

U.S. Customs and Border Protection



ACCREDITATION AND APPROVAL OF INSPECTORATE AMERICA CORPORATION, AS A COMMERCIAL GAUGER AND LABORATORY

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

ACTION: Notice of accreditation and approval of Inspectorate America Corporation, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of December 12, 2014.

EFFECTIVE DATE: The accreditation and approval of Inspectorate America Corporation, as commercial gauger and laboratory became effective on December 12, 2014. The next triennial inspection date will be scheduled for December 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 151 East Lathrop Ave., Savannah, GA 31415, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Inspectorate America Corporation is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

API Chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
9	Density Determination.
12	Calculations.
17	Maritime measurement.

Inspectorate America Corporation is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-03	ASTM D 4006	Standard test method for water in crude oil by distillation.
27-04	ASTM D 95	Standard test method for water in petroleum products and bituminous materials by distillation.
27-06	ASTM D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-08	ASTM D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27-11	ASTM D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Velocity).
27-13	ASTM D 4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27-48	ASTM D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-54	ASTM D 1796	Standard test method for water and sediment in fuel oils by the centrifuge method (Laboratory procedure).

CBPL No.	ASTM	Title
27–58	ASTM D 5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to cbp.labhq@dhs.gov. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: February 18, 2015.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services
Directorate.

[Published in the Federal Register, February 26, 2015 (80 FR 10498)]

**PROPOSED REVOCATION OF A RULING LETTER AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
THE TARIFF CLASSIFICATION OF A LIGHTED PENGUIN
SCULPTURE**

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

ACTION: Notice of proposed revocation of a ruling letter and treatment relating to the classification of a certain lighted penguin sculpture.

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 CBP intends to revoke a ruling letter concerning the tariff classification of a beaded penguin figure 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 are invited on the correctness of the proposed actions.

DATES: Comments must be received on or before April 10, 2015.

ADDRESSES: Written comments are to be addressed to the U.S. Customs and Border Protection, Office of International Trade, Regulations & Rulings, Attn: Trade and Commercial Regulations Branch, 10th Floor, 90 K St. NE, Washington, DC 20229-1179. 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: Claudia Garver, Tariff Classification and Marking Branch: (202) 325-0024

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that CBP is proposing to revoke one ruling letter pertaining to the tariff classification of a beaded penguin figure.

Although in this notice, CBP is specifically referring to New York Ruling Letter (NY) N035321, dated August 18, 2008 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e. a ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should advise CBP during the notice period.

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

In NY N035321, CBP determined that a beaded penguin figure made predominately of plastic beads was classified under heading 3926.90.3500, HTSUS, which provides for: "Other articles of plastics...: Beads, bugles and spangles, not strung (except temporarily) and not set; articles thereof, not elsewhere specified or included: Other." It is now CBP's position that the penguin figure is classified under heading 9505.10.2500, HTSUS, which provides for "Festive, carnival or other entertainment articles...: Articles for Christmas festivities and parts and accessories thereof: Christmas ornaments: Other: Other."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke NY N035321, and any other ruling not specifically identified, to reflect the tariff classification of the subject merchandise according to the analysis contained in Proposed Headquarters Ruling Letter (HQ) H039566, set forth as Attachment B 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: February 19, 2015

IEVA K. O'ROURKE
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

N035321

August 18, 2008

CLA-2-39:OT:RR:NC:SP:233

CATEGORY: Classification

TARIFF NO.: 3926.90.3500

Ms. SIDESTRA ELVI
LISS GLOBAL, INC.
7746 DUNGAN ROAD
PHILADELPHIA, PA 19111

RE: The tariff classification of a beaded penguin figure from China.

DEAR Ms. ELVI:

In your letter dated June 28, 2008, you requested a tariff classification ruling.

A sample and description have been provided for style number 9002861, a beaded penguin figure designed to be used on the lawn or inside the home as a holiday decoration. The figure is 14 inches high and composed of a coated metal frame in the shape of a penguin. The frame is decorated in multiple plastic beads in red, green, orange and clear. Many of the beads are lighted with bulbs that run through the frame on white PVC-covered wires equipped with a plug to be input into a power source.

The subject item is composed of different components [plastic beads, metal frame, electric wiring] and is considered a composite good. Regarding the essential character of this item, the Explanatory Notes to GRI 3 (b) (VIII) state that the factor which determines essential character will vary between different kinds of goods. It may for example, be determined by the nature of the materials or components, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods. When the essential character of a composite good can be determined, the whole product is classified as if it consisted only of the part that imparts the essential character to the composite good. In this case, the plastic bead component imparts the essential character to the good.

The applicable subheading for the beaded penguin figure will be 3926.90.3500, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "articles of plastics... beads, bugles and spangles... articles thereof, not elsewhere specified or included, other." The rate of duty will be 6.5% *ad valorem*.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Lawrence Mushinske at (646) 733-3036.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

[ATTACHMENT B]

HQ H039566
CLA-2 OT:RR:CTF:TCM H039566 CKG
CATEGORY: Classification
TARIFF NO.: 9505.10.25

JOSEPH STINSON, DIRECTOR OF IMPORT ADMINISTRATION
LISS GLOBAL, INC.
7746 DUNGAN ROAD
PHILADELPHIA, PA 19111

RE: Revocation of NY N035321, dated August 18, 2008; classification of a beaded penguin figure from China

DEAR MR. STINSON:

This letter is in response to your letter of September 10, 2009, requesting the reconsideration of New York Ruling Letter (NY) N035321, issued to you on August 18, 2008. In that ruling, U.S. Customs and Border Protection (CBP) determined that a beaded penguin figure made predominately of plastic beads was classified under subheading 3926.90.35, HTSUS, as other beads and spangles of plastics, not elsewhere specified or included.

In your request for reconsideration, you assert that the proper classification of the penguin figure is either subheading 3926.40.0000, HTSUS, which provides for “other articles of plastics...statuettes and other ornamental articles,” or under subheading 9505.10.2500, HTSUS, which provides for “festive, carnival or other entertainment article, including magic tricks and practical joke articles; parts and accessories thereof: Christmas ornaments: other.”

CBP has reviewed N035321 and determined that the classification of the beaded penguin figure in subheading 3926.90.35, HTSUS, was incorrect.

FACTS:

The merchandise at issue is a beaded, lighted penguin lawn ornament, item no. 9002861. In NY N035321, the product was described as follows:

The figure is 14 inches high and composed of a coated metal frame in the shape of a penguin. The frame is decorated in multiple plastic beads in red, green, orange and clear. Many of the beads are lighted with bulbs that run through the frame on white PVC-covered wires equipped with a plug to be input into a power source.

Although our files contain pictures of the subject merchandise, no samples were received or examined by our office.

ISSUE:

Is the beaded penguin figure classifiable under heading 3926, HTSUS, as “other articles of plastics,” or under heading 9505, HTSUS, as “festive articles?”

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States (HTSUS) is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative

section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied. GRI 6 requires that the classification of goods in the subheadings of headings shall be determined according to the terms of those subheadings, any related sub-heading notes and *mutatis mutandis*, to GRIs 1 through 5.

The HTSUS provisions under consideration are as follows:

3926	Other articles of plastics and articles of other materials of headings 3901 to 3914:
3926.40.00	Statuettes and other ornamental articles
* * *	
3926.90	Other:
	Beads, bugles, and spangles, not strung (except temporarily) and not set; articles thereof, not elsewhere specified or included:
3926.90.35	Other
* * *	
9505	Festive, carnival or other entertainment articles, including magic tricks and practical joke articles; parts and accessories thereof:
9505.10	Articles for Christmas festivities and parts and accessories thereof:
	Christmas ornaments:
	Other:
9505.10.25	Other
* * *	

The Harmonized Commodity Description and Coding System Explanatory Notes (EN), constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN provide a commentary on the scope of each heading of the HTSUS. It is Customs and Border Protection's (CBP) practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUS.

The ENs to heading 9505, HTSUS, provide, in pertinent part:

This heading covers:

(A) Festive, carnival or other entertainment articles, which in view of their intended use are generally made of non-durable material. They include:

* * *

(2) Articles traditionally used at Christmas festivities, e.g. artificial Christmas trees, nativity scenes, nativity figures and animals, angels, Christmas crackers, Christmas stockings, imitation yule logs, Father Christmases.

According to EN 39.26, heading 3926 only covers "articles not elsewhere specified or included, of plastics." Heading 3926, HTSUS, is a general head-

ing or basket provision, as evidenced by the word “other.” See *The Item Company v. United States*, 98 F.3d 1294, 1296 (Fed. Cir. 1996). Classification of imported merchandise in a basket provision is only appropriate if there is no tariff provision that covers the merchandise more specifically. See *EM Industries, Inc. v. United States*, 22 Ct. Int’l Trade 156, 165 (1998).

Hence, we must first determine if the subject merchandise constitutes “festive articles” within the scope of heading 9505, HTSUS before considering classification in heading 3926, HTSUS.

In *Midwest of Cannon Falls, Inc. v. United States*, (Midwest) 122 F.3d 1423, 1429 (Fed. Cir. 1997), the Court of Appeals for the Federal Circuit (CAFC) held that classification as a “festive article” under Chapter 95 requires that the article satisfy two criteria: (1) it must be closely associated with a festive occasion and (2) the article must be used or displayed principally during that festive occasion. Additionally, the items must be “closely associated with a festive occasion” to the degree that “the physical appearance of an article is so intrinsically linked to a festive occasion that its use during other time periods would be aberrant.” *Michael Simon Design, Inc. v. United States*, (Michael Simon) 452 F. Supp 2d. 1316, 1323 (Ct. Int’l Trade 2006) (citing *Park B. Smith, Ltd. v. United States*, (25 Ct. Int’l Trade 506, 509 (2001)).

In *Michael Simon*, the Court of International Trade applied a two-prong test for determining whether a particular article is classifiable as a good of heading 9505, HTSUS: “[C]lassification as a ‘festive article’ under Chapter 95 requires that the article satisfy two criteria: (1) it must be closely associated with a festive occasion and (2) the article [be] used or displayed principally during that festive occasion.” Additionally, the Court stated that the items must be “closely associated with a festive occasion” to the degree that “the physical appearance of an article is so intrinsically linked to a festive occasion that its use during other time periods would be aberrant.”

The “festive article” classification can be applied when the article is clearly associated with the festive holiday of Christmas. Even though there is a connection between penguins and snow and winter climates, a penguin alone is not specifically associated with Christmas. A penguin figure might be appropriate to display throughout the winter season, well after Christmas.

However, the lighted penguin figure is topped with a string of lights shaped like a hat, which is claimed to be a Santa hat. A Santa hat, a cone-shaped hat with a fur pom-pom at the top and a fur brim to fit around the head, is an article traditionally associated with Christmas and the Christmas season. (HQ H076796, dated December 17, 2009 “We believe that both the “Santa shaped hat” and the “Elf shaped hat” are closely associated with Christmas because the physical appearance of each is so intrinsically linked to Christmas that their use during other time periods would be aberrant.”). Figures that are not per se associated with the holiday of Christmas but that are featured wearing Santa hats have been held to be festive articles. See e.g., NY N241819, dated May 14, 2013; NY N007110, dated February 22, 2007; NY N097299, dated March 15, 2010; NY F89282, dated July 18, 2000.

The hat in the lighted penguin figure is red, cone-shaped, with a white fur pom-pom at the top and a green fur brim. Although Santa hats are most often styled with a white brim, CBP has not held that certain colors are required

for a hat to be considered a Santa hat. *See e.g.*, NY L85128, dated June 3, 2005 (holding that children's Santa hats, with white bands, pink, purple or blue tops, and a white heart at the tip were festive articles of heading 9505, HTSUS), and NY J82576, dated April 25, 2003 (holding a Santa hat with animal print cuff was classified in heading 9505). Green and red is a color combination more commonly associated with Christmas than white and pink, purple or blue, or animal print. Thus, we agree that the hat is recognizably a Santa hat and a festive motif closely associated with Christmas.

The penguin with Santa hat is closely associated with Christmas to the degree that its use during other time periods would be aberrant. It is not a general winter decoration; it is likely to be displayed only during the Christmas season, both because of the Santa hat motif and its use as a lighted lawn sculpture, which with the occasional exception are displayed only during the Christmas season. This conclusion is consistent with past CBP rulings on similar holiday light sculptures. *See e.g.*, HQ 962100, dated November 9, 1999; HQ 963198, dated September 26, 2000; and HQ H020852, dated May 8, 2009.

HOLDING:

The lighted penguin figure is classified in heading 9505, HTSUS, specifically subheading 9505.10.25, HTSUS, as "Festive, carnival or other entertainment articles: Articles for Christmas festivities and parts and accessories thereof: Christmas Ornaments: Other: Other." The 2014 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 <http://www.usitc.gov/tata/hts>.

EFFECT ON OTHER RULINGS:

NY N035321, dated August 18, 2008, is REVOKED.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**MODIFICATION OF RULING LETTERS AND REVOCATION
OF TREATMENT RELATING TO THE COUNTRY OF
ORIGIN OF CERTAIN KNIT-TO-SHAPE GARMENTS**

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

ACTION: Notice of modification of two ruling letters and revocation of any treatment relating to the country of origin of certain knit-to-shape garments.

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 Moderniza-

tion) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is modifying two ruling letters, New York Ruling Letter (NY) N026168, dated April 22, 2008, and NY N024465, dated April 9, 2008, relating to the country of origin of certain knit-to-shape garments. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Volume 48, Number 51, dated December 24, 2014. No comments were received in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after May 11, 2015.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese, Valuation and Special Programs Branch, (202) 325–0046.

SUPPLEMENTARY INFORMATION:

BACKGROUND

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, notice proposing to modify two ruling letters, New York Ruling Letter (NY) N026168, dated April 22, 2008, and NY N024465, dated April 9, 2008, pertaining to the country of origin of certain knit-to-shape garments was

published in the *Customs Bulletin*, Volume 48, Number 51, dated December 24, 2014. No comments were received in response to the notice. As stated in the proposed notice, this modification 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.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised CBP during the notice period.

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

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying NY N026168 and NY N024465, in accordance with the analysis set forth in Headquarters Ruling Letters (HQ) H258586 (Attachment A), and HQ H259502 (Attachment B). Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. In accordance with 19 U.S.C. § 1625(c), this action will become effective 60 days after publication in the *Customs Bulletin*.

Dated: February 19, 2015

MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

Attachments

[ATTACHMENT A]

HQ H258586

February 19, 2015

OT:RR:CTF:VS H258586 CMR

CATEGORY: Classification

Ms. ESTHER HA
NURIAN INTERNATIONAL INC.
108 BANGL DONG SONGPA GU
SEOUL, KOREA

RE: Modification of New York Ruling Letter (NY) N026168, dated April 22, 2008; Country of origin; 19 U.S.C. § 3592

DEAR Ms. HA:

It has come to our attention that an error was made in the analysis of the country of origin determination for one garment, style #7221, which was the subject of New York Ruling Letter (NY) N026168, dated April 22, 2008. The result was correct; however, the analysis was not. Therefore, we are modifying NY N026168 only with regard to the country of origin analysis relevant to style #7221 and will not address the other styles which were also the subject of the ruling.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed modification was published on December 24, 2014, in the *Customs Bulletin*, Volume 48, No. 51. CBP received no comments in response to this notice.

FACTS:

Style #7221 was described in NY N026168 as follows:

Style #7221 “Seamless High Waist Mid-Leg” is a girdle with two-ply leg extensions that reaches down to the mid thigh, and features a separately sewn-in and lined gusset crotch. Tubular knit components with a self-start waist and lines of demarcation will be created in China or Korea. In Vietnam, cutting along the lines of demarcation takes place to create the leg openings, which are then sewn closed to create the legs, and the crotch portion is sewn in.

The garment was further described as a knit-to-shape undergarment which is knit-to-shape and dyed in China or Korea, then sent to Vietnam for cutting along the lines of demarcation, sewing, assembly and packing. The garment is then shipped to the U.S. The tubular knit components have a fiber content of 88% nylon and 12% spandex.

ISSUE:

What is the country of origin of style #7221?

LAW AND ANALYSIS:

On December 8, 1994, the President signed into law the Uruguay Round Agreements Act. Section 334 of that Act, codified at 19 U.S.C. § 3592, provides rules of origin for textiles and apparel entered, or withdrawn from warehouse, for consumption, on and after July 1, 1996. Specifically, 19 U.S.C. § 3592(b)(2)(A)(ii) provides:

- (A) Notwithstanding paragraph (1)(D) and except as provided in subparagraphs (B) and (C) –

* * *

- (ii) a textile or apparel product which is knit to shape shall be considered to originate in, and be the growth, product, or manufacture of, the country, territory, or possession in which it is knit.

Paragraph (1)(D) of 19 U.S.C. § 3592 provides that the origin of a textile product, (other than products wholly obtained or produced, or yarn, thread, twine, cordage, rope, cable, braiding, or fabric, provided for in 19 U.S.C. § 3592(b)(1)(A), (B) or (C)) is where the product is wholly assembled from its component pieces. In NY N026168, Customs and Border Protection (CBP) determined the origin of style #7221 by sequential application of the rules of origin set forth in 19 CFR § 102.21 taking into consideration whether the garment was wholly assembled. Under the statute a knit-to-shape textile or apparel product is not subject to the “wholly assembled” rule set forth in 19 U.S.C. § 3592(b)(1)(D). Based upon the statutory language, knit-to-shape textile and apparel products derive their origin from the country, territory or possession in which they are knit-to-shape. A regulatory provision does not override statutory language. See Headquarters Ruling Letter (HQ) 227844, dated March 5, 1998. CBP is in the process of modifying 19 CFR § 102.21.

HOLDING:

The country of origin of style #7221 is China or Korea. NY N026168 is hereby modified as set forth in this decision. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

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

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

[ATTACHMENT B]

HQ H259502

February 19, 2015

OT:RR:CTF:VS H259502 CMR

CATEGORY: Classification

Ms. SANDRA TOVAR
CST, INC.
500 LANIER AVENUE
WEST SUITE 901
FAYETTEVILLE, GA 30214

RE: Modification of New York Ruling Letter (NY) N024465, dated April 9, 2008; Country of origin; 19 U.S.C. § 3592

DEAR MS. TOVAR:

It has come to our attention that an error was made in the analysis of the country of origin determination for style #6010, which was the subject of New York Ruling Letter (NY) N024465, dated April 9, 2008, issued to you on behalf of your client, Holt Hosiery. The ruling was correct with regard to the classification and eligibility of the garment under the Andean Trade Promotion and Drug Eradication Act (ATPDEA), but was incorrect as to the origin of the garment. Therefore, we are modifying NY N024465 only with regard to the country of origin determination set forth therein.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed modification was published on December 24, 2014, in the Customs Bulletin, Volume 48, No. 51. CBP received no comments in response to this notice.

FACTS:

Style #6010 was described in NY N024465 as follows:

You have submitted a sample of a "Panty Smoother," style #6010, which is a woman's girdle constructed of 86% nylon and 14% spandex knit fabric. The garment reaches down to the mid thigh and features a self-fabric hemmed waistband, a separately sewn-in gusset crotch, and two-ply fabric making up each leg extension. The panty girde portion features a front and back center seam. The undergarment provides body support throughout, from the waist to the mid thighs.

ISSUE:

What is the country of origin of style #6010?

LAW AND ANALYSIS:

On December 8, 1994, the President signed into law the Uruguay Round Agreements Act. Section 334 of that Act, codified at 19 U.S.C. § 3592, provides rules of origin for textiles and apparel entered, or withdrawn from warehouse, for consumption, on and after July 1, 1996. Specifically, 19 U.S.C. § 3592(b)(2)(A)(ii) provides:

(B) Notwithstanding paragraph (1)(D) and except as provided in subparagraphs (B) and (C) –

* * *

- (ii) a textile or apparel product which is knit to shape shall be considered to originate in, and be the growth, product, or manufacture of, the country, territory, or possession in which it is knit.

Paragraph (1)(D) of 19 U.S.C. § 3592 provides that the origin of a textile product, (other than products wholly obtained or produced, or yarn, thread, twine, cordage, rope, cable, braiding, or fabric, provided for in 19 U.S.C. § 3592(b)(1)(A), (B) or (C)) is where the product is wholly assembled from its component pieces. In NY N024465, Customs and Border Protection (CBP) determined that style #6010 consisted of two or more component parts that were wholly assembled in a single country, Colombia, and that therefore, pursuant to the rules set forth in 19 CFR § 102.21, the country of origin of style #6010 was Colombia. This was incorrect. Assembly of the garment should not have been considered as style #6010 is a knit to shape garment. Under the statute a knit-to-shape textile or apparel product is not subject to the “wholly assembled” rule set forth in 19 U.S.C. § 3592(b)(1)(D). Based upon the statutory language, knit-to-shape textile and apparel products derive their origin from the country, territory or possession in which they are knit-to-shape. A regulatory provision does not override statutory language. See Headquarters Ruling Letter (HQ) 227844, dated March 5, 1998. CBP is in the process of modifying 19 CFR § 102.21. Therefore, the country of origin of style #6010 is where the garment components were knit-to-shape, that is, the United States.

HOLDING:

The country of origin of style #6010 is the United States. NY N024465 is hereby modified as set forth in this decision. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

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

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



19 CFR PART 177

**PROPOSED MODIFICATION OF RULING LETTER AND
PROPOSED REVOCATION OF TREATMENT RELATING TO
CLASSIFICATION OF A COMPUTER HEADSET**

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

ACTION: Notice of proposed modification of ruling letter and revocation of treatment relating to the classification of a computer headset.

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 CPB proposes to modify a ruling letter concerning the classification of a computer headset under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CPB proposes to revoke any treatment previously accorded by CPB to substantially identical transactions. Comments are invited on the correctness of the proposed actions.

DATES: Comments must be received on or before April 10, 2015.

ADDRESSES: Written comments are to be addressed to U.S. Customs and Border Protection, Office of International Trade, Regulation and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K Street, N.E., 10th Floor, Washington, D.C. 20229–1179. Comments submitted may be inspected at 90 K Street, N.E., 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: Tamar Anolic, Tariff Classification and Marking Branch: (202) 325–0036.

SUPPLEMENTARY INFORMATION:

Background

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

responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that CBP proposes to modify a ruling pertaining to the classification of a computer headset. Although in this notice CBP is specifically referring to New York Ruling Letter (NY) G82341, dated October 18, 2000 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. This notice will cover any rulings on this merchandise that may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise CBP during this notice period.

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

Pursuant to 19 U.S.C. 1625(c)(1), CBP proposes to modify NY G82341 and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in Proposed Headquarters Ruling Letter ("HQ") H035752 (see Attachment "B" to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP proposes 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: February 20, 2015

GREG CONNOR
for
MYLES B. HARMON,
Director
Commercial and Trade Facilitation

[ATTACHMENT A]

NY G82341

October 18, 2000

CLA-2-84:RR:NC:MM:110 G82341

CATEGORY: Classification

TARIFF NO.: 8473.30.5000; 8524.39.4000

MR. THOMAS W. PHALEN, V.P.

PLANTRONICS

345 ENCINAL STREET

P.O. BOX 635

SANTA CRUZ, CA 95060

RE: The tariff classification of the DSP-100 Computer Headset from China.

DEAR MR. PHALEN:

In your letter dated September 7, 2000 you requested a tariff classification ruling.

The merchandise under consideration is the Plantronics DSP-100 Computer Headset which comes with a Universal Serial Bus (USB) that interfaces to the USB connector used in Personal Computers (PC's). The DSP-100 is a stereo headband digital headset with an adjustable headband and a boom mounted directional electret condenser microphone (ECM). A single cable exits from the lower side of the capsule portion. The opposite end of the cable is provided with a type "A" USB plug that interfaces to a USB connector used in PC's. There is an inline control module integrated into the cable with momentary switches for speaker volume control and microphone mute, allowing users to increase or decrease the volume and turn off the mic. This in-line module utilizes three separate chipsets; a streaming controller which pulls the audio information from the USB bus and puts it back again; CODEC, that takes audio data and converts it from an analog stream to a digital one, and vice-versa; and a dedicated audio Digital Signal Processor (DSP), to modify the signal. A clothing clip is integrated into the inline control module. This clip may be used to secure the cable to the user's garments, removing most of the cable weight and improving the stability of the headset. Plantronics digital USB interface provides optimal audio fidelity for the headset. All DSP-100 headsets come with PC Audio Control Center software in the form of a CD-ROM that contains a program created by Plantronics, which allows control of the USB headset. This program provides an interface for setting parameters like volume, speaker balance, bass, treble, and some equalization presets for both the microphone and speaker settings.

This device/machine is a composite good made up of different components, which are described under different provisions of the Harmonized Tariff Schedule of the United States (HTS). Noting Section XVI, Note 3, "Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines adapted for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function."

A Universal Serial Bus is a direct high-speed digital connection into a Personal Computer. Connecting a headset via a PC's USB port allows one to bypass the sound card entirely and allows plug and play simplicity. The

Plantronics USB interface is similar in function to a sound card. Digital signals (not analog) are received and transmitted to the computer. This eliminates electromagnetic (EMI) interference noise providing optimal audio fidelity for the headset. The USB electronics represent approximately 70% of the value of the DSP-100. This enhanced USB interface with its CODEC and DSP chipsets provides the principal function of this device.

The applicable subheading for the DSP-100 Computer Headset will be 8473.30.5000, Harmonized Tariff Schedule of the United States (HTS), which provides for "Parts and accessories suitable for use solely or principally with machines of headings 8469 to 8472: Parts and accessories of the machines of heading 8471: Not incorporating a cathode ray tube: Other." The rate of duty will be free.

As per Legal Note 6 of Chapter 85, records, tapes and other media of heading 8523 or 8524 remain classified in those headings, whether or not they are entered with the apparatus for which they are intended.

The applicable subheading for the CD-Rom software will be 8524.39.4000, Harmonized Tariff Schedule of the United States (HTS), which provides for "Records, tapes and other recorded media for sound or other similarly recorded phenomena...Discs for laser reading systems: Other: For reproducing representations of instructions, data, sound, and image, recorded in a machine readable binary form, and capable of being manipulated or providing interactivity to a user, by means of an automatic data processing machine; proprietary format recorded discs." The rate of duty will be free.

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

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

Sincerely,

ROBERT B. SWIERUPSKI

Director,

National Commodity Specialist Division

[ATTACHMENT B]

HQ H035752
CLA-2 OT:RR:CTF:TCM HQ H035752 TNA
CATEGORY: Classification
TARIFF NO.: 8518.30.20

MR. THOMAS W. PHALEN, V.P.
PLANTRONICS
345 ENCINAL STREET
P.O. BOX 635
SANTA CRUZ, CA 95060

RE: Modification of NY G82341; Classification of a computer headset

DEAR MR. PHALEN:

This letter is in reference to New York Ruling Letter (“NY”) G82341, issued to Plantronics on October 18, 2000, concerning the tariff classification of a computer headset.¹ There, U.S. Customs and Border Protection (“CBP”) classified the merchandise under subheading 8473.30.50, Harmonized Tariff Schedule of the United States (“HTSUS”), as “Parts and accessories (other than covers, carrying cases and the like) suitable for use solely or principally with machines of headings 8469 to 8472: Parts and accessories of the machines of heading 8471: Not incorporating a cathode ray tube: Other.”² We have reviewed this ruling and found it to be partly in error. For the reasons set forth below, we hereby modify NY G82341.

FACTS:

The subject merchandise consists of the Plantronics DSP-100 Computer Headset. The DSP-100 is a stereo headband digital headset with an adjustable headband and a boom mounted directional electret condenser microphone (ECM). It also contains a single cable that is attached to the lower side of the capsule portion. The opposite end of the cable contains a USB port that allows the user to plug the headset into a PC.

The headset also contains an inline control module integrated into the cable. The module has switches for speaker volume control and microphone mute, allowing users to increase or decrease the volume and turn off the microphone. The module utilizes three separate chipsets: a streaming controller which pulls the audio information from the USB bus and puts it back again; CODEC, which takes audio data and converts it from an analog stream to a digital one, and vice-versa; and a dedicated audio Digital Signal Processor (“DSP”) to modify the signal.

The headset also comes with a clothing clip that is integrated into the inline control module. This clip may be used to secure the cable to the user’s

¹ NY G82341 classified both a computer headset and CD-ROM software. Only the classification of the headset is at issue here.

² We note that subheading 8473.30.50, HTSUS, which appeared in the 2000 tariff schedule, is now subheading 8473.30.51 of the 2015 HTSUS. As a result, we will consider subheading 8473.30.51, HTSUS, in this ruling.

clothing, thereby removing most of the cable weight and improving the stability of the headset.

ISSUE:

Whether a computer headset is classified in heading 8473, HTSUS, as a part or accessory of an automatic data processing machine, or in heading 8518, HTSUS, as headphones.

LAW AND ANALYSIS:

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

The HTSUS provisions under consideration are as follows:

- | | |
|------|--|
| 8473 | Parts and accessories (other than covers, carrying cases and the like) suitable for use solely or principally with machines of headings 8469 to 8472: |
| 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: |

Note 2 to Section XVI, HTSUS, of which heading 8473 and 8518, HTSUS, are components, provides, in pertinent part, that:

Subject to note 1 to this section, note 1 to chapter 84 and to note 1 to chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

- (a) Parts which are goods included in any of the headings of chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

Additional U.S. Rule of Interpretation 1 states, in pertinent part, that:

In the absence of special language or context which otherwise requires—

...

- (c) a provision for parts of an article covers products solely or principally used as a part of such articles but a provision for “parts” or “parts and accessories” shall not prevail over a specific provision for such part or accessory

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. While not legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System and are generally

indicative of the proper interpretation of these headings. See T.D. 89–80, 54 Fed. Reg. 35127 (Aug. 23, 1989).

The EN to heading 84.73 provides, in pertinent part, the following:

Subject to the general provisions regarding the classification of parts (See the General Explanatory Note to Section XVI) this heading covers parts and accessories suitable for use **solely** or **principally** with the machines of **headings 84.69 to 84.72**.

The accessories covered by this heading are interchangeable parts or devices designed to adapt a machine for a particular operation, or to perform a particular service relative to the main function of the machine, or to increase its range of operations.

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)...

(C) HEADPHONES AND EARPHONES, WHETHER OR NOT COMBINED WITH A MICROPHONE, AND SETS CONSISTING OF A MICROPHONE AND ONE OR MORE LOUDSPEAKERS

Headphones and earphones are electroacoustic receivers used to produce low-intensity sound signals. Like loudspeakers, described above, they transform an electrical effect into an acoustic effect; the means used are the same in both cases, the only difference being in the powers involved.

The heading covers... headphones and earphones for plugging into radio or television receivers, sound reproducing apparatus or automatic data processing machines.

NY G82341 classified the subject headphones in heading 8473, HTSUS, which provides for “Parts and accessories (other than covers, carrying cases and the like) suitable for use solely or principally with machines of headings 8469 to 8472.” However, Note 2(a) to Section XVI, HTSUS, states that “parts of machines... which are goods included in any of the headings of chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings.” As a result, before analyzing heading 8473, HTSUS, we first examine whether the subject headphones can be classified as articles of any of the headings of Chapters 84 and 85, HTSUS.

Headphones are provided for *eo nomine* in heading 8518, HTSUS. An *eo nomine* provision is one that describes a commodity by a specific name, usually one well known to commerce. *The Pomeroy Collection v. United States*, 559 F. Supp. 2d 1374; 30 Int'l Trade Rep. (BNA) 1712; 2008 Ct. Intl. Trade LEXIS 60; SLIP OP. 2008–57; *Clarendon Marketing, Inc. v. United States*, 21 C.I.T. 59; 955 F. Supp. 1501; 19 Int'l Trade Rep. (BNA) 1142; 1997 Ct. Intl. Trade LEXIS 22. In addition, “an *eo nomine* designation, with no terms of limitation, will ordinarily include all forms of the named article.” *Carl Zeiss, Inc. v. United States*, 195 F.3d 1375 (Fed. Cir. 1999); *Pomeroy*, 559

F. Supp. 2d 1374; *Clarendon Marketing*, 21 C.I.T. 59.

Similarly, heading 8518, HTSUS, provides for headphones of all kinds, even if they are presented separately, and regardless of the particular purpose for which they are designed. See EN 85.18. Heading 8518, HTSUS, also specifically covers headphones and earphones for use with computers. See EN 85.18. Lastly, it covers merchandise that functions by way of converting electrical signals into acoustic signals. See EN 85.18.

In the present case, the subject merchandise consists of headphones. They are used to produce sound signals and function by way of transforming an electrical signal- such as the one coming from a computer- into an acoustic signal, such as the signal that a consumer hears when using the product. Thus, the subject merchandise is described exactly by the terms of heading 8518, HTSUS, and is therefore classified there. This conclusion is consistent with prior CBP rulings that classify similar merchandise in heading 8518, HTSUS. See, e.g., NY K80015, dated November 5, 2003 (classifying a headset used exclusively with a personal computer in heading 8518, HTSUS); NY N060177, dated June 2, 2009 (classifying a headset that is connected to a computer via a USB connection in heading 8518, HTSUS); NY N099135, dated April 9, 2010 (classifying a gaming headset used with personal computers in heading 8518, HTSUS).

Lastly, we note that because heading 8518, HTSUS, is a specific provision that describes the subject merchandise, it prevails over a parts provision such as heading 8473, HTSUS. As a result, the subject merchandise is classified in heading 8518, HTSUS, and a substantive discussion of the applicability of heading 8473, HTSUS, to the subject merchandise is unwarranted. See Note 2(a) to Section XVI, HTSUS; see also Additional U.S. Rule of Interpretation 1(c).

HOLDING:

Under the authority of GRI 1 and Note 2(a) to Section XVI, HTSUS, the subject DSP-100 Computer Headset is classified in heading 8518, HTSUS. It is specifically provided for in subheading 8518.30.20, HTSUS, which provides for “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: Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers: Other.” The column one general rate of duty is 4.9% *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY G82341, dated October 18, 2000, is hereby MODIFIED.

Sincerely,
MYLES B. HARMON,
Director
Commercial and Trade Facilitation Division

