of 63% cotton, 20% wool, 17% viscose and a lining composed of 57% polyester, 43% viscose. You state that the outer shell is 55%, the interlining is 30% and the lining is 15% the weight of the tie. The neck tie measures approximately sixty inches in length and 3¼ inches at its widest point.

**ISSUE:**

What is the tariff classification of the neck tie 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:

6215	Ties, bow ties and cravats:
6215.10.00	Of silk or silk waste
	* * *
6215.90.00	Of other textile materials
	* * *

Subheading Note 2(A) to Section XI, provides as follows:

Products of Chapters 56 to 63 containing two or more textile materials are to be regarded as consisting wholly of that textile material which would be selected under Note 2 to this Section for the classification of a product of Chapters 50 to 55 consisting of the same textile materials.

\* \* \*

Note 2(A) to Section XI, HTSUS, provides as follows:

Goods classifiable in Chapters 50 to 55 or in heading No. 58.09 or 59.02 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over any other single textile material.

When no one textile material predominates by weight, the goods are to be classified as if consisting wholly of that one textile material which is covered by the heading which occurs last in numerical order among those which equally merit consideration.

\* \* \*

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 Subheading Note 2 to Section XI provides in relevant part as follows:

(A) Products of Chapters 56 to 63 containing two or more textile materials are to be regarded as consisting wholly of that textile material which would be selected under Note 2 to this Section for the classification of a product of Chapters 50 to 55 or of heading 58.09 consisting of the same textile materials.

(B) For the application of this rule:

(a) where appropriate, only the part which determines the classification under Interpretative Rule 3 shall be taken into account

\* \* \*

Explanatory Note 2 to Section XI provides in relevant part as follows:

(A) Goods classifiable in Chapters 50 to 55 or in heading 58.09 or 59.02 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over any other single textile material.

When no one textile material predominates by weight, the goods are to be classified as if consisting wholly of that one textile material

which is covered by the heading which occurs last in numerical order among those which equally merit consideration.

\* \* \*

The General Explanatory Note to Section XI provides in relevant part as follows:

**(A) Classification of products composed of mixed textile materials**

(See Note 2 to Section XI)

A textile product classifiable in any heading in Chapters 50 to 55 (waste, yarn, woven fabric, etc.) or in heading 58.09 or 59.02 and of a mixture of two or more different textile materials is to be classified as if consisting wholly of that one textile material which predominates by weight over any other single textile material.

When no one textile material predominates by weight, the goods are to be classified as if consisting wholly of that one textile material which is covered by the heading which occurs last in numerical order among those which equally merit consideration.

The textile materials may be mixed:

- prior to or during spinning;
- during twisting;
- during weaving.

In the case of products (other than those of heading 58.11) consisting of two or more textile fabrics of different composition assembled in layers by sewing, gumming, etc., classification is determined in accordance with Interpretative Rule 3. Accordingly, Note 2 to Section XI applies only where it is necessary to determine the textile material which predominates by weight in the fabric taken into consideration for the classification of the product as a whole.

\* \* \*

Pursuant to Note 2(A) to Section XI, HTSUS, and Subheading Note 2(A) to Section XI, HTSUS, goods consisting of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over each other single textile material. However, consistent with the ENs to Section XI, we note that the mixture of textile materials contemplated in the above-referenced notes to Section XI is not a mixture of two or more separate fabrics, but a mixture of two or more textile materials, mixed prior to or during spinning, during twisting, or during weaving. In case of products consisting of two or more textile fabrics of different composition assembled by sewing, classification is determined in accordance with GRI 3, which is utilized to select which fabric will determine classification and which part of the garment that fabric comprises.

GRI 3 states, in pertinent part, that, when by application of GRI 2(b) 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, ...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 neck tie at issue is composed of the outer shell, the interlinings, and the lining. Therefore, it qualifies as a composite good with separable components. Pursuant to GRI 3(b), composite goods are classified as if they consisted of the material or component which gives them their essential character. The term “essential character” is not defined within the HTSUS, GRIs or ENs. However, EN VIII to GRI 3(b) gives guidance, stating that: “[T]he factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the good.” In the instant case, we find that the outer shell contributes the most to the overall look and feel of the neck tie at issue. Therefore, we conclude that the essential character of the neck tie is imparted by the outer shell, which is composed of 55% linen and 45% silk fabric. Since linen predominates by weight over silk, we find that for tariff classification purposes the tie at issue is a tie composed of linen, provided for in heading 6215, HTSUS, and specifically in subheading 6215.90.00, HTSUS, which provides for “Ties, bow ties and cravats: Of other textile materials.”

**HOLDING:**

By application of GRIs 1 and 6, we find that the neck tie at issue is classified under heading 6215, HTSUS, and specifically in subheading 6215.90.00, HTSUS, which provides for “Ties, bow ties and cravats: Of other textile materials.” The 2019 column one, general rate of duty is 5% *ad valorem*.

**EFFECT ON OTHER RULINGS:**

NY N284136, dated March 31, 2017, 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,  
For*

CRAIG T. CLARK,  
*Director*

*Commercial and Trade Facilitation Division*

**PROPOSED REVOCATION OF TWO RULING LETTERS  
AND REVOCATION OF TREATMENT RELATING TO THE  
TARIFF CLASSIFICATION OF CERTAIN WIRELESS  
NETWORK EXPANSION EQUIPMENT**

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

**ACTION:** Notice of proposed revocation of two ruling letters, and revocation of treatment relating to the tariff classification of a certain networking equipment known as powerline adapters.

**SUMMARY:** Pursuant to section 625(c), 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), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to modify two ruling letters concerning tariff classification of certain networking equipment, referred to as “powerline adapters” or “powerlines”, under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

**DATE:** Comments must be received on or before October 2, 2020.

**ADDRESS:** Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Ms. Cammy Canedo at (202) 325–0439.

**FOR FURTHER INFORMATION CONTACT:** Tom P. Beris, Electronics, Machinery, Automotive, and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0292.

**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 responsibil-

ity 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), this notice advises interested parties that CBP is proposing to revoke two ruling letters pertaining to the tariff classification of certain networking equipment referred to as powerlines. Although in this notice, CBP is specifically referring to New York Ruling Letters (NYRLs) N300884, dated October 16, 2018 (Attachment A) and N304478, dated June 10, 2019 (Attachment B), this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this 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 the final decision on this notice.

In NYRLs N304478 and N300884, CBP classified certain networking equipment referred to as powerlines in subheading 8517.62.0020, HTSUSA (Annotated), which provides for "Telephone sets...; other apparatus for the transmission or reception of voice, images or other data...: Other apparatus for transmission or reception...: Machines for the reception, conversion, and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Switching and routing apparatus." CBP has reviewed N304478 and N300884 and has determined the classification of these devices to be in error.

It is now CBP's position that the powerline adapters should be classified under subheading 8517.62.0090, HTSUSA, which provides for "Telephone sets...; other apparatus for the transmission or recep-

tion of voice, images or other data...: Other apparatus for transmission or reception...: Machines for the reception, conversion & transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NYRLs N304478 and N300884 as indicated above and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H307923, set forth as Attachment C to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke or modify any treatment previously accorded by CBP to substantially identical transactions.

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

GREGORY CONNOR  
*for*

CRAIG T. CLARK,  
*Director*

*Commercial and Trade Facilitation Division*

Attachments

ATTACHMENT A

N300884

October 16, 2018

CLA-2-85:OT:RR:NC:N2:209

CATEGORY: Classification

TARIFF NO.: 8517.62.0020

CARL W. MERTZ  
TP-LINK USA CORP  
145 SOUTH STATE COLLEGE BLVD, SUITE 400  
BREA, CA 92821

RE: The tariff classification of network expansion devices from China

DEAR MR. MERTZ:

In your letter dated October 1, 2018, you requested a tariff classification ruling.

The items concerned are referred to as “Network Expansion, Powerline Adapters” (Models: AV600 Powerline Starter Kit - TL-PA4010 KIT, AV2000 2-port Gigabit Passthrough Powerline Starter Kit - TL-PA9020P KIT, AV1000 Gigabit Powerline ac Wi-Fi Kit - TL-WPA7510 KIT).

The items concerned consist of two units, a base unit and a remote unit. The base unit connects to a user’s router via an Ethernet cable. Then the unit is plugged into a household electrical outlet. The remote unit connects to a user’s end use device and is plugged into a different household electrical outlet. The home’s internal power lines are used to carry the signal and expand the network coverage. Additional adapters can be added to create a greater expanded network. Remote units will connect to end use devices such as televisions, tablets and computers via wired or wireless communication.

The applicable subheading for the “Network Expansion, Powerline Adapters” (Models: AV600 Powerline Starter Kit - TL-PA4010 KIT, AV2000 2-port Gigabit Passthrough Powerline Starter Kit - TL-PA9020P KIT, AV1000 Gigabit Powerline ac Wi-Fi Kit - TL-WPA7510 KIT) will be 8517.62.0020, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “Telephone sets...; other apparatus for the transmission or reception of voice, images or other data...: Other apparatus for transmission or reception...: Machines for the reception, conversion, and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Switching and routing apparatus.” The general rate of duty will be Free.

Effective July 6, 2018, the Office of the United States Trade Representative (USTR) imposed an additional tariff on certain products of China classified in the subheadings enumerated in Section XXII, Chapter 99, Subchapter III U.S. Note 20(b), HTSUS. The USTR imposed additional tariffs, effective August 23, 2018, on products classified under the subheadings enumerated in Section XXII, Chapter 99, Subchapter III U.S. Note 20(d), HTSUS. Subsequently, the USTR imposed further tariffs, effective September 24, 2018, on products classified under the subheadings enumerated in Section XXII, Chapter 99, Subchapter III U.S. Note 20(f) and U.S. Note 20(g), HTSUS. For additional information, please see the relevant Federal Register notices dated June 20, 2018 (83 F.R. 28710), August 16, 2018 (83 F.R. 40823), and September 21, 2018 (83 F.R. 47974). Products of China that are provided for in subheading 9903.88.01, 9903.88.02, 9903.88.03, or 9903.88.04 and classified in one of the subheadings enumerated in U.S. Note 20(b), U.S. Note

20(d), U.S. Note 20(f) or U.S. Note 20(g) to subchapter III shall continue to be subject to antidumping, countervailing, or other duties, fees and charges that apply to such products, as well as to those imposed by the aforementioned Chapter 99 subheadings.

Products of China classified under subheading 8517.62.00, HTSUS, unless specifically excluded, are subject to the additional 10 percent ad valorem rate of duty. At the time of importation, you must report the Chapter 99 subheading, i.e., 9903.88.04, in addition to subheading 8517.62.0020, HTSUS, listed above.

The tariff is subject to periodic amendment so you should exercise reasonable care in monitoring the status of goods covered by the Notice cited above and the applicable Chapter 99 subheading.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at <https://hts.usitc.gov/current>.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Steven Pollichino at [steven.pollichino@cbp.dhs.gov](mailto:steven.pollichino@cbp.dhs.gov).

*Sincerely,*

STEVEN A. MACK

*Director*

*National Commodity Specialist Division*

ATTACHMENT B

N304478

June 10, 2019

CLA-2-85:OT:RR:NC:N2:209

CATEGORY: Classification

TARIFF NO.: 8517.62.0020

GEORGE R. TUTTLE, III  
TUTTLE LAW OFFICES  
1100 LARKSPUR LANDING CIRCLE, SUITE 385  
LARKSPUR, CA 94939

RE: The tariff classification of network expansion devices from China

DEAR MR. TUTTLE:

In your letter dated May 23, 2019, you requested a tariff classification ruling on behalf of your client, Netgear Inc.

The item concerned is referred to as the Powerline 1000 – PL1000. The Powerline 1000 – PL1000 is a network expansion/extension device which is comprised of two separate units. There is a base unit and a remote unit. The base unit connects to a user's network router via an Ethernet cable. Then the unit is plugged into a household electrical outlet. The remote unit connects to a user's end use device and is plugged into a different household electrical outlet.

The function of the item concerned is to route data through a home's internal power lines. By routing data through the existing home wiring system the network coverage can be extended or expanded to areas that may be resistant to a wireless connection or where it may be difficult to run new cable.

You have proposed classification of the item concerned within subheading 8517.62.0090, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "...Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other." Based upon the function of the item(s) concerned, it is the opinion of this office that the routing of network data, through a power line system, is a function described more specifically by a different subheading within heading 8517, HTSUS. Similar merchandise has been ruled upon by CBP in N300884, which found that devices used to route data through a power line system, are classified as a type of routing device within subheading 8517.62.0020, HTSUS, as such classification within subheading 8517.60.0090, HTSUS, would be inapplicable.

The applicable subheading for the Powerline 1000 – PL1000 will be 8517.62.0020, HTSUS, which provides for "Telephone sets...; other apparatus for the transmission or reception of voice, images or other data...: Other apparatus for transmission or reception...: Machines for the reception, conversion, and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Switching and routing apparatus." The general rate of duty will be Free.

Effective July 6, 2018, the Office of the United States Trade Representative (USTR) imposed an additional tariff on certain products of China classified in the subheadings enumerated in Section XXII, Chapter 99, Subchapter III U.S. Note 20(b), HTSUS. The USTR imposed additional tariffs, effective August 23, 2018, on products classified under the subheadings enumerated in

Section XXII, Chapter 99, Subchapter III U.S. Note 20(d), HTSUS. Subsequently, the USTR imposed further tariffs, effective September 24, 2018, on products classified under the subheadings enumerated in Section XXII, Chapter 99, Subchapter III U.S. Note 20(f) and U.S. Note 20(g), HTSUS. For additional information, please see the relevant Federal Register notices dated June 20, 2018 (83 F.R. 28710), August 16, 2018 (83 F.R. 40823), and September 21, 2018 (83 F.R. 47974). See also “Notice of Action and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation” (June 20, 2018, 83 F.R. 28710). Products of China that are provided for in subheading 9903.88.01, 9903.88.02, 9903.88.03, or 9903.88.04 and classified in one of the subheadings enumerated in U.S. Note 20(b), U.S. Note 20(d), U.S. Note 20(f) or U.S. Note 20(g) to subchapter III shall continue to be subject to antidumping, countervailing, or other duties, fees and charges that apply to such products, as well as to those imposed by the aforementioned Chapter 99 subheadings.

Products of China classified under subheading 8517.62.00, HTSUS, unless specifically excluded, are subject to the additional 25 percent ad valorem rate of duty. At the time of importation, you must report the Chapter 99 subheading, i.e., 9903.88.04, in addition to subheading 8517.62.0020, HTSUS, listed above.

The tariff is subject to periodic amendment so you should exercise reasonable care in monitoring the status of goods covered by the notice cited above and the applicable Chapter 99 subheading.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at <https://hts.usitc.gov/current>.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Steven Pollichino at [steven.pollichino@cbp.dhs.gov](mailto:steven.pollichino@cbp.dhs.gov).

*Sincerely,*

STEVEN A. MACK

*Director*

*National Commodity Specialist Division*

ATTACHMENT C

HQ H307923  
CLA-2 OT:RR:CTF:EMAIN H307923 TPB  
CATEGORY: Classification  
TARIFF NO.: 8517.62.0090

CARL W. MERTZ  
TP-LINK USA CORP  
145 SOUTH STATE COLLEGE BLVD., SUITE 400  
BREA, CA 92821

RE: Revocation of New York (NY) ruling letters N300884 and N304478; Classification of network devices; re-classification of network range extenders

DEAR MR. MERTZ:

This letter is in reference to New York (NY) ruling letters N300884, dated October 16, 2018 and N304478, dated June 10, 2019, regarding the tariff classification of certain network range extension devices referred to as “powerline adapters” under the Harmonized Tariff Schedule of the United States (HTSUS).

In those rulings, U.S. Customs and Border Protection (CBP) classified the range extenders in subheading 8517.62.0020, HTSUSA, which provides for “Telephone sets...; other apparatus for the transmission or reception of voice, images or other data...: Other apparatus for transmission or reception...: Machines for the reception, conversion, and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Switching and routing apparatus.”

We have reviewed NY N300884 and NY N304478 and determined that those rulings were in error. Accordingly, for the reasons set forth below, CBP proposes to revoke those ruling letters.

**FACTS:**

NY N300884 dealt with the classification of network devices referred to as “Network Expansion, Powerline Adapters” (Models: AV600 Powerline Starter Kit - TL-PA4010 KIT, AV2000 2-port Gigabit Passthrough Powerline Starter Kit - TL-PA9020P KIT, AV1000 Gigabit Powerline ac Wi-Fi Kit - TL-WPA7510 KIT<sup>\*</sup>).

They each consisted of two units, a base unit and a remote unit. The base unit connects to a user’s router via an Ethernet cable. Then the unit is plugged into a household electrical outlet. The remote unit connects to a user’s end use device and is plugged into a different household electrical outlet. The home’s internal power lines are used to carry the signal and expand the network coverage. Additional adapters can be added to create a greater expanded network. Remote units will connect to end use devices such as televisions, tablets and computers via wired or wireless communication.

NY N304478 concerned the classification of a network extension device referred to as the Powerline 1000 – PL1000. The Powerline 1000 – PL1000 is a network expansion/extension device, which is also comprised of two sepa-

---

\* The AV1000 Gigabit Powerline ac Wi-Fi Kit - TL-WPA7510 KIT functions based on the same principle as the remaining Powerline products, but the “remote unit” also emits a Wi-Fi signal copied from the original router in addition to providing a wired Ethernet connection.

rate units: a base unit and a remote unit. The base unit connects to a user's network router via an Ethernet cable. Then the unit is plugged into a household electrical outlet. The remote unit connects to a user's end use device and is plugged into a different household electrical outlet. By taking advantage of existing home wiring infrastructure, the network coverage can be extended or expanded to areas that may be resistant to a wireless connection or where it may be difficult to run new cable.

#### ISSUE:

Whether the network devices at issue constitute switching and routing apparatus.

#### 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 HTSUSA provisions under consideration are:

8517	Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 8443, 8525, 8527 or 8528; parts thereof:  Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network):
8517.62.00	Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus:
8517.62.0020	Switching and routing apparatus
8517.62.0090	Other

As indicated by you in supplemental submissions, powerline networking is a technology that is used to communicate data through the electrical wiring in the user's house. When installed, it provides a wired connection to devices that cannot otherwise be reached by Ethernet cable or by Wi-Fi.

To be classified as switching or routing apparatus, the devices must perform switching or routing themselves and not merely rely on an external switching or routing device. A routing device performs the traffic directing function. It is used to forward IP packets in a wide area network (WAN) to a destined client in a local area network (LAN) based on reading the network address information in the data packet, which determines the destination. Then using information in its routing table, or routing policy, it actively directs the packet to the next network on its journey. A routing table file is stored in random access memory (RAM) that contains network information.

A network switch is a multiple-Ethernet-port device that physically connects individual network devices in a computer network, so they can com-

municate with one another. It is the key component in a business network, connecting multiple network devices such as: PCs, printers, servers and peripherals, and it associates each device's address with one of the physical ports on the switch.

Unlike a router or a switch, subject merchandise have no intelligence and make no decisions as to where the data goes next. They do not contain a software or firmware routing table and cannot read the network address information in the data packet to determine the specific destination of the data packet.

Based on the foregoing, these devices do not constitute "switching and routing apparatus" and are therefore properly classified under subheading 8517.62.0090, HTSUSA, which provides for "Telephone sets...; other apparatus for the transmission or reception of voice, images or other data...: Other apparatus for transmission or reception...: Machines for the reception, conversion, and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other."

**HOLDING:**

For the reasons set forth above, the powerline adapters (Models AV600 Powerline Starter Kit - TL-PA4010 KIT, AV2000 2-port Gigabit Passthrough Powerline Starter Kit - TL-PA9020P KIT, AV1000 Gigabit Powerline ac Wi-Fi Kit - TL-WPA7510 KIT, and the Powerline 1000 - PL1000) are classified in subheading 8517.62.0090, HTSUSA, which provides for "Machines for the reception, conversion & transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other." The column one, general rate of duty for goods of subheading 8517.62.00, HTSUS, is free.

Duty rates are provided for your convenience and subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided at [www.usitc.gov](http://www.usitc.gov).

**EFFECT ON OTHER RULINGS:**

NY N300884, dated October 16, 2018 and NY N304478, dated June 10, 2019, are hereby REVOKED.

*Sincerely,*

CRAIG T. CLARK,

*Director*

*Commercial and Trade Facilitation Division*

## **REVOCAION OF FIVE RULING LETTERS AND REVOCAION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF RAIN GAUGES**

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

**ACTION:** Notice of revocation of five ruling letters, and revocation of treatment relating to the tariff classification of rain gauges.

**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 five ruling letters concerning the tariff classification of rain gauges 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. 54, No. 25 on July 1, 2020. 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 November 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Emily Rick, Electronics, Machinery, Automotive and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0369.

### **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. 54, No. 25, on July 1, 2020, proposing to revoke five ruling letters pertaining to the tariff classification of rain gauges. 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 N296613, CBP classified a rain gauge in heading 3924, HTSUS, specifically in subheading 3924.90.56, HTSUS, which provides for "Other household articles...of plastics: other: other...other." CBP has reviewed NY N296613 and has determined the ruling letter to be in error. It is now CBP's position that rain gauges are properly classified in heading 9015, HTSUS, specifically in subheading 9015.80.80, HTSUS, which provides for "Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders; parts and accessories thereof: Other instruments and appliances: Other: Other."

In NY K81163, NY K80012, NY H88046, and NY G81419, CBP classified rain gauges in heading 7020, HTSUS, specifically in subheading 7020.00.60, HTSUS, which provides for "Other articles of glass: Other." CBP has reviewed NY K81163, NY K80012, NY H88046, and NY G81419 and has determined the ruling letters to be in error. It is now CBP's position that rain gauges are properly classified, in heading 9015, HTSUS, specifically in subheading 9015.80.80, HTSUS, which provides for "Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders; parts and accessories thereof: Other instruments and appliances: Other: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking N296613, NY K81163, NY K80012, NY H88046, and NY G81419 and revoking any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter ("HQ") H308673, 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.

GREGORY CONNOR

*for*

CRAIG T. CLARK,

*Director*

*Commercial and Trade Facilitation Division*

Attachment

HQ H308673

August 10, 2020

CLA-2 OT:RR:CTF:EMAIN H308673 EKR

CATEGORY: Classification

TARIFF NO.: 9015.80.80

MR. DAVID HOMAN  
BEACON PROMOTIONS  
2121 S. BRIDGE STREET  
NEW ULM, MN 56073

RE: Revocation of NY N296613, NY K81163, NY K80012, NY H88046 and NY G81419; Rain gauges.

DEAR MR. HOMAN:

This ruling is in reference to New York Ruling Letter (NY) N296613, dated May 30, 2018, regarding the classification of a plastic rain gauge under the Harmonized Tariff Schedule of the United States (HTSUS). In NY 296613, U.S. Customs and Border Protection (CBP) classified the subject article in subheading 3924.90.56, HTSUS, which provides for “[o]ther household articles...of plastics: other: other...other.” Upon reconsideration, CBP has determined that NY 296613 is in error.

CBP has also reviewed NY K81163, dated December 10, 2003, NY K80012, dated November 7, 2003, NY H88046, dated February 8, 2002, and NY G81419, dated September 18, 2000, which involve the classification of substantially similar rain gauges of glass in subheading 7020.00.60, HTSUS, which provides for “[o]ther articles of glass: other.” As with NY N296613, we have determined that the tariff classification of the subject merchandise in these rulings is incorrect.

CBP is revoking NY N296613, NY K81163, NY K80012, NY H88046, and NY G81419 according to the analysis 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, notice of the proposed revocations of NY N296613, NY K81163, NY K80012, NY H88046, and NY G81419 was published on July 1, 2020 in the Customs Bulletin, Volume 54, No. 25. CBP received no comments in response to the proposed action.

**FACTS:**

In NY N296613, the subject merchandise is described as an open topped vessel, which tapers to a point, composed of weather resistant polystyrene plastic and measuring approximately 2-3/4 inches in width, 12-1/4 inches in length and 1-1/2 inches in depth. Rainfall can be measured in amounts up to 4 inches by reading the reverse imprint on the gauge and matching it with the level of the rainwater in the gauge. The tapered point can be inserted in the ground or the item may be attached to a post using the keyhole openings near the base of the gauge.

In NY K81163, CBP classified a 6-inch calibrated glass tube and a three-dimensional “polystone” frog figurine holder. The frog figurine is holding the glass tube in one hand, and a 5-inch metal umbrella in the other. The glass tube, which is glued to the base of the holder, is designed to be used as a measuring device to catch and monitor rainfall.

In NY K80012, CBP classified a 6-inch calibrated glass tube and a three-dimensional agglomerated stone animal figurine holder measuring approxi-

mately 6.5 inches x 5 inches x 3.5 inches. The glass tube, which is placed into the figurine holder, is designed to be used as a measuring device to catch and monitor rainfall.

In NY H88046, the subject merchandise is described as a five and one-half inch calibrated glass tube and a three-dimensional agglomerated stone holder with metal stake. The glass tube, which is placed into the agglomerated stone holder, is designed to be used as a measuring device to catch and monitor rainfall.

In, NY G81419, the subject merchandise is described as a five and one-half inch tube-shaped calibrated glass vessel that is placed in a “polyresin” frog-shaped base. The glass vessel is designed to be used as a measuring device to catch and monitor rainfall.

### ISSUE:

Whether a simple rain gauge is properly classified in heading 9015, HTSUS, as a “meteorological” instrument, or in the heading appropriate to its constituent material (heading 3924, HTSUS for “household articles... of plastics” or heading 7020, HTSUS, for “[o]ther articles of glass”)?

### LAW AND ANALYSIS:

Classification under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods will 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 will then be applied in order.

The following provisions of the HTSUS are under consideration:

<b>3924</b>	Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics:
<b>3924.90</b>	Other:
<b>3924.90.56</b>	Other...
	* * *
<b>7020.00</b>	Other articles of glass:
<b>7020.00.60</b>	Other..
	* * *
<b>9015</b>	Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders; parts and accessories thereof:
<b>9015.80</b>	Other instruments and appliances:
	Other:
<b>9015.80.80</b>	Other...

Chapter 39, Note 2(u) states that articles of Chapter 90 cannot be classified in Chapter 39. Chapter 70, Note 1(d) likewise states that articles of Chapter 90 cannot be classified in Chapter 70. Chapter 90, Note 1(m) excludes “capacity measures” from Chapter 90, HTSUS, stating that such goods are to be classified instead according to their constituent material.

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 commentary on the scope of each HTSUS heading and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN 90.15 provides, in relevant part:

(V) **METEOROLOGICAL INSTRUMENTS**

\* \* \*

The group does, however, include the following:

\* \* \*

(8) **Rain gauges and indicators**, for measuring rainfall in a particular place. The simplest type consists of a funnel of known diameter fixed to a receptacle to collect the rain which is then measured in a calibrated tube.

\* \* \*

If the rain gauges are properly classified in heading 9015, HTSUS, they are precluded from classification in Chapters 39 and 70 by operation of Note 2(u) to Chapter 39, and Note 1(d) to Chapter 70. Therefore, we first consider whether the instant rain gauges can be classified as meteorological instruments of heading 9015, HTSUS.

Each of the products under consideration consists of a graduated tube, made of either plastic or glass, and designed to be installed outdoors. The tubes are open at the top to allow rainwater to collect in the tube, and marked to allow the user to determine the total rainfall based on the amount of rain collected in the tube. The subject rain gauges are *prima facie* described by heading 9015, HTSUS, in that they are meteorological instruments designed to measure rainfall. In fact, EN 90.15 explicitly states that such simple rain gauges are classified in heading 9015, HTSUS.

We note that, as mentioned in NY H88046, note 1(m)\* to Chapter 90 excludes capacity measures from classification in Chapter 90. They are instead to be classified according to their constituent material. However, although the instant rain gauges use the volume of rain collected in the tube to extrapolate a rainfall measurement, they are not “capacity measures.” A “capacity measure,” such as a kitchen measuring spoon, is used to measure out a specific volume of a substance. *See, e.g.* Headquarters Ruling Letter (“HQ”) 968080, dated May 19, 2006 (identifying a set of stainless steel measuring spoons as “capacity measures” and classifying them in heading 7323, HTSUS, as “[t]able, kitchen or other household articles... of steel.”); HQ 968081 (dated May 19, 2006; and N025387, dated April 21, 2008. The instant articles are not designed to measure out a desired volume of liquid. Therefore, they are not “capacity measures” excluded from Chapter 90 by Note 1(m) to Chapter 90. As a result, classification according to the constituent material of the article, in heading 3924, HTSUS as a household article of plastic, or in heading 7020, HTSUS as an article of glass, would be inappropriate.

---

\* NY H88046 relied on the 2002 version of the HTSUS, and cited Note 1(l) to chapter 90; that provision is identical to Note 1(m) to Chapter 90 in the 2020 version of the HTSUS, as cited herein.

**HOLDING:**

By application of GRI 1, Note 2(u) to Chapter 39, and Note 1(d) to Chapter 70 the rain gauges at issue in NY N296613, NY K81163, NY K80012, NY H88046, and NY G81419 are classified under subheading 9015.80.80, HTSUS. The 2020 applicable rate of duty is free.

Pursuant to U.S. Note 20 to Subchapter III, Chapter 99, HTSUS, products of China classified under subheading 9015.80.80, HTSUS, unless specifically excluded, are subject to an additional 25 percent *ad valorem* rate of duty. At the time of importation, you must report the Chapter 99 subheading, i.e., 9903.88.01, in addition to subheading 9015.80.80, HTSUS, listed above.

The HTSUS is subject to periodic amendment so you should exercise reasonable care in monitoring the status of goods covered by the Note cited above and the applicable Chapter 99 subheading. For background information regarding the trade remedy initiated pursuant to Section 301 of the Trade Act of 1974, you may refer to the relevant parts of the USTR and CBP websites, which are available at <https://ustr.gov/issue-areas/enforcement/section-301-investigations/tariff-actions> and <https://www.cbp.gov/trade/remedies/301-certain-products-china> respectively.

**EFFECT ON OTHER RULINGS:**

NY N296613, dated May 30, 2018, NY K81163, dated December 10, 2003, NY K80012, dated November 7, 2003, NY H88046, dated February 8, 2002, and NY G81419, dated September 18, 2000, are hereby REVOKED in accordance with the above analysis.

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

*Sincerely,*

GREGORY CONNOR

*for*

CRAIG T. CLARK,

*Director*

*Commercial and Trade Facilitation Division*

CC:

Ms. Cheryl Santos  
CVS/Pharmacy  
One CVS Drive  
Woonsocket, RI 02895

Ms. Lorianne Aldinger  
Rite Aid Corporation  
P.O. Box 3165  
Harrisburg, PA 17105

Mr. Russ Holmgren  
Circle International, Inc.  
255 Clearview Avenue  
Edison, NJ 08837

Ms. Colleen O'Shea-Moran  
Jo-Ann Stores Inc.  
5555 Darrow Road  
Hudson, OH 44236

**PROPOSED REVOCATION OF TWO RULING LETTERS  
AND PROPOSED REVOCATION OF TREATMENT  
RELATING TO THE TARIFF CLASSIFICATION OF  
WALKING POLES**

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

**ACTION:** Notice of proposed revocation of two ruling letters and proposed revocation of treatment relating to the tariff classification of walking poles.

**SUMMARY:** Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke two ruling letters concerning the tariff classification of walking poles under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

**DATE:** Comments must be received on or before October 2, 2020.

**ADDRESS:** Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Cammy Canedo, Regulations and Disclosure Law Division, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Ms. Cammy Canedo at (202) 325–0439.

**FOR FURTHER INFORMATION CONTACT:** Suzanne Kingsbury, Electronics, Machinery, Automotive and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0113 or via email at [suzanne.kingsbury@cbp.dhs.gov](mailto:suzanne.kingsbury@cbp.dhs.gov).

**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), this notice advises interested parties that CBP is proposing to revoke two ruling letters pertaining to the tariff classification of walking poles. Although in this notice CBP is specifically referring to New York Ruling Letter (“NY”) N016801, dated September 24, 2007 (Attachment “A”), and NY N010380, dated May 8, 2007 (Attachment “B”), this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this 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 the final decision on this notice.

In N016801 and NY N010380, CBP classified two styles of walking poles in heading 9506, HTSUS, specifically in subheading 9506.99.60, HTSUS, which provides for “[A]rticles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof: Other: Other: Other.” CBP has reviewed NY N016801 and NY N010380 and has determined the ruling letters to be in error. It is now CBP’s position that walking poles are properly classified in heading 6602, HTSUS, specifically in subheading 6602.00.00, HTSUS, which provides for “[W]alking-sticks, seat-sticks, whips, riding crops and the like.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke N016801 and NY N010380 and to revoke or modify any other ruling

not specifically identified to reflect the analysis contained in the proposed HQ H262581, set forth as Attachment “C” to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

GREGORY CONNOR  
*for*

CRAIG T. CLARK,  
*Director*

*Commercial and Trade Facilitation Division*

*Attachments*

N016801

September 24, 2007

CLA-2-95:RR:E:NC:2:224

CATEGORY: Classification

TARIFF NO.: 9506.99.6080

MS. TRACY FERLAND  
EXEL SPORTS  
133 ELM STREET  
WINOOSKI, VT 05404

RE: The tariff classification of walking poles from China

DEAR MS. FERLAND:

In your letter dated September 7, 2007, you requested a tariff classification ruling.

You are requesting the tariff classification on items that are identified as Walking Poles, which are constructed of carbon fiber and a fiberglass shaft. Attached to the shaft are a grip and a strap. Accessories include a basket, steel tip and rubber tip. The poles are designed as general fitness tools and are used when hiking, speed walking or when skating on roller blades.

The applicable subheading for the Walking Poles will be 9506.99.6080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for articles and equipment for general physical exercise, gymnastics, athletics, other sports or outdoor games...Other: Other, Other. The rate of duty will be 4 percent ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Thomas McKenna at 646-733-3025.

*Sincerely,*

ROBERT B. SWIERUPSKI  
*Director,*

*National Commodity Specialist Division*

N010380

May 8, 2007

CLA-2-95:RR:E:NC:2:224

CATEGORY: Classification

TARIFF NO.: 9506.99.6080

MR. JOHAN BACKLUND  
GLOBAL DESIGN SOLUTIONS  
25021 MADISON AVE. S-103  
MURRIETA, CA 92562

RE: The tariff classification of a walking pole from Sweden

DEAR MR. BACKLUND:

In your letter dated April 25, 2007, you requested a tariff classification ruling.

You are requesting the tariff classification on an item that is identified as a Nordic walking pole or stick constructed of carbon or metal alloy materials; there is no designated item number for the product. The pole is designed as a general fitness tool and may be used when hiking, speed walking, or when skating on roller blades. A color photograph was submitted, in lieu of a sample.

The applicable subheading for the Nordic walking pole/stick will be 9506.99.6080, Harmonized Tariff Schedule of the United States (HTSUS), which provides for articles and equipment for general physical exercise, gymnastics, athletics, other sports or outdoor games ...other: other, other. The rate of duty will be 4 % ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Tom McKenna at 646-733-3025.

*Sincerely,*

ROBERT B. SWIERUPSKI

*Director,*

*National Commodity Specialist Division*

HQ H262581  
OT:RR:CTF:EMAIN H262581 SK  
CATEGORY: Classification  
TARIFF NO.: 6602.00.00

MS. TRACY FERLAND  
EXCEL SPORTS  
133 ELM STREET  
WINOOSKI, VT 05404

RE: Revocation of NY N016801 and NY N010380; Tariff classification of walking poles or walking sticks

DEAR MS. FERLAND:

This ruling is in reference to New York Ruling Letter (NY) N016801, issued to Excel Sports on September 24, 2007, in which U.S. Customs and Border Protection (CBP) classified walking poles under heading 9506, Harmonized Tariff Schedule of the United States (HTSUS), specifically subheading 9506.99.60, HTSUS, which provides for “[A]rticles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof: Other: Other: Other.” Since the issuance of that ruling, we have determined that NY N016801 is in error.

CBP has also reviewed NY N010380, dated May 8, 2007, which involves the classification of substantially similar Nordic walking poles in subheading 9506.99.60, HTSUS. As with NY N016801, we have determined that the tariff classification of the subject merchandise at issue in this ruling is incorrect.

Pursuant to the analysis set forth below, CBP is revoking NY N016801 and NY N010380.

**FACTS:**

The articles at issue in NY N016801 are described as “walking poles.” They are constructed of carbon fiber and fiberglass shafts and feature handgrips with straps. The end of the poles are fitted with steel or rubber tips and have baskets to prevent the poles from sinking into soft ground or snow.

The articles at issue in NY N010380 are identified as “Nordic walking poles or sticks.” They are constructed of carbon or metal alloy materials and are described as a general fitness tool for use in hiking, speed walking or roller skating.

**LAW AND ANALYSIS:**

Classification under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods will 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 will then be applied in order.

The following HTS headings are under consideration:

6602	Walking-sticks, seat-sticks, whips, riding-crops and the like:
9506	Articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof:

Note 1(c) to Chapter 66 provides, in pertinent part, that this Chapter does not cover “goods of chapter 95 (for example, toy umbrellas, toy sun umbrellas).”

Note 1(h) to Chapter 95 provides, in pertinent part, that this Chapter does not cover “walking-sticks” and directs classification their classification to heading 66.02.

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 ENs to heading 6602 state, in pertinent part:

With the **exception** of the goods mentioned in the exclusions below, this heading covers walking-sticks, canes, whips (including whip-leads), riding-crops and similar articles irrespective of the materials of which they are made.

**(A) Walking-sticks, seat-sticks and similar articles.**

In addition to ordinary walking-sticks, this group also includes seat-sticks (with handles designed to open out to form a seat), walking-sticks specially designed for disabled persons and senior citizens, boy scouts’ poles, shepherds’ crooks.

The group also includes unfinished walking-sticks of cane or wood which have been turned, bent or otherwise worked; but it **excludes** cane or wood suitable for the manufacture of walking-sticks which has been simply roughly trimmed or rounded (**heading 14.01** or **Chapter 44**). The heading also **excludes** blanks identifiable as unfinished handles (**heading 66.03**).

The handle and shaft (stick) portions of walking-sticks, etc., may be made of various materials and may incorporate precious metal or metal clad with precious metal, precious or semi-precious stones (natural, synthetic or reconstructed). They may also be wholly or partly covered with leather or other materials.

\* \* \* \* \*

This heading **excludes**:

\* \* \* \* \*

(d) Articles of **Chapter 95** (e.g., golf clubs, hockey sticks, ski sticks, alpine ice-axes).

As Chapter 95 Note 1(h) excludes “walking-sticks” of heading 6602, HTSUS, the initial determination is whether the subject walking poles are prima facie classifiable under heading 6602, HTSUS.

Heading 6602, HTSUS, is an *eo nomine* provision. As such, the heading

provides for all forms of its named exemplars, *i.e.*, “walking-sticks.” Although the term “walking-sticks” is not defined in the HTSUS or in the ENs, the term may be construed for tariff classification purposes according to its common commercial meaning. *See Millennium Lumber Distrib. Ltd., v. United States*, 558 F.3d 1326, 1329 (Fed. Cir. 2009). To ascertain the common commercial meaning of a tariff term, CBP “may rely on its own understanding of the term as well as lexicographic and scientific authorities.” *See Lon-Ron Mft. Co. v. United States*, 334 F.3d 1304, 1309 (Fed. Cir. 2003).

The term “walking stick” is defined by the *Merriam-Webster* online dictionary as “1 : a straight rod or stick (as of wood or aluminum) that is used to provide stability in walking or hiking.” *See* <https://www.merriam-webster.com/dictionary/walking%20stick>. Additionally, various websites use the term “walking stick” interchangeably with the terms “walking pole,” “walking staff,” “hiking stick,” and “trekking pole.” Although these articles may differ in design features (*i.e.*, type of grip, telescoping shaft, rubber or steel pole point, sold singly or in pairs), their shared characteristic is that they provide stability when walking or hiking. *See* <https://www.verywellfit.com/before-you-buy-fitness-walking-or-trekking-poles-3432912> (site last visited May 2020), noting:

**Walking With One Pole or Hiking Staff** A single walking stick, pole, or staff can give you stability, especially on loose terrain or when crossing streams. It also can relieve stress on the joints. A staff can also give you a measure of security as attackers may be more likely to go annoy somebody who doesn’t have a stick. You can find a variety of designs for single walking sticks, including those made of natural wood, as well as lightweight aluminum sticks that telescope or fold for ease of packing when you aren’t using them. \* \* \* **Hiking Poles and Trekking Poles** Two sticks are better than one on the trail. Using a pair of hiking poles or trekking poles gives you balance and takes more stress off the lower body joints. \* \* \* **Fitness Walking and Nordic Walking Poles** A pair of fitness walking poles allow you to burn more calories while feeling no greater exertion when walking on streets, sidewalks, and paths. These poles come with instruction manuals and often with videos for the proper technique. Nordic walking grips are designed for that technique, with a half-glove to allow the proper release of the pole on the backswing. They come with a removable rubber tip for switching between hard and soft surfaces.

*See also* [https://en.wikipedia.org/wiki/Walking\\_stick](https://en.wikipedia.org/wiki/Walking_stick) (site last visited May, 2020), noting:

Hikers use walking sticks, also known as trekking poles, pilgrim’s staffs, hiking poles, or hiking sticks, for a wide variety of purposes: to clear spider webs or to part thick bushes or grass obscuring their trail; as a support when going uphill or as a brake when going downhill; as a balance point when crossing streams, swamps, or other rough terrain; to feel for obstacles in the path; to test mud and puddles for depth; to enhance the cadence of striding, and as a defence against wild animals.

Based on the foregoing, it is established that the common commercial meaning of the term “walking sticks” includes “walking poles.” Accordingly, we find that the walking poles at issue in NY N016801 and NY N010380 fall within the common commercial meaning of “walking sticks” and are therefore

*eo nomine* provided for in 6602, HTSUS. This conclusion is consistent with NY N189015 (pair of fitness walking poles), dated November 7, 2011, NY N222656 (metal alloy trekking/hiking poles), dated July 18, 2012, and NY N197699 (wooden hiking stick), dated January 6, 2012, in which CBP classified the subject articles under subheading 6602.00.00, HTSUS.

**HOLDING:**

By application of GRIs 1 and 6, the walking poles at issue in NYs N016801 and N010380 are classified under heading 6602, HTS, specifically under subheading 6602.00.00, HTSUS, which provides for “[W]alking-sticks, seat-sticks, whips, riding crops and the like.” The applicable rate of duty is 4% *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](http://www.usitc.gov).

**EFFECT ON OTHER RULINGS:**

NY N016801, dated September 24, 2007, and NY N010380, dated May 8, 2007, are hereby REVOKED.

*Sincerely,*

CRAIG T. CLARK,

*Director*

*Commercial and Trade Facilitation Division*

**COPYRIGHT, TRADEMARK, AND TRADE NAME  
RECORDATIONS  
(NO. 7 2020)**

**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 July 2020. A total of 188 recordation applications were approved, consisting of 10 copyrights and 178 trademarks. The last notice was published in the Customs Bulletin Vol. 54, No. 28, July 22, 2020.

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., 10<sup>th</sup> Floor, Washington, D.C. 20229–1177, or via email at [iprrquestions@cbp.dhs.gov](mailto: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.

ALAINA VAN HORN  
*Chief,*  
*Intellectual Property Rights Branch*  
*Regulations and Rulings, Office of Trade*

## CBP IPR RECORDATION — JULY 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
COP 20-00038	07/01/2020	07/01/2040	Commissioner's Trophy	Office of the Commissioner of Baseball,	No
COP 20-00039	07/02/2020	01/02/2021	NY Subway Line Marker	Miriam Kaplan	No
COP 20-00040	07/02/2020	01/02/2021	Grand Central Terminal Building glass Christmas ornament	Miriam Kaplan	No
COP 20-00041	07/02/2020	01/02/2021	Token glass Christmas ornament	Miriam Kaplan	No
COP 20-00042	07/13/2020	07/13/2040	remote controlled TOY SHARK	Buzzbrained LLC.	No
COP 20-00043	07/15/2020	07/15/2040	Tessuto mosaic tile pattern	Artistic Tile, Inc.	No
COP 20-00044	07/15/2020	07/15/2040	Grand Hotel Mosaic Tile Pattern	Artistic Tile, Inc.	No
COP 20-00045	07/20/2020	07/20/2040	Never Stop Dreaming	NICOLE LEE	No
COP 20-00046	07/29/2020	07/29/2040	Digital tiger stripe.	Bradford Dyeing Association, Inc.	No
COP 20-00047	07/30/2020	04/29/2021	2HT-13	Terry Michael LeRoy	No
TMK 02-00420	07/07/2020	07/04/2030	NARCISO RODRIGUEZ	NARCISO RODRIGUEZ CORPORATION	No
TMK 02-00504	07/07/2020	10/10/2030	LASER II	LASER SHAVING (INDIA) PRIVATE LIMITED	No
TMK 04-00653	07/07/2020	10/24/2030	BURBERRY	BURBERRY LIMITED	No
TMK 05-00466	07/20/2020	03/21/2022	CROSS	A.T. CROSS COMPANY, LLC	No
TMK 05-00662	07/09/2020	10/11/2030	TOSTITOS	FRITO-LAY NORTH AMERICA, INC.	No
TMK 05-00797	07/13/2020	08/23/2030	PANTHERE DE CARTIER	CARTIER INTERNATIONAL A.G.	No

## CBP IPR RECORDATION — JULY 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/TmK/TmM	Owner Name	GM Restricted
TMK 06-00470	07/13/2020	08/02/2030	PANTHERE	CARTIER INTERNATIONAL A.G.	No
TMK 07-00434	07/02/2020	09/12/2030	Chinese character design	GARDEN COMPANY LIMITED, THE	No
TMK 07-01103	07/01/2020	01/23/2028	Configuration of Tall (Bullet) Blender	CAPBRAN HOLDINGS, LLC	No
TMK 07-01108	07/01/2020	01/02/2028	Configuration short (bullet) blender	CAPBRAN HOLDINGS, LLC	No
TMK 08-00624	07/07/2020	07/29/2028	LOCS (STYLIZED)	Jay-Y Enterprise Co., Inc.	No
TMK 08-00771	07/15/2020	06/18/2028	DONG SUH	Dong Suh Foods Corporation	No
TMK 08-00818	07/16/2020	07/22/2028	Korean Character Mark (Dong Suh)	Dong Suh Foods Corporation	No
TMK 08-00877	07/15/2020	04/30/2027	Apple Design Logo	Dong Suh Foods Corporation	No
TMK 09-00165	07/24/2020	08/02/2030	TAPOUT	AGB TAPOUT LLC	No
TMK 10-00062	07/27/2020	04/05/2030	KENY	KSG TRADE CO.	No
TMK 10-00917	07/09/2020	07/25/2030	SUPER MARIO BROS.	Nintendo of America Inc.	No
TMK 10-00930	07/08/2020	07/25/2030	SUPER MARIO	Nintendo of America Inc.	No
TMK 10-00997	07/08/2020	07/25/2030	ZELDA	Nintendo of America Inc.	No
TMK 10-01011	07/30/2020	05/01/2030	CAMARO	GENERAL MOTORS LLC	No
TMK 10-01061	07/30/2020	04/25/2030	CHEVROLET	GENERAL MOTORS LLC	No
TMK 10-01085	07/29/2020	04/25/2030	CORVETTE	GENERAL MOTORS LLC	No
TMK 10-01088	07/29/2020	04/25/2030	CHEVROLET EMBLEM Configuration Design	General Motors LLC	No

## CBP IPR RECORDATION — JULY 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 10-01100	07/29/2020	04/25/2030	CHEVROLET EMBLEM Design Configuration	GENERAL MOTORS LLC	No
TMK 10-01258	07/30/2020	05/01/2030	CORVETTE	GENERAL MOTORS LLC	No
TMK 10-01308	07/29/2020	04/19/2030	CORVETTE C6 EMBLEM	General Motors LLC	No
TMK 10-01322	07/29/2020	04/19/2030	CORVETTE C6 EMBLEM	General Motors LLC	No
TMK 10-01324	07/29/2020	04/19/2030	CORVETTE C6 EMBLEM	General Motors LLC	No
TMK 11-00143	07/23/2020	08/25/2030	NOSTROMO	Luis Calvo Sanz, S.A.	No
TMK 11-00585	07/30/2020	04/06/2030	HERMES & Design Configuration	HERMES INTERNATIONAL	No
TMK 11-00795	07/01/2020	04/30/2030	STYLIZED WIFFLE BALL DESIGN	WIFFLE BALL, INC., THE	No
TMK 11-00999	07/23/2020	11/03/2030	MONSTER HIGH	MATTEL, INC.	No
TMK 11-01093	07/09/2020	10/04/2030	THEAM	WESTCON MFG INC.	No
TMK 12-00816	07/13/2020	09/13/2030	ARAUJO	KERWIN ESTATE LLC	No
TMK 12-00827	07/07/2020	07/12/2030	JESSICA SIMPSON (Stylized)	WITH YOU LLC	No
TMK 12-00952	07/28/2020	08/01/2030	HUGO BOSS	HUGO BOSS TRADE MARK MANAGEMENT GMBH & CO. KG	No
TMK 13-00024	07/15/2020	09/29/2030	PRADA MILANO & Design	Prada S.A.	No
TMK 13-00393	07/15/2020	04/12/2030	FOX	Fox Head, Inc.	No
TMK 13-00732	07/02/2020	02/02/2030	JOHN DEERE	DEERE & COMPANY	No
TMK 13-00870	07/13/2020	07/22/2030	HASTELLOY	HAYNES INTERNATIONAL, INC.	No

## CBP IPR RECORDATION — JULY 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 14-00061	07/01/2020	06/09/2030	NEW ERA	New Era Cap Co., Inc.	No
TMK 14-00211	07/13/2020	04/12/2030	M MONCLER (Stylized) & Design	MONCLER S.P.A.	No
TMK 14-00796	07/01/2020	05/16/2030	BELLADOS	Sobel Westex	No
TMK 14-00896	07/30/2020	04/25/2030	CORVETTE C4 EMBLEM	GENERAL MOTORS LLC	No
TMK 14-00910	07/29/2020	04/25/2030	CHEVROLET EMBLEM	GENERAL MOTORS LLC	No
TMK 14-00954	07/29/2020	04/19/2030	CORVETTE C6 EMBLEM	GENERAL MOTORS LLC	No
TMK 14-00955	07/29/2020	04/19/2030	CORVETTE C6 EMBLEM	GENERAL MOTORS LLC	No
TMK 14-00989	07/29/2020	04/19/2030	CORVETTE C6 EMBLEM	General Motors LLC	No
TMK 14-01005	07/29/2020	04/19/2030	CORVETTE C6 EMBLEM	General Motors LLC	No
TMK 14-01008	07/29/2020	04/18/2030	CHEVROLET	GENERAL MOTORS LLC	No
TMK 15-00066	07/29/2020	04/19/2030	CORVETTE C6 EMBLEM	GENERAL MOTORS LLC	No
TMK 15-00487	07/23/2020	03/15/2030	RAIDERS & Shield Design	RAIDERS FOOTBALL CLUB, LLC	No
TMK 15-00909	07/17/2020	03/29/2030	FITBIT	FITBIT, INC.	No
TMK 15-01232	07/06/2020	07/06/2030	TRIPLE TESTED TROJAN QUALITY andDESIGN	CHURCH & DWIGHT CO., INC.	No
TMK 18-00547	07/08/2020	09/22/2030	TRUSHIELD	Performance Fabrics, Inc.	No
TMK 18-01061	07/07/2020	03/15/2030	NISSAN LOGO	NISSAN JIDOSHA KABUSHIKI KAISHA	No
TMK 18-01296	07/13/2020	03/07/2030	T & DESIGN	CHEVRON INTELLECTUAL PROPERTY LLC	No

## CBP IPR RECORDATION — JULY 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 19-00319	07/27/2020	08/11/2030	GAMBLER	Top Tobacco LP	No
TMK 19-00577	07/02/2020	07/20/2030	TUBE CUT	Top Tobacco, LP	No
TMK 19-00586	07/29/2020	08/11/2030	TUBE CUT	Top Tobacco, LP	No
TMK 19-00747	07/13/2020	07/13/2030	BEAUTY 360	CVS Pharmacy, Inc.	No
TMK 20-00141	07/17/2020	07/17/2030	MEDTRONIC	MEDTRONIC, INC.	No
TMK 20-00514	07/01/2020	06/17/2025	MCM (Stylized) and Design Pattern	TRIAS Holding AG	No
TMK 20-00515	07/01/2020	11/19/2024	TT TIZIANA TEREZNI SINCE 1968 WHITE FIRE & DESIGN	Cereria Terenzi Evelino S.R.L.	No
TMK 20-00516	07/01/2020	04/21/2024	TIZIANA TEREZNI (Stylized) and Design	Cereria Terenzi Evelino S.R.L.	No
TMK 20-00517	07/01/2020	08/08/2028	TT TIZIANA TEREZNI SINCE 1968 & DESIGN	Cereria Terenzi Evelino S.R.L.	No
TMK 20-00518	07/01/2020	03/20/2027	V CANTO BY TEREZNI & DESIGN	CERERIA TEREZNI EVELINO S.R.L.	No
TMK 20-00519	07/01/2020	09/09/2030	W (Stylized)	Washington Nationals Baseball Club, LLC	No
TMK 20-00520	07/01/2020	05/20/2023	TFT Word Mark	TASK FORCE TIPS LLC	No
TMK 20-00521	07/01/2020	02/27/2028	TFT (STYLIZED)	TASK FORCE TIPS LLC	No
TMK 20-00522	07/01/2020	10/10/2028	Configuration of World Series Trophy	Office of the Commissioner of Baseball	No
TMK 20-00523	07/01/2020	05/24/2024	BLISTEX	BLISTEX INC.	No
TMK 20-00524	07/02/2020	05/28/2022	ODOR-EATERS	Blistex Inc.	No
TMK 20-00525	07/02/2020	03/03/2030	BLISTEX	Blistex Inc.	No

## CBP IPR RECORDATION — JULY 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 20-00526	07/02/2020	05/19/2028	STRIDEX	Blistex Inc.	No
TMK 20-00527	07/02/2020	07/29/2026	LIP MEDEX	BLISTEX INC.	No
TMK 20-00528	07/02/2020	07/30/2029	Tri-color Cigar Design	Siboney Corporation	No
TMK 20-00529	07/02/2020	11/14/2027	WASHINGTON NATIONALS	Washington Nationals Baseball Club, LLC	No
TMK 20-00530	07/02/2020	06/13/2028	WASHINGTON NATIONALS W & design	Washington Nationals Baseball Club, LLC	No
TMK 20-00531	07/06/2020	06/17/2030	SRX	Rexair LLC	No
TMK 20-00532	07/07/2020	01/27/2026	COLOR GREEN ON INSIDE OF POT/ PAN	ORGREENIC, LLC	No
TMK 20-00533	07/07/2020	07/07/2030	RUPTELA	Ruptela, UAB	No
TMK 20-00534	07/07/2020	08/25/2030	ORGREENIC	ORGREENIC, LLC	No
TMK 20-00535	07/07/2020	09/18/2023	NATS	Washington Nationals Baseball Club, LLC	No
TMK 20-00536	07/07/2020	04/08/2023	NATS	Washington Nationals Baseball Club, LLC	No
TMK 20-00537	07/07/2020	09/18/2022	FAT FLUSH KIT	FIRST LADY OF NUTRITION, INC.	No
TMK 20-00538	07/08/2020	02/13/2028	DC (Stylized)	Washington Nationals Baseball Club, LLC	No
TMK 20-00539	07/08/2020	03/04/2028	NATIONALS (Stylized)	WASHINGTON NATIONALS BASEBALL CLUB, LLC	No
TMK 20-00540	07/08/2020	01/10/2028	BRUMATE	BRUMATE, LLC	No
TMK 20-00541	07/08/2020	02/19/2030	CEROS	Performance Fabrics, Inc.	No
TMK 20-00542	07/08/2020	06/17/2030	CBR65	Performance Fabrics, Inc.	No

## CBP IPR RECORDATION — JULY 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/Trm	Owner Name	GM Restricted
TMK 20-00543	07/08/2020	08/21/2023	HEMP LOVE	TATTOO HOLDINGS LLC	No
TMK 20-00544	07/08/2020	01/20/2026	HEMP LOVE	TATTOO HOLDINGS LLC	No
TMK 20-00545	07/08/2020	04/30/2028	HEMP LOVE	TATTOO HOLDINGS LLC	No
TMK 20-00546	07/09/2020	06/12/2023	BOGG	Twenty-Six Designs, LLC	No
TMK 20-00547	07/13/2020	09/16/2030	TIO JORGE & DESIGN	MERCADAGRO INTERNATIONAL CORPORATION	No
TMK 20-00548	07/15/2020	01/02/2022	GATEWAY	ACER INCORPORATED	No
TMK 20-00549	07/15/2020	11/08/2027	GATEWAY & Design	Acer Incorporated	No
TMK 20-00550	07/16/2020	10/17/2028	G-C Ghost Controls (Stylized) & Design	Ghost Controls, LLC	No
TMK 20-00551	07/17/2020	09/25/2029	GHOST PRO SERIES	Ghost Controls, LLC	No
TMK 20-00552	07/19/2020	01/10/2026	TODDY	TODDY, LLC	No
TMK 20-00553	07/19/2020	05/13/2028	TODDY & Design	Toddy, LLC	No
TMK 20-00554	07/19/2020	02/20/2029	TODDY	Toddy, LLC	No
TMK 20-00555	07/19/2020	08/07/2029	2G (Stylized) & Design	KOI BRANDS, LLC	No
TMK 20-00556	07/20/2020	02/26/2030	VERSA	Fitbit, Inc.	No
TMK 20-00557	07/20/2020	08/08/2028	FINDYOURFIT	FITBIT, INC.	No
TMK 20-00558	07/20/2020	02/26/2030	FITBIT VERSA	Fitbit, Inc.	No
TMK 20-00559	07/20/2020	05/25/2030	FITBIT + & DIAMOND DESIGN	Fitbit, Inc.	No

## CBP IPR RECORDATION — JULY 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 20-00560	07/21/2020	04/21/2024	Stop the Killing and Violence and Logo	STOP THE KILLING AND VIOLENCE, LLC	No
TMK 20-00561	07/21/2020	05/28/2027	SMARTTRACK	FITBIT, INC.	No
TMK 20-00562	07/21/2020	05/14/2027	GET FIT IN STYLE	Fitbit, Inc.	No
TMK 20-00563	07/21/2020	10/14/2030	AMERICAN RESPONSE VEHICLES ARV HELPING EMERGENCY SERVICES SAVE LIVES and Design	American Response Vehicles	No
TMK 20-00564	07/21/2020	11/13/2029	FITBIT INSPIRE	Fitbit, Inc.	No
TMK 20-00565	07/21/2020	04/07/2024	Puma (Stylized) and Design	PUMA SE	No
TMK 20-00566	07/21/2020	10/01/2026	Puma (Stylized) and Design	PUMA SE	No
TMK 20-00567	07/21/2020	10/31/2028	CONFIGURATION DESIGN (SERIES OF IRREGULAR DOTS FORMING A DIAMOND)	Fitbit, Inc.	No
TMK 20-00568	07/22/2020	08/19/2030	Configuration of Gear Box Design	Universal Motion Components Co., Inc.	No
TMK 20-00569	07/22/2020	09/01/2030	Puma & Design	PUMA SE SOCIETAS EUROPAE (SE)	No
TMK 20-00570	07/22/2020	01/12/2031	Puma Form Stripe	PUMA SE SOCIETAS EUROPAE (SE),	No
TMK 20-00571	07/22/2020	12/03/2029	DAKA	Magpul Industries Corp.	No
TMK 20-00572	07/22/2020	03/29/2026	M-LOK	Magpul Industries Corp.	No
TMK 20-00573	07/22/2020	09/21/2026	M & Design	Magpul Industries Corp.	No

## CBP IPR RECORDATION — JULY 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 20-00574	07/22/2020	09/14/2026	M M-LOK (Stylized)	Magpul Industries Corp.	No
TMK 20-00575	07/22/2020	12/03/2029	MAGPUL	Magpul Industries Corp.	No
TMK 20-00576	07/22/2020	08/05/2030	HGC APPAREL	Marcia L. Smith	No
TMK 20-00577	07/22/2020	03/24/2030	3-Prong Design Resembling Hatchet Enclosed in Circle	Magpul Industries Corp.	No
TMK 20-00578	07/22/2020	07/19/2021	RVG	Magpul Industries Corp.	No
TMK 20-00579	07/22/2020	01/11/2027	FITFORGOOD	Fitbit, Inc.	No
TMK 20-00580	07/22/2020	08/26/2030	HGC APPAREL	HGC Apparel, LLC	No
TMK 20-00581	07/22/2020	08/05/2030	BLACK BY POPULAR DEMAND and Design	Marcia L. Smith	No
TMK 20-00582	07/22/2020	07/02/2029	BLACK BY POPULAR DEMAND and Design	Smith, Marcia L.	No
TMK 20-00583	07/22/2020	07/02/2029	BLACK BY POPULAR DEMAND & DESIGN	Smith, Marcia L.	No
TMK 20-00584	07/23/2020	11/08/2027	EDUCATED BLACK QUEEN	Smith, Marcia L.	No
TMK 20-00585	07/23/2020	08/14/2029	FITBIT ACE	Fitbit, Inc.	No
TMK 20-00586	07/23/2020	12/18/2028	ANAB ACCREDITED logo	American National Standards Institute, Incorporated	No
TMK 20-00587	07/23/2020	06/30/2030	FITBIT CARE	Fitbit, Inc.	No

## CBP IPR RECORDATION — JULY 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 20-00588	07/23/2020	12/13/2025	GINGER MINT KC CANDY	K.C. Confectionery, Ltd.	No
TMK 20-00589	07/23/2020	04/05/2023	KC CANDY and Design	K.C. CONFECTIONERY, LTD.	No
TMK 20-00590	07/23/2020	09/02/2030	EDUCATED NEGRO	HGC Apparel LLC	No
TMK 20-00591	07/23/2020	02/26/2030	PROUD BLACK WOMAN	HGC Apparel LLC	No
TMK 20-00592	07/23/2020	11/01/2027	RESPECT PROTECT LOVE THE BLACK WOMAN	Smith, Marcia L.	No
TMK 20-00593	07/23/2020	11/08/2027	ALL WE EVER DID WAS BE BLACK	Smith, Marcia L.	No
TMK 20-00594	07/23/2020	11/07/2028	BLACK LOVE MADE ME	Marcia L. Smith	No
TMK 20-00595	07/23/2020	07/23/2029	BLACK MEN I LOVE YOU & DESIGN	Smith, Marcia L.	No
TMK 20-00596	07/23/2020	12/24/2029	I AM AN EDUCATED BLACK QUEEN and Design	Marcia L. Smith	No
TMK 20-00597	07/23/2020	10/31/2028	DESIGN ONLY (SERIES OF IRREGULAR TEAL DOTS FORMING A DIAMOND)	Fitbit, Inc.	No
TMK 20-00598	07/23/2020	10/31/2028	FITBIT	Fitbit, Inc.	No
TMK 20-00599	07/23/2020	12/03/2029	BLACK BY POPULAR DEMAND and Design	HGC Apparel LLC	No
TMK 20-00600	07/24/2020	02/03/2026	FITBIT	FITBIT, INC.	No
TMK 20-00601	07/24/2020	07/17/2027	VOLT	RYAN, OWEN	No

## CBP IPR RECORDATION — JULY 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 20-00602	07/27/2020	10/04/2027	A-B	Rockwell Automation, Inc.	No
TMK 20-00603	07/27/2020	06/21/2021	ALLEN-BRADLEY	ROCKWELL AUTOMATION, INC.	No
TMK 20-00604	07/27/2020	02/21/2028	ALLEN-BRADLEY	Rockwell Automation, Inc.	No
TMK 20-00605	07/27/2020	01/13/2022	ALLEN-BRADLEY	Rockwell Automation, Inc.	No
TMK 20-00606	07/27/2020	06/21/2021	ALLEN-BRADLEY	ROCKWELL AUTOMATION, INC.	No
TMK 20-00607	07/27/2020	02/20/2022	ROCKWELL AUTOMATION	Rockwell Automation, Inc.	No
TMK 20-00608	07/27/2020	03/12/2021	CONTROLLOGIX	ROCKWELL AUTOMATION, INC.	No
TMK 20-00609	07/27/2020	07/01/2023	ROCKWELL AUTOMATION	Rockwell Automation, Inc.	No
TMK 20-00610	07/27/2020	01/13/2022	A-B and Design	Rockwell Automation, Inc.	No
TMK 20-00611	07/27/2020	07/19/2030	A-B and Design	Rockwell Automation, Inc.	No
TMK 20-00612	07/27/2020	06/01/2030	A-B and Design	ROCKWELL AUTOMATION, INC.	No
TMK 20-00613	07/27/2020	06/01/2030	A-B Quality and Design	ROCKWELL AUTOMATION, INC.	No
TMK 20-00614	07/27/2020	06/29/2030	A-B Quality and Design	ROCKWELL AUTOMATION, INC.	No
TMK 20-00615	07/27/2020	08/30/2027	THERAGUN	THERAGUN, INC.	No
TMK 20-00616	07/27/2020	02/27/2029	G2PRO	THERAGUN, INC.	No
TMK 20-00617	07/28/2020	03/30/2027	CC (STYLIZED)	CONTAINER CENTRALEN A/S	No
TMK 20-00618	07/29/2020	04/05/2026	CUROLOGY	CUROLOGY, INC.	No
TMK 20-00619	07/30/2020	09/02/2030	ACTIGRAFT	REDDRESS LTD	No

## CBP IPR RECORDATION — JULY 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 20-00620	07/30/2020	09/02/2030	REDDRESS	REDDRESS LTD	No
TMK 20-00621	07/30/2020	10/21/2030	H (Stylized)	HERMES INTERNATIONAL	No
TMK 20-00622	07/30/2020	07/07/2030	SOLEIL Handle Design Configuration of Razor	Société BIC	No
TMK 20-00623	07/30/2020	08/19/2030	MAKFA & DESIGN	Aktsionernee obshchestvo "MAKFA"	No
TMK 20-00624	07/30/2020	09/23/2030	START ALL JUMP PACK 10,000A 133200 JOULES 5S 12V & DESIGN	Vanair Manufacturing, Inc.	No
TMK 20-00625	07/30/2020	12/24/2023	OO (plus design)	OOFOS, INC.	No
TMK 20-00626	07/30/2020	08/08/2022	OOFOS	OOFOS, INC.	No
TMK 20-00627	07/31/2020	04/22/2029	TUMI	Tumi, Inc.	No
TMK 20-00628	07/31/2020	04/22/2029	TUMI (stylized)	Tumi, Inc.	No
TMK 99-00267	07/17/2020	03/29/2029	KERTILES	KERTILES LLC	No