

U.S. Customs and Border Protection



PROPOSED REVOCATION AND MODIFICATION OF TWO RULING LETTERS AND PROPOSED REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF GARDEN SPREADERS AND HAND-HELD SPREADERS

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

ACTION: Notice of proposed revocation and modification of two ruling letters, and proposed revocation of treatment relating to the tariff classification of garden spreaders and hand-held spreaders.

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 tariff classification of garden spreaders and hand-held spreaders 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 June 19, 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 Mrs. Cammy Canedo at (202) 325–0439

FOR FURTHER INFORMATION CONTACT: Andrew Levey, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325–3298.

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 NY F89845 and modify NY K83210 ruling letters pertaining to the tariff classification of garden spreaders and hand-held spreaders. Although in this notice, CBP is specifically referring to New York Ruling Letter ("NY") NY F89845, dated August 2, 2000, and NY K83210, dated march 5, 2004 (Attachment 1), 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 two 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 NY F89845 and NY K83210, CBP classified garden spreaders and hand-held spreaders in heading 3924, HTSUS, specifically in subheading HTSUS, 3924.90.55 which provides for "other household articles...of plastics: other, other." CBP has reviewed NY F89845 and NY K83210 and has determined the ruling letters to be in error. It is

now CBP's position that garden spreader and hand-held spreaders are properly classified, in heading 8479, HTSUS, specifically in sub-heading 8479.89.94, HTSUS, which provides for "[m]achines and mechanical appliances having individual functions, not specified or included elsewhere in this chapter; parts thereof; Other machines and mechanical appliances" Other: Other: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY F89845 and modify NY K83210, and any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter ("HQ") H306890, set forth as Attachment 1 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.

Dated: April 11, 2020

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

Attachments

NY F89845

August 2, 2000

CLA-2-39:RR:NC:SP:222 F89845

CATEGORY: Classification

TARIFF NO.: 3924.90.5500

MR. JOSEPH R. HOFFACKER
BARTHCO TRADE CONSULTANTS, INC.
7575 HOLSTEIN AVENUE
PHILADELPHIA, PA 19153

RE: The tariff classification of a plastic lawn and garden spreader
from Taiwan.

DEAR MR. HOFFACKER:

In your letter dated July 13, 2000, on behalf of your client Consolidated Stores Inc., you requested a tariff classification ruling.

The submitted photograph depicts a lawn and garden handi-spreader that is identified as item #SP-20866. Your letter of inquiry states that the spreader is made of plastic. The spreader has a rotary handle that is turned by the operator to spread the seeds. Another handle is located on the backside so the operator can hold the spreader while dispersing the seeds.

The applicable subheading for the hand-held plastic lawn and garden spreader will be 3924.90.5500, Harmonized Tariff Schedule of the United States (HTS), which provides for...other household articles...of plastics: other, other. The rate of duty will be 3.4 percent ad valorem.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Alice Masterson at 212-637-7090.

Sincerely,

ROBERT B. SWIERUPSKI
Director,
National Commodity
Specialist Division

NY K83210

March 5, 2004

CLA-2-39:RR:NC:MM:106 K83210

CATEGORY: Classification

TARIFF NO.: 3924.90.5500; 9817.00.5000

Ms. LISA PIETZ
KUEHNE & NAGEL, INC.
822 JAMES RECORD ROAD
HUNTSVILLE, AL 35824

RE: The tariff classification of various hand-held spreaders from Taiwan

DEAR Ms. PIETZ:

In your letter dated February 6, 2004 you requested a tariff classification ruling. You included a sample of one of the spreaders, which will be returned to you, and descriptive literature.

There are 3 hand-held spreaders included in your request: item number 76300 - Broadcast Spreader; item number 76500 - Hand-Held Scatter Box Spreader; and item number 76900 - Powder Mill Duster.

The 76300 Broadcast Spreader is of composite construction having component parts of plastic and stainless steel and a 25-lb. capacity canvas bag. In operation, a user fills the canvas bag with seed, fertilizer or the like, adjusts the shoulder strap and distribution rate gate, and turns the hand crank. The product falls from the bag through the rate gate on to a distribution plate which by centrifugal force distributes (broadcasts) the product outward.

The 76500 Scatter Box is a hand-held spreader made of polypropylene and has a handle, hand crank and product hopper. There is an on-off flow rate adjuster and rate application chart on the hopper. The Scatter Box is said to be an all-purpose applicator for fertilizer, seed and granular insecticides.

The 76900 Powder Mill is a powder distributor to applies powdered nutrients or insecticides to the tops and bottoms of plant leaves and stems. It is made of polypropylene and polyethylene, has a one-and-a-half pound hopper and features a blower wheel and 4 air induction louvers. It also features a handgrip, hand crank and deflection nozzle.

The applicable subheading for the Scatter Box and Powder Mill will be 3924.90.5500, Harmonized Tariff Schedule of the United States (HTS), which provides for other household articles of plastics. The rate of duty will be 3.4 percent ad valorem.

Subheading 9817.00.5000, HTS, is the provision covering machinery, equipment, or implements to be used in agricultural or horticultural pursuits. This is an actual use provision subject to the certification process found in Sections 10.131 – 10.139 of the Customs Regulations. The use of the Scatter Box and Powder Mill is a horticultural pursuit. In this instance, the alternative classification, subject to certification, will be subheading 9817.00.5000, HTS. The rate of duty will be free.

Your request does not include enough information for us to issue a ruling on the Broadcast Spreader. Please provide a breakdown by cost of the various major component parts of the spreader. If you decide to resubmit your request, please include all of the material that we have returned to you and mail your request to U.S. Customs, Customs Information Exchange, 10th Floor, One Penn Plaza, New York, NY 10119, attn: Binding Rulings Section.

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 Patrick Wholey at 646-733-3013.

Sincerely,

ROBERT B. SWIERUPSKI
Director,
National Commodity
Specialist Division

HQ H306890
OT:RR:CTF:CPMM H306890 ABL
CATEGORY: Classification
TARIFF NO.: 8479.89.9499

MR. JOSEPH R. HAFFACKER
BARTHCO TRADE CONSULTANTS, INC.
7575 HOLSTEIN AVENUE
PHILADELPHIA, PA 19153

RE: Revocation of NY F89845; Classification of plastic lawn and garden spreader from Taiwan, and modification of NY K83210; classification of various hand-held spreaders from Taiwan.

DEAR MR. HAFFACKER,

This is in reference to the New York Ruling Letter (NY) F89845, issued to you by U.S. Customs and Border Protection (CBP) on August 2, 2000 concerning the classification of a plastic lawn and garden spreader from Taiwan under the Harmonized Tariff Schedule of the United States (HTSUS). We have reviewed this ruling and determined that is incorrect. For the reasons set forth below, we are revoking it.

FACTS:

The merchandise in NY F89845 was described as a lawn and garden handi-spreader. Your letter of inquiry states that the spreader is made of plastic. The spreader has a rotary handle that is turned by the operator to spread the seeds.¹ Another handle is located on the backside so the operator can hold the spreader while dispersing the seeds. Additionally, we are modifying NY K83210, dated march 5, 2004, issued to Ms. Lisa Pietz of Kuehne & Nagle, Inc., with respect to similar merchandise.²

ISSUE:

Whether the subject merchandise, consisting of lawn and garden hand-held-spreaders, should remain classified in heading 3924, HTSUS, as household articles of plastic, or in heading 8432 as agricultural, horticultural or forestry machinery for soil preparation or in heading 8479, HTSUS, which provides machines and mechanical appliances having individual functions.

LAW AND ANALYSIS:

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

¹ NY C89072, dated June 19, 1998 is distinguishable from the current merchandise, as the ruling does not describe a spreader containing mechanical components such as a crank and gears. Therefore, NY C89072 will not be revoked or modified.

² There are three items in K83210, of the three items, only one is in dispute, which is identified as a 76500 Scatter Box. This merchandise is a hand-held spreader made of polypropylene and has a handle, hand crank and product hopper. There is an on-off flow rate adjuster and rate application chart on the hopper. The Scatter Box is said to be an all-purpose applicator for fertilizer, seed and granular insecticides.

are *prima facie* classifiable under two or more headings are classifiable in accordance with GRI 3. GRI 3(b) provides, in relevant part, that such sets are classified by the component that imparts the essential character of the set. If the essential character cannot be determined, GRI 3(c) provides that the set will be classified in the heading that occurs last in numerical order among those which equally merit consideration. GRI 3(c) applies only where GRI 3(a) and GRI 3(b) fail. *See* EN to GRI 3.

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 2018 HTSUS provisions under consideration are as follows:

* * * * *

3924 Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics:

* * * * *

8432 Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports ground rollers; parts thereof:

* * * * *

8479 Machines and mechanical appliances having individual functions, not specified or included elsewhere in this chapter; parts thereof:

* * * * *

Note 2(s) to Chapter 39 states that articles of Section XVI (machines and mechanical or electrical appliances) are excluded from classification in Chapter 39.

Note 2(t) to Subchapter XVII states that articles of subheading 8479.89, HTSUS are excluded from headings 9817.00.50 and 9817.00.60, HTSUS.³

The EN for chapter 39.24 states:

39.24 - Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics.

This heading covers the following articles of plastics:

(C) Other household articles such as ash trays, hot water bottles, match-box holders, dustbins, buckets, watering cans, food storage containers, curtains, drapes, table covers and fitted furniture dust-covers (slipovers).

* * * * *

The EN for chapter 84.32 states:

This heading covers machines, whatever their mode of traction, used in place of hand tools...

* * *

The machines of this heading may be hauled by an animal or by a vehicle (e.g., a tractor), or may be mounted on a vehicle (e.g., on a tractor or a horse-drawn chassis). (In this context, “tractor” includes “single axle tractor”).

³ Heading 9817.00.50 is the special classification provision for “Machinery, equipment and implements to be used for agricultural or horticultural purposes.”

* * * * *

If the merchandise is described by either chapter 84 heading, it is excluded from classification in chapter 39 under note 2(s) thereto. Even though the ENs mention a “watering can” as an example of a household good of plastic, the watering can is not like a mechanical seed spreader in that it expels water through the use of gravity. The instant seed and fertilizer spreaders use a rotary handle that is turned by the operator at the speed of their discretion to spread the seeds. This is an active mechanical function unlike the use of a watering can. Hence, classification in heading 3924 is precluded.

Although tow-behind seed spreaders are classified in heading 8432, HTSUS (see HQ H029996, dated 11/7/2008), the heading does not describe the instant merchandise because it is used by application of a hand-held rotatory and is neither pushed along the ground nor attached to another vehicle or tractor. Considering the merchandise is not used through the use of any mechanisms described in EN 84.32, the merchandise is not described by this heading.

Rather, the mechanical rotary function of the instant merchandise is described in heading 8479 as an individual function of a machine or mechanical appliance. As such, it is described in subheading 8479.89.9499 as “an other mechanical appliance” and cannot be classified under chapter 39 under note 2(s) to the chapter.

At GRI 6, subheading 8479.89 names machines which mix and stir like the instant merchandise which operate via a crank and rotary mechanism to mix and disperse the seeds. Lastly, Note 2(t) to Subchapter XVII reflects that the provisions of heading 9817.00.50, HTSUS, an alternative heading which provides for machinery, equipment and implements to be used for agricultural or horticultural purposes, does not apply to articles provided for in subheading 8479.89, HTSUS.

HOLDING:

The lawn and garden handi-spreader is classified in heading 8479, HTSUS, specifically in subheading 8479.89.9499, HTSUS, for “[m]achines and mechanical appliances having individual functions, not specified or included elsewhere in this chapter; parts thereof; Other machines and mechanical appliances: Other: Other: Other.” The general, column 1 rate of duty for subheadings 8479.89.9499, HTSUS, is 2.5%.

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

A copy of this ruling letter should be attached to the entry documents filed at the time the goods are to be entered. If the document have been filed without a copy, this ruling should be brought to the attention of the CBP officer handling the transaction.

EFFECT ON OTHER RULINGS

New York letter F89845, dated August 2, 2000 is hereby REVOKED, and New York Ruling letter K83210, dated March 5, 2004 is hereby MODIFIED in accordance with the above analysis.

Sincerely,

CRAIG T. CLARK,

Director

Commercial and Trade Facilitation Division

CC: Ms. Lisa Pietz
Kuehne & Nagel, Inc.
822 James Record Road
Huntsville, AL 35824

**PROPOSED REVOCATION OF TWO RULING LETTERS
AND REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF ALLOY STEEL PIPES**

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 certain alloy steel pipes.

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 tariff classification of certain alloy steel pipes 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 June 19, 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 Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Lindsay Heebner, Chemicals, Petroleum, Metals and Miscellaneous Classification Branch, Regulations and Rulings, Office of Trade, at (202) 325–0266.

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 certain alloy steel pipes. Although in this notice, CBP is specifically referring to New York Ruling Letter (“NY”) N303737, dated April 26, 2019 (Attachment A) and NY N303738, dated April 26, 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 two 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 NY N303737 and NY N303738, CBP classified certain alloy steel pipes in heading 7304, HTSUS, specifically in subheadings 7304.59.2055, 7304.59.2060, and 7304.59.2070, HTSUS, which provide for other tubes and pipes suitable for use in boilers, superheaters, etc. broken out by wall diameter. CBP has reviewed NY N303737 and NY N303738 and has determined the ruling letters to be in error. It is now CBP’s position that certain alloy steel pipes are properly classified, in heading 7304, HTSUS, specifically in subheading 7304.59.2030, HTSUS, which provides for heat-resisting steel tubes and pipes suitable for use in boilers, superheaters, etc.

Pursuant to 19 U.S.C. §1625(c)(1), CBP is proposing to revoke NY N303737 and NY N303738 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H305822, 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.

CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division

Attachments

HQ H305822

OT:RR:CTF:CPMM:LMH

CATEGORY: Classification

TARIFF NO.: 7304.59.2030

BRANDON PECKMAN
REAL TRADING, LLC
2203 CLUB HOUSE CIRCLE
JAMISON, PA 18929

RE: Revocation of NY N303737 and NY N303738; tariff classification of alloy steel pipes.

DEAR BRANDON PECKMAN,

U.S. Customs and Border Protection (CBP) issued you New York Ruling Letters (NY) N303737, dated April 26, 2019 and NY N303738, dated April 26, 2019. These rulings pertain to the tariff classification under the Harmonized Tariff Schedule of the United States, (HTSUS) of certain alloy steel pipes. We have since reviewed these rulings and find them to be in error, for the reasons set forth below.

FACTS:

NY N303737 states the following, in relevant part:

The product to be imported is identified as ASTM A335 (Grade P9) pipe with a size range from 141.3 mm outside diameter and 2.77 mm wall thickness through 406.4 mm outside diameter and 40.490 mm wall thickness. The pipes are said to be seamless ferritic alloy steel pipe for high-temperature service. They are hot-rolled and principally used for power, refinery, heater, oil and gas, and paper and pulp applications.

NY N303738 states the following, in relevant part:

The product to be imported is identified as ASTM A335 (Grade P91) pipe with a size range from 141.3 mm outside diameter and 2.77 mm wall thickness through 406.4 mm outside diameter and 40.490 mm wall thickness. The pipes are said to be seamless ferritic alloy steel pipe for high-temperature service. They are hot-rolled and principally used for power, refinery, heater, oil and gas, and paper and pulp applications.

ISSUE:

Whether these alloy steel pipes are classified as other tubes and pipes suitable for use in boilers, superheaters, etc. broken out by wall diameter under subheadings 7304.59.2055, 7304.59.2060, and 7304.59.2070 HTSUS, as heat-resisting steel tubes and pipes suitable for use in boilers, superheaters, etc. under subheading 7304.59.2030, HTSUS, or as other tubes and pipes of heat-resisting steel under subheading 7304.59.6000, 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:

7304	Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel:
	Other, of circular cross section, of other alloy steel:
7304.59	Other:
	Other:
7304.59.20	Suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces and feedwater heaters:
7304.59.2030	Of heat-resisting steel
	Other:
7304.59.2055	Having an outside diameter exceeding 114.3 mm but less than 190.5 mm
7304.59.2060	Having an outside diameter of 190.5 mm or more but not exceeding 285.8 mm
7304.59.2070	Having an outside diameter exceeding 285.8 mm but not exceeding 406.4 mm

	Other:
7304.59.6000	Of heat-resisting steel

Additional U.S. note 1(g) to chapter 72 states:

1. For the purposes of the tariff schedule the following expressions have the meanings hereby assigned to them:

g) Heat-resisting steel

Alloy steels containing by weight less than 0.3 percent of carbon and 4 percent or more but less than 10.5 percent of chromium

In understanding the language of the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System, which constitute the official interpretation of the HTSUS at the international level, 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.¹

The EN to heading 73.04 states, in relevant part:

The products of this heading include, in particular, line pipes of a kind used for oil or gas, casing, tubing and drill pipes of a kind used in drilling for oil or gas, tubes and pipes suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces, feedwater heaters for power stations, galvanized or black tubes (so-called gas tubes) for high or medium pressure steam, or gas or water distribution in buildings, as well as tubes for water or gas street distribution mains. In addition tubes and

¹ See T.D. 89-80, 54 Fed. Reg. 35127 (August 23, 1989).

pipes are used for the manufacture of parts for automobiles or for machinery, of rings for ball bearings, cylindrical, tapered or needle bearings or for other mechanical uses, for scaffolding, tubular structures or building construction.

Applying GRI 1 and thus looking to the terms of the headings, subheadings, and chapter notes, the alloy steel pipes are classified under subheading 7304.59, HTSUS, for “tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel: Other, of circular cross section of other alloy steel: Other.” Past that, subheading 7304.59.20 if they are “suitable for use” in boilers, superheaters, heat exchangers, condensers, refining furnaces or feedwater heaters. If they are not suitable for such use, they will be classified in the “other” category under subheading 7304.59.60. Because grade P9 and grade P91 pipe meeting ASTM A335 has by weight less than 0.3% carbon and 4% or more but less than 10.5% of chromium, the products meet the definition of “heat-resisting steel” in additional U.S. note 1(g) to chapter 72 and are classified in subheadings 7304.59.60 or 7304.59.2030. Therefore, the products are not classified in the “other” than heat-resisting steel subheadings of 7304.59.2055, 7304.59.2060, or 7304.59.2070.

Turning to the issue of whether the pipes are suitable for use in boilers, etc., the courts have provided guidance on the application of such “suitable for use” provisions. The courts have stated that the term “suitable for use,” as applied in Customs law means “actually, practically, and commercially fit” for such use.² “Such suitability does not require that the merchandise be chiefly used for the stated purpose, but it does require more than ‘evidence of a casual, incidental, exceptional, or possible use.’”³ The notes to chapters 72 and 73 do not define “boiler,” “superheater,” “heat exchanger,” “condenser,” “refining furnace,” or “feedwater heater.” However, “when ... a tariff term is not defined in either the HTSUS or its legislative history, ‘the term’s correct meaning is its common meaning.’”⁴ “The common meaning of a term used in commerce is presumed to be the same as its commercial meaning.”⁵ “To ascertain the common meaning of a term, a court may consult ‘dictionaries, scientific authorities, and other reliable information sources’ and ‘lexicographic and other materials.’”⁶

In this case, Merriam-Webster defines a “boiler” as “a vessel used for boiling; the part of a steam generator in which water is converted into steam and which consists usually of metal shells and tubes; [or] a tank in which water is heated or hot water is stored.”⁷ A “heat exchanger” is defined as “a device (such as an automobile radiator) for transferring heat from one fluid to another without allowing them to mix.”⁸ Similarly a “condenser” is defined as

² See *Warner-Lambert Co. v. United States*, 545 F. Supp. 2d 1345, 1353; *United States v. F. W. Myers & Co., Inc.*, 476 F.2d 1377, 1378.

³ See *id.*; see also *W.R. Filbin & Co., Inc. v. United States*, 744 F. Supp. 289 (1990).

⁴ *Rocknel Fastener, Inc. v. United States*, 267 F.3d 1354, 1356 (Fed. Cir. 2001) (quoting *Mita*, 21 F.3d at 1082).

⁵ *Id.* (citing *Simod Am. Corp. v. United States*, 872 F.2d 1572, 1576 (Fed. Cir. 1989)).

⁶ *Id.* (quoting *C.J. Tower & Sons of Buffalo, Inc. v. United States*, 673 F.2d 1268, 1271 (C.C.P.A. 1982); *Simod*, 872 F.2d at 1576).

⁷ See <https://www.merriam-webster.com/dictionary/boiler>, last visited Nov. 26, 2019.

⁸ See <https://www.merriam-webster.com/dictionary/heat%20exchanger> last visited Nov. 26, 2019.

“an apparatus in which gas or vapor is condensed.”⁹ All of the definitions indicate that the items listed are designed to contain high temperature liquids or vapors but otherwise can differ from each other in terms of specific design and use indicating that this provision is quite broad. ASTM A335 covers seamless ferritic alloy-steel pipe intended for high-temperature service. While the US industry may look to the ASME Boiler and Pressure Vessel (BPV) Codes for more specific boiler and pressure vessel requirements in products, there is no requirement for such certification in the tariff code. In addition, many ASTM A335 pipes also meet ASME BPV specifications, particularly ASME SA335, a common designation for boiler use.

The grade P9 and grade P91 pipes in question meet ASTM A335 and meet the definition for heat-resisting steel. The properties of the pipes indicate that the products are actually, practically, and commercially fit for use in boilers, etc., and that even if the products are not chiefly used in that way, there is more than evidence of a casual, incidental, exceptional, or possible use. This notion is confirmed by the marketing of this pipe through the websites of many distributors and producers. One such supplier contends:

ASME SA 335 Alloy Steel P9 Seamless Pipe is also known as ASTM A335 P9 chrome moly pipe because of the chemical makeup of Molybdenum (Mo) and Chromium (Cr). Molybdenum maintain the strength of Alloy Steel P9 Square Pipe as well as the elastic limit, resistance to wear, impact qualities, and hardenability. Moly is the most effective single additive that enhance high temperature creep strength of ASTM A335 Grade P9 Alloy Steel Seamless Pipe.¹⁰ (Emphasis added).

Other suppliers specifically state that P9 pipe is used in boilers, for example: “If you are interested in purchasing high quality ASTM A335 P1, P2, P5 or P9 seamless alloy steel tubes **for boiler, superheater, and heat exchanger ...**”¹¹; “We are not only capable of meeting the demand for this P9 high pressure steel pipe, **also known as boiler steel pipe ...**”¹²; and “Alloy Steel ASTM A335 P9 Pipe uses are many and they are used all over the world in many different kinds of industries such as electric power, chemical, petroleum, boiler, oil, and gas, etc.”¹³ (Emphasis added). Descriptions and advertisements for grade P91 pipe use similar language indicating that these pipes are used in boilers, etc. at a more than casual, incidental, or exceptional level.

HOLDING:

By application of GRI 1, the alloy steel pipes are classified in heading 7304, HTSUS. They are specifically provided for in subheading 7304.59.2030, HTSUS, which provides for, “Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel: Other, of circular cross section, of other alloy steel: Other: Other: Suitable for use in boilers, superheaters, heat exchang-

⁹ See <https://www.merriam-webster.com/dictionary/condenser> last visited Nov. 26, 2019.

¹⁰ See <https://www.stindia.com/alloy-steel/astm-a335-asme-sa335-a335-pipe/sa335-p9-astm-a355-p9-pipe-suppliers.html> last visited Nov. 26, 2019.

¹¹ See <https://www.steelpipesfactory.com/products/pipes-tubes/seamless-pipes/astm-a335-p1-p2-p5-p9-seamless-alloy-steel-tubes/> last visited Nov. 26, 2019.

¹² See <https://www.usmetals.com/alloy-pipe-seamless-p9.html> last visited Nov. 26, 2019.

¹³ See <https://www.sparksteel.com/astm-a335-p9-alloy-steel-seamless-pipes-manufacturer-supplier.html> last visited Nov. 26, 2019.

ers, condensers, refining furnaces and feedwater heaters: Of heat-resisting steel.” The 2019 column one general rate of duty is free.

On March 8, 2018, Presidential proclamations 9704 and 9705 imposed additional tariffs and quotas on a number of steel and aluminum mill products. Exemptions have been made on a temporary basis for some countries. Quantitative limitations or quotas may apply for certain exempted countries and can also be found in Chapter 99. Additional duties for steel of 25 percent and for aluminum of 10 percent are reflected in Chapter 99, subheading 9903.80.01 for steel and subheading 9903.85.01 for aluminum. Products classified under subheading 7304.59.2030, HTSUS, may be subject to additional duties or quota. At the time of importation, you must report the Chapter 99 subheading applicable to your product classification in addition to the Chapter 72, 73 or 76 subheading listed above. The Proclamations are subject to periodic amendment of the exclusions, so you should exercise reasonable care in monitoring the status of goods covered by the Proclamations and the applicable Chapter 99 subheadings.

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.

EFFECT ON OTHER RULINGS:

NY N303737, dated April 26, 2019, and NY N303738, dated April 26, 2019 are hereby REVOKED.

Sincerely,

CRAIG T. CLARK,

Director

Commercial and Trade Facilitation Division

**PROPOSED REVOCATION OF THREE RULING LETTERS
AND PROPOSED REVOCATION OF TREATMENT
RELATING TO THE TARIFF CLASSIFICATION OF
MULTIFUNCTION WIRELESS SPEAKERS**

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

ACTION: Notice of proposed revocation of three ruling letters, and proposed revocation of treatment relating to the tariff classification of multifunction wireless speakers.

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 three ruling letters concerning tariff classification of multifunction wireless speakers 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 June 19, 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: Dwayne Rawlings, Electronics, Machinery, Automotive and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0092.

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 three ruling letters pertaining to the tariff classification of multifunction wireless speakers. Although in this notice, CBP is specifically referring to New York Ruling Letters (“NY”) N194496 (December 28, 2011), NY N083076 (November 19, 2009) and NY N234397 (November 15, 2012) (Attachments A, B and C, respectively), 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 NY N194496, NY N083076 and NY N234397, CBP classified multifunction wireless speakers in heading 8517, HTSUS, specifically in subheading 8517.62.00, HTSUS, which provides for “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): Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other.” CBP has reviewed NY N194496, NY N083076 and NY N234397 and has determined the ruling letters to be in error. It is now CBP’s position that multifunction wireless speakers are properly classified in heading 8518, HTSUS, specifically in subheading 8518.22.00, HTSUS,

which provides for “... loudspeakers, whether or not mounted in their enclosures; ...: ... Loudspeakers, whether or not mounted in their enclosures: ... Multiple loudspeakers, mounted in the same enclosure.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N194496, NY N083076 and NY N234397 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H310177, 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.

GREGORY CONNOR
for

CRAIG T. CLARK,
Director

Commercial and Trade Facilitation Division

Attachments

N194496

December 28, 2011

CLA-2-85:OT:RR:NC:N1:109

CATEGORY: Classification

TARIFF NO.: 8517.62.0050

MR. JOHN M. PETERSON
NEVILLE PETERSON LLP
COUNSELLORS AT LAW
17 STATE STREET, 19TH FLOOR
NEW YORK, NY 10004

RE: The tariff classification of a Sonos “Play:3” (also known as the “Play:3” ZonePlayer) from an unspecified country

DEAR PETERSON:

In your letter dated November 22, 2011, you requested a tariff classification ruling on behalf of your client, Sonos, Inc.

The merchandise subject to this ruling is a Sonos “Play:3”. It is also known as the “Play:3” ZonePlayer. The Sonos “Play:3” allows the user to wirelessly stream data, including digital music files and related metadata in multiple locations. It allows files to be played from storage on a personal computer or network storage facilities and also allows the user to play songs from select music services without ripping downloading or personal computer interaction required.

The Sonos “Play:3” does not have any capability of recording, storing or playing back digital sound files. It also cannot operate without a connection to a network into which Sonos network control software has been loaded.

The Sonos S ZonePlayer (also known as the Play:5), which was ruled upon in New York Ruling N083076 within subheading 8517.62.0050, is identical to the Sonos “Play:3” in all respects other than size and the number of amplifiers incorporated.

The applicable subheading for the Sonos “Play:3” (also known as the “Play:3” ZonePlayer) will be 8517.62.0050, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “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): Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other.” 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 Linda M. Hackett at (646) 733-3015.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

N083076

November 19, 2009

CLA-2-85:OT:RR:NC:N1:109

CATEGORY: Classification

TARIFF NO.: 8517.62.0050

MS. MARIA E. CELIS
NEVILLE PETERSON LLP
COUNSELLORS AT LAW
17 STATE STREET, 19TH FLOOR
NEW YORK, NY 10004

RE: The tariff classification of Sonos ZonePlayer S5 Router from an unspecified country

DEAR MS. CELIS:

In your letter dated November 2, 1009 you requested a tariff classification ruling on behalf of your client, Sonos, Inc.

The merchandise subject to this ruling is ZonePlayer S5 Router. It is one of the components of the Sonos digital media network system. The ZonePlayer S5 Router is similar in construction and function to the ZP 100 ZonePlayer ruled on in New York Ruling N021357 and the ZP 80 ZonePlayer ruled on in New York Ruling N021358. With the use of a Sonos ZonePlayer installed in various rooms, a system user can play the same digital sound files in different rooms or play different digital sound files in different rooms. As many as thirty-two (32) ZonePlayers may be deployed across the network, which is a mesh wireless Internet network. All the ZonePlayers may be operated and manipulated with the use of a single handheld controller, which is not imported with the ZonePlayer and not the subject of this ruling. The controller can be purchased separately by the user.

The principal components of the ZonePlayer are a power source and wireless network card. In addition, it incorporates a digital to analog converter, which allows digital files to be converted to analog signals and played through the owner's existing sound equipment radios, home theatres, and the like. The ZonePlayer S50 also incorporates 5 Class-D amplifiers and five driver speaker system; 2 tweeters, 2 3" mid-range drivers, and a 3.5" woofer.

The Sonos system allows the user to wirelessly stream data, including digital music files and related metadata in multiple rooms. It allows files to be played from storage on a personal computer or network storage facilities, and also play songs from select music services ripping, downloading, or personal computer interaction required. The Sonos system requires a wired Ethernet connection to a router and typically connects to a high speed Internet connection via a personal computer. The initial ZonePlayer S5 in the system is connected to a broadband router and computer software must be installed for the connection to work. Thus, the ZonePlayer is merely a machine for reception, conversion and transmission of voice or other data. After the initial ZonePlayer is hooked up to a router or network, additional ZonePlayers may be installed wirelessly in up to 32 different rooms creating a network.

The user creates the Sonos network by installing the first ZonePlayer in the network into a wired Ethernet connection and activating a desktop configuration program, and a handheld wireless controller (purchased separately). The ZonePlayer and controller contain wireless network cards that establish their own secure wireless mesh network. Any additional installed ZonePlay-

ers will automatically become part of the wireless mesh network. By “wirelessly” it is meant that after the initial ZonePlayer is connected to a router and network, additional ZonePlayers may be installed without a wired connection to the network. The ZonePlayers may be connected by wire to loud speakers, which plug directly into the device.

The devices employ a SonosNet software solution, a secured AES encrypted peer-to-peer wireless mesh network that streams digital music files wirelessly to other ZonePlayers, avoiding sources of wireless interference, which ensure synchronous music playback. In a Sonos network, the same digital music file may be played in multiple rooms or zones without echoes or delays (multi-zone synchronous playback). Alternatively, the system can play different digital sound files simultaneously in different zones (multi-stream playback). The ZonePlayer is a point-to-point device. Outsiders cannot listen in to the audio files of Internet webstreams because the proprietary Sonos software is designed to prevent intrusion by persons outside the Sonos network.

Through the wireless controller, which is imported separately, a user can call up digital music files from a number of sources. The Sonos system also allows a user to source sound files from up to 16 PCs or Mac computers connected to the network. The controller also contains pre-set programming, which allows the user to access streaming audio files from approximately 25,000 radio stations Internet webstreams. The stream audio files are not actual satellite radio transmission or radio broadcasting.

The applicable subheading for the Sonos ZonePlayer S5 Router will be 8517.62.0050, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “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): Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other.” 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 Linda M. Hackett at (646) 733-3015.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

N234397

November 15, 2012

CLA-2-85:OT:RR:NC:N1:109

CATEGORY: Classification

TARIFF NO.: 8517.62.0050

MR. JOHN M. PETERSON
NEVILLE PETERSON LLP
COUNSELLORS AT LAW
17 STATE STREET, 19TH FLOOR
NEW YORK, NY 10004

RE: The tariff classification of SUB, a subwoofer for a wireless music streaming system, from an undisclosed country of origin

DEAR MR. PETERSON:

In your letter dated October 9, 2012, you requested a tariff classification ruling on behalf of your client, Sonos, Inc.

The merchandise in question is the SUB, a specifically designed subwoofer intended for use with the Sonos digital home music system. The SUB is merely a machine for reception, conversion and transmission of voice or other data. The SUB subwoofer intercepts and decodes the low-end frequencies of the audio file that had previously come out of the ZonePlayer. As data on the system streams, the controller processes the non-audio files (metadata), the ZonePlayers decode the audio files and converts them to sound, and the SUB subwoofer receives and decodes the base register notes of the audio file. The SUB is designed in such a way as to offer deep sound with no vibration or rattle. The SUB has a power source and wireless network card that can be utilized after first wiring either a ZonePlayer or Bridge to the home network using the Ethernet cable.

The device is a wireless digital data receptor, converter and transmitter, which operates using a mesh network for wireless transmission of digital sound files and file streams. It receives digital data, specifically the data that forms the lower register of the audio file, and converts it into sound. Since it is connected to SonosNet's peer-to-peer network, it also transmits data. As a facet of this mesh network, the SUB actively participates in not only feeding the controller certain metadata, such as song times and album artwork, but also transferring data between different stations on the network. The Sonos SUB subwoofer cannot operate without a connection to a network to which the Sonos software has been loaded. It cannot receive or convert files unless the SonosNet network is active. Once connected, digital audio files from a variety of sources can be accessed and played.

The SUB receives specific parts of the digital music file and converts them into sound. As a device within the mesh network SonosNet, the SUB also participates in the transmission of data and metadata. The SUB subwoofer is substantially and functionally similar to the other Sonos devices.

While the SUB contains amplifier components, it also receives the audio files and decodes the low frequency data to produce the intended sound. However, absent connection to the Sonos network, the SUB cannot receive or play sound. As part of SonosNet, the SUB participates in the transmission of data and metadata to throughout the music system.

The SUB is a composite machine, which consists of reception, conversion and transmission apparatus of heading 8517 and an amplifier of heading 8518. Note 3 to Section XVI states that a composite machine is to be classified

based on its principal function. It is the opinion of this office that the principal function of the SUB is that of the reception, conversion and transmission apparatus. The SUB can only function when the SonosNet network, which is a wireless network, is active. As a result, the SUB functions within a wireless network. Heading 8517 also provides for reception, conversion and transmission apparatus that functions within a wired or wireless network. As the principal function of the SUB is to receive convert and transmit voice, audio files or other data in a wireless network it is classifiable in heading 8517.

The applicable subheading for the SUB will be 8517.62.0050, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "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): Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other." 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 the National Import Specialist at (646) 733-3015.

Sincerely,

THOMAS J. RUSSO

Director

National Commodity Specialist Division

ATTACHMENT D

HQ H310177
 CLA-2 OT:RR:CTF:TCM H310177 DSR
 CATEGORY: Classification
 TARIFF NO.: 8518.22.00

MR. JOHN M. PETERSON
 NEVILLE PETERSON LLP
 COUNSELLORS AT LAW
 17 STATE STREET, 19TH FLOOR
 NEW YORK, NY 10004

RE: Revocation of NY N194496, NY N083076 and NY N234397; tariff classification of various multifunction wireless speakers

DEAR MR. PETERSON:

In New York Ruling Letters (NY) N194496 (December 28, 2011), NY N083076 (November 19, 2009) and NY N234397 (November 15, 2012), U.S. Customs and Border Protection (CBP) classified devices identified as the “Sonos Play:3,” the “Sonos ZonePlayer S5 Router” and the “SUB,” respectively, in subheading 8517.62.0050, Harmonized Tariff Schedule of the United States (HTSUS). That subheading provides for “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): Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other.” Since the rulings were issued, CBP has reviewed the rulings and determined that the classifications provided for the subject devices are incorrect and, therefore, NY N194496, NY N083076 and NY N234397 must be revoked for the reasons set forth in this ruling.

FACTS:

The device that is the subject of NY N194496 is the Sonos Play:3. It allows the user to wirelessly stream data, including digital music files and related metadata in multiple locations. The Sonos Play:3 does not have any independent capability of recording, storing or playing back digital sound files. However, it allows files to be played from storage on a personal computer or network storage facilities, and allows the user to play songs from select music services without ripping, downloading or personal computer interaction required. Regarding sound output, the device contains three digital amplifiers and three drivers (one tweeter and two 3-inch midrange drivers), as well as one bass radiator.

The device that is the subject of NY N083076 is the ZonePlayer S5 Router (“ZonePlayer S5”). It is one of the components of the Sonos digital media network system. The ZonePlayer S5 is similar in construction and function to the ZP 100 ZonePlayer ruled on in New York Ruling N021357 and the ZP 80 ZonePlayer ruled on in New York Ruling N021358. With the use of a Sonos ZonePlayer installed in various rooms, a system user can play the same digital sound files in different rooms or play different digital sound files in different rooms. As many as thirty-two (32) ZonePlayers may be deployed across the network, which is a mesh wireless network. All the ZonePlayers may be operated and manipulated with the use of a single handheld controller, which is not imported with the ZonePlayer and not the subject of the ruling. The user can purchase the controller separately.

The principal components of the ZonePlayer S5 are a power source and wireless network card. In addition, it incorporates a digital to analog converter, which allows digital files to be converted to analog signals and played through the owner's existing sound equipment radios, home theatres, and the like. The ZonePlayer S5 also incorporates 5 Class-D amplifiers and five driver speaker system; 2 tweeters, 2 3" mid-range drivers, and a 3.5" woofer.

A single ZonePlayer S5 establishes what is referred to as a Sonos system or network via initial connection to a broadband router, which is typically connected to a high-speed Internet service and controlled by a personal computer (neither of which are at issue in this ruling). Computer software must also be installed (after importation) for this connection to work. Connecting this initial ZonePlayer to a router as described above creates a network to which 32 additional ZonePlayers may be added. Each ZonePlayer may be connected by wire to additional loudspeakers or play audio through its own incorporated speakers. This enables the user to wirelessly stream data, namely digital music files and related metadata, to be played in multiple rooms. The source of the data played by the ZonePlayers can be a personal computer, network storage facilities, and also select online music services.

Through the wireless controller, which is imported separately, a user can call up digital music files from a number of sources. The Sonos system also allows a user to source sound files from up to 16 PCs or Mac computers connected to the network. The controller also contains pre-set programming, which allows the user to access streaming audio files from approximately 25,000 radio stations Internet webstreams. The stream audio files are not actual satellite radio transmission or radio broadcasting.

The device that is the subject of NY N234397 is described as the SUB, a subwoofer intended for use with the Sonos digital home music system. It contains two digital amplifiers and two force-canceling speakers positioned face-to-face. The SUB intercepts and decodes the low-end frequencies of the audio file that had previously come out of a ZonePlayer, a type of which is described above (the ZonePlayer S5). As data on the system streams, the controller processes the non-audio files (metadata), the ZonePlayers decode the audio files and converts them to sound, and the SUB subwoofer receives and decodes the base register notes of the audio file. The SUB has a power source and wireless network card that can be utilized after first wiring either a ZonePlayer or Bridge to the home network using the Ethernet cable.

The Sonos SUB subwoofer cannot operate without a connection to a network to which the Sonos software has been loaded. It cannot receive or convert files unless the SonosNet network is active. Once connected, digital audio files from a variety of sources can be accessed and played. The SUB receives specific parts of the digital music file and converts them into sound. As a device within the mesh network SonosNet, the SUB also participates in the transmission of related data and metadata.

ISSUE:

Whether the subject devices are classified under heading 8517, HTSUS, which provides for, in pertinent part, apparatus for the reception, conversion and transmission or regeneration of voice, images or other data, or under heading 8518, HTSUS, which provides for, in pertinent part, loudspeakers, whether or not mounted in their enclosures.

LAW AND ANALYSIS:

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

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

* * *

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

...

Loudspeakers, whether or not mounted in their enclosures:

...

8518.21.00 Single loudspeakers, mounted in their enclosures

8518.22.00 Multiple loudspeakers, mounted in the same enclosure

* * *

The EN to heading 85.17 provides, in pertinent part, the following:

This heading covers apparatus for the transmission or reception of speech or other sounds, images or other data between two points by variation of an electric current or optical wave flowing in a wired network or by electromagnetic waves in a wireless network. The signal may be analogue or digital. The networks, which may be interconnected, include telephony,

telegraphy, radio-telephony, radio-telegraphy, local and wide area networks.

...

(II) 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)

...

(F) Transmitting and receiving apparatus for radio-telephony and radio-telegraphy.

This group includes:

(1) Fixed apparatus for radio-telephony and radio-telegraphy (transmitters, receivers and transmitter-receivers). . . .

. . .

The EN to heading 85.18 provides, in pertinent part, the following:

This heading covers microphones, loudspeakers, headphones, earphones and audio-frequency electric amplifiers of all kinds presented separately, regardless of the particular purpose for which such apparatus may be designed (e.g., telephone microphones, headphones and earphones, and radio receiver loudspeakers).

The heading also covers electric sound amplifier sets.

. . .

(B) LOUSPEAKERS, WHETHER OR NOT MOUNTED IN THEIR ENCLOSURES

The function of loudspeakers is the converse of that of microphones: they reproduce sound by converting electrical variations or oscillations from an amplifier into mechanical vibrations which are communicated to the air. . . .

Matching transformers and amplifiers are sometimes mounted together with loudspeakers. Generally the electrical input signal received by loudspeakers is in analogue form, however in some cases the input signal is in digital format. Such loudspeakers incorporate digital to analogue converters and amplifiers from which the mechanical vibrations are communicated to the air.

Loudspeakers may be mounted on frames, chassis or in cabinets of different types (often acoustically designed), or even in articles of furniture. They remain classified in this heading provided the main function of the whole is to act as a loudspeaker. Separately presented frames, chassis, cabinets, etc., also fall in this heading provided they are identifiable as being mainly designed for mounting loudspeakers; articles of furniture of Chapter 94 designed to receive loudspeakers in addition to their normal function remain classified in Chapter 94.

The heading includes loudspeakers designed for connection to an automatic data processing machine, when presented separately.

. . .

With regard to NY N234397, We continue to hold that the SUB is a composite machine. To clarify, the SUB consists of reception, conversion and transmission apparatus of heading 8517 and an amplifier and loudspeaker of heading 8518. Note 3 to Section XVI, states the following:

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

However, we no longer hold that that the principal function of the SUB is to transmit and receive sounds or data. Specifically, we now note that in NY N234397, CBP incorrectly concluded that the principal function of the SUB is to receive convert and transmit voice, audio files or other data in a wireless network because “[t]he SUB can only function when the SonosNet network, which is a wireless network, is active. As a result, the SUB functions within a wireless network.” That conclusion did not take into consideration the loudspeaker capabilities of the SUB.

As we observed in H281100 (June 27, 2018), where the principal function of a device such as a loudspeaker is not to connect to the source of a signal, but rather to convert such signal into sound, such a device functions as a loudspeaker of heading 8518, HTSUS. Here, the SUB is a wireless digital data receptor, converter and transmitter, which operates using a mesh network for wireless transmission of digital sound files and file streams. It receives digital data, specifically the data that forms the lower register of the audio file, and converts it into sound. Because it is connected to SonosNet’s peer-to-peer network, it also transmits said data. Once connected, digital audio files from a variety of sources can be accessed and played. What is key is that the transmission and reception functions are undertaken to accomplish the task of playing sound. The wireless network essentially acts as a stereo wire, except it permits the connection to be wireless. Regardless of whether loudspeakers such as the SUB are connected to the source of the audio signals by way of a stereo wire, or wirelessly via proprietary or other transmission/reception functions, the principal function of such loudspeakers is not to connect to the source of the signal, but rather to convert such signal into sound – that is, to function as a loudspeaker. *See also* HQ H167270 (July 11, 2011) (Bluetooth-compliant wireless speakers that connected to laptops, smart phones, tablets, and mp3 players through a 3.5mm stereo wire or wireless Bluetooth technology classified as a loudspeaker of heading 8518). Therefore, we find that the SUB of NY N234397 is classified as a loudspeaker of heading 8518, HTSUS.

The Sonos Play:3 (NY N194496) allows the user to wirelessly stream data, including digital music files and related metadata in multiple locations. It allows such files to be played from storage on a personal computer or network storage facilities, and allows the user to play songs from select music services without ripping, downloading or personal computer interaction required. Regarding sound output, the Sonos Play:3 contains three digital amplifiers and three drivers (one tweeter and two 3-inch midrange drivers), as well as one bass radiator. As with the SUB discussed *supra*, what is key is that the transmission and reception functions of the Sonos Play:3 are undertaken to accomplish the task of playing sound. The wireless network that is utilizes essentially acts as a stereo wire, except it permits the connection to be

wireless. Because of this, the principal function of the Sonos Play:3 is not to connect to the source of the data that it receives, but rather to convert such data into sound – that is, to function as a loudspeaker. Therefore, we find that the Sonos Play:3 is classified as a loudspeaker of heading 8518, HTSUS.

Finally, regarding NY N083076, and the subject device the ZonePlayer S5 Router, the principal components of the ZonePlayer are a power source; wireless network card; a digital to analog converter (which allows digital files to be converted to analog signals and played through the owner’s existing sound equipment radios, home theatres, and the like); 5 amplifiers and five driver speaker system; 2 tweeters; 2 3” mid-range drivers; and a 3.5” woofer.

The ZonePlayer S5 must be directly connected to a broadband router (as the initial node in a subsequently created proprietary mesh wireless Internet network), or as subsequent node within such a wireless network that has already been established. The ZonePlayer S5 may play audio directly through its internal speakers from digital music files that it receives, or connect by wire to external loudspeakers that then produce sound. As with the SUB and Sonos Play:3 analyzed above, the principal function of the ZonePlayer S5 is not to connect to the source of the data that it receives, but rather to convert such data into sound – that is, to function as a loudspeaker. Therefore, we find that the ZonePlayer S5 is classified as a loudspeaker of heading 8518, HTSUS.

HOLDING:

By application of GRI 1 (Note 3 to Section XVI), the SUB, the Sonos Play:3 and the ZonePlayer S5 Router are classified in heading 8518, HTSUS, specifically in subheading 8518.22.00, HTSUS, which provides in pertinent part for: “... loudspeakers, whether or not mounted in their enclosures; ...: ...Loudspeakers, whether or not mounted in their enclosures: ... Single loudspeakers, mounted in their enclosures.” The column one, general rate of duty is 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 at www.usitc.gov.

Pursuant to U.S. Note 20 to Subchapter III, Chapter 99, HTSUS, products of China classified under subheading 8518.22.00, HTSUS, unless specifically excluded, are subject to an additional 7.5 percent *ad valorem* rate of duty. At the time of importation, you must report the Chapter 99 subheading, *i.e.*, 9903.88.15, in addition to subheading 8518.22.00, 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 N194496 (December 28, 2011), NY N083076 (November 19, 2009) and NY N234397 (November 15, 2012), are revoked in accordance with this decision.

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

**COPYRIGHT, TRADEMARK, AND TRADE NAME
RECORDATIONS
(NO. 4 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 April 2020. A total of 105 recordation applications were approved, consisting of 4 copyrights and 101 trademarks. The last notice was published in the Customs Bulletin Vol. 54, No. 15, April 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., 10th Floor, Washington, D.C. 20229–1177, or via email at iprrquestions@cbp.dhs.gov.

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

Dated: May 5, 2020

CHARLES R. STEUART
Chief,
Intellectual Property Rights Branch
Regulations and Rulings, Office of Trade

CBP IPR RECORDATION — APRIL 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
COP 20-00025	04/13/2020	04/13/2040	AnytimeGift	Shelley Stewart	No
COP 20-00026	04/14/2020	04/14/2040	NICOLE GIRLS	NICOLE, INC. dba NICOLE LEE	No
COP 20-00027	04/17/2020	04/17/2040	HD900 instructions	Zircon Corporation	No
COP 20-00028	04/17/2020	04/17/2040	Surfboard Print Fabric Design	WGS Holdings, LLC	No
TMK 00-00180	04/15/2020	04/24/2030	PATEK PHILIPPE	HENRI STERN WATCH AGENCY, INC.	No
TMK 04-00185	04/20/2020	04/16/2030	VICTORIA	BARCLAY PRODUCTS	No
TMK 08-00606	04/06/2020	05/27/2030	VCA	VAN CLEEF & ARPELS SA	No
TMK 08-00681	04/28/2020	07/03/2030	GARDEN CHICKEN THINS	THE GARDEN COMPANY LIMITED	No
TMK 09-00613	04/15/2020	11/08/2026	CREATIVE RECREATION	CREATIVE RECREATION, INC.	No
TMK 10-00383	04/29/2020	07/18/2030	MAGNACHEK	RELYCO SALES, INC.	No
TMK 10-00631	04/03/2020	05/01/2030	NATIONAL SPINNING CO., INC. and Design	NATIONAL SPINNING CO., INC.	No
TMK 10-00740	04/16/2020	09/20/2030	G-S and Design	Germanow-Simon Corporation	No
TMK 10-00846	04/15/2020	02/27/2028	JOE JOSEPH ABOUD	JAWEP, LLC	No
TMK 10-01121	04/16/2020	10/06/2030	WESERU LTD.	Coffman, John C. DBA WeServU Ltd	No
TMK 11-00071	04/27/2020	04/25/2030	PAUL REED SMITH (STYLIZED)	PAUL REED SMITH GUITARS, LIMITED PARTNERSHIP	No
TMK 11-00273	04/16/2020	07/11/2030	FROST CUTLERY	FROST CUTLERY COMPANY LLC	No
TMK 11-00642	04/15/2020	10/01/2030	MARTIN	DREADNOUGHT, INC.	No
TMK 11-00644	04/14/2020	07/29/2030	CF MARTIN & CO. EST. 1833 (Stylized)	DREADNOUGHT, INC.	No
TMK 11-01200	04/17/2020	08/29/2027	DESIGN ONLY (Horseshoe)	Indianapolis Colts, Inc.	No
TMK 11-01390	04/30/2020	09/08/2030	DESIGN ONLY (DUAL BLUE STRIPE)	The Toro Company	No
TMK 12-00785	04/29/2020	05/03/2030	VIGAMOX	NOVARTIS AG	No

CBP IPR RECORDATION — APRIL 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 12-00873	04/14/2020	04/05/2030	SCREAMIN' EAGLE	H-D U.S.A., LLC	No
TMK 13-00312	04/06/2020	06/23/2030	RMR	Trijicon, Inc.	No
TMK 13-00400	04/29/2020	06/23/2030	POLY-WOOD	POLY-WOOD, LLC	No
TMK 14-00174	04/07/2020	04/05/2030	SPORTSHEETS	TJ CREATIVE, INC.	No
TMK 14-00753	04/03/2020	03/01/2030	BELLA COSA	Sobel Westex	No
TMK 15-00037	04/23/2020	04/23/2030	LADY SMITH	SMITH & WESSON INC.	No
TMK 15-00545	04/23/2020	11/18/2029	BASQUIAT	The Estate of Jean-Michel Basquiat	No
TMK 15-00546	04/27/2020	12/15/2029	Jean-Michel Basquiat & Design	ADMINISTRATOR OF THE ESTATE OF JEAN-MICHEL BASQUIAT ESTATE NEW YORK	No
TMK 15-00547	04/23/2020	08/11/2030	BASQUIAT	ESTATE OF JEAN-MICHEL BASQUIAT	No
TMK 15-00548	04/22/2020	09/15/2030	Jean-Michel Basquiat (Stylized)	ESTATE OF JEAN-MICHEL BASQUIAT	No
TMK 15-01032	04/03/2020	09/16/2025	PERLA BANDERA DE EL SALVADOR and Design	EL CARMEN, INC.	No
TMK 15-01037	04/02/2020	10/22/2024	PERLA BANDERA DE EL SALVADOR	EL CARMEN, INC.	No
TMK 15-01038	04/03/2020	09/30/2025	PERLA BANDERA DE EL SALVADOR AND DESIGN	EL CARMEN, INC.	No
TMK 15-01259	04/28/2020	10/20/2030	ONLY ME PASSION	SOCIETE PARISIENNE DE PARFUMS ET COSMETIQUES	No
TMK 17-00116	04/10/2020	05/02/2030	PILLO1	Hall Innovations, LLC	No
TMK 17-00919	04/06/2020	04/12/2030	DEEPSÉE	Ulthera, Inc.	No
TMK 18-00286	04/27/2020	05/09/2030	ALBION (Stylized)	Albion Co., Ltd.	No
TMK 19-00232	04/06/2020	06/23/2030	DESIGN ONLY (Orioles Bird in Batting Position)	Baltimore Orioles Limited Partnership	No

CBP IPR RECORDATION — APRIL 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/Tm	Owner Name	GM Restricted
TMK 19-00258	04/06/2020	08/01/2030	C (Stylized)	CLEVELAND INDIANS BASEBALL COMPANY, LLC	No
TMK 19-00288	04/06/2020	07/27/2030	NLCS	Office of the Commissioner of Baseball	No
TMK 19-00289	04/06/2020	07/27/2030	NLDS	Office of the Commissioner of Baseball	No
TMK 19-00315	04/06/2020	06/30/2030	TB (Stylized)	Tampa Bay Rays Baseball Ltd.	No
TMK 20-00315	04/01/2020	07/03/2028	CROPMAX	Nachurs Alpine Solutions, LLC	No
TMK 20-00316	04/01/2020	11/28/2027	INTERSTATE BATTERIES RACING 18 & DESIGN	Interstate Battery System International, Inc.	No
TMK 20-00317	04/02/2020	02/16/2024	WORKAHOLIC	INTERSTATE BATTERY SYSTEM INTERNATIONAL, INC.	No
TMK 20-00318	04/02/2020	07/17/2027	IT'S THE LITTLE THINGS	Munchkin, Inc.	No
TMK 20-00319	04/02/2020	01/09/2023	Munchkin and Design	Munchkin, Inc.	No
TMK 20-00320	04/02/2020	06/03/2028	POWER PATROL	RETAIL ACQUISITION & DEVELOPMENT, INC.	No
TMK 20-00321	04/02/2020	02/12/2030	FORTNITE	Epic Games, Inc.	No
TMK 20-00322	04/06/2020	04/16/2028	CHARMIN	The Procter and Gamble Company	No
TMK 20-00323	04/06/2020	03/04/2029	BENJILOCK BY HAMPTON	HAMPTON PRODUCTS INTERNATIONAL CORPORATION	No
TMK 20-00324	04/06/2020	09/22/2030	BOUNTY	The Procter & Gamble Company	No
TMK 20-00325	04/06/2020	09/03/2024	FLOWISE & DESIGN	Preferred Pump & Equipment, L.P.	No
TMK 20-00326	04/06/2020	09/24/2028	FLOWISE & DESIGN	Preferred Pump & Equipment, L.P.	No
TMK 20-00327	04/06/2020	10/09/2029	FLOWISE & DESIGN	Preferred Pump & Equipment, L.P.	No
TMK 20-00328	04/06/2020	06/24/2030	NEW YORK JETS & DESIGN	New York Jets LLC	No
TMK 20-00329	04/06/2020	06/30/2030	HISTORICAL WOODS OF AMERICA	HISTORICAL WOODS OF AMERICA, INC.	No

CBP IPR RECORDATION — APRIL 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 20-00330	04/06/2020	12/18/2028	ULTRA-POWER	World Trading	No
TMK 20-00331	04/06/2020	12/18/2028	ULTRA-POWER QUALITY PARTS	World Trading	No
TMK 20-00332	04/07/2020	10/23/2029	PONY VIGOR	LISTO, LLC	No
TMK 20-00333	04/07/2020	01/31/2028	BOUDREAU'S	GULF MARINE PRODUCTS CO., INC.	No
TMK 20-00334	04/07/2020	03/17/2030	HUM	BeGreen Supply, LLC	No
TMK 20-00335	04/09/2020	02/23/2025	Senninger & Design	SENNINGER IRRIGATION, INC.	No
TMK 20-00336	04/09/2020	07/10/2022	WOBBLER	SENNINGER IRRIGATION, INC.	No
TMK 20-00337	04/09/2020	06/27/2022	UP3	SENNINGER IRRIGATION, INC.	No
TMK 20-00338	04/10/2020	06/28/2030	JULBO	JULBO	No
TMK 20-00339	04/10/2020	03/27/2022	1-WOB	SENNINGER IRRIGATION, INC.	No
TMK 20-00340	04/13/2020	07/26/2026	PL and Design	Pro Look Sports	No
TMK 20-00341	04/13/2020	08/28/2029	ZIP SIP	SIP BRANDS LLC	No
TMK 20-00342	04/13/2020	02/05/2024	JEX	ST. PAUL BRANDS, INC.	No
TMK 20-00343	04/13/2020	02/05/2024	ANGELA	ST. PAUL BRANDS, INC.	No
TMK 20-00344	04/13/2020	03/03/2024	ALIPAS	ST. PAUL BRANDS, INC.	No
TMK 20-00345	04/13/2020	02/05/2024	OTIV	ST. PAUL BRANDS, INC.	No
TMK 20-00346	04/13/2020	04/01/2029	ANYTIMEGIFT and Design	Stewart, Shelley	No
TMK 20-00347	04/14/2020	09/25/2029	FOR THE GIRLS	What Do You Meme, LLC	No
TMK 20-00348	04/15/2020	02/22/2022	CREATIVE RECREATION	CREATIVE RECREATION, INC.	No
TMK 20-00349	04/15/2020	04/30/2028	BLOCK TESTER	Test Tools Inc.	No
TMK 20-00350	04/15/2020	06/30/2030	REYVOW	Eli Lilly and Company	No
TMK 20-00351	04/16/2020	08/24/2021	CREATIVE RECREATION (STYLIZED)	CREATIVE RECREATION, INC.	No
TMK 20-00352	04/16/2020	03/10/2030	CAN YOU ROLL DOUBLES	What Do You Meme, LLC	No

CBP IPR RECORDATION — APRIL 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 20-00353	04/16/2020	08/21/2029	JINSEI (Stylized)	California Wineries & Vineyards LLC	No
TMK 20-00354	04/16/2020	06/17/2030	RR and Design	California Wineries & Vineyards LLC	No
TMK 20-00355	04/16/2020	06/24/2030	ANIMÉ	California Wineries & Vineyards	No
TMK 20-00356	04/16/2020	06/24/2030	RUSSIAN RIVER BEE	California Wineries & Vineyards LLC	No
TMK 20-00357	04/17/2020	09/09/2025	LIC	ST. PAUL BRANDS, INC.	No
TMK 20-00358	04/17/2020	11/25/2029	SKYE	SGS Sports Inc.	No
TMK 20-00359	04/20/2020	05/04/2030	VARIARC	Thyrm LLC	No
TMK 20-00360	04/20/2020	11/30/2026	UBERLUBE	UBERLUBE, INC.	No
TMK 20-00361	04/21/2020	04/17/2029	RESPIRONICS INC.	RIC INVESTMENTS, LLC	No
TMK 20-00362	04/21/2020	10/12/2026	DREAMSTATION	Koninklijke Philips N.V. Public limited liability company	No
TMK 20-00363	04/23/2020	05/14/2022	DESIGN ONLY (CONG BAN LV (Chinese pinyin))	Sun, Teh-San	No
TMK 20-00364	04/24/2020	02/28/2028	KETTLE GRYP	Pangolin Design Group, LLC	No
TMK 20-00365	04/24/2020	06/30/2030	IGWORKS	IGWORKS, INC.	No
TMK 20-00366	04/27/2020	04/29/2029	TRILOGY EVO	Koninklijke Philips N.V.	No
TMK 20-00367	04/27/2020	11/09/2026	NOT PARENT APPROVED	NOT PARENT APPROVED, LLC	No
TMK 20-00368	04/27/2020	04/07/2030	BUMP & BLEMISH	ESBA LABORATORIES INC.	No
TMK 20-00369	04/28/2020	07/21/2030	GLOBAL ENTRY	United States Department of Homeland Security AKA DHS	No
TMK 20-00370	04/29/2020	07/21/2030	MONSTERVAC	Industrial Vacuum Equipment Corporation (IVEC)	No
TMK 20-00371	04/29/2020	08/01/2028	DESIGN ONLY (Dimmer Switch)	Lutron Electronics Co., Inc.	No
TMK 20-00372	04/29/2020	08/01/2028	DESIGN ONLY (Dimmer Switch)	Lutron Electronics Co.	No

CBP IPR RECORDATION — APRIL 2020

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 20-00373	04/29/2020	08/01/2028	DESIGN ONLY (Dimmer Switch)	Lutron Electronics Co., Inc.	No
TMK 20-00374	04/30/2020	03/08/2030	DESIGN ONLY (Dunk Outsole)	Nike, Inc.	No
TMK 20-00375	04/30/2020	02/17/2030	DESIGN ONLY (Dunk High)	Nike, Inc.	No
TMK 20-00376	04/30/2020	06/30/2030	PEONY (Stylized)	Peony Swimwear Pty Ltd	No

AGENCY INFORMATION COLLECTION ACTIVITIES:

Application and Approval to Manipulate, Examine, Sample or Transfer Goods

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

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than June 3, 2020) to be assured of consideration.

ADDRESS: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (85 FR 1817) on January 13, 2020, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should

address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Application and Approval to Manipulate, Examine, Sample or Transfer Goods.

OMB Number: 1651-0006.

Form Number: Form 3499.

Abstract: CBP Form 3499, "*Application and Approval to Manipulate, Examine, Sample or Transfer Goods*," is used as an application to perform various operations on merchandise located at a CBP approved bonded facility. This form is filed by importers, consignees, transferees, or owners of merchandise, and is subject to approval by the port director. The data requested on this form identifies the merchandise for which action is being sought and specifies what operation is to be performed. This form may also be approved as a blanket application to manipulate goods for a period of up to one year for a continuous or repetitive manipulation. CBP Form 3499 is provided for by 19 CFR 19.8, 19.11, and 158.43, and is accessible at: <https://www.cbp.gov/newsroom/publications/forms?title=3499&=Apply>.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 2,519.

Estimated Number of Responses per Respondent: 60.

Estimated Number of Total Annual Responses: 151,140.

Estimated Time per Response: 6 minutes.

Estimated Total Annual Burden Hours: 15,114.

Dated: April 29, 2020.

SETH D. RENKEMA,
Branch Chief,
Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

[Published in the Federal Register, May 4, 2020 (85 FR 26487)]

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AGENCY INFORMATION COLLECTION ACTIVITIES:
Vessel Entrance or Clearance Statement

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

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted no later than May 19, 2020 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (85 FR 1818) on January 13, 2020, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Vessel Entrance or Clearance Statement.

OMB Number: 1651-0019.

Form Number: CBP Form 1300.

Current Actions: CBP proposes to extend the expiration date of this information collection with a decrease to the burden hours due to updated agency estimates. There is no change to the information being collected.

Type of Review: Extension (with change).

Abstract: CBP Form 1300, *Vessel Entrance or Clearance Statement*, is used to collect essential commercial vessel data at time of formal entrance and clearance in U.S. ports. The form allows the master to attest to the truthfulness of all CBP forms associated with the manifest package, and collects information about the vessel, cargo, purpose of entrance, certificate numbers, and expiration for various certificates. It also serves as a record of fees and tonnage tax payments in order to prevent overpayments. CBP Form 1300 was developed through agreement by the United Nations Intergovernmental Maritime

Consultative Organization (IMCO) in conjunction with the United States and various other countries. This form is authorized by 19 U.S.C. 1431, 1433, and 1434, and provided for by 19 CFR part 4, and accessible at <http://www.cbp.gov/newsroom/publications/forms?title=1300>.

Affected Public: Businesses.

Estimated Number of Respondents: 2,624.

Estimated Number of Responses per Respondent: 72.

Estimated Total Annual Responses: 188,928.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 94,464.

Dated: April 30, 2020.

SETH D. RENKEMA,
Branch Chief,
Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

[Published in the Federal Register, May 5, 2020 (85 FR 26697)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Temporary Scientific or Educational Purposes

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

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than July 6, 2020) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0036 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: CBP_PRA@cbp.dhs.gov.

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade,

Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Declaration of the Ultimate Consignee that Articles were Exported for Temporary Scientific or Educational Purposes.

OMB Number: 1651–0036.

Form Number: None.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: The Declaration of the Ultimate Consignee that Articles were Exported for Temporary Scientific or Educational Purposes is used to document duty free entry under conditions when articles are temporarily exported solely for scientific or educational purposes. This declaration, which is completed by the ultimate consignee and submitted to CBP by the importer or the agent of the importer, is used to assist CBP personnel in determining whether the imported articles should be free of duty. It is provided for under 19 U.S.C. 1202, HTSUS Subheading 9801.00.40, and 19 CFR 10.67(a)(3) which requires a declaration to CBP stating that the articles were sent from the United States solely for temporary scientific or educational use and describing the specific use to which they were put while abroad.

Estimated Number of Respondents: 55.

Estimated Number of Annual Responses per Respondent: 3.

Estimated Number of Total Annual Responses: 165.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 27.

Dated: May 4, 2020.

SETH D. RENKEMA,
Branch Chief,
Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

[Published in the Federal Register, May 7, 2020 (85 FR 27233)]