

U.S. Customs and Border Protection

19 CFR Part 12

CBP Dec. 13–15

RIN 1515–AD98

EXTENSION OF IMPORT RESTRICTIONS IMPOSED ON ARCHAEOLOGICAL MATERIAL FROM CAMBODIA FROM THE BRONZE AGE THROUGH THE KHMER ERA

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

ACTION: Final rule.

SUMMARY: This final rule amends the U.S. Customs and Border Protection (CBP) regulations to reflect an extension of import restrictions on certain archaeological material from Cambodia from the Bronze Age through the Khmer era. The restrictions, which were originally imposed by CBP Dec. 03–28, and last extended and amended by CBP Dec. 08–40, are due to expire on September 19, 2013, unless extended.

The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that factors for entering into the agreement continue to warrant the imposition of import restrictions. Accordingly, the restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to indicate this further extension through September 19, 2018. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. CBP Dec. 08–40 contains the Designated List of archaeological material from Cambodia to which the restrictions apply.

EFFECTIVE DATE: September 19, 2013.

FOR FURTHER INFORMATION CONTACT: For legal aspects, Lisa Burley, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of International Trade, (202) 325-0215. For operational aspects, William R. Scopa, Chief, Partner Government Agencies Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6554.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (Pub. L. 97-446, 19 U.S.C. 2601 *et seq.*), the United States entered into a bilateral agreement with Cambodia on September 19, 2003, concerning the imposition of import restrictions on Khmer archaeological material from the 6th century through the 16th century A.D. in Cambodia. On September 22, 2003, CBP published CBP Dec. 03-28 in the **Federal Register** (68 FR 55000), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions, which subsumed the emergency import restrictions on Khmer stone archaeological material (T.D. 99-88), and included a list designating the additional types of archaeological material covered by the restrictions including Khmer metals and ceramics.

On September 19, 2008, CBP published CBP Dec. 08-40 in the **Federal Register** (73 FR 54309), which amended 19 CFR 12.104g(a) to reflect the extension of these import restrictions for an additional period of five years until September 19, 2013, and amended them to include archaeological material from the Bronze Age through the Khmer Era.

Import restrictions listed in 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period can be extended for additional periods not to exceed five years if it is determined that the factors which justified the initial agreement still pertain (19 CFR 12.104g(a)).

On January 7, 2013, the United States Department of State proposed in the **Federal Register** (78 FR 977) to extend the Memorandum of Understanding between the U.S and Cambodia concerning the imposition of import restrictions on archaeological material from Cambodia from the Bronze Age through the Khmer Era. On June 10, 2013, after reviewing the findings and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, concluding that the cultural heritage of Cambodia continues to be in jeopardy from pillage of certain archaeological materials, made the

necessary determination to extend the import restrictions for an additional five years. On August 6, 2013, diplomatic notes were exchanged reflecting the extension of those restrictions for an additional five-year period. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions. The Designated List of Archaeological Material from Cambodia covered by these import restrictions is set forth in CBP Dec. 08–40 (*see* 73 FR 54309, dated September 19, 2008). The Designated List and additional information about the agreement may also be found at the following Internet Web site address: <http://eca.state.gov/cultural-heritage-center/international-cultural-property-protection/bilateral-agreements/cambodia>.

The restrictions on the importation of these archaeological materials from Cambodia are to continue in effect through September 19, 2018. Importation of such materials continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104 [Amended]

■ 2. In § 12.104g, paragraph (a), the table is amended in the entry for Cambodia by removing the words “CBP Dec. 03– 28 extended by CBP Dec. 08–40” in the column headed “Decision No.” and, adding in its place, the phrase “CBP Dec. 08–40 extended by CBP Dec. 13– 15”.

THOMAS S. WINKOWSKI,
Acting Commissioner.

Dated: September 3, 2013.

TIMOTHY E. SKUD,
Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, September 16, 2013 (78 FR 56832)]

COPYRIGHT, TRADEMARK, AND TRADE NAME RECORDATIONS

(No. 7 2013)

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

SUMMARY: The following copyrights, trademarks, and trade names were recorded with U.S. Customs and Border Protection in July 2013. The last notice was published in the CUSTOMS BULLETIN on July 27, 2013.

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

FOR FURTHER INFORMATION CONTACT: Delois Johnson, Paralegal Intellectual Property Rights Branch, Regulations & Rulings, Office of International Trade, (202) 325–0088.

Dated: August 26, 2013

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

CBP IPR RECORDATION — JULY 2013

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 06-01263	7/18/2013	6/22/2023	KNEX	KNEX LIMITED PARTNERSHIP GROUP	No
TMK 06-00001	7/8/2013	8/5/2023	NEULASTA	AMGEN INC.	No
COP 93-00206	7/3/2013	7/3/2033	TASMANIAN DEVIL STYLE GUIDE (1992)	WARNER BROS.	No
TMK 06-00703	7/18/2013	6/3/2023	SHARPIE	SANFORD, LP	No
TMK 03-00433	7/12/2013	5/6/2023	COMPACT DISC RECORDABLE & DESIGN	KONINKLIJKE PHILIPS ELECTRONICS N.V.	No
TMK 04-00095	7/22/2013	9/7/2023	FLORIDA MARLINS AND DESIGN	MIAMI MARLINS, L.P.	No
TMK 13-00722	7/24/2013	6/12/2022	LEVELUP	SCVNGR, INC.	No
TMK 03-00939	7/8/2013	3/9/2023	TILEX	THE CLOROX COMPANY	No
TMK 04-00105	7/12/2013	6/8/2023	KIRBY'S DREAM LAND	NINTENDO OF AMERICA INC.	No
TMK 04-00107	7/12/2013	6/15/2023	YOSHI	NINTENDO OF AMERICA INC.	No
TMK 13-00706	7/18/2013	5/21/2023	ABSOLUTE REBELLION	ALEJANDRA BENITAN	No
TMK 04-00343	7/25/2013	7/8/2023	JUNGLE RUNNER SOLE (SHOE SOLE DESIGN)	WOLVERINE OUTDOORS INC.	No
TMK 04-00280	7/8/2013	6/6/2023	WALTHER IN A BOW	UMAREX SPORTWAFFEN GMBH & CO. KG	No
TMK 04-00527	7/24/2013	6/17/2023	UA (STYLIZED)	UNDER ARMOUR, INC.	No
TMK 04-00659	7/12/2013	9/7/2023	DESIGN ONLY (PINE TREE)	JULIUS SAMANN LTD.	No
TMK 04-00686	7/12/2013	5/25/2023	RAPTURE	VICTORIA'S SECRET STORES	No

CBP IPR RECORDATION — JULY 2013

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 04-00775	7/8/2013	1/9/2023	KINGSFORD AND DESIGN	THE KINGSFORD PRODUCTS COMPANY	No
TMK 13-00713	7/18/2013	1/8/2023	LOVE IS NOT SOMETHING YOU LOOK FOR LOVE IS SOMETHING YOU BE-COME	PEACE LOVE WORLD, LLC	No
TMK 05-00695	7/25/2013	6/7/2023	BURBERRY CHECK DESIGN	BURBERRY LIMITED	No
TMK 07-00506	7/25/2013	7/1/2023	BURBERRY CHECK DESIGN	BURBERRY LIMITED UK	No
TMK 07-00487	7/25/2013	6/24/2023	BURBERRY CHECK DESIGN	BURBERRY LIMITED UK	No
TMK 09-00652	7/8/2013	2/10/2024	JIAN NAN CHUN AND DESIGN	SICHUAN MIANZHU JIAN NAN CHUN DISTILLERY CO., LTD.	No
TMK 09-00362	7/15/2013	6/3/2023	PALMER'S SHEA BUTTER FORMULA	E.T. BROWNE DRUG CO., INC.	No
TMK 09-01204	7/8/2013	5/18/2023	PINE-SOL	THE CLOROX COMPANY	No
TMK 10-00035	7/3/2013	7/5/2015	FURMINATOR	UNITED PET GROUP, INC.	No
TMK 10-00034	7/3/2013	5/1/2017	FURMINATOR AND DESIGN	UNITED PET GROUP, INC.	No
TMK 10-00611	7/8/2013	9/30/2023	DESIGN	AMGEN INC.	No
TMK 12-01089	7/15/2013	6/24/2023	REEL TOYS AND DESIGN	NATIONAL ENTERTAINMENT COL-LECTIBLES ASSOCIATION, INC.	No
TMK 12-00142	7/12/2013	7/15/2023	CLEAR CARE	NOVARTIS AG	No
TMK 13-00723	7/24/2013	11/1/2021	LEVELUP	SCVNGR, INC.	No
COP 13-00113	7/24/2013	7/24/2033	UNIVERSAL	CRYE ASSOCIATES	No
TMK 13-00725	7/24/2013	5/14/2023	INTERCHANGE ZERO	SCVNGR, INC.	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 13-00716	7/24/2013	8/11/2022	DESIGN (CHINESE CHARACTERS)	WONG TO YICK WOOD LOCK OINTMENT LIMITED	No
TMK 13-00717	7/24/2013	5/14/2023	DESIGN (THREE SQUARES)	SCVNGR, INC.	No
TMK 05-00703	7/25/2013	4/22/2023	ELLE	HACHETTE FILIPACCHI PRESSE	No
TMK 13-00682	7/8/2013	12/8/2022	THINK PAD	LENOVO (SINGAPORE) PTE. LTD.	No
TMK 13-00714	7/18/2013	7/6/2020	I AM CHAOS AND DESIGN	PEACE LOVE WORLD LLC	No
TMK 13-00715	7/18/2013	7/6/2020	I AM HAPPINESS AND DESIGN	PEACE LOVE WORLD LLC	No
TMK 13-00687	7/12/2013	1/24/2022	I AM HAPPINESS	PEACE LOVE WORLD LLC	No
TMK 13-00688	7/12/2013	6/24/2018	PEACE SIGN, HEART SYMBOL, SMILEY FACE DESIGN	PEACE LOVE WORLD LLC	No
TMK 13-00689	7/12/2013	1/17/2022	I AM LOVE	PEACE LOVE WORLD LLC	No
TMK 13-00719	7/24/2013	1/24/2022	I AM CHAOS	PEACE LOVE WORLD LLC	No
TMK 13-00691	7/12/2013	7/13/2020	PEACE LOVE WORLD	PEACE LOVE WORLD LLC	No
TMK 13-00675	7/3/2013	12/27/2021	JUICE POPPERS	CHOICE FINEE, INC.	No
TMK 13-00733	7/24/2013	3/7/2016	CAMICISSIMA	FENICIA S.P.A.	No
TMK 13-00730	7/24/2013	5/5/2019	DESIGN (PEACE SIGN, HEART, SMILEY FACE)	PEACE LOVE WORLD LLC	No
TMK 13-00690	7/12/2013	7/6/2020	I AM PEACE AND DESIGN	PEACE LOVE WORLD LLC	No
TMK 13-00734	7/24/2013	1/24/2022	I AM PEACE	PEACE LOVE WORLD LLC	No
TMK 13-00672	7/3/2013	4/16/2023	SUB SERIES	ERNIE BALL, INC.	No

CBP IPR RECORDATION — JULY 2013

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 13-00676	7/3/2013	10/10/2019	SPACE AGE CRYSTALS	MYSTERIOUS ART MULTIMEDIA INC.	No
TMK 13-00674	7/3/2013	6/24/2023	NOODLE	TAYLOR MADE GOLF COMPANY, INC. DBA TAYLOR MADE-ADIDAS GOLF COMPANY	No
TMK 13-00692	7/12/2013	7/13/2020	AM LOVE AND DESIGN	PEACE LOVE WORLD LLC	No
TMK 13-00726	7/24/2013	8/26/2018	V AND DESIGN	ABRAMS AIRBORNE MANUFACTURING, INC. DBA VLTOR WEAPON SYSTEMS	No
TMK 13-00731	7/24/2013	8/11/2022	WOOD LOCK	WONG TO YICK WOOD LOCK OINT- MENT LIMITED	No
TMK 13-00751	7/25/2013	8/4/2019	TROP 50	TROPICANA PRODUCTS, INC.	No
TMK 05-00791	7/8/2013	5/13/2023	WALTHER AND DESIGN	CARL WALTHER GMBH	No
TMK 13-00710	7/18/2013	7/9/2023	CHI TOUCH	FAROUK SYSTEMS, INC.	No
TMK 13-00711	7/18/2013	1/8/2022	TECTRON AND DESIGN	WATCH CLUB INC.	No
TMK 13-00728	7/24/2013	1/10/2022	ESCAPE	GOAL ZERO LLC	No
TMK 13-00677	7/3/2013	4/2/2023	TOMS	MYCOSKIE LLC	No
TMK 13-00670	7/3/2013	6/17/2023	JOINT JUICE	PREMIER NUTRITION CORPORATION	No
TMK 13-00695	7/15/2013	12/24/2022	PIKACHU	NINTENDO OF AMERICA INC.	No
TMK 13-00668	7/3/2013	7/10/2022	ONE FOR ONE	MYCOSKIE, LLC	No
TMK 13-00678	7/3/2013	5/7/2023	EVOLUENT	JACK LO	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
COP 13-00112	7/18/2013	7/18/2033	SPECTRUM FOLDING DOOR PACKAGING AND INSTRUCTIONS.	LTL WHOLESALE, INC. D/B/A LTL HOME PRODUCTS, INC.	No
TMK 13-00694	7/15/2013	10/16/2022	TRUE TO THE GAME	RUSSELL BRANDS, LLC	No
TMK 13-00739	7/25/2013	11/23/2020	GOALØ	GOAL ZERO LLC	No
TMK 13-00684	7/9/2013	11/29/2018	S AND DESIGN	ANDREAS STEHL AG & CO KG	No
TMK 13-00702	7/15/2013	6/11/2023	SAPORI DIVINI	MANICARETTI, INC	No
TMK 13-00727	7/24/2013	8/26/2018	V AND DESIGN	ABRAMS AIRBORNE MANUFACTURING, INC. DBA VLTOR WEAPON SYSTEMS	No
TMK 13-00738	7/25/2013	6/11/2023	CARDINAL HOSTED LOGISTICS	CARDINAL LOGISTICS MANAGEMENT CORPORATION	No
TMK 13-00683	7/8/2013	6/5/2022	PLUG-N-TOW	ETRAILER CORPORATION	No
TMK 13-00729	7/24/2013	7/16/2023	NEERON	NEERON USA INTERNATIONAL INC	No
TMK 13-00703	7/15/2013	3/26/2023	ECO-MAX	PRISM CARE CORPORATION	No
TMK 13-00740	7/25/2013	8/9/2015	DRI-FORCE	SPY OPTIC, INC.	No
TMK 13-00681	7/8/2013	3/26/2023	DESIGN (BANDANA)	WALLAROO LLC	No
TMK 13-00742	7/25/2013	9/24/2022	LEAPING DEER INSIDE OF A CLOSED BORDER.	DEERE & COMPANY	No
TMK 13-00744	7/25/2013	1/3/2022	NOMAD	GOAL ZERO LLC	No
TMK 13-00724	7/24/2013	1/31/2016	THE BULLDOG	BBK TOBACCO & FOODS, INC.	No
TMK 13-00669	7/3/2013	4/20/2024	DESIGN	EMPIRE LEVEL MFG. CORP.	No

CBP IPR RECORDATION — JULY 2013

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 13-00680	7/8/2013	3/26/2023	CARDNINJA	WALLAROO LLC	No
TMK 13-00755	7/25/2013	1/3/2022	SHERPA	GOAL ZERO LLC	No
TMK 13-00741	7/25/2013	2/22/2023	DESIGN (PORTRAIT OF A MAN)	WONG TO YICK WOOD LOCK OINT-MENT LIMITED	No
TMK 13-00757	7/25/2013	10/1/2016	WONG TO YICK	WONG TO YICK WOOD LOCK OINT-MENT LIMITED	No
TMK 13-00743	7/25/2013	1/6/2021	SWOOSH DESIGN	NIKE, INC.	No
TMK 13-00759	7/25/2013	5/27/2018	PRODIGUS METAL ALLOY	SPY OPTIC, INC.	No
TMK 13-00752	7/25/2013	11/4/2018	VIENTE	SPY OPTIC, INC.	No
TMK 13-00763	7/25/2013	4/13/2020	DIRTY MO	SPY OPTIC, INC.	No
TMK 13-00756	7/25/2013	5/7/2023	WII U AND DESIGN	NINTENDO OF AMERICA INC.	No
TMK 13-00721	7/24/2013	5/5/2019	APOLLO	SPY OPTIC, INC.	No
TMK 13-00735	7/24/2013	7/8/2018	SELECTRON	SPY OPTIC, INC.	No
TMK 13-00736	7/24/2013	5/27/2018	ZED	SPY OPTIC, INC.	No
TMK 13-00718	7/24/2013	8/19/2018	MC2	SPY OPTIC, INC.	No
TMK 13-00745	7/25/2013	5/7/2023	WII U AND DESIGN	NINTENDO OF AMERICA INC.	No
TMK 13-00747	7/25/2013	5/7/2023	WII U	NINTENDO OF AMERICA INC.	No
TMK 13-00685	7/9/2013	12/25/2022	PROXSONAR	MAXBOTIX, INC.	No
TMK 13-00697	7/15/2013	10/16/2022	ALPINA GENEVE (STYLIZED)	ALPINA FREDERIQUE CONSTANT USA, INC.	No

CBP IPR RECORDATION — JULY 2013

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 13-00701	7/15/2013	8/25/2022	BIKE (STYLIZED)	RUSSELL BRANDS, LLC	No
TMK 13-00750	7/25/2013	2/28/2022	PLATOON	SPY OPTIC, INC.	No
TMK 13-00693	7/12/2013	1/23/2016	FREDERIQUE CONSTANT (STYLIZED)	ALPINA FREDERIQUE CONSTANT USA, INC.	No
TMK 13-00699	7/15/2013	8/14/2021	MUSASHI AND DESIGN	PACIFIC SOLUTION MARKETING INC.	No
TMK 13-00673	7/3/2013	9/11/2022	ONE FOR ONE	MYCOSKIE, LLC	No
TMK 13-00696	7/15/2013	2/25/2023	STIHL	ANDREAS STIHL AG & CO KG, WAIB-LINGEN	No
TMK 13-00698	7/15/2013	5/21/2023	DESIGN	THE UNITED GROUP, INC.	No
TMK 13-00704	7/15/2013	11/29/2021	SUPER TOP	WATCH CLUB INC	No
COP 13-00114	7/25/2013	7/25/2033	WII U GAMEPAD STAND/CRADLE (JAPANESE HARDWARE PACKAGING)	NINTENDO OF AMERICA, INC.	No
TMK 13-00709	7/18/2013	7/24/2017	DISCIPLINE	MATTHEW PARMENTER	No
TMK 13-00686	7/9/2013	4/9/2023	LEPAI	PARTS EXPRESS INTERNATIONAL, INC.	No
COP 13-00111	7/15/2013	7/15/2033	PUMPKIN BOTANICAL WREATH	MGR DESIGN INTERNATIONAL, INC.	No
TMK 13-00708	7/18/2013	2/8/2021	DR. NUMB	SHIN, SEUNGWOO	No
TMK 13-00712	7/18/2013	1/29/2023	CAMPAIGN WITH A CLICK	BELL LITHO, INC.	No
TMK 13-00671	7/3/2013	3/23/2016	TOMS AND DESIGN	MYCOSKIE, LLC	No
TMK 13-00679	7/3/2013	1/20/2014	TECH20	GANDER MOUNTAIN COMPANY	No
TMK 13-00700	7/15/2013	10/15/2022	CLIMAWOOL	IBEX OUTDOOR CLOTHING, LLC	No

CBP IPR RECORDATION — JULY 2013

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 13-00753	7/25/2013	12/19/2016	T3	T3 MICRO, INC	No
TMK 13-00758	7/25/2013	4/1/2018	JUJU BE	JUJU BE INTL	No
TMK 13-00748	7/25/2013	12/11/2017	DESIGN (LEAPING DEER)	DEERE & COMPANY	No
COP 13-00115	7/25/2013	7/25/2033	SETTLE IT' ...AND BE BLESSED. WHEN YOU'RE IN THE FIGHT OF YOUR LIFE.	THOMAS GERALD GEHRING	No
TMK 13-00732	7/24/2013	11/2/2019	JOHN DEERE	DEERE & COMPANY	No
TMK 13-00707	7/18/2013	12/20/2021	ITTT ELECTRON AND DESIGN	WATCH CLUB INC.	No
TMK 13-00705	7/15/2013	12/4/2022	TEAM WENDY	TEAM WENDY, LLC	No
TMK 04-00718	7/12/2013	5/6/2023	FIERCE	ABERCROMBIE & FITCH TRADING CO.	No
TMK 13-00767	7/26/2013	6/18/2023	PRINCESS PEACH	NINTENDO OF AMERICA, INC.	No
TMK 13-00746	7/25/2013	7/29/2018	DOUBLE DECKER	SPY OPTIC, INC.	No
TMK 13-00761	7/25/2013	4/24/2021	INTEL	INTEL CORPORATION	No
COP 13-00117	7/26/2013	7/26/2033	NEW SUPER MARIO BROS. 2 (US COM- MERCIAL PACKAGING)	NINTENDO OF AMERICA INC., TRANS- FER: BY WRITTEN AGREEMENT. AD- DRESS: 4600 150TH AVENUE NE, RED- MOND, WA, 98052, UNITED STATES	No
TMK 13-00754	7/25/2013	6/21/2021	TRON	SPY OPTIC, INC.	No
TMK 13-00760	7/25/2013	9/15/2022	BURTON	THE BURTON CORPORATION	No
TMK 13-00768	7/26/2013	1/27/2024	RUMBA	BAGLEY ARGENTINA S.A.	No

CBP IPR RECORDATION — JULY 2013

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 13-00737	7/24/2013	9/30/2018	DECKER	SPY OPTIC, INC.	No
TMK 13-00749	7/25/2013	10/13/2019	MBUS	MAGPUL INDUSTRIES CORP.	No
TMK 13-00762	7/25/2013	7/15/2017	BURTON	THE BURTON CORPORATION	No
TMK 13-00720	7/24/2013	5/29/2017	DELTA PHOTOCHROMIC	SPY OPTIC, INC.	No
COP 13-00116	7/26/2013	7/26/2033	FIRE EMBLEM: AWAKENING.	NINTENDO OF AMERICA INC.	No
TMK 13-00766	7/26/2013	6/11/2023	WII U	NINTENDO OF AMERICA INC.	No
TMK 13-00765	7/26/2013	7/19/2015	XEON	INTEL CORPORATION	No
TMK 13-00764	7/25/2013	7/5/2021	ROCK OUT	GOAL ZERO LLC	No

Total Records: 137

Date as of: 8/9/2013

**REVOCAION OF RULING LETTER AND REVOCAION OF
TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF A “JOHNNY COLLAR” PULLOVER
GARMENT**

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

ACTION: Notice of revocation of a ruling letter and revocation of treatment relating to the tariff classification of a polyester “Johnny Collar” pullover.

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 Customs and Border Protection (CBP) is revoking New York Ruling Letter (NY) N196161, dated April 13, 2012, with regard to the tariff classification of a polyester “Johnny Collar” pullover under the Harmonized Tariff Schedule of the United States (HTSUS). CBP is also revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin* Vol. 47, No. 18, on April 24, 2013. No comments were received in response to this Notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 2, 2013.

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 amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility**.” These concepts are premised on the idea that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s responsibilities and rights under the customs and related laws.

In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke NY N196161 was published on April 24, 2013, in Volume 47, Number 18 of the *Customs Bulletin*.

As stated in the proposed notice, this action will cover any rulings on the subject 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 ruling identified above. 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 comment period.

Similarly, pursuant to section 625 (c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)(2)), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during 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 this final decision.

In NY N196161, CBP classified the "Johnny Collar" pullover shirt in subheading 6110.30.30, HTSUS, as a (knitted or crocheted) pullover of man-made fibers. CBP maintains the correctness of this classification. However, the holding in NY N196161 is contrary to a prior ruling, NY N187601, dated October 25, 2011, which classified the yarn from which the subject pullover is made in heading 5605, HTSUS, as a metalized yarn. A knitted or crocheted pullover made wholly of metalized yarn would be classified in subheading 6110.90.90. Hence, the classification of the "Johnny Collar" pullover in subheading 6110.30.30, HTSUS, contrary to NY N187601, was not in compliance with 19 U.S.C. §1625(c)(1). NY N196161 is therefore revoked.

Pursuant to Headquarters Ruling Letter (HQ) H202560, CBP is also revoking NY N187601 in order to reflect the correct classification of the polyester yarn in heading 5402, HTSUS. Entries of the "Johnny

Collar” pullover garment made after the effective date of HQ H202560 will therefore be classified in subheading 6110.30.30, HTSUS, as a pullover of polyester yarn. So long as NY N187601 is in effect, however, the Johnny Collar pullover garment is classified in subheading 6110.90.90, HTSUS, consistent with NY N187601.

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY N196161, and to revoking or modifying any other ruling not specifically identified, according to the analysis contained in Headquarters Ruling Letter (HQ) H226262, which is attached to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

Dated: September 17, 2013

IEVA K. O’ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachments

HQ H226262

September 17, 2013

CLA-2 OT:RR:CTF:TCM H226262 CkG

CATEGORY: Classification

TARIFF NO: 6110.90.90

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

RE: Reconsideration of New York Ruling Letter N196161; classification of “Johnny Collar” pullover garment

DEAR MR. PETERSON:

This is in response to your request of June 27, 2012, for the reconsideration of New York Ruling Letter (NY) N196161, issued to Ms. Margaret Polito on behalf of Best Key Textiles on April 13, 2012. This ruling was issued contrary to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), and is hereby revoked.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke NY N196161 was published on April 24, 2013, in Volume 47, Number 18, of the *Customs Bulletin*. No comments were received in response to this Notice.

FACTS:

NY N196161 described the subject merchandise as follows:

Style JC001 is a men’s pullover garment that features a V-neckline with a rib knit spread collar (Johnny collar); short, hemmed sleeves; and a straight, hemmed bottom. The finely knit fabric measures 30 stitches per 2 centimeters counted in the horizontal direction.

The garment at issue is made from a polyester yarn which is manufactured by Best Key by mixing metal powder into a polyester slurry prior to extrusion of the yarn. This yarn was the subject of a prior ruling, NY N187601, dated October 25, 2011. In NY N187601, CBP classified the Best Key yarn in heading 5605, HTSUS, which provides for “Metalized yarn, whether or not gimped, being textile yarn, or strip or the like of heading 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with metal.”

NY N187601 described the subject yarn as follows:

two spools of...polyester filament yarn, one of which you state is combined with aluminum powder and the other, zinc powder. Both, you state, contain titanium. You state that the aluminum or zinc powder is added to the slurry that is extruded to create the filaments.

ISSUE:

Whether the instant “Johnny Collar” pullover shirt is classified in sub-heading 6110.30.30, HTSUS, as a pullover of polyester yarn, or in subheading 6110.90.90, HTSUS, as a pullover of “other” textile material.

LAW AND ANALYSIS:

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the remaining GRIs 2 through 6. GRI 6, HTSUS, requires that the GRI's be applied at the subheading level on the understanding that only subheadings at the same level are comparable. The GRI's apply in the same manner when comparing subheadings within a heading.

The HTSUS provisions under consideration are as follows:

6110:	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted:
6110.30:	Of man-made fibers:
	Other:
	Other:
6110.30.30:	Other...
6110.90	Of other textile materials:
6110.90.90:	Other....
	* * * *

In NY N196161, CBP classified the “Johnny Collar” pullover shirt in subheading 6110.30.30, HTSUS, as a (knitted or crocheted) pullover of man-made fibers. You state that this ruling is inconsistent with our conclusion in NY N187601, dated October 25, 2011, that a polyester monofilament yarn produced by Best Key was classified in heading 5605, HTSUS, as a metalized yarn. You argue that because CBP concluded in NY N187601 that the yarn at issue therein was a metalized yarn, then the Best Key “Johnny Collar” shirt, which is made from that yarn, must be considered to be made of metalized yarn and therefore classified in subheading 6110.90.90, HTSUS, as a knitted or crocheted pullover of “other” textile materials (i.e., not of polyester).

Pursuant to Headquarters Ruling Letter (HQ) H202560 (revoking NY N187601), we find the “Johnny Collar” pullover is correctly classified in subheading 6110.30.30, HTSUS. In HQ H202560, we conclude that the yarn comprising the pullover is not classified in heading 5605, HTSUS, as a metalized yarn, but rather as a polyester yarn of heading 5402, HTSUS. The pullover garment is therefore correctly classified in subheading 6110.30.30, HTSUS, as a pullover of polyester yarn, and not, as you claim, in subheading 6110.90.90, HTSUS, as a pullover of “other” textile material (i.e., of metalized yarn).

However, because NY N187601 was in effect at the time NY N196161 was issued, the classification of the Best Key “Johnny Collar” pullover in subheading 6110.30.30, HTSUS, contrary to NY N187601, was not in compliance with 19 U.S.C. §1625(c)(1). NY N196161 is therefore revoked. So long as NY N187601 is in effect, the Best Key garment remains classified in subheading 6110.90.90, HTSUS, consistent with NY N187601. Entries of the Best Key “Johnny Collar” pullover garment made after the effective date of HQ H202560 will be classified in subheading 6110.30.30, HTSUS, as a pullover of polyester yarn.

HOLDING:

The instant “Johnny Collar” pullover garment is classified in heading 6110, HTSUS, specifically subheading 6110.30.30, which provides for “Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of man made fibers: Other: Other.” The 2013 general, column one rate of duty is 32% *ad valorem*.

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

EFFECT ON OTHER RULINGS:

NY N196161, dated April 13, 2012, is hereby revoked.

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

Sincerely,

IEVA K. O’ROURKE
for

MYLES B. HARMON,
Director,

Commercial and Trade Facilitation Division



**REVOCAION OF RULING LETTER AND REVOCAION OF
TREATMENT RELATING TO THE TARIFF
CLASSIFICATION OF A POLYESTER MONOFILAMENT
YARN**

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

ACTION: Notice of revocation of a ruling letter and revocation of treatment relating to tariff classification of a polyester monofilament yarn.

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 Customs and Border Protection (CBP) is revoking New York Ruling Letter (NY) N187601, dated October 25, 2011, with regard to the tariff classification of a polyester monofilament yarn with added metal under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is also revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin* Vol. 47, No. 18, on April 24, 2013. Two comments were received in opposition to this Notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 2, 2013.

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

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke NY N187601 was published on April 24, 2013, in Volume 47, Number 18 of the *Customs Bulletin*. Two comments were received in opposition to this notice.

As stated in the proposed notice, this action will cover any rulings on the subject 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 ruling identified above. 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 comment period.

Similarly, pursuant to section 625 (c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625 (c)(2)), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

Any person involved in substantially identical transactions should have advised CBP during 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 this final decision.

In NY N187601, CBP determined that a polyester yarn, produced by mixing metal powder into a polyester slurry prior to extrusion of the yarn, was classified in heading 5605, HTSUS, which provides for "Metalized yarn, whether or not gimped, being textile yarn, or strip or the like of heading 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with metal."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is revoking NY N056378 and revoking or modifying any other ruling not specifically identified, in order to reflect the proper classification of the subject yarn in heading 5402, HTSUS, according to the analysis contained in Headquarters Ruling Letter (HQ) H202560, which is attached to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

Dated: September 17, 2013

IEVA K. O'ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H202560

September 17, 2013

CLA-2 OT:RR:CTF:TCM H202560 CkG

CATEGORY: Classification

TARIFF NO: 5402.47.90

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

RE: Revocation of New York Ruling Letter N187601; yarn

DEAR MR. PETERSON:

This is in reference to New York Ruling Letter N187601, issued to Ms. Margaret Polito on behalf of Best Key Textiles, Limited (Best Key), on October 25, 2011. We have reconsidered this ruling and find that the classification of the polyester filament yarn at issue as metalized yarn of heading 5605, Harmonized Tariff Schedule of the United States (HTSUS), was in error.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice proposing to revoke NY N187601 was published on April 24, 2013, in Volume 47, Number 18, of the *Customs Bulletin*.

Two comments were received in opposition to this Notice. Responses to those comments relevant to the substantive classification issue are incorporated in the Law and Analysis section of this decision.

FACTS:

NY N187601 described the subject merchandise as follows:

two spools of...polyester filament yarn, one of which you state is combined with aluminum powder and the other, zinc powder. Both, you state, contain titanium. You state that the aluminum or zinc powder is added to the slurry that is extruded to create the filaments.

You state that Best Key produces two products. The first is an 80 denier polyester yarn claimed to contain 1900 ppm of aluminum distributed evenly throughout the polyester matrix, with an unspecified amount of titanium dioxide also added as a delusterant. You state that the total presence of metal in the yarn (aluminum, titanium and zinc) accounts for about 0.7% of the total yarn weight. The second product is a 79.6 denier polyester yarn stated to contain 2800 ppm of zinc distributed evenly throughout the polyester matrix with an unspecified amount of titanium dioxide also added as a delusterant. The total presence of metal in the yarn (zinc, titanium and aluminum) is stated to account for about 0.74% of the total yarn weight. However, we note that the CBP Laboratory in New York tested several samples of entries of Best Key garments made from the instant yarns with different results. The highest level of metal present in the samples analyzed by the CBP Laboratory shows titanium in an amount of 1608 parts per million and aluminum in the amount of 741 ppm, for a total metal content of 0.002% (by volume). We also note that the garment tags and labels simply stated that the garments were made of "100% polyester" and made no mention of any metal content.

The production process of Best Key's polyester yarns is stated to begin with the drawing of polyester yarn. The extruded polyester yarn is broken up into chips and melted to produce a polyester slurry. At this point, aluminum or zinc in powder form is added to the slurry, and, as stated above, titanium dioxide is added as a delusterant. The polymer mixture is then forced through a spinneret, which yields yarns of the desired thickness. Due to the small amount of metal in the yarn, the presence of the metal is not discernible to the naked eye.

ISSUE:

Whether the subject yarns are classified in heading 5605, HTSUS, as metalized yarn, or heading 5402, HTSUS, as synthetic filament yarn.

LAW AND ANALYSIS:

Merchandise is classifiable under the HTSUS in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the remaining GRIs 2 through 6. GRI 6, HTSUS, requires that the GRI's be applied at the subheading level on the understanding that only subheadings at the same level are comparable. The GRI's apply in the same manner when comparing subheadings within a heading.

The HTSUS provisions under consideration are as follows:

5402:	Synthetic filament yarn (other than sewing thread), not put up for retail sale, including synthetic monofilament of less than 67 decitex:
5402.47:	Other, of polyesters:
5402.47.90:	Other. . .
	* * * * *
5605:	Metalized yarn, whether or not gimped, being textile yarn, or strip or the like of heading 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with metal:
5605.00.90:	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 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. 35127-28 (Aug. 23, 1989).

The EN to heading 5605, HTSUS, provides as follows:

This heading covers:

- (1) **Yarn consisting of any textile material (including monofilament, strip and the like and paper yarn) combined with metal thread or strip**, whether obtained by a process of twisting, cabling or by gimping, whatever the proportion of the metal present. The gimped yarns are obtained by wrapping metal thread or strip spirally round the textile core which does not twist with the metal. Precious metals or plated metals are frequently used.

- (2) **Yarn of any textile material (including monofilament, strip and the like, and paper yarn) covered with metal by any other process.** This category includes yarn covered with metal by electro-deposition, or by giving it a coating of adhesive (e.g., gelatin) and then sprinkling it with metal powder (e.g., aluminium or bronze).

The heading also covers products consisting of a core of metal foil (generally of aluminium), or of a core of plastic film coated with metal dust, sandwiched by means of an adhesive between two layers of plastic film.

The heading covers multiple (folded) or cabled yarn containing plies of the yarn referred to above (e.g., fancy cords as used by confectioners, obtained by twisting together two or more metallised yarns as described above). It further includes certain other forms of yarn made in the same way and used for similar purposes, consisting of two or more parallel metallised yarns held together with a binding of metal thread or strip, and yarn or bundles of yarn gimped with yarn of this heading.

Metallised yarn may be gimped. It is used in the manufacture of trimmings and lace and of certain fabrics, as fancy cords, etc.

The heading **does not include** :

- (a) Yarn composed of a mixture of textile materials and metal fibres conferring on them an antistatic effect (**Chapters 50 to 55** , as the case may be)
- (b) Yarn reinforced with metal thread (**heading 56.07**).
- (c) Cords, galloons or other articles having the character of ornamental trimmings (**heading 58.08**).
- (d) Wire or strip of gold, silver, copper, aluminium or other metals (**Sections XIV and XV**).

* * * * *

In NY N187601, CBP classified a polyester filament yarn, manufactured by Best Key via the introduction of aluminum or zinc powder into a polyester slurry, in heading 5605, HTSUS, as metalized yarn.

You argue that notwithstanding the extremely minute amount of metal present in the yarn, and the fact that the process of manufacture for the instant yarn is not described in the explanatory notes, that the yarn satisfies the terms of the heading text to heading 5605, HTSUS. You state that there is no minimum amount of metal needed to constitute a metalized yarn of heading 5605, and that the process of manufacture is irrelevant to the classification of the product.

We agree that it is the nature of the product rather than the process of manufacture which is the key consideration in determining whether the product is classifiable in heading 5605. Thus, whether the instant product is a metalized yarn depends on the meaning of that term as used in heading 5605. The term “metalized yarn” is defined in heading 5605, HTSUS as “being textile yarn, or strip or the like of heading 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with metal.” The instant product is not a textile yarn or strip combined with metal powder. The yarn itself contains metal, but it was not combined with metal in any way; the

polyester slurry was combined with metal prior to the spinning of the yarn. Whether a polyester slurry falls within the meaning of “or the like” is unclear from the legal text alone. The Explanatory Notes to heading 5605, HTSUS, however, provide some guidance as to the scope of the heading.

The ENs to heading 5605, HTSUS, clearly contemplate that not every product combining yarn and metal in some fashion will be considered a metalized yarn for tariff purposes. The ENs specifically describe two types of products covered by heading 5605, HTSUS: 1) Yarn consisting of any textile material (including monofilament, strip and the like and paper yarn) combined with metal thread or strip, and 2) Yarn of any textile material (including monofilament, strip and the like, and paper yarn) covered with metal by any other process. The ENs further emphasize that metalized yarn of heading 5605 is used for decorative purposes, for example “in the manufacture of trimmings and lace and of certain fabrics, as fancy cords, etc.”. The ENs specifically exclude yarns composed of a mixture of textile materials and metal fibres, and yarns reinforced with metal thread from classification in heading 5605, HTSUS. Thus, while heading 5605 may allow for new methods of production of metalized yarn, the mere presence of metal in the yarn does not automatically result in classification in heading 5605, HTSUS.

The description of “metalized yarn” in the EN to heading 5605, HTSUS, is also consistent with the common and commercial meaning of the term. When a tariff term is not defined in either the HTSUS or its legislative history, or its meaning is unclear, “the term’s correct meaning is its common meaning.” *Rocknel Fastener, Inc. v. United States*, 267 F.3d 1354, 1356 (Fed. Cir. 2001)(quoting *Mita Copystar Am. v. United States*, 21 F.3d 1079, 1082(Fed. Cir. 1994)); see also *Smith v. United States*, 508 U.S. 223, 228 (1993) (“When a word is not defined by statute, we normally construe it in accord with its ordinary or natural meaning.”). In ascertaining the meaning of undefined terms, “the court may rely upon its own understanding, dictionaries and other reliable sources.” *Medline Indus., Inc. v. United States*, 62 F.3d 1407, 1409 (Fed. Cir. 1995); see also *Brookside Veneers, Ltd. v. United States*, 847 F.2d 786, 789 (Fed. Cir. 1988) (“To assist it in ascertaining the common meaning of a tariff term, the court may . . . consult lexicographic and scientific authorities, dictionaries, and other reliable information sources.”).

CBP may examine dictionaries and other lexicographic materials to determine the common meaning of the term “metalized yarn”. See, e.g., *Lonza, Inc. v. United States*, 46 F.3d 1098 (Fed. Cir. 1995). The term in question is then construed in accordance with its common and commercial meanings, which are presumed to be the same. See, e.g., *Nippon Kogasku (USA), Inc. v. United States*, 69 CCPA 89, 673 F.2d 380 (1982); *Toyota Motor Sales, Inc. v. United States*, 7 C.I.T. 178 (Ct. Int’l Trade 1984); *Carl Zeiss, Inc. v. United States*, 195 F.3d 1375 (Fed. Cir. 1999); *Lonza*, 46 F.3d 1098.

Our research and consultation of industry sources confirm that the commercial meaning of “metalized yarn” does not encompass every possible form of yarn with metal added. Instead, “metalized yarn” and similar terms such as “metallic yarn” and “metallic fiber” have a specific meaning, consistent with the Explanatory Note to heading 5605, which does not encompass the Best Key yarns at issue. Therefore, the instant product is not within the scope of the term “metalized yarns” as understood by the common and commercial meaning of the term.

The common and commercial meaning of the term indicate that “metalized yarn” is commonly understood to mean either a pre-existing yarn consisting of any textile material combined with metal, or a plastic film deposited with metal and slit into yarn, generally used for a decorative purpose. For example, FTC regulations define “metallic” fiber as “A manufactured fiber composed of metal, plastic-coated metal, metal-coated plastic, or a core completely covered by metal.” **See Section 303.7 of the Rules and Regulations Under the Textile Fiber Products Identification Act (Generic names and definitions for manufactured fibers)**, 16 CFR § 303.7. CBP also consulted numerous technical sources on metallic yarns and fibers, none of which referenced a product such as that at issue in their discussion of metalized yarn. Indeed, no reference material on textiles was found in our research which described similar products as metalized yarns. Rather, technical sources on metalized yarn noted that metallic yarns consist of pre-existing yarn or plastic film bonded to metal, as do producers of metalized yarns such as Huntingdon Yard Mill (http://www.hymill.com/usa/?page_id=2), SwicoFil (<http://www.swicofil.com/metallicyarn.html>), Bally Ribbon Mill (<http://www.ballyribbon.com/fibers/performance/metalized-yarns>) and Metlon (<http://www.metlon.com/metallic.htm>). For example, *J.J. Pizzuto's Fabric Science* defines “metallic” fiber as “a manufactured fiber composed of metal, plastic-coated metal, metal-coated plastic, or a core completely covered by metal...metallic fibers are used primarily for decorative effects, although when placed in carpeting (as little as 2 percent) the functional effect is to lessen the accumulation of static.” Joseph J. Pizzuto et al. ed, *J.J. Pizzuto's Fabric Science*, 56 (10th ed. 2012). “Metallic Fibers” by Anita A. Desai, an Assistant Professor at the Sarvajanic College of Engineering & Technology, Textile Technology Department, similarly defines a metallic yarn as “a continuous flat monofilament produced by a combination of plastic film and metallic component so that the metallic component is protected.” See <http://www.fibre2fashion.com/industry-article/3/213/metallic-fibres1.asp> (2007). The International Bureau for the Standardization of Man-Made Fibres further notes that “metalized” yarns are yarns coated with metal. *Terminology of Man-Made Fibres*, Int'l Bur. for the Standardization of Man-Made Fibres (2009), available at <http://www.bisfa.org/Portals/BISFA/Terminology/BISFA%20Terminology2009%20%28final%20version%29.pdf>. See also G. Mohan Kumar, V. S. Sidharth *Metallic Yarns and Fibres in Textile*, Department Of Textile Technology, Bannari Amman Institute of Technology (2011); Irfan Ahmed Shaikh, *Pocket Textile Expert 1st Edition*; Virginia Hencken Elsasser, *Textiles: Concepts and Principles*, (2nd ed 2010); Allen C. Cohen *Beyond Basic Textiles* (1997); Jacqueline P. Kraschwitz, *Polymers: Fibers and Textiles, a Compendium* (1990).

Furthermore, many technical definitions of “metallic” yarns or fibers stress that they are used primarily for decorative purposes. See e.g., *J.J. Pizzuto's Fabric Science*, supra, at 81 (“Metallic yarns are mostly used for decorative rather than functional purposes.”); *Polymers: Fibers and Textiles, a Compendium*, supra (“Such metallic yarns are used primarily for decorative purposes.”); “Metallic Fibers”, supra. A typical metalized yarn or fabric thus has a distinctive metallic appearance (hence its popularity for decorative applications). However, the instant yarns look and feel like a standard polyester

fiber, as does the resulting fabric. The presence of metal is not discernible except by laboratory testing. Indeed, the Best Key garments made from this yarn are stated to be made from “100% polyester fiber” with no mention of the added metal.

Similarly, textile industry experts consulted by CBP from the American Fiber Manufacturers Association and the National Council of Textile Organizations were in agreement that the textile industry considers a metalized yarn to be either a textile yarn covered or coated with metal, or a plastic film deposited with metal and slit into yarn. This is consistent with what CBP has classified in heading 5605 in the past, and consistent with the Explanatory Notes to heading 5605, HTSUS. Thus, we conclude that the term “metalized yarn” as commonly and commercially understood, is a manufactured fiber composed of metal, plastic-coated metal, metal-coated plastic, or a core completely covered by metal, including metal sandwiched between layers of plastic, as in Lurex yarns, having a visible metallic effect or appearance.

In your comments responding to the proposed revocation, you submit an affidavit from Ingrid Johnson, editor of the Fairchild’s Dictionary of Fashion. Ms. Johnson affirms that the Best Key yarns at issue are, in her opinion, metalized yarns, within the following definition of metallic yarn (to be published in the upcoming 8th edition of the Fairchild’s Dictionary of Fashion):

“most present day versions of metallic yarn are forms of slit plastic films combined with either sheet aluminum or metallic particles. Originally these were made by sandwiching aluminum foil between two layers of cellulose acetate or cellulose acetate butyrate film with coloring material in the adhesive. While the form of yarn made from narrow strips of this material continues in the market, there are a number of other versions. Polyester film is stronger than the acetate and makes it possible to use thinner gauges of film. All of these yarns are available in a variety of thicknesses and widths as well as in staple form for spinning with other fibers.”

We note that this definition of metallic yarn is completely consistent with those cited above. It does not reference any method of production similar to that used by Best Key; it also clearly states that most versions of metallic yarn are produced from slit plastic films combined with aluminum. Although this definition allows for the possibility of other combinations of textile and metal, not specifically mentioned, being considered metallic yarn, it does not state that any textile yarn containing metal must automatically be considered a metallic yarn. Hence, whether this definition is intended to include such products or not, we do not believe that it supports the argument that the instant Best Key yarns should be considered metalized yarns. Such an interpretation would be far more expansive than the plain text of the heading, the ENs or the technical definitions would support. Indeed, it is difficult to imagine what wouldn’t fall within the scope of metalized yarn based on such a reading. For example, the Fairchild’s definition does not explicitly exclude either antistatic yarns, or yarns reinforced with metal thread, and yet the EN to heading 5605 excludes both of these from the heading. Ms. Johnson offers Angelina® fibers as an example of a metalized yarn which, in her view, is similar to the Best Key yarn in that the metal is not fully apparent. However, Angelina® fibers do have a distinctive and notable

metallic, luminescent sheen. See e.g., https://www.google.com/search?q=angelina+fibers&client=firefox-a&hs=9r4&rls=org.mozilla:en-US:official&source=lnms&tbm=isch&sa=X&ei=ZEUqUry-LPao4APyh4DoBA&ved=0CAkQ_AUoAQ&biw=988&bih=614; <http://www.texturatrading.com/angelina.html>; http://www.meadowbrookglitter.com/angelina/pdf/knitting_intl.pdf.

Ingrid Johnson's affidavit affirms that in a metalized yarn, the metal is added for a specific purpose, to add desirable characteristics to a fabric such as a metallic appearance, anti-microbial properties, or UV protection. Specifically, Ingrid Johnson states that "While in some applications, metal is added to create a shiny appearance, this is not a requirement for metalized yarn. ...This is increasingly the case as nano-metals are added to fibers to impart a variety of practical, non-visual properties." You claim that the aluminum and zinc are added to the Best Key yarns for anti-microbial purposes. Assuming that yarns metalized for a specific, practical, non-decorative purpose are within the scope of heading 5605 (although the emphasis in the Explanatory Notes on the decorative use of metalized yarns, as well as the specific exclusion of yarns with antistatic effects from heading 5605, imply otherwise) you do not present any evidence that the aluminum or zinc added to the instant yarns impart any anti-microbial properties or UV protection to the fiber, or even that they could have such an effect in such low concentrations. In support of the claim that metals impart anti-microbial or UV protection properties to the fiber, you cite an article from Textile Review Magazine, which details the various applications of nanometals in textiles. See SS. Chinchwade and Maneet Srivastava, *Application of Nanometals in Textiles, Part 1*, Textile Review Magazine (April 2012), reprinted at www.technicaltextile.net. This article lists the applications of various metals and compounds, including zinc oxide, aluminum trioxide, silver and titanium dioxide. Titanium dioxide and zinc oxide¹ are stated to provide UV protection, aluminum trioxide is used for water-repellent finishing, and silver is used for anti-bacterial finishing. The article does not support the use of either aluminum or zinc for anti-microbial applications, or aluminum for UV protection. Our research indicates that silver, copper and copper alloys are the most common and effective metals used for antimicrobial applications. The Best Key garments made from the instant yarns examined by CBP also made no mention of any antimicrobial properties (or any reference to the metal content at all) on the garment tags or labels. Claims of anti-microbial properties are also subject to FDA and EPA regulation and verification; to our knowledge, neither aluminum nor zinc in any form are registered with the EPA as anti-microbial pesticides. See e.g., <http://www.epa.gov/oppad001/>. In any case, adding metal before extrusion, for antimicrobial, antistatic or other purposes, is not itself a new procedure. Heretofore, such products have not been considered metalized yarns. See, e.g., <http://www.noblebiomaterials.com/category.asp?itemid=380>; <http://www.trevira.com/en/textiles-made-from-trevira/antimicrobial-textiles/how-trevira-bioactive-works.html>; <http://www.cloverbrook.com/MerylSkinlifePage.htm>.

¹ It is unclear whether zinc or aluminum alone have similar properties, or whether the UV protection or water-repellent effects accrue solely from the metal oxide compounds.

In your comments in response to the proposed revocation, you cite to various CBP rulings which you claim classified yarns having no metallic appearance in heading 5605, HTSUS. These include: NY N062518, dated June 3, 2009; NY L82752, dated March 10, 2005; NY R00713, dated August 23, 2004; NY J84177, dated September 17, 2003; NY J82793, dated April 9, 2003 (revoked by HQ 967829, dated February 27, 2006); NY I80137, dated April 9, 2002; NY J84274, dated May 6, 2000; NY B89128, dated September 3, 1997; NY B89130, dated September 3, 1997; and NY A89028, dated November 7, 1996. We note that in each of the cases cited above, the yarns are either described as “decorative” or “metallic”, or are used in decorative applications such as decorating packages (NY N062518, NY R00713).

In summary, the Best Key yarns do not conform to any common or commercial meaning of metalized or metallic yarn, because the products that are considered metalized yarns or fibers consist of a textile yarn covered or coated with metal, or a plastic film deposited with metal and slit into yarn, having a metallic character of appearance which is usually the result of the presence of a significantly higher metal content than the instant products.

Finally, we note that while CBP does not impose a strict requirement with respect to the amount of metal that must be present in order for a yarn to be considered metalized, tests conducted by the CBP Laboratory indicate that the samples of Best Key’s yarns submitted for analysis contain only trace amounts of metal. The highest level of metal present in the samples analyzed shows titanium in the amount of 1608 parts per million and aluminum in the amount of 741 ppm. These results indicate that the subject yarns contain at most .002% metal by volume. Even assuming that 1900 ppm aluminum and 2800 ppm of zinc are present in the instant yarns, as stated by the importer, the amount of aluminum or zinc by volume would still only amount to roughly .002%, or 0.7% by weight. In contrast, a yarn that is 1% metal by volume has 100,000 ppm. Given that many products and preparations used in textiles, such as those of heading 3809², contain metallic substances, and even natural fibers may naturally contain trace amounts of metal absorbed from the soil, many yarns may consequently have traces of metal simply as a result of common treatments such as dye fixing or delustring. To classify any fiber with as little metal as is present in the instant yarn in heading 5605 would expand the heading far beyond its current scope, to include any yarns which contain trace amounts of metal as a byproduct of common textile treatments and which have never been considered metalized yarn. As noted above, by contrast, the products recognized as metalized yarns in the textile industry have much higher concentrations of metal, with the result that the metal is immediately apparent.

HOLDING:

The Best Key yarn is classified in heading 5402, HTSUS, specifically subheading 5402.47.90, HTSUS, which provides for “Synthetic filament yarn (other than sewing thread), not put up for retail sale, including synthetic monofilament of less than 67 decitex: Other, of polyesters: Other.” The 2013 column one, general rate of duty is 8% *ad valorem*.

² Heading 3809, HTSUS, covers, inter alia, delustring agents, dirt-repellent finishes, and mordants. Delustrants generally contain metals such as titanium oxide or zinc oxide. Dirt repellent agents are generally based on silicic acid, aluminium compounds or organic compounds; mordants, used to fix dyes in textiles, are usually based on metallic salts (e.g., aluminium). See EN 38.09.

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 online at www.usitc.gov/tata/hts/.

EFFECT ON OTHER RULINGS:

NY N187601, dated October 25, 2011, is hereby revoked.

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

Sincerely,

IEVA K. O'ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division



**ACCREDITATION AND APPROVAL OF SAYBOLT, LP, AS A
COMMERCIAL GAUGER AND LABORATORY**

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

ACTION: Notice of accreditation and approval of Saybolt, LP, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Saybolt, LP, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes for the next three years as of June 12, 2013.

EFFECTIVE DATE: The accreditation and approval of Saybolt, LP, as commercial gauger and laboratory became effective on June 12, 2013. The next triennial inspection date will be scheduled for June 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 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, Saybolt, LP, 3915 Saw Mill Run Blvd., Pittsburgh, PA 15227, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. 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, inquires 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://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.

Dated: September 10, 2013.

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

[Published in the Federal Register, September 18, 2013 (78 FR 57408)]



**U.S. CUSTOMS AND BORDER PROTECTION 2013 EAST
COAST TRADE SYMPOSIUM: “INCREASING ECONOMIC
COMPETITIVENESS THROUGH GLOBAL PARTNERSHIP
AND INNOVATION”**

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

ACTION: Notice of Trade Symposium.

SUMMARY: This document announces that CBP will convene only one Symposium this year, the East Coast Trade Symposium, which will be held in Washington, DC, on Thursday, October 24 and Friday, October 25, 2013. The East Coast Trade Symposium will feature panel discussions involving agency personnel, members of the trade community and other government agencies, on the agency's role in international trade initiatives and programs. This year marks our thirteenth year convening the Trade Symposium. Members of the international trade and transportation communities and other interested parties are encouraged to attend.

DATES: Thursday, October 24, 2013, (opening remarks and general sessions, 8:00 a.m.–6:00 p.m.). Friday, October 25, 2013, (opening remarks, breakout sessions, and closing remarks, 8:30 a.m.–1:00 p.m.).

ADDRESSES: The CBP 2013 East Coast Trade Symposium will be held at the Washington Hilton Hotel, at 1919 Connecticut Avenue NW., Washington, DC 20009, in the Columbia 5–12 room.

FOR FURTHER INFORMATION CONTACT: The Office of Trade Relations at (202) 344-1440, or at tradeevents@dhs.gov. To obtain the latest information on the Symposium and to register online, visit the CBP Web site at http://www.cbp.gov/xp/cgov/trade/trade_outreach/2013_trade_symp/. Requests for special needs should be sent to the Office of Trade Relations at tradeevents@dhs.gov.

SUPPLEMENTARY INFORMATION: CBP will be holding one Trade Symposium this year and it will be held on the East Coast in Washington, DC. Due to sequestration CBP will not be holding a West Coast Trade Symposium in 2013. This document announces that CBP will convene this year's East Coast Trade Symposium on Thursday, October 24 and Friday, October 25, 2013. The theme for the 2013 East Coast Trade Symposium will be "Increasing Economic Competitiveness Through Global Partnership and Innovation." The format of this year's East Coast Trade Symposium will be held with general sessions and breakout sessions. Discussions will be held regarding CBP's role in international trade initiatives and partnerships.

The agenda for the 2013 East Coast Trade Symposium and the keynote speakers will be announced at a later date on the CBP Web site (<http://www.cbp.gov>). Registration is now open. The registration fee is \$108.00 per person. Interested parties are requested to register early, as space is limited. All registrations must be made online at the CBP Web site (http://www.cbp.gov/xp/cgov/trade/trade_outreach/2013_trade_symp/) and will be confirmed with payment by credit card only.

Due to the overwhelming interest to attend past symposiums, each company is requested to limit its company's registrations to no more than three participants, in order to afford equal representation from all members of the international trade community. If a company exceeds the limitation, any additional names submitted for registration will automatically be placed on a waiting list.

Hotel accommodations will be announced at a later date on the CBP Web site (<http://www.cbp.gov>).

Dated: September 12, 2013.

MARIA LUISA BOYCE,
*Senior Advisor for Private Sector
Engagement, Executive Director,
Office of Trade Relations, Office of the
Commissioner, U.S. Customs and Border
Protection.*

APPROVAL OF ALTOL PETROLEUM PRODUCT SERVICE, AS A COMMERCIAL GAUGER

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

ACTION: Notice of approval of Altol Petroleum Product Service, as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Altol Petroleum Product Service, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes for the next three years as of March 4, 2013.

EFFECTIVE DATE: The approval of Altol Petroleum Product Service, as commercial gauger became effective on March 4, 2013. The next triennial inspection date will be scheduled for March 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Altol Petroleum Product Service, Calle Gregorio Ledesma HN-55 Urb. Levittown, Toa Baja, PR 00949, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is 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://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.

Dated: September 10, 2013.

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

[Published in the Federal Register, September 18, 2013 (78 FR 57407)]

**APPROVAL OF ALTOL PETROLEUM PRODUCT SERVICE,
AS A COMMERCIAL GAUGER**

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

ACTION: Notice of approval of Altol Petroleum Product Service, as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Altol Petroleum Product Service, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes for the next three years as of February 25, 2013.

EFFECTIVE DATE: The approval of Altol Petroleum Product Service, as commercial gauger became effective on February 25, 2013. The next triennial inspection date will be scheduled for February 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Altol Petroleum Product Service, Parque Industrial Sabanetas, Edificio M-1380-01-02, Ponce, PR 00731, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is 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://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.cttgaulist.pdf.

Dated: September 10, 2013.

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

[Published in the Federal Register, September 18, 2013 (78 FR 57406)]



APPROVAL OF BARRIOS MEASUREMENT SERVICES LLC, AS A COMMERCIAL GAUGER

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

ACTION: Notice of approval of Barrios Measurement Services LLC, as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Barrios Measurement Services LLC, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes for the next three years as of June 5, 2013.

EFFECTIVE DATE: The approval of Barrios Measurement Services LLC, as commercial gauger became effective on June 5, 2013. The next triennial inspection date will be scheduled for June 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Barrios Measurement Services LLC, 228 West 133rd St., P.O. Box 275, Cut Off, LA 70345, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger

service requested. Alternatively, inquiries regarding the specific gauger service this entity is 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://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.

Dated: September 10, 2013.

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

[Published in the Federal Register, September 18, 2013 (78 FR 57406)]



**ACCREDITATION AND APPROVAL OF CAMIN CARGO
CONTROL, INC., AS A COMMERCIAL GAUGER AND
LABORATORY**

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

ACTION: Notice of accreditation and approval of Camin Cargo Control, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Camin Cargo Control, Inc., has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes for the next three years as of July 17, 2013.

EFFECTIVE DATE: The accreditation and approval of Camin Cargo Control, Inc., as commercial gauger and laboratory became effective on July 17, 2013. The next triennial inspection date will be scheduled for July 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 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 Camin Cargo Control, Inc., 3001 SW 3rd Ave, Suite #8, Fort Lauderdale, FL 33315, has been approved to gauge and accredited to test

petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. 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://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.

Dated: September 10, 2013.

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

[Published in the Federal Register, September 18, 2013 (78 FR 57407)]



NOTICE OF ISSUANCE OF FINAL DETERMINATION CONCERNING VIDEO TELECONFERENCING SERVER

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

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (“CBP”) has issued a final determination concerning the country of origin of video teleconferencing server Prescient T7-FW. Based upon the facts presented, CBP has concluded in the final determination that China is the country of origin of the video teleconferencing server for purposes of U.S. Government procurement.

DATES: The final determination was issued on September 11, 2013. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination on or before October 21, 2013.

FOR FURTHER INFORMATION CONTACT: Karen S. Greene, Valuation and Special Programs Branch: (202) 325-0041.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on September 11, 2013, pursuant to subpart B of Part 177, Customs and Border Protection Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of video teleconferencing server Prescient T7-FW, which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, in HQ H218360, was issued at the request of CyberPoint International Inc., under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511-18). In the final determination CBP concluded that, based upon the facts presented, since the Chinese-origin Video Board and the Filter Board, impart the essential character to the video teleconferencing server, that China is the country of origin of the video teleconferencing server for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: September 11, 2013.

SANDRA L. BELL,
Executive Director,
Regulations and Rulings, Office of
International Trade.

Attachment

HQ H218360

September 11, 2013

MAR-2 OTF:CTF:VS H218360 KSG

VANESSA P. SCIARRA
HOLLAND & KNIGHT
2099 PENNSYLVANIA AVE.
NW SUITE 100
WASHINGTON, DC 20006

RE: Final determination; country of origin of video teleconferencing server; substantial transformation

DEAR MS. SCIARRA:

This is in response to your letter, submitted May 2, 2012, supplemental submission dated October 22, 2012, and emails on July 22, and August 14, 2013, requesting a final determination on behalf of CyberPoint International Inc., pursuant to subpart B of part 177 of the U.S. Customs and Border Protection (“CBP”) Regulations (19 CFR Part 177). Under these regulations, which implement Title III of the Trade Agreements Act of 1979 (“TAA”), as amended (19 U.S.C. 2511 et seq.). CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of the video teleconferencing server Prescient T7-FW (“the Server”). As a U.S. manufacturer and wholesaler, CyberPoint International LLC. is a party-at-interest within the meaning of 19 CFR 177.22(d)(1), and is entitled to request this final determination.

FACTS:

This case involves the Server which is designed to communicate in a secure environment. The basic functionality of the product is to capture motion picture images and sound and send them digitally (via Ethernet) to a similar unit at a different location, where the digital data is reconstructed into motion picture and sound. In addition, the Server ensures that digital data (motion picture and sound) is sent securely between the two units, making the ability to infiltrate the unit via eavesdropping or malware through the network connection more difficult. You state that the security feature adds approximately 40 percent of the unit’s value.

The Server is comprised of a video processing electronic circuit board (“Video Board”) which includes the codec; a network filter electronic circuit board (“Filter Board”); a housing case; a power supply circuit board; minor components, which include a heat sink, standoff hardware and screws, network cables and wire harnesses; and CyberPoint’s proprietary software known as the CyberPoint Linux Firewall (“Linux software”). The Linux software allows the Filter Board to inspect each Ethernet packet of information as it enters the LAN port of the Video Board, and to accept only those packets needed to perform the video teleconferencing functionality. You state that the Linux software is designed, developed and installed in the United

States at great expense and with many man hours in its engineering, development and design by cyber-security professionals with years of experience in creating defensive solutions.

The Server can be used with video cameras, microphones and video display; however, these are optional attachments and are not part of the product under consideration.

The key hardware components are the Video Board, which converts image and sound into digital data, and the Filter Board, programmed with Linux software, which transmits the digital data via a LAN connector over the Ethernet and protects the connection from malware infiltration. The Video Board, including the codec, is manufactured in China, and has connections for various video input and output formats, two USB connections, and two Ethernet connections. One of the Ethernet connections interfaces with a microphone to capture sound, and the other interfaces with a LAN.

Two scenarios are presented. In the first scenario, the Video Board lacks the LAN connection when imported, meaning that it cannot transmit data. In the second scenario, the Video Board is fully functional as imported. Once imported into the U.S., the LAN connection is removed, the hole for this connection in the rear sheet metal of the unit is covered, a modification is made to the rear sheet metal to provide for a new connection point, and CyberPoint installs another cable that connects from the Filter Board to the new connection point. The LAN connector hardware is produced in the U.S. and developed by CyberPoint at its facilities in the U.S. CyberPoint states that the purposes of its installation of the LAN connection is to wipe the device clean from any malware residing in the original equipment.

The Filter Board is a circuit board that provides the necessary LAN connection of the Server and the secure connection that ensures no malware infiltrates the system during a videoconferencing session or during off hours. The Filter Board is made from a DreamPlug unit manufactured in China, a mini generic computer housed in a plug that contains a blank non-functional circuit board. In the U.S., the DreamPlug is disassembled; and the circuit board is removed, mounted on an aluminium heat sink, wired and programmed with Linux software, and configured, reinstalled and mounted on the Server's metal case. The programming of the Filter Board with Linux software inputs the connectivity functionality, so that digital data can be transmitted securely from one unit to another.

The power supply and metal case for the server are produced in China. The heat sink is produced in the U.S.

The assembly of the various components in the U.S. involves the following:

- As stated above, holes are drilled in the metal case so the Filter Board and LAN connector hardware can be mounted;
- The DreamPlug is disassembled and the blank circuit board is removed, the Linux software is downloaded, and the card is then re-installed. This process takes approximately 4.5 hours;
- The Video Board is removed from the case and it is connected to the LAN connector with a network cable. Under the second scenario, the existing LAN connection has to be removed as well;

- A wire harness is installed to route the cables, and the Filter Board is installed to the heat sink. The LAN network connector is installed through the rear of the metal case. This takes approximately 2.5 hours;
- The finished Server is tested, labeled and packaged.

Counsel states that the overall assembly process in the U.S. takes approximately 20 hours to complete each unit.

ISSUE:

What is the country of origin of the Server?

LAW AND ANALYSIS:

Pursuant to subpart B of part 177, 19 CFR 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 *et seq.*) (“TAA”), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. government. Under the rule of origin set forth under 19 U.S.C. 2518(4)(B), an article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. *See also* 19 CFR 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. government procurement, CBP applies the provisions of subpart B of part 177 consistent with the Federal Acquisition Regulations. *See* 19 CFR 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government’s purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. *See* 48 CFR 25.403(c)(1). The Federal Acquisitions Regulations define “U.S.-made end product” as: . . . an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. 48 CFR 25.003

In *Data General v. United States*, 4 CIT 182 (1982), the court determined that for purposes of determining eligibility under item 807.00, Tariff Schedule of the United States (predecessor to subheading 9802.00.80, Harmonized Tariff Schedule of the United States), the programming of a foreign Programmable Read Only Memory Chip (“PROM”) in the United States substantially transformed the PROM into a U.S. article.

In programming the imported PROM’s, the U.S. engineers systematically caused various distinct electronic interconnections to be formed within each integrated circuit.

The court noted that it was undisputed that programming altered the character of a PROM and that in that case, the essence of the article, its interconnections or stored memory, was established by programming.

In this case, we find that the essence of the imported good is its use as a video conferencing server. The Video Board and the Filter Board, which is a configuration of the DreamPlug unit, are the hardware components that impart the ability of the product to capture sound and image and to transmit that digital data so they impart the essential character to the finished good. While the addition of the U.S. developed software may add 40 percent to the unit's value, the software only adds a characteristic to the Server, but does not change its main function which is to send images and sound. Since the hardware components that impart the essential character to the finished product are of Chinese origin, we find that the country of origin of the Server for government procurement purposes is China.

HOLDING:

Based on the facts provided, the Server is considered a product of China for government procurement purposes.

Notice of this final determination will be given in the **Federal Register**, as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR 177.30, any party-at-interest may, within 30 days of publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

SANDRA L. BELL

Executive Director,

Regulations and Rulings Office of International Trade

[Published in the Federal Register, September 19, 2013 (78 FR 57648)]



AGENCY INFORMATION COLLECTION ACTIVITIES:

Transportation Entry and Manifest of Goods Subject to CBP Inspection and Permit

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

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

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the: Transportation Entry and Manifest of Goods Subject to

CBP Inspection and Permit. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 18, 2013, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Office of Regulations and Rulings, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

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

Title: Transportation Entry and Manifest of Goods Subject to CBP Inspection and Permit.

OMB Number: 1651–0003.

Form Number: CBP Forms 7512 and 7512A.

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Abstract: CBP Forms 7512 and 7512A are used by carriers and brokers to serve as the manifest and transportation entry for cargo moving under bond within the United States. The data on the form is used by CBP to identify the carrier who initiated the bonded movement and to document merchandise moving in-bond. These forms provide documentation that CBP uses for enforcement, targeting, and protection of revenue. Forms 7512 and 7512A collect information such as the names of the importer and consignee; a description of the merchandise moving in-bond; and the ports of lading and unloading. These forms are provided for in 19 CFR 18.11, 19 CFR 18.20, 19 CFR 18.25, and 19 CFR 122.92 and can be found at <http://www.cbp.gov/xp/cgov/toolbox/forms/>.

Affected Public: Businesses.

Estimated Number of Respondents: 6,200.

Estimated Number of Average Responses per Respondent: 871.

Estimated Number of Total Annual Responses: 5,400,001.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 896,400 hours.

Dated: September 13, 2013.

TRACEY DENNING,
Agency Clearance Officer,
U.S. Customs and Border Protection.

[Published in the Federal Register, September 18, 2013 (78 FR 57405)]

