

U.S. Customs and Border Protection



PROPOSED REVOCATION OF TWO RULING LETTERS AND MODIFICATION OF TWO RULING LETTERS, AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF BOTTLE BAGS

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

ACTION: Notice of proposed revocation of two ruling letters and modification of two ruling letters, and revocation of treatment relating to the tariff classification of bottle bags.

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

DATE: Comments must be received on or before July 6, 2018.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Alben Peters, Chemicals, Petroleum, Metals and Miscellaneous Articles Branch, Regulations and Rulings, Office of Trade, at (202) 325–0321.

SUPPLEMENTARY INFORMATION:**BACKGROUND**

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to revoke two ruling letters and modify two ruling letters pertaining to the tariff classification of subject merchandise. Although in this notice, CBP is specifically referring to Headquarters Ruling Letter ("HQ") H235569, dated May 17, 2013 (Attachment A), New York Ruling Letter ("NY") N179138, dated August 24, 2011 (Attachment B), NY N230128, dated September 5, 2012 (Attachment C) and NY N204304, dated March 9, 2012 (Attachment D), this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the four identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this comment period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In HQ H235569, NY N179138, NY N230128 and NY N204304, CBP classified the bottle bags in heading 4202, HTSUS, specifically in subheading 4202.92.90, HTSUS (now subheadings 4202.92.91,

HTSUS and 4202.92.97, HTSUS), which provided for “ ... traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Other: With outer surface of sheeting of plastic or of textile materials: Other: Other.”

CBP has reviewed and HQ H235569, NY N179138, NY N230128 and NY N204304, and has determined the ruling letters to be in error. It is now CBP’s position that the bottle bags in HQ H235569 are properly classified in heading 4202, HTSUS, specifically in subheading 4202.92.39, HTSUS, which provides for “ ... traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Other: With outer surface of sheeting of plastics or of textile materials: Travel, sports and similar bags: With outer surface of textile materials: Other.”

It is now CBP’s position that the bottle bags in NY N179138, NY N230128, and NY N204304 are properly classified in heading 4202, HTSUS, specifically in subheading 4202.92.45, HTSUS, which provides for “ ... traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Other: With outer surface of sheeting of plastics or of textile materials: Travel, sports and similar bags: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke HQ H235569 and NY N179138, and modify NY N230128 and NY N204304, and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed HQ H273867, set forth as Attachment E to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: May 15, 2018

ALLYSON MATTANAH

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

Attachments

ATTACHMENT A

HQ H235569

May 17, 2013

CLA-2 OT:RR:CTF:TCM H235569 TNA

CATEGORY: Classification

TARIFF NO.: 4202.92.90

BRUCE SHULMAN, Esq.

STEIN, SHOSTAK, SHOSTAK, POLLACK & O'HARA, LLP

1776 K STREET, NW, SUITE 2213

WASHINGTON, DC 20006

RE: Reconsideration of HQ W968444; Classification of Non-Woven
Polypropylene Bottle Bags

DEAR MR. SHULMAN:

This letter is in reference to your request for reconsideration, on behalf of your client, Earthwise Bag Company Inc. ("Earthwise"), of Headquarters Ruling Letter ("HQ") W968444, issued on January 25, 2008, concerning the tariff classification of non-woven polypropylene bottle bags. In that ruling, U.S. Customs and Border Protection ("CBP") classified the subject bottle bags under subheading 4202.92.90, Harmonized Tariff Schedule of the United States ("HTSUS"), as "Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Other: With outer surface of sheeting of plastic or of textile materials: Other: Other."

In addition, we have taken into account arguments presented in a meeting with members of my staff at our offices on January 24, 2013, as well as arguments presented in supplemental submissions dated January 17, 2013 and February 20, 2013. We have reviewed HQ W968444 and found it to be correct. For the reasons set forth below, we hereby affirm HQ W968444.

FACTS:

The subject merchandise consists of non-woven polypropylene bags that contain two handles and have open tops. These bags measure approximately nine and a half inches in width and 10 inches in height. When open, they have a depth of approximately seven inches. The bag's handles are also composed of polypropylene and contain a fastener of polypropylene with hook and loop fastener to keep the handles together.

The bottom of the subject bags is composed of two layers of polypropylene fabric with padding inserted in between. The top of the bags contains a small loop of polypropylene to allow the bags to be hung so as to be displayed for sale. The inside of the bags is divided into six equally sized compartments by polypropylene dividers. Each compartment measures approximately five inches in width and nine inches in length when closed and can expand to fit

the bottles inserted therein. The exterior of the bags contains a tri-colored printed design containing grapes and grape leaves. The logos of 13 grocery stores appear below the design.

These bags are sold or distributed free of charge at stores that sell food and beverages, such as grocery stores, liquor stores, convenience stores, and wineries. Furthermore, Earthwise almost always sells them with the names or logos of the stores that distribute them, and its competitors follow a similar practice.

ISSUE:

Whether bags that contain compartments sized to hold bottles are classified as “shopping bags” of subheading 4202.92.30, HTSUS, or as “bottle cases or similar containers” of subheading 4202.92.90, HTSUS, in accordance with Additional U.S. Note 1 to Chapter 42, HTSUS?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States (HTSUS) is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied. GRI 6 requires that the classification of goods in the subheadings of headings shall be determined according to the terms of those subheadings, any related sub-heading notes and, *mutatis mutandis*, to GRIs 1 through 5.

The HTSUS provisions under consideration are as follows:

4202 Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper:

Other:

4202.92 With outer surface of sheeting of plastic or of textile materials:

Travel, sports and similar bags:

4202.92.30 Other

* * * *

Other:

4202.92.90 Other

Additional U.S. Note 1 to Chapter 42, HTSUS, states, in relevant part, the following:

For the purposes of heading 4202, the expression “travel, sports and similar bags” means goods, other than those falling in subheadings 4202.11 through 4202.39, of a kind designed for carrying clothing and other personal effects during travel, including backpacks and shopping

bags of this heading, but does not include binocular cases, camera cases, musical instrument cases, bottle cases and similar containers.

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The EN to heading 4202, HTSUS, states, in pertinent part, the following:

This heading covers only the articles specifically named therein and similar containers.

We begin by noting that there is no dispute that the subject bottle bags are classified in heading 4202, HTSUS. To the contrary, the dispute is at the 8-digit level. You argue that, in accordance with lexicographic sources and judicial definitions in a number of cases, the instant merchandise is a “shopping bag” as named in Additional U.S. Note 1, and therefore is classified as a type of “travel, sports or similar bag,” in subheading 4202.90.30, HTSUS. In support of this argument, you cite HQ 963575, dated October 12, 1999, HQ 964450, dated August 8, 2002, HQ 951113, dated May 19, 1992, HQ 957917, dated July 7, 1995, HQ 950708, dated December 24, 1991, and HQ 088562, dated December 5, 1991. Lastly, you argue that because the subject merchandise is classified as shopping bags of subheading 4202.92.30, HTSUS, and are made of polypropylene fabric, they are also classified in subheading 9902.92.30, HTSUS, and are accorded duty-free treatment under this provision.

In response, we note that *Totes, Inc. v. United States*, 69 F.3d 495; 1995 U.S. App. LEXIS 29841; 17 Int’l Trade Rep. (BNA) 1929 (Ct. Int. Trade 1995), decided the classification of a rectangular case used to organize and store items such as motor oil, tools, and jumper cables in an automobile trunk. It had a zippered top opening, two straps at the sides which formed handles, and reinforced bottom seams. The case’s interior was divided into three discrete storage areas using dividers that snapped into place. *Totes, Inc.*, 69 F.3d at 496. There, the court found that heading 4202, HTSUS, is an *eo nomine* provision, as is subheading 4202.92.90, HTSUS. Furthermore, the court found that the subject case’s interior dividers made it more than a general carrying case that could carry any merchandise. Hence, the court found for classification in subheading 4202.92.90, HTSUS, as “similar to” jewelry boxes and cutlery cases, whose purpose was to facilitate an organized separation, protection, storage or holding of their contents. *Id.* at 497, 500. Furthermore, the court stated that “as applicable to classification cases, *ejusdem generis* requires that the imported merchandise possess the essential characteristics or purpose that unite the articles enumerated *eo nomine* in order to be classified under the general terms.” *Id.* at 498. The court found that the rule of *ejusdem generis* requires only that the subject merchandise share “the essential characteristics” of the goods listed *eo nomine* in heading 4202, HTSUS, and that these characteristics were those of “organizing, storing, protecting, and carrying various items.” *Id.* at 498.

Subsequent CBP rulings have adhered to this analysis, and have classified bags and cases with fitted or divided interiors with the items in heading 4202,

HTSUS, to which they are most akin. *See, e.g.*, HQ H053756, dated September 4, 2009; HQ H064875, dated January 4, 2010; HQ 956140, dated October 29, 1994; HQ 086884, dated August 13, 1990. These rulings are consistent with prior CBP rulings on substantially similar merchandise. *See* NY N230128; NY N224243; NY N219153; NY N204304; NY N179138; NY N093287; NY N104559.

In the present case, while we agree with counsel that an *eo nomine* provision such as heading 4202, HTSUS, covers all forms of the subject merchandise, we disagree that the subject bottle bags should be classified in the same provision as “shopping bags.” The subject bottle bags can be distinguished from the type of general shopping bags of the cases to which counsel cites. The shopping bags of *Adolco Trading Co.*, 71 Cust. Ct. 145; 1973 Cust. Ct. LEXIS 3350; Cust. Dec. 4487 (1973), for example, were of a large size, and had wide open tops and handles. However, they contained no internal divisions, and as such were almost always used in grocery stores and similar places where customers could use them to transport any type of merchandise. *See Adolco Trading Co.*, 71 Cust. Ct. 150–151¹. The subject bags, by contrast, are no longer capable of carrying any type of merchandise because of their fitted interior compartments, which are in the shape of bottles. Furthermore, these compartments are sewn into the subject bags, making their removal impractical. A dual use as bottle bags and as bags for carrying more general merchandise is therefore impossible. As such, the subject bottle bags are more akin to the bags of *Totes, Inc.* and those of the rulings cited above, whose fitted interior compartments spoke in favor of a specific use other than as a shopping bag of subheading 4202.92.30, HTSUS. The instant merchandise is more akin to the types of bottle bags which CBP has previously classified as “other” types of bags of subheading 4202.92.90, HTSUS. *See, e.g.*, NY N230128, dated September 5, 2012; NY N224243, dated July 13, 2012; NY N219153, dated June 19, 2012; NY N204304, dated March 9, 2012; NY N179138, dated August 24, 2011; NY N093287, dated March 9, 2010; NY N104559, dated May 14, 2010.² Moreover, HQ 963222, dated August 19, 1999, and HQ 960403, dated August 1, 1997, classified bottle bags similar to the merchandise at issue here as other than travel, sports, or similar bags.³

Furthermore, in light of the court’s conclusion in *Totes, Inc.* that heading 4202, HTSUS, and specific subheadings therein are *eo nomine* provisions, we find your argument that the provision for “shopping bags” within heading 4202, HTSUS, is a use provision to be untenable. In addition, courts have held that “a ‘use’ provision is ‘a provision describing articles by the manner in which they are used as opposed to by name’.” *See Pomeroy Collection, Ltd. v.*

¹ We note that the bags at issue in *United States v. J. Mamiye & Sons, Inc.*, 69 C.C.P.A. 17; 665 F.2d 336; 1981 CCPA LEXIS 162 (1981), to which you also cite, can be distinguished from the subject merchandise in that they were found to be handbags of the kind used to carry personal items. *See United States v. J. Mamiye & Sons, Inc.*, 69 C.C.P.A. 17, 22.

² NY N025633, dated April 14, 2008, classified a bag that is substantially similar to the subject merchandise. However, this ruling was issued after HQ W968444; because it is inconsistent with HQ W968444, we consider it to have been improperly issued and are in the process of issuing a notice proposing to revoke it under 19 U.S.C. 1625.

³ We agree that padded bottle bags designed to carry only one bottle, classified in heading 6307, HTSUS, in HQ 960830, dated July 21, 1998, and HQ 960831, dated January 26, 1998, are not substantially similar to the bottle bags at issue here.

United States, 32 C.I.T. 526, quoting *Len-Ron Mfg. Co. v. United States*, 334 F.3d 1304. Courts have also held that certain phrases within the provision require that it be construed as a use provision; such phrases include “to be used for,” “to be used as,” and “for use in.” See *Clarendon Mktg v. United States*, 955 F.Supp 1501, (Ct. Int’l Trade 1997), *aff’d* 144 F.3d 1464, 1467 (Fed. Cir. 1998); *Czarnikow-Rionda Co. v. United States*, 66 Cust. Ct. 431, 328 F. Supp. 487 (1971), *aff’d* 60 C.C.P.A. 6, 468 F.2d 211 (1972); *J. E. Bernard & Co., Inc. v. United States*, 80 Cust. Ct. 111 (1978).

In the present case, heading 4202, HTSUS, describes its merchandise by name rather than use and does not contain any of the phrases that would indicate that it is a use provision. To the contrary, heading 4202, HTSUS, is clearly an *eo nomine* provision. As such, we find that the *Carborundum* factors, which you cite and discuss in detail, are inapplicable here. If they were applied here, the *Carborundum* factors would likely support use of the subject merchandise as similar to bottle cases, rather than as a general shopping bag.

Furthermore, the subject bags can be distinguished from those of the rulings counsel cites in favor of classification as “travel, sports or similar bags.” Headquarters Ruling letters (HQ) 964450, dated August 8, 2002, HQ 951113, dated May 19, 1992, HQ 957917, dated July 7, 1995, HQ 950708, dated December 24, 1991, and HQ 088562, dated December 5, 1991, all classified bags without any interior pockets or compartments; these open interiors could have carried any merchandise. In HQ 963575, dated October 12, 1999, CBP classified bags with drawstrings that were specifically designed and fitted to hold a sleeping bag as “travel, sports or similar bags.” These bags contained no interior compartments, but to the extent that they were fitted for specific merchandise, it was not in the same way that the subject bags are specifically fitted for multiple bottles, thereby precluding the ability to carry other articles.

As such, we find that the subject bags are not “travel, sports or similar bags.” Therefore, we find that the subject bottle bags are classified in sub-heading 4202.92.90, HTSUS, as “Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Other: With outer surface of sheeting of plastic or of textile materials: Other: Other.” This conclusion is consistent with prior CBP rulings on substantially similar merchandise. See NY N230128; NY N224243; NY N219153; NY N204304; NY N179138; NY N093287; NY N104559.⁴

Lastly, you submitted laboratory results showing that the durability, volume, machine washability, lack of lead or other toxic materials, and other characteristics are the same for the instant merchandise as they are for shopping bags. The cited laboratory results do nothing to minimize the

⁴ Contrary to your suggestion in your supplemental submission of February 20, 2013, regarding the need, or lack thereof, to revoke these rulings before issuing a ruling in your favor, we note that CBP’s discretion does not extend so far as to allow us to issue inconsistent rulings. See 19 C.F.R. §177.2.

differences between the subject bottle bags and general shopping bags. As such, these results are not relevant to our analysis. Therefore, because the subject merchandise is not described as a shopping bag of subheading 4202.92.30, HTSUS, it cannot be accorded duty-free treatment under subheading 9902.40.01, HTSUS.

HOLDING:

Under the authority of GRI 1, the subject bottle bags are classified in heading 4202, HTSUS. They are specifically provided for in subheading 4202.92.90, HTSUS, which provides for “Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Other: With outer surface of sheeting of plastic or of textile materials: Other: Other.” The applicable duty rate is 17.6%.

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

EFFECT ON OTHER RULINGS:

HQ W968444, dated January 25, 2008, is AFFIRMED.

Sincerely,

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

ATTACHMENT B

N179138

August 24, 2011

CLA-2-42:OT:RR:NC:N4:441

CATEGORY: Classification

TARIFF NO.: 4202.92.9060

GUNNAR HAMMERBECK
BELLA VITA
1000 SOUTH PARK LANE, SUITE 1
TEMPE, AZ 85281

RE: The tariff classification of bottle bags from China

DEAR MR. HAMMERBECK:

In your letter dated August 4, 2011, you requested a tariff classification ruling. Your samples will be returned to you.

The submitted samples are two bottle bags constructed of plastic sheeting material. They are identified by the product names “Chill It 1C” and “Chill It 6”. Both bags and feature cells filled with freezable colored liquid. The bags with gel liquid form composite goods, General Rule of Interpretation 3(b) noted. The essential character is imparted by the bags.

The “Chill It 1C” is a bottle bag that is designed to provide storage, protection, portability, and organization to a single bottle. Based on the information you provided the bag is intended for use with bottles of wine, champagne, craft beer, etc. The bag is cylindrical in shape, has an open top without a means of closure, and two carrying handles. It is of a durable construction and suitable for repetitive use. It measures approximately 4” (W) x 12” (H).

The “Chill It 6” is a bottle bag that is designed to provide storage, protection, portability, and organization to six beverage bottles. Based on the information you provided the bag is intended for use with six packs of beer, soda, water, etc. The bag has an open top without a means of closure, and two carrying handles. The interior is divided into two sections, each capable of accommodating three bottles. It is of a durable construction and suitable for repetitive use. The bag measures approximately 7.5” (W) x 7” (H) x 5” (D).

In your submission you suggest classification under 4202.92.1000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for insulated food or beverage bags. You argue that since the bags are designed for chilling and insulating beverages, that classification would apply. However, the “Chill It” bags are bottle bags, such as the one described in New York Ruling Letter (NYRL) N087914, dated December 23, 2009, which are classified elsewhere in Heading 4202. The open tops and lack of a means of closure separates the “Chill It” bags from those normally classified as insulated food and beverage bags. Consequently, the “Chill It 1C” and “Chill It 6” bottle bags are not classifiable in subheading 4202.92.1000.

The applicable subheading for the bottle bags will be 4202.92.9060, HTSUS, which provides for other containers and cases, with outer surface of plastic sheeting material. The duty rate will be 17.6% ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Vikki Lazaro at (646) 733-3041.

Sincerely,

ROBERT B. SWIERUPSKI

Director

National Commodity Specialist Division

ATTACHMENT C

N230128

September 5, 2012

CLA-2-42:OT:RR:NC:N4:441

CATEGORY: Classification

TARIFF NO.: 4202.22.1500, 4202.92.4500,
4202.92.9060

JIM GHEDI

GHEDI INTERNATIONAL, INC.

8002 BURLESON ROAD

AUSTIN, TX 78744

RE: The tariff classification of a handbag, shopping style tote bags, and bottle bags from China

DEAR MR. GHEDI:

In your letter dated August 8, 2012, you requested a tariff classification ruling on behalf of your client, Norwood Promotional Products. Your samples will be returned to you.

Styles 15607, 15613 and 15616 are shopping-style tote bags constructed of non-woven polypropylene textile material that has been laminated on the outer surface with plastic sheeting. The outer surface constituent material is the plastic sheeting. The bags are designed to provide storage, protection, portability, and organization to groceries or other personal effects during travel. The bags feature open tops and have either one or two carrying handles. They have unlined storage compartments. Each bag is of a durable construction and suitable for repetitive use. The styles are of different sizes and measure approximately:

Style 15607: 17.75" (W) x 15.5" (H) x 6" (D);

Style 15613: 13" (W) in diameter x 4" (D);

Style 15616: 15.5" (W) x 16.5" (H) with a 10" diameter bottom.

Style 15611 is a circular handbag constructed of non-woven polypropylene textile material that has been laminated on the outer surface with plastic sheeting. The outer surface constituent material is the plastic sheeting. The bag is designed and sized to contain the personal effects that would normally be carried on a daily basis. The interior of the bag has an unlined storage compartment. The bag has an open top with two carrying handles. It is of a durable construction and suitable for repetitive use. The bag measures approximately 7.5" in diameter x 3" (D).

Styles 15618 is a bottle bag constructed of non-woven polypropylene textile material that has been laminated on the outer surface with plastic sheeting. The constituent outer surface material is the plastic sheeting. The bag is designed to provide storage, protection, portability, and organization to one bottle. The interior of the bag has an unlined storage compartment with no additional features. The bag has an open top with a carrying handle and a reinforced bottom. It is of a durable construction and suitable for repetitive use. The bag measures 5" (W) x 13.5" (H) x 5.25" (D).

Style 15622 is a bottle bag constructed of non-woven polypropylene textile material that has been laminated on the outer surface with plastic sheeting. The constituent outer surface material is the plastic sheeting. The bag is designed to provide storage, protection, portability, and organization to four bottles. The interior of the bag has four fitted pockets attached to each

sidewall for each individual bottle. The bag has an open top with two carrying handles and a reinforced bottom. It is of a durable construction and suitable for repetitive use. The bag measures approximately 9" (W) x 13.5" (H) x 7" (D).

In your letter, you suggest classification of the bags under subheading 4202.92.3031, Harmonized Tariff Schedule of the United States (HTSUS), which provides for travel, sports, and similar bags, with outer surface of textile materials, other, of man-made fibers, other. Classification of goods within subheading 4202.92 is subject to Chapter 42, Additional U.S. Note 2. This note states that items which are made-up of a textile material that is impregnated, coated, covered, or laminated with plastics (whether compact or cellular) shall be regarded as having an outer surface of textile material or of plastic sheeting, depending on whether and the extent to which the textile constituent or the plastic constituent material makes up the exterior surface material. Our examination of the bags indicates that the exterior surface constituent material of all of your bags is plastic sheeting, not textile material. Additionally, bottle bag and handbags are not akin to the articles of the subheading you proposed. The bags are not eligible for classification under subheading 4202.92.3031, HTSUS.

You have also suggested that the bags are eligible for special treatment under 9902.40.01. By virtue of legislative action, subheading 9902.40.01, HTSUS, provides for a temporary reduction in the rate of duty for shopping bags with an outer surface of spun bonded polypropylene fabric or non-woven polypropylene fabric (provided for in subheading 4202.92.30). While each tote bag is constructed of non-woven polypropylene textile material, as stated above, the outer most surface of the bags is sheeting of plastic. As such, the subject shopping-style tote bags do not meet the prerequisites of this tariff provision and are not entitled to beneficial treatment under subheading 9902.40.01, HTSUS. The bottle bags and handbag are excluded for the reasons stated. Additionally, they are not the product specifically named in the provision. The general rate of duty will apply.

The applicable subheading for styles 15607, 15613, and 15616 will be 4202.92.4500, Harmonized Tariff Schedule of the United States (HTSUS), which provides for travel, sports and similar bags, with outer surface of sheeting of plastic, other. The general rate of duty is 20 percent ad valorem.

The applicable subheading for style 15611 will be 4202.22.1500, HTSUS, which provides for handbags, whether or not with shoulder strap, including those without a handle, with outer surface of sheeting of plastic or of textile materials, with outer surface of sheeting of plastics. The general rate of duty will be 16 percent ad valorem.

The applicable subheading for styles 15618 and 15622 will be 4202.92.9060, HTSUS, which provides for other containers and cases, of plastic sheeting or of textile materials, other, other, other, other. The general rate of duty will be 17.6 percent ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is

imported. If you have any questions regarding the ruling, contact National Import Specialist Vikki Lazaro at (646) 733-3041.

Sincerely,

THOMAS J. RUSSO

Director

National Commodity Specialist Division

ATTACHMENT D

N204304

March 9, 2012

CLA-2-42:OT:RR:NC:N:441

CATEGORY: Classification

TARIFF NO.: 4202.92.4500, 4202.92.9060

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

RE: The tariff classification of woven polypropylene bags from China

DEAR Ms. CELIS:

In your letter dated February 9, 2012, you requested a tariff classification ruling on behalf of our client, Fiberlinks Textiles, Inc. Your samples will be returned to you.

Style GEB12138 is a shopping-style tote bag constructed of woven polypropylene textile material that is laminated on the outer surface with plastic sheeting. The outer surface constituent material is the plastic sheeting. The bag is designed to provide storage, protection, portability, and organization to groceries or other personal effects. It has an open top, two webbed carrying handles and an unlined interior storage compartment with no additional features. The bag measures approximately 12" (W) x 13" (H) x 8" (D) and is of a durable construction and suitable for repetitive use.

Style GEB11117/PLB is a six bottle wine bag constructed of non-woven polypropylene textile material that is laminated on the outer surface with plastic sheeting. The constituent outer surface material is the plastic sheeting. The bag is designed to provide storage, protection, portability, and organization to wine bottles. The interior of the bag has three fitted pockets for individual wine bottles attached to each sidewall. The bag has an open top with two carrying handles. It is of a durable construction and suitable for repetitive use. It measures approximately 11" (W) x 11" (H) x 7" (D).

In your ruling request, you recommended classification of the bags under subheading 6307.90.9889, Harmonized Tariff Schedule of the United States (HTSUS) which provides for other made up textile articles, other. However, the submitted samples are suitable for continuous use and classifiable in Heading 4202. Section XI, wherein goods of Heading 6307 are classified, is limited by Legal Note 1(l) that excludes textile goods of heading 4202, HTSUS. As such, the bags will be classified in Heading 4202.

The applicable subheading for the tote bag will be 4202.92.4500, Harmonized Tariff Schedule of the United States (HTSUS), which provides for travel, sports and similar bags, with outer surface of sheeting of plastic, other. The general rate of duty is 20 percent ad valorem.

The applicable subheading for the wine bottle bag will be 4202.92.9060, HTSUS, which provides for other containers and cases, of plastic sheeting or of textile materials, other, other, other, other. The rate of duty will be 17.6% ad valorem.

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

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Vikki Lazaro at (646) 733-3041.

Sincerely,

THOMAS J. RUSSO

Director

National Commodity Specialist Division

ATTACHMENT E

HQ H273867

OT:RR:CTF:CPMM H273867 APP

CATEGORY: Classification

TARIFF NO.: 4202.92.3900; 4202.92.4500

BRUCE SHULMAN, Esq.

STEIN, SHOSTAK, SHOSTAK, POLLACK & O'HARA, L.L.P.

1776 K STREET, N.W., SUITE 2213

WASHINGTON, D.C. 20006

RE: Revocation of HQ H235569 and NY N179138, and modification of NY N230128 and NY N204304; Classification of Bottle Bags

DEAR MR. SHULMAN:

This is to inform you that U.S. Customs and Border Protection ("CBP") has reconsidered Headquarters Ruling Letter ("HQ") H235569, dated May 17, 2013 (issued to Earthwise Bag Company, Inc.); New York Ruling Letter ("NY") N179138, dated August 24, 2011 (issued to Bella Vita); NY N230128, dated September 5, 2012 (issued to Ghedi International, Inc.); and NY N204304, dated March 9, 2012 (issued to Fiberlinks Textiles, Inc.), regarding the classification, under the Harmonized Tariff Schedule of the United States ("HTSUS"), of bottle bags with outer surface of sheeting of plastic or of textile materials.

CBP classified the non-woven polypropylene bottle bags in HQ H235569 under subheading 4202.92.90, HTSUS (now subheading 4202.92.91, HTSUS), which provided for "... traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Other: With outer surface of sheeting of plastic or of textile materials: Other: Other."

CBP classified the bottle bags constructed of plastic sheeting material in NY N179138 and the bottle bags constructed of non-woven polypropylene textile material laminated on the outer surface with plastic sheeting in NY N230128 and NY N204304 under subheading 4202.92.90, HTSUS (now subheading 4202.92.97, HTSUS), which provided for "... traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Other: With outer surface of sheeting of plastic or of textile materials: Other: Other."

For the reasons set forth below, we hereby revoke HQ H235569 and NY N179138, and modify NY N230128 and NY N204304 with respect to the bottle bags.

FACTS:

The non-woven polypropylene bags in HQ H235569 contain two handles and have open tops. These bags measure approximately 9 1/2" (W) x 10" (H) x 7" (D). The bag's handles are composed of polypropylene and contain a fastener of polypropylene with hook and loop fastener to keep the handles together. The bottom of the bags is composed of two layers of polypropylene fabric with padding inserted in between. The top contains a small loop of polypropylene. The inside of the bottle bags is divided into six equally sized compartments by polypropylene dividers. Each compartment measures approximately 5" (W) x 9" (L) when closed and can expand to fit the bottles inserted therein. The exterior of the bags contains a tri-colored printed design containing grapes and grape leaves. The logos of 13 grocery stores appear below the design. The bags are sold or distributed free of charge at stores that sell food and beverages.

The two bottle bags in NY N179138 are constructed of plastic sheeting material. They are identified as "Chill It 1C" and "Chill It 6". Both types of bags are of a durable construction and suitable for repetitive use, and have an open top without a means of closure and two carrying handles. The "Chill It 1C" is cylindrical in shape and measures approximately 4" (W) x 12" (H). It is designed to provide storage, protection, portability, and organization to a single bottle. The "Chill It 6" measures approximately 7.5" (W) x 7" (H) x 5" (D) and is designed to provide storage, protection, portability, and organization to six bottles. The interior is divided into two sections, each capable of accommodating three bottles.

The bottle bags (styles 15618 and 15622) in NY N230128⁵ are constructed of non-woven polypropylene textile material that has been laminated on the outer surface with plastic sheeting. The constituent outer surface material is the plastic sheeting. Style 15618 measures 5" (W) x 13.5" (H) x 5.25" (D) and is designed to provide storage, protection, portability, and organization to one bottle. The interior has an unlined storage compartment with no additional features as well as an open top with a carrying handle and a reinforced bottom. It is of a durable construction and suitable for repetitive use. Style 15622 measures approximately 9" (W) x 13.5" (H) x 7" (D) and is designed to provide storage, protection, portability, and organization to four bottles. The interior has four fitted pockets attached to each sidewall for each individual bottle as well as an open top with two carrying handles and a reinforced bottom. It is of a durable construction and suitable for repetitive use.

The six bottle wine bag (style GEB11117/PLB) in NY N204304⁶ measures approximately 11" (W) x 11" (H) x 7" (D). It is constructed of non-woven polypropylene textile material laminated on the outer surface with plastic sheeting. The bag is designed to provide storage, protection, portability, and

⁵ NY N230128 also includes three styles of shopping-style tote bags (styles 15607, 15613 and 15616) constructed of non-woven polypropylene textile material laminated on the outer surface with plastic sheeting, which were correctly classified in subheading 4202.92.45, HTSUS, as shopping bags with outer surface of sheeting of plastics, as well as a circular handbag (style 15611) constructed of non-woven polypropylene textile material laminated on the outer surface with plastic sheeting, which was correctly classified under subheading 4202.22.15, HTSUS, as a handbag with outer surface of sheeting of plastics.

⁶ NY N204304 also includes a shopping-style tote bag, style number GEB12138, constructed of woven polypropylene textile material laminated on the outer surface with plastic sheeting, which was correctly classified in subheading 4202.92.45, HTSUS, as a shopping bag with outer surface of sheeting of plastic.

organization to wine bottles. The interior has three fitted pockets for individual wine bottles attached to each sidewall. The bag has an open top with two carrying handles. It is of a durable construction and suitable for repetitive use.

ISSUE:

Whether the subject bottle bags are classified as shopping bags of subheadings 4202.92.39, HTSUS (with outer surface of textile materials) and 4202.92.45, HTSUS (with outer surface of sheeting of plastics), or as other bags of subheadings 4202.92.91, HTSUS (with outer surface of textile materials) and 4202.92.97, HTSUS (with outer surface of sheeting of plastics).

LAW AND ANALYSIS:

Merchandise imported into the United States is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation (“GRIs”) and, in the absence of special language or context which requires otherwise, by the Additional U.S. Rules of Interpretation (“AUSR”). The GRIs and the AUSR are part of the HTSUS and are to be considered statutory provision of law for all purposes. GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any relative section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in their appropriate order. Pursuant to GRI 6, classification at the subheading level uses the same rules, *mutatis mutandis*, as classification at the heading level.

The HTSUS (2018) provisions under consideration are:

4202 Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper:

Other:

4202.92 With outer surface of sheeting of plastic or of textile materials:

Travel, sports and similar bags:

With outer surface of textile materials:

4202.92.39 Other

4202.92.45 Other

Other:

Other:

With outer surface of textile materials:

4202.92.91 Of man-made fibers (except jewelry boxes of a kind normally sold at retail with their contents)

Other:

4202.92.97 Other

Additional U.S. Note 1 to chapter 42, HTSUS, states, in relevant part, the following:

For the purposes of heading 4202, the expression “*travel, sports and similar bags*” means goods, other than those falling in subheadings 4202.11 through 4202.39, of a kind designed for carrying clothing and other personal effects during travel, including backpacks and shopping bags of this heading, but does not include binocular cases, camera cases, musical instrument cases, bottle cases and similar containers.

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN 42.02 states, in pertinent part, the following:

This heading covers only the articles specifically named therein and similar containers.

There is no dispute that the subject bottle bags are classified in heading 4202, HTSUS. At issue is the proper subheading. As a result, GRI 6 applies.

Additional U.S. Note 1 to chapter 42, HTSUS, defines “*travel, sports and similar bags*” of heading 4202, HTSUS, as being “of a kind designed for carrying clothing and other personal effects during travel, including backpacks and shopping bags of this heading.” Shopping bags have been characterized by their open tops and long handles that can be used over a person’s shoulder, and reinforced side and bottom panels. Furthermore, these bags are designed for repetitive use in carrying heavier items such as groceries.

CBP has previously classified shopping-style tote bags constructed of non-woven polypropylene textile material or of plastic sheeting with an open top and two carrying handles designed to provide storage, protection, portability, and organization to groceries or other personal effects during travel in subheadings 4202.92.39, HTSUS (outer surface of textile material) and 4202.92.45, HTSUS (outer surface of sheeting of plastics).⁷ Similar to the bags in these rulings, the instant bottle bags have an open top and two carrying handles, are of a durable construction, are suitable for repetitive use, and are designed to provide storage, protection, portability, and organization to bottles. Unlike bottle cases of subheadings 4202.92.91, HTSUS and

⁷ *See* NY N281516, dated December 19, 2016 (classifying a tote bag, constructed with an outer surface polyvinyl chloride strips featuring an open top with a snap closure, two carrying handles, and a textile lined interior, designed to provide storage, protection, portability, and organization to personal effects during travel under subheading 4202.92.39, HTSUS); NY N290446, dated October 17, 2017 (classifying a tote bag constructed with an outer surface of a textile material, featuring one main compartment with a snap closure, two carrying handles, one open wall pocket, and an unlined interior, designed to provide storage, protection, portability, and organization to personal effects during travel under subheading 4202.92.39, HTSUS); NY N288407, dated August 4, 2017 (classifying reusable shopping-style tote bags constructed of two layers of plastic sheeting, featuring an open top without a closure and two carrying handles, designed to provide storage, protection, portability, and organization to groceries or other personal effects during travel under subheading 4202.92.45, HTSUS); NY N292662, dated December 22, 2017 (classifying a tote bag of a durable construction and suitable for repetitive use, constructed of woven strips coated with plastic sheeting, designed to provide storage, protection, portability, and organization to personal effects during travel under subheading 4202.92.45, HTSUS).

4202.92.97, HTSUS,⁸ which have plastic foam for padding and insulation to provide protection against breakage of the bottles, the instant bags do not provide breakage protection and are similar to shopping bags with two carrying handles and a reinforced bottom, designed for repetitive use in carrying bottles. Therefore, the instant bottle bags are shopping bags as named in Additional U.S. Note 1, and are classified as a type of “travel, sports or similar bag,” in subheadings 4202.92.39, HTSUS and 4202.92.45, HTSUS.

Because the instant bags are *prima facie* classifiable in subheadings 4202.92.39, HTSUS and 4202.92.45, HTSUS, as shopping bags, they are not classifiable in subheadings 4202.92.91, HTSUS and 4202.92.97, HTSUS, the basket provisions for other bags.⁹

HOLDING:

Under the authority of GRIs 1 and 6, the subject bottle bags in HQ H235569 are classified in heading 4202, HTSUS, specifically under subheading 4202.92.3900, HTSUSA (Annotated), which provides for “... traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Other: With outer surface of sheeting of plastics or of textile materials: Travel, sports and similar bags: With outer surface of textile materials: Other.” The current duty rate is 17.6% *ad valorem*.

Under the authority of GRIs 1 and 6, the subject bottle bags in NY N179138, NY N230128 (styles 15618 and 15622) and NY N204304 (style GEB11117/PLB) are classified in heading 4202, HTSUS, specifically under subheading 4202.92.4500, HTSUSA (Annotated), which provides for “... traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Other: With outer surface of sheeting of plastics or of textile materials: Travel, sports and similar bags: Other.” The current duty rate is 20% *ad valorem*.

⁸ See HQ 963222, dated August 19, 1999 (classifying wine bottle bags constructed of plastic foam for padding or insulation, and an exterior of woven polyester velvet fabric, designed to provide protection against bottle breakage as bottle cases under subheading 4202.92.90, HTSUS); HQ 966496, dated August 8, 2003 (classifying insulated bottle cases, covered on the exterior with a sheeting of plastics with a layer of foam plastic between the base and the exterior plastic sheeting, designed to provide storage, protection, organization and portability for the bottle(s) they contain, and claimed to be chiefly used to maintain the beverages' chilled temperatures under subheading 4202.92.90, HTSUS).

⁹ Bags provided for in subheadings 4202.92.30, HTSUS (superseded by subheadings 4202.92.31, HTSUS, 4202.92.33, HTSUS, and 4202.92.39, HTSUS) and 4202.92.45, HTSUS, no longer meet the prerequisites of subheadings 9902.40.01, HTSUS and 9902.01.78, HTSUS, respectively. Subheadings 9902.40.01, HTSUS and 9902.01.78, HTSUS, provided for a temporary reduction in the rate of duty on or before December 31, 2012, and have expired.

This revocation of HQ H235569 and NY N179138, and modification of NY N230128 and NY N204304 only affects the tariff classification of the specific bottle bags discussed herein.

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

EFFECT ON OTHER RULINGS:

HQ H235569, dated May 17, 2013, is hereby REVOKED.

NY N179138, dated August 24, 2011, is hereby REVOKED.

NY N230128, dated September 5, 2012, is hereby MODIFIED with respect to bottle bags styles 15618 and 15622.

NY N204304, dated March 9, 2012, is hereby MODIFIED with respect to bottle bag style GEB11117/PLB.

Sincerely,

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Cc: Mr. Gunnar Hammerbeck
Bella Vita
1000 South Park Lane, Suite 1
Tempe, AZ 85281

Mr. Jim Ghedi
Ghedi International, Inc.
8002 Burleson Road
Austin, TX 78744

Ms. Maria Celis
Neville Peterson, L.L.P.
17 State Street, 19th Floor
New York, NY 10004

19 CFR PART 177**REVOCAION OF ONE RULING LETTER AND
REVOCAION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF THE LG CHROMEbase**

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

ACTION: Notice of revocation of one ruling letter, and of revocation of treatment relating to the tariff classification of the LG Chromebase.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking one ruling letter concerning tariff classification of the LG Chromebase under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 50, No. 27, on July 6, 2016. Two comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 6, 2018.

FOR FURTHER INFORMATION CONTACT: Patricia Fogle, Electronics, Machinery, Automotive, and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0061.

SUPPLEMENTARY INFORMATION:**BACKGROUND**

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter,

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

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 50, No. 27, on July 6, 2016, proposing to revoke one ruling letter pertaining to the tariff classification of the LG Chromebase. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In New York Ruling Letter ("NY") N257812, dated October 24, 2014, CBP classified the LG Chromebase in heading 8543, HTSUS, specifically in subheading 8543.70.96, HTSUS, which provides for "Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other." CBP has reviewed NY N257812 and has determined the ruling letter to be in error. It is now CBP's position that the LG Chromebase is properly classified, in heading 8471, HTSUS, specifically in subheading 8471.49.00, HTSUS, which provides for "Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included: Other automatic data processing machines: Other, entered in the form of systems."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N257812 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H264746, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: April 23, 2018

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

Attachment

HQ H264746

April 23, 2018

CLA-2 RR:CTF:EMAIN H264746 PF

CATEGORY: Classification

TARIFF NO.: 8471.49.0000

DAVID NEWMAN, ESQ.
45 VILLAGE GATE WAY
NYACK, NY 10960

RE: Revocation of NY N257812; Classification of LG Chromebase (Model Number 22CV241-W); Note 5(A) to Chapter 84, HTSUS

DEAR MR. NEWMAN:

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has reconsidered New York Ruling Letter (“NY”) N257812, dated October 24, 2014, in response to your request, dated February 23, 2015, on behalf of LG Electronics U.S.A., Inc. (“LGEUS”). In NY N257812, CBP classified the LG Chromebase (model number 22CV241-W) under subheading 8543.70.9650 of the Harmonized Tariff Schedule of the United States (“HTSUS”), which provides for “Electrical machines and apparatus ...: Other machines and apparatus: Other: Other: Other: Other.”

We have reviewed NY N257812 and found it to be in error based on the revised facts set forth in the request for reconsideration and two supplemental submissions, dated July 13, 2016 and July 25, 2016. Accordingly, for the reasons set forth below, CBP is revoking NY N257812.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed action was published on July 6, 2016, in Volume 50, Number 27, of the *Customs Bulletin*. Two substantially similar comments were received in response to this notice, and they are addressed in the ruling below.

FACTS:

In NY N257812, CBP described the LG Chromebase as follows:

The merchandise in question is referred to as a Chromebase (Model #22CV241-W) and is described as an All-in-one computer. The Chromebase is equipped with a 21.5” LED monitor, a 1.4 GHz processor, 2 GB of memory, a 15 GB solid state hard disk drive, and comes with the Chrome Operating System (OS) pre-installed. This All-in-one unit includes wired and wireless communication, built-in speakers, a microphone, and a webcam. The unit is packaged with a separate keyboard and mouse.

The Chromebase allows a user to conduct general computing tasks like web browsing, e-reading, document creation and editing, and minor photo and video editing capabilities. Users are provided with a cloud[-]based file storage solution, antivirus and security software, and photo editing applications. The unit relies on the Internet for many of its main features, but the Chromebase can operate as a standalone unit and users are able to perform some tasks that are not dependent on web connectivity. However, while in a standalone mode, some core attributes like the cloud[-]based storage do not function.

We note that software applications are limited to Chrome specific programs, and must be acquired exclusively from Chrome’s Web Store. Fur-

ther, users of the Chromebase are prevented or blocked from loading an alternative OS, web browser [other than Google Chrome], or antivirus software of their choosing other than what is available from the Chrome Web Store.

Prior to issuing NY N257812, CBP had considered and rejected classification under subheading 8471.49.00, HTSUS, which provides for “Automatic data processing machines and units thereof ...: Other automatic data processing machines: Other, entered in the form of systems.” In NY N257812, CBP explained as follows:

Based on the additional information you provided, the Chromebase is not freely programmable by the end user. It is limited in its capabilities since it is not able to do its own processing. Thus it does not meet all the requirements of Note 5A to Chapter 84, HTSUS.¹

The request for reconsideration states at the outset that it is “based upon additional facts that were not before ... CBP.” The salient additional facts, which are supported by independent documentary evidence, including the product specifications, are as follows:

1. The native OS is stored and processed on the machine itself, but the LG Chromebase can be programmed by the end users to run a different OS.²
2. Access to cloud-based storage is not a core functionality for the LG Chromebase, as the OS and many applications can function when the machine is in standalone mode (i.e., without Internet connectivity)
3. The LG Chromebase is not limited to fixed programs and there are no hardware or software blocks preventing the end users from downloading off-the-shelf, third party applications.³
4. The Chrome Web Store is not the exclusive source of applications that can be downloaded for use on the LG Chromebase; other sources are

¹ It is noteworthy that CBP rejected two earlier ruling requests submitted by LGEUS earlier in 2014 for the LG Chromebase because the facts regarding the operational capabilities appeared to be inaccurately stated by LGEUS. There was also additional outreach from CBP and discussion with LGEUS in an attempt to clarify the facts prior to the issuance of NY N257812. It was only in the context of the reconsideration request submitted by legal counsel in 2015 that CBP has been provided the necessary clarification by LGEUS (including retractions of past inaccurate statements).

² According to the reconsideration request: “Previously, in response to Customs’ questions regarding its original submission, LGEUS indicated incorrectly that it could not do so. In point of fact, it can do so but LG will not warranty the Chromebase when used with other operating systems. So, from a marketing perspective LGEUS discourages the use of such alternatives. But, from a technical standpoint, there is absolutely nothing to prevent the Chromebase from running an OS other than Chrome.”

³ We note that NY N257812 made reference to blocks regarding antivirus software and web browsers. According to the second supplemental submission for the reconsideration request, users can install web browsers (other than Google Chrome) as applications that can be run on the Chrome OS or users could install a different OS and use various web browsers. The second supplemental submission also advised that the Chrome OS has integrated antivirus software, but users can run additional antivirus software through downloadable applications or install a different OS and use various other antivirus software.

available online and programs can be manually created by the end users.⁴

It has been confirmed by LGEUS, through legal counsel, that all of the facts listed above described the specific LG Chromebase model in issue at the time of submission of the original ruling request that resulted in the issuance of NY N257812.

ISSUE:

Whether the LG Chromebase (model number 22CV241-W) is classified as “automatic data processing machines” of heading 8471, HTSUS, or as other “electrical machines” of heading 8543, HTSUS.

LAW AND ANALYSIS:

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

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

- | | |
|------|--|
| 8471 | Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included |
| 8543 | Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof |

The applicable legal note is Note 5(A) to Chapter 84, HTSUS, which states as follows:

For the purposes of heading 8471, the expression “automatic data processing machines” means machines capable of:

- (i) Storing the processing program or programs and at least the data immediately necessary for the execution of the program;
- (ii) Being freely programmed in accordance with the requirements of the user;
- (iii) Performing arithmetical computations specified by the user; and
- (iv) Executing, without human intervention, a processing program which requires them to modify their execution, by logical decision during the processing run.

In understanding the language of the HTSUS, the Explanatory Notes (“ENs”) of the Harmonized Commodity Description and Coding System, which constitute the official interpretation of the Harmonized System at the

⁴ According to the first supplemental submission for the reconsideration request: “The Chrome Web Store is still the official site for the download of Chrome applications LGEUS directs its customers to the official site to ensure a reliable user experience. ... [I]ndependent developers can program and release their own app[lications] that a Chromebase user can download.” We note that there are publicly available developer tools (known as Application Programming Interfaces or APIs) that enable end users to build applications for the Chrome OS platform (whether or not web-based).

international level, may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. *See* T.D. 89–80, 54 Fed. Reg. 35127 (August 23, 1989).

EN(A) to heading 8471 addresses automatic data processing machines and states, in relevant part, as follows:

The automatic data processing machines of this heading must be capable of fulfilling **simultaneously** the conditions laid down in Note 5 (A) to this Chapter. ...

Thus, machines which operate only on fixed programs, i.e., programs which cannot be modified by the user, are **excluded** even though the user may be able to choose between a number of such fixed programs.

These machines have storage capability and also stored programs which can be changed from job to job. ...

(emphasis in original).

We note that NY N257812 properly took the position that a machine that is inoperable without Internet access is not classifiable under heading 8471; but, it has been confirmed that the LG Chromebase does, in fact, contain such functionality. The first requirement set forth in Note 5(A) to Chapter 84 is that an automatic data processing machine of heading 8471 must be capable of “[s]toring the processing program or programs and at least the data immediately necessary for the execution of the program.” Note 5(A)(i) to Chapter 84, HTSUS. The LG Chromebase contains a hard drive as well as memory and cache capable of storing programs and data immediately necessary for program execution. The native Chrome OS is stored and processed on the machine itself, although the end users may install a different OS. Moreover, the end users can write or download native Chrome OS applications and other web-based applications, a significant portion of which remain functional on the LG Chromebase regardless of whether there is Internet connectivity.

The applications described above must also comport with the second requirement set forth in Note 5(A) to Chapter 84, which is that an automatic data processing machine of heading 8471 must be capable of “[b]eing freely programmed in accordance with the requirements of the user.” Note 5(A)(ii) to Chapter 84, HTSUS. In Headquarters Ruling Letter (“HQ”) H075336, dated May 16, 2011, CBP analyzed the meaning of “freely programmable” in this context and explained as follows:

In *Optrex America Inc. v. United States*, 4[27] F. Supp. 2d. 1177 (Ct. Int’l Trade 2006), *aff’d*, [47]5 F.3d 1367 (Fed. Cir. 2007) (“Optrex”), the U.S. Court of Appeals for the Federal Circuit (“CAFC”) upheld CBP’s long-standing interpretation that a “freely programmable” ADP machine is one that: (i) applications can be written for, (ii) does not impose artificial limitations upon such applications, and (iii) will accept new applications that allow the user to manipulate the data as deemed necessary by the user. [47]5 F.3d at 1368. *See also* Headquarters Ruling Letter (“HQ”) 964880, dated December 21, 2001. The *Optrex* court noted that “[CBP’s] interpretation is supported by the World Customs Organization’s Explanatory Notes [...] which provide that ‘machines which operate only on fixed programs, that is, programs which cannot be modified by the user, are excluded [from heading 8471] even though the user may be able to choose from a number of such fixed programs.’ Explanatory Note

84.71(I)(A).” *Id.* The court added that “[a]pplication programs are not ‘fixed’ because they can be installed or deleted from a machine.” 427 F. Supp. 2d at 1197.

The LG Chromebase is freely programmable under the criteria set forth because it is not limited to fixed programs and there are no hardware or software blocks preventing the end user from downloading off-the-shelf, third party applications. Moreover, the Chrome Web Store is not the exclusive source of applications that can be downloaded for use by the end user for installation on the LG Chromebase; other sources are available online and programs can be manually created by the end users.

Both of the comments received in response to the proposed notice of revocation are in agreement that the LG Chromebase is freely programmable; but, they claim that CBP should reach the same conclusion even if the Chrome Web Store were the sole source of applications that end users could install on the LG Chromebase. CBP is concerned that, as a general proposition, a sole source for applications could impose artificial limitations by restricting end user access to only certain kinds of applications that satisfy the preferences of the owner of the sole source. This concern arose in HQ H075336, with respect to applications available for use on the iPod Touch from Apple’s App Store, and CBP addressed it as follows:

We note that Apple’s application screening process does not effectively limit the applications available to its user because it only affects the apps intended for distribution via the App Store. As discussed above, web apps and native apps obtained through a third party’s website, or through the iOS Developer Program, are not subject to Apple’s screening process; they can be loaded onto a device without the company’s approval and without harming the device or voiding its warranty.

Similarly, the LG Chromebase is not limited to the applications available in the Chrome Web Store and so CBP need not analyze whether the Chrome Web Store imposes any artificial limitations upon the applications available through it for use on the LG Chromebase.

Except for what is discussed above, none of the other requirements for automatic data processing machines of heading 8471, HTSUS, is in controversy in this case; and, in light of the discussion, the LG Chromebase is properly classified under subheading 8471.49.00, HTSUS. *See, e.g.*, HQ H075336, cited above (classifying the Apple iPod Touch under heading 8471, HTSUS). We note that CBP’s classification of the LG Chromebase under subheading 8543.70.9650, HTSUS, in NY N257812 was the direct result of inaccurate factual statements proffered by LGEUS.

HOLDING:

By application of GRIs 1 and 6, the LG Chromebase (model number 22CV241-W) is classified under heading 8471, HTSUS, and specifically under subheading 8471.49.00, HTSUS, which provides for “Automatic data processing machines and units thereof ...: Other automatic data processing machines: Other, entered in the form of systems.” The column one, general rate of duty is free.

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

EFFECT ON OTHER RULINGS:

NY N257812, dated October 24, 2014, is hereby REVOKED.

Sincerely,

GREG CONNOR

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

19 CFR PART 177**REVOCAION OF ONE RULING LETTER AND
REVOCAION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF A GIRL'S UPPER BODY
GARMENT**

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

ACTION: Notice of revocation of one ruling letter and of revocation of treatment relating to the tariff classification of a girl's upper body garment.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. §1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is revoking one ruling letter concerning tariff classification of a girl's upper body garment under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 52, No. 2, on January 10, 2018. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 6, 2018.

FOR FURTHER INFORMATION CONTACT: Grace A. Kim, Food, Textiles and Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325-7941.

SUPPLEMENTARY INFORMATION:**BACKGROUND**

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other

information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. §1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 52, No. 2, on January 10, 2018, proposing to revoke one ruling letter pertaining to the tariff classification of a girl's upper body garment. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In New York Ruling Letter ("NY") N279310, CBP classified a girl's upper body garment in heading 6109, HTSUS, specifically in subheading 6109.10.00, HTSUS, which provides for "T-shirts, singlets, tank tops and similar garments, knitted or crocheted: Of cotton." CBP has reviewed NY N279310 and has determined the ruling letter to be in error. It is now CBP's position that a girl's upper body garment is properly classified, in heading 6212, HTSUS, specifically in subheading 6212.10.90, HTSUS, which provides for "Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted: Brassieres: Other."

Pursuant to 19 U.S.C. §1625(c)(1), CBP is revoking NY N279310 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H282945, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

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

Dated: May 8, 2018

IEVA K. O'ROURKE
for

MYLES B. HARMON,
Director

Commercial and Trade Facilitation Division

Attachment

HQ H282945

May 8, 2018

CLA-2 OT:RR:CTF:TCM H282945 GaK

CATEGORY: Classification

TARIFF NO: 6212.10.90

ANDRE LAMORGIA
CARDINAL TRADE ASSOCIATES
601 WALNUT ST. 12TH FLOOR
PHILADELPHIA, PA 19106

RE: Revocation of NY N279310; Classification of a girl's upper body garment from Peru; Eligibility of garments for preferential tariff treatment under the United States-Peru Trade Promotion Agreement

DEAR MR. LAMORGIA:

This letter is to inform you that U.S. Customs and Border Protection ("CBP") has reconsidered New York Ruling Letter ("NY") N279310, which was issued to Lululemon Athletica on October 13, 2016. In NY N279310, CBP classified a girl's upper body garment from Peru ("merchandise") under sub-heading 6109.10.00, Harmonized Tariff Schedule of the United States ("HTSUS"), which provides for: "[t]-shirts, singlets, tank tops and similar garments, knitted or crocheted: Of cotton." NY N279310 also denied preferential tariff treatment to the merchandise under the United States-Peru Trade Promotion Agreement ("PETPA"). We have reviewed NY N279310 and found it to be incorrect. For the reasons set forth below, we are revoking this ruling.

On January 10, 2018, pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed action was published in the Customs Bulletin Vol. 52, No. 2. No comments were received in response to this notice.

FACTS:

In NY N279310, the merchandise was described as follows:

The submitted sample, style IG2279S, which you describe as a "girls' sports bra," is a girl's size 7, abbreviated upper body garment intended to be worn under clothing. The garment is constructed from 92 percent cotton and 8 percent spandex finely knit jersey fabric. The garment features double layered back panels and triple layered front panels with openings at the inside side seams to accommodate cup inserts between the inside and middle layers at the discretion of the wearer. The cup inserts are not imported with the garment. A 3/8 inch covered elastic band is sewn into the bottom hem and a clear elastic tape is sewn into the neckline and the binding used to finish the top back edge and armholes. The garment has shoulder straps, 1 centimeter in width, formed from the extension of the self-fabric binding around the armholes; and 88 percent nylon and 12 percent spandex woven elastic adjustable straps. The plastic connectors between the strap components on each side allow for clipping the straps together to allow the wearer to create a racer-back effect. The garment will be imported in girls' sizes 6 – 14 and marketed to 6 – 12¹ year old girls.

¹ We note that in your reconsideration request, you stated that the garment is marketed to 6–14 year old girls.

The manufacturing process is as follows:

1. Cotton/spandex yarn is made in Peru of cotton from Peru and spandex from the U.S.
2. The fine knit jersey fabric is knit in Peru.
3. Two types of sewing thread are used; both formed and finished in Peru.
4. Plastic connectors and sliders to adjust the straps are manufactured in Austria.
5. Silicon tape in the neckline and armholes is made in Peru.
6. Woven elastic strap component, care label and heat transfer logo are made in China.
7. Rubber tape in bottom hem is made in Italy.
8. Garment is cut and sewn in Peru.
9. Finished garment is exported from Peru to the U.S.

ISSUES:

- I. Whether the merchandise is classified as “[t]-shirts, singlets, tank tops and similar garments, knitted or crocheted,” under heading 6109, HTSUS, or as “[b]rassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted,” under heading 6212, HTSUS.
- II. Whether the merchandise qualifies for preferential tariff treatment under the PETPA.

LAW AND ANALYSIS:

I. Tariff Classification

Merchandise imported into the United States is classified under the HTSUS. Tariff classification is governed by the principles set forth in the General Rules of Interpretation (“GRIs”) and, in the absence of special language or context which requires otherwise, by the Additional U.S. Rules of Interpretation. The GRIs and the Additional U.S. Rules of Interpretation are part of the HTSUS and are to be considered statutory provisions of law for all purposes. GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the heading and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

The HTSUS headings at issue are as follows:

6109	T-shirts, singlets, tank tops and similar garments, knitted or crocheted:
	* * *
6212	Brassiers, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted:

The Harmonized Commodity Description and Coding System Explanatory Notes (“ENs”) constitute the official interpretation of the Harmonized System

at the international level. While not legally binding, the ENs provide a commentary on the scope of each heading of the HTSUS and are thus useful in ascertaining the proper classification of the merchandise. *See* T.D. 89–90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN 62.12 provides as follows:

This heading covers articles of a kind designed for wear as body-supporting garments or as supports for certain other articles of apparel, and parts thereof. These articles may be made of any textile material including knitted or crocheted fabrics (whether or not elastic).

In NY N279310, CBP concluded that while the garment resembles a bra in appearance, it does not meet the basic prerequisite for classification as a brassiere as provided in EN 62.12. CBP stated that given the age range to which the garment is marketed, the essential characteristic and purpose is not to support a part of the body or another garment, as required by an article classified in heading 6212, HTSUS, but primarily intended to provide coverage for modesty purposes.

CBP has previously addressed the classification of upper body garments available in girls' sizes in NY L80873, dated November 23, 2004; NY J83918, dated May 7, 2003; and NY B87810, dated July 25, 1997. In NY L80873, CBP classified a girls' bralet featuring elasticized shoulder straps, elasticized capping at the garment top, side seams, and a fabric covering ½-inch wide elasticized bottom band under heading 6212, HTSUS. In NY J83918, CBP classified a girls' soft bra featuring shoulder straps measuring approximately ¼-inch wide, side seams, and a fabric covered elasticized bottom band measuring approximately ¾-inch wide under heading 6212, HTSUS. In NY B87810, CBP classified a girls' bra featuring adjustable elasticized straps, a single hook and eye back closure and an elasticized band bottom under heading 6212, HTSUS.

We note that neither the ENs nor the HTSUS makes reference to the age of the wearer for brassieres. CBP's Informed Compliance Publication, titled, "Classification: Apparel Terminology under the HTSUS" (published in June 2008), states that brassieres classified under heading 6212, HTSUS, are "garments worn to mold and/or support the breasts." Several studies have been conducted on breast development and early puberty for girls. The median at onset of breast development was found to be 8.8 years old² and studies have shown that 14 percent of girls are showing breast development by the age of eight³. In addition, retail companies that sell clothing for pre-teens (ages 7–14⁴) also carry bras that are marketed as body supporting

² Frank M. Biro, MD, *et al.*, *Onset of Breast Development in a Longitudinal Cohort*, 132 PEDIATRICS 6 (2013).

³ Kathleen O'Grady, *Early puberty for girls. The new 'normal' and why we need to be concerned* <http://www.cwhn.ca/en/print/node/39365> (last visited October 24, 2017); Susan Brink, *The new normal: Girls are now developing at age 8 or 9 years old, and even younger for black girls*, L.A. Times (2008); Glenn D. Braunstein, M.D. *Is 7 the New 10? Why Do Some Girls Start Puberty So Early?* (2012) https://www.huffingtonpost.com/glenn-d-braunstein-md/early-puberty_b_1826072.html (last visited October 24, 2017); WebMD, *Early Puberty: Causes and Consequences* <https://www.webmd.com/children/causes-symptoms#1> (last visited October 24, 2017).

⁴ https://www.forbes.com/2008/04/10/tween-brands-retail-markets-equity-cx_mp_0410markets31.html

for girls⁵. As the instant garment is worn for these purposes, the merchandise at issue is properly classified in heading 6212, HTSUS, specifically, subheading 6212.10.90, HTSUS, which provides for “[b]rassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted: Brassieres: Other: Other”

II. PETPA Eligibility

The U.S.-Peru Trade Promotion Agreement Implementation Act, Public Law 110–138, 121 Stat. 1455 (19 U.S.C. § 3805 note) is implemented in the HTSUS at General Note (“GN”) 32.

GN 32(b) provides in relevant part:

For the purposes of this note, subject to the provisions of subdivisions (c), (d), (m) and (n) thereof, a good imported into the customs territory of the United States is eligible for treatment as an originating good under the terms of this note if -

* * *

(ii) the good was produced entirely in the territory of Peru, the United States, or both, and-

(A) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in subdivision (n) of this note; or

* * *

and the good satisfies all other applicable requirements of this note.

* * *

As the garment at issue contains non-originating material, it is appropriate to look to GN 32(b)(ii)(A). As the garment is classified in subheading 6212.10.90, HTSUS, the applicable tariff shift rule in GN 32(n) is:

Chapter 62/29. A change to subheading 6212.10 from any other chapter, provided that the good is cut or knit to shape, or both and sewn or otherwise assembled in the territory of Peru, the United States, or both.

The non-originating plastic connectors and sliders are classified in heading 3926, HTSUS, the woven elastic strap component is classified in heading 5806, HTSUS, and rubber tape in bottom hem is classified in heading 4008, HTSUS. Since none of the non-originating materials are classified in Chapter 62, HTSUS, and the garment is cut and sewn in Peru, the garment qualifies for preferential tariff treatment under the PETPA.

HOLDING:

Under the authority of GRI 1, the girl’s upper body garment is provided for in heading 6212, HTSUS, specifically in subheading 6212.10.90, HTSUS, which provides for, “[b]rassieres, girdles, corsets, braces, suspenders, garters

⁵ https://www.walmart.com/ip/Fruit-Of-The-Loom-Girls-Built-Up-Sport-Bra-3-Pack/168339772?action=product_interest&action_type=title&beacon_version=1.0.2&bucket_id=irsbucketdefault&client_guid=67b7397a-1398-41bd-3b65-601d3373ea6c&config_id=72&customer_id_enc&findingMethod=p13n&guid=67b7397a-1398-41bd-3b65-601d3373ea6c&item_id=168339772&parent_anchor_item_id=16932578&parent_item_id=16932578&placement_id=irs-72-b3&reporter=recommendations&source=new_site&strategy=PWVUB&visitor_id=YWIdDecbPFHbw0_sqVXUM#read-more (last visited October 24, 2017).

and similar articles and parts thereof, whether or not knitted or crocheted: Brassieres: Other: Other.” The 2017 column one general rate of duty is 2.7% *ad valorem*.

The girl’s upper body garment qualifies for preferential tariff treatment under the PETPA.

EFFECT ON OTHER RULINGS:

NY N279310, dated October 13, 2016, is hereby REVOKED.

Sincerely,

IEVA K. O’ROURKE

for

MYLES B. HARMON,

Director

Commercial and Trade Facilitation Division

**ACCREDITATION AND APPROVAL OF AMSPEC LLC
(FREEPORT, TX) AS A COMMERCIAL GAUGER AND
LABORATORY**

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

ACTION: Notice of accreditation and approval of AmSpec LLC (Freeport, TX), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec LLC (Freeport, TX), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of March 7, 2018.

DATES: AmSpec LLC (Freeport, TX) was approved and accredited as a commercial gauger and laboratory as of March 7, 2018. The next triennial inspection date will be scheduled for March 2021.

FOR FURTHER INFORMATION CONTACT: Christopher J. Mocella, 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 AmSpec LLC, 2004 Victoria Ln., Freeport, TX 77541, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. AmSpec LLC (Freeport, TX) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
11.1	Temperature-Correction Factors.
12	Calculations.
17	Maritime Measurement.

AmSpec LLC (Freeport, TX) is accredited for the following laboratory analysis procedures and methods for petroleum and certain

petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-06.....	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-11.....	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids.
27-13.....	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27-46.....	D5002	Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer.
Pending.....	D3227	Standard Test Method for (Thiol Mercaptan) Sulfur in Gasoline, Kerosene, Aviation Turbine, and Distillate Fuels (Potentiometric Method).
Pending.....	D4007	Standard Test Method for Water and Sediment in Crude Oil by the Centrifuge Method (Laboratory Procedure).
Pending.....	D4807	Standard Test Method for Sediment in Crude Oil by Membrane Filtration.
Pending.....	D5705	Standard Test Method for Measurement of Hydrogen Sulfide in the Vapor Phase Above Residual Fuel Oils.

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 CBPGaugersLabs@cbp.dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: May 16, 2018.

DAVE FLUTY,
Executive Director,
Laboratories and Scientific Services.

**NOTICE OF ISSUANCE OF FINAL DETERMINATION
CONCERNING COUNTRY OF ORIGIN OF FLEETCAM
VEHICLE CAMERAS**

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 a vehicle digital video camera known as the FleetCam™. Based upon the facts presented, CBP has concluded that the processing in the United States does not substantially transform the imported digital video cameras for purposes of U.S. Government procurement.

DATES: The final determination was issued on May 18, 2018. 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 within June 25, 2018.

FOR FURTHER INFORMATION CONTACT: Robert Dinerstein, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade (202–325–0132).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on May 18, 2018, pursuant to subpart B of Part 177, Customs and Border Protection (CBP) Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of the FleetCam™ digital video camera, which may be offered to the United States Government under an undesignated government procurement contract. This final determination, HQ H294933, was issued under the 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 the country of origin of the finished FleetCam™ was China, where the digital video camera and the camera’s firmware were manufactured.

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: May 18, 2018.

ALICE A. KIPEL,
Executive Director,
Regulations and Rulings, Office of Trade.

HQ H294933

May 18, 2018

OT:RR:CTF:VS H294933 RSD

CATEGORY: Origin

UPNEET S. TEJI, ESQ.
GREENSFELDER, HEMKER & GALE, P.C.
220 MADISON STREET, SUITE 3300
CHICAGO, ILLINOIS 60606

RE: Final Determination of U.S. Government Procurement; Country of Origin of a FleetCamTM vehicle camera

DEAR MR. TEJI:

This is in response to your eruling request of January 27, 2018, for a final determination on behalf of Forward Thinking Systems LLC, (the Company), concerning the country of origin of a FleetCam vehicle camera pursuant to subpart B of Part 177, U.S. Customs and Border Protection (“CBP”) Regulations (19 CFR § 177.21 *et. seq.*). We note that the Company is a party-at-interest within the meaning of 19 CFR § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

The product at issue is referred to as a FleetCam, which is a high-resolution digital video camera installed in a vehicle for streaming and recording images in real time. The FleetCam allows companies who purchase the product to watch the drivers that they employee in real-time, as well as view recorded speeding and other behavior moments. The FleetCam is also able to capture, record, and transmit images of a driver’s view of the road ahead. The FleetCam is comprised of a physical digital video camera or several cameras setup together. The product also contains related cabling and a receiver that is compatible for use specifically with the Company’s software and mobile applications. To use the FleetCam product, a user must purchase the hardware and a subscription to the software from the Company.

The FleetCam’s physical digital video camera is made in China and sourced by the Company from a Chinese firm. The firmware that is loaded onto the camera to allow it to be operational with the Company’s software was also developed by the Chinese firm; however, you state that the firmware was developed based upon the design, specifications, and software architecture produced by the Company’s staff located in the United States. The firmware developed for the FleetCam is designed specifically for use with the Company’s fleet management software. The digital camera hardware (together with the firmware) is purchased by the Company from a Chinese producer.

The firmware is not loaded onto the camera hardware until it is received by the Company in the United States. Upon receipt of the camera and the firmware code, the Company’s engineers load and install the firmware on the camera hardware at the Company’s offices in the United States. An additional hardware component of the FleetCam product is the telematics gateway unit (the “cabling”). The cabling units, including the receivers, are purchased from one or more manufacturers, and they are manufactured and procured from other TAA-compliant jurisdictions. The digital camera contains dual SD Cards that allow it to internally record the events that took place.

The basic software component of the FleetCam product is produced in the United States. In addition, other than the firmware development for the camera hardware, all of the FleetCam software (including without limitation, software applications and mobile applications) are designed, developed, and integrated with the Company's cloud service in the United States. In order for the FleetCam to be functional and operational, the hardware and the related firmware is installed with the cabling and integrated with the FleetCam software platform. This compilation process occurs entirely in the United States.

The Company sells the FleetCam software as a software-as-a service subscription, whereby the Company's customers enter into a separate subscription for use of the FleetCam software. After purchase of the FleetCam hardware, the Company's customers pay a separate monthly fee for using its proprietary software. The FleetCam hardware and software must be purchased together as part of the same package. Without the FleetCam software, it is stated that the camera and the related components are not operational. If a customer cancels its software subscription, the FleetCam product will no longer be functional.

ISSUE:

Whether the imported components including the digital video camera and cabling for the FleetCam are substantially transformed through the downloading of the Company's proprietary software in the United States so as to make the FleetCam a product of the United States.

LAW AND ANALYSIS:

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, pursuant to subpart B of Part 177, 19 C.F.R. § 177.21 *et seq.*, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 *et seq.*).

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 C.F.R. § 177.22(a).

In rendering final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with the Federal Procurement Regulations. *See* 19 C.F.R. § 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 Trade Agreements Act. *See* 48 C.F.R. § 25.403(c)(1). The Federal Acquisition 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 name, character, or use distinct from that of the article or articles from which it was transformed.” See 48 C.F.R § 25.003.

In *Data General v. United States*, 4 C.I.T. 182 (1982), the court determined that the programming of a foreign PROM (Programmable Read-Only Memory chip) in the United States substantially transformed the PROM into a U.S. article. In the United States, the programming bestowed upon each integrated circuit its electronic function, that is, its “memory” which could be retrieved. A distinct physical change was effected in the PROM by the opening or closing of the fuses, depending on the method of programming. The essence of the article, its interconnections or stored memory, was established by programming. See also, *Texas Instruments v. United States*, 681 F.2d 778, 782 (CCPA 1982) (stating the substantial transformation issue is a “mixed question of technology and customs law”); HQ 735027, dated September 7, 1993 (programming blank media (EEPROM) with instructions that allow it to perform certain functions that prevent piracy of software constitutes a substantial transformation); and, HQ 734518, dated June 28, 1993 (motherboards are not substantially transformed by the implanting of the central processing unit on the board because, whereas in *Data General* use was being assigned to the PROM, the use of the motherboard had already been determined when the importer imported it).

“The term ‘character’ is defined as ‘one of the essentials of structure, form, materials, or function that together make up and usually distinguish the individual.’” *National Hand Tool Corp. v. United States*, 16 C.I.T. 308, 311 (1992) (citing *Webster’s Third New International Dictionary* (1981)). In *National Juice Prods. Ass’n v. United States*, the Court of International Trade applied the “essence test” and found that the fundamental character of orange juice concentrate was not changed by the addition of water, orange essences, and oils to make frozen concentrated orange juice, and hence, there was no substantial transformation. 10 C.I.T. 48, 628 F. Supp. 978 (1986).

HQ H258960, dated May 19, 2016, reviewed the country of origin of hardware components of certain transceivers in two scenarios that are instructive to the case at issue here. The hardware components of the transceivers were wholly manufactured in a foreign country and imported into the United States. In the first scenario, the transceivers were “blanks” and completely non-functional and specialized proprietary software was developed and downloaded in the United States, making the transceivers functional and compatible with the OEM technology. In the second scenario, the transceivers were preprogrammed with a generic program that was replaced with specialized proprietary software. It was argued that in both scenarios, the imported hardware was substantially transformed by the development, configuration, and downloading operations of the U.S. origin software. In the first scenario, we found that the non-functional transceivers were substantially transformed as a result of downloading performed in the United States, with proprietary software developed in the United States. However, in the second scenario, it was determined that since the transceivers had generic network functionality, programming them merely to customize their network compatibility would not actually change the identity of the imported trans-

ceivers. *See also* HQ H241177, dated December 3, 2013. Accordingly, it was determined that the country where the last substantial transformation occurred was China or another Asian country where the hardware components were manufactured.

A similar finding was made in HQ H284523, dated August 23, 2017, where imported tablet computers were preprogrammed with a generic program when they were first imported. The tablets could perform all of the standard functions of an android tablet in their imported condition. After importation, the imported tablets were customized for a particular use as part of a system to collect and transmit a patient's medical data by the installation of proprietary software. The original tablet had the ability to perform all of previous functions, but it was determined that for ease of use and for other reasons it was best to disable these functions and to consolidate them in one function via the specialized software. It was stated that the general functionality of the tablet was removed and replaced so that it was easier for patients to use the device and access the system. It was also stated that the security of the patient's medical data would be better protected. In HQ H284523, we noted that it was clear that merely loading the specialized software onto the tablet computer that remained fully functional as a computer would be insufficient to constitute a new and different article of commerce, since all of the functionality of the original computer would be retained.

In this case, the Company's proprietary software is being installed onto a digital video camera so that the camera can provide live-streaming of a driver and his view of the road from multiple vantage points. In addition, after the software is installed onto the FleetCam, it is able to capture, record, and store footage of particular incidents that may have occurred. While the particular proprietary software is written and downloaded in the United States, we note that the firmware being used to operate the FleetCam, although designed in the United States, was not written in the United States, but in China. Therefore, similar to HQ H284523, where the tablet could function, in this case, because the digital camera contains SD cards, it can fully function as a digital video camera by capturing images and recording footage. The installation of the proprietary software onto the FleetCam only customizes the digital cameras to the Company's particular use and does not change the basic identity of the imported digital video cameras because they retain all their functions with the same name, character and use of the imported digital video cameras. Therefore, we find that the FleetCam is not substantially transformed by the downloading of the Company's proprietary software onto the imported digital video cameras, and the country of origin of the FleetCam will be China where the main hardware, including the digital cameras and the firmware, is manufactured.

HOLDING:

Based on the information presented in this case, the imported digital video cameras are not substantially transformed by the processing performed in the United States. Therefore, the country of origin of the FleetCams is the country where the digital video cameras and the firmware were originally produced, which in this case is China.

Notice of this final determination will be given in the **Federal Register**, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R.

§ 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 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,

Alice A. Kipel,
*Executive Director,
Regulations and Rulings*

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

(NO. 4 2018)

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

SUMMARY: The following copyrights, trademarks, and trade names were recorded with U.S. Customs and Border Protection in April 2018. The last notice was published in the CUSTOMS BULLETIN Vol. 52, No. 20, May 16, 2018.

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

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

CHARLES R. STEUART

Chief,

Intellectual Property Rights Branch

Regulations and Rulings

Office of Trade

CBP IPR RECORDATION — APRIL 2018

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tmm	Owner Name	GM Restricted
COP 18-00063	04/02/2018	04/02/2038	GO BASEBALL WORLD	KEVIN NOH	No
COP 18-00064	04/02/2018	04/02/2038	PIRATE BATTLESHIP	KEVIN NOH	No
COP 18-00065	04/03/2018	04/03/2038	Jersey Designs	adidas AG	No
COP 18-00066	04/03/2018	04/03/2038	BULL HEAD SKULL TOWN	KEVIN NOH	No
COP 18-00067	04/03/2018	04/03/2038	UNICORN WORLD TOWN	KEVIN NOH	No
COP 18-00068	04/03/2018	04/03/2038	NARWAL WORLD	KEVIN NOH	No
COP 18-00069	04/09/2018	04/09/2038	Lorule Crest.	Nintendo of America Inc.	No
COP 18-00070	04/09/2018	04/09/2038	POKEMON ULTRA MOON.	GAME FREAK Inc. and Nintendo Of America, Inc. et al	No
COP 18-00071	04/25/2018	04/25/2038	Paw Patrol Tracker & Vehicle	Spin Master Ltd.	No
COP 18-00072	04/26/2018	04/26/2038	Facial Masks	Menovi, LLC	No
COP 98-00085	04/17/2018	04/17/2038	YOSHIS STORY (N64 VERSION)	Nintendo of America, Inc.	No
TMK 00-00620	04/25/2018	01/03/2026	Dior Trademark (Stylized)	CHRISTIAN DIOR COUTURE, S.A.	No
TMK 00-00620	04/25/2018	01/03/2026	Dior Trademark (Stylized)	CHRISTIAN DIOR COUTURE, S.A.	No
TMK 02-00113	04/09/2018	07/21/2028	MIAMI HEAT & Design	MIAMI HEAT LIMITED PARTNERSHIP	No
TMK 02-00113	04/09/2018	07/21/2028	MIAMI HEAT & Design	MIAMI HEAT LIMITED PARTNERSHIP	No
TMK 03-00481	04/12/2018	03/16/2028	VERSACE	GIANNI VERSACE S.P.A.	No
TMK 03-00481	04/12/2018	03/16/2028	VERSACE	GIANNI VERSACE S.P.A.	No
TMK 04-00531	04/12/2018	02/28/2024	CD (Stylized)	CHRISTIAN DIOR COUTURE, S.A.	No
TMK 04-00531	04/12/2018	02/28/2024	CD (Stylized)	CHRISTIAN DIOR COUTURE, S.A.	No

CBP IPR RECORDATION — APRIL 2018

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 04-00532	04/12/2018	09/15/2023	DESIGN ONLY	CHRISTIAN DIOR COUTURE, S.A.	No
TMK 04-00532	04/12/2018	09/15/2023	DESIGN ONLY	CHRISTIAN DIOR COUTURE, S.A.	No
TMK 06-00220	04/03/2018	01/14/2028	3 IN 1 3-IN-ONE& Design	WD-40 COMPANY	No
TMK 06-00220	04/03/2018	01/14/2028	3 IN 1 3-IN-ONE& Design	WD-40 COMPANY	No
TMK 07-00278	04/25/2018	11/12/2023	Dior Trademark (Stylized)	Christian Dior Couture, S.A.	No
TMK 07-00278	04/25/2018	11/12/2023	Dior Trademark (Stylized)	Christian Dior Couture, S.A.	No
TMK 07-01028	04/09/2018	05/17/2027	COLGATE	COLGATE-PALMOLIVE COMPANY	No
TMK 07-01028	04/09/2018	05/17/2027	COLGATE	COLGATE-PALMOLIVE COMPANY	No
TMK 07-01138	04/09/2018	09/21/2028	LIQUI-MARK	LIQUI-MARK CORPORATION	No
TMK 07-01138	04/09/2018	09/21/2028	LIQUI-MARK	LIQUI-MARK CORPORATION	No
TMK 07-01158	04/09/2018	04/02/2028	ARIZONA CARDINALS	ARIZONA CARDINALS FOOTBALL CLUB LLC	No
TMK 07-01158	04/09/2018	04/02/2028	ARIZONA CARDINALS	ARIZONA CARDINALS FOOTBALL CLUB LLC	No
TMK 07-01266	04/03/2018	12/25/2027	DIOR	PARFUMS CHRISTIAN DIOR	No
TMK 07-01266	04/03/2018	12/25/2027	DIOR	PARFUMS CHRISTIAN DIOR	No
TMK 08-00270	04/08/2018	06/04/2028	CARDINALS	ARIZONA CARDINALS FOOTBALL CLUB LLC	No
TMK 08-00270	04/08/2018	06/04/2028	CARDINALS	ARIZONA CARDINALS FOOTBALL CLUB LLC	No

CBP IPR RECORDATION — APRIL 2018

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 08-00409	04/11/2018	04/17/2028	BASIC	Philip Morris USA Inc	Yes
TMK 08-00409	04/11/2018	04/17/2028	BASIC	Philip Morris USA Inc	Yes
TMK 08-00615	04/09/2018	06/11/2028	VOSS ARTESIAN WATER FROM NOR-WAY and Design	VOSS OF NORWAY AS	No
TMK 08-00615	04/09/2018	06/11/2028	VOSS ARTESIAN WATER FROM NOR-WAY and Design	VOSS OF NORWAY AS	No
TMK 08-00623	04/09/2018	06/11/2028	VOSS ARTESIAN WATER FROM NOR-WAY SPARKLING & BOTTLE DESIGN	VOSS OF NORWAY AS	No
TMK 08-00623	04/09/2018	06/11/2028	VOSS ARTESIAN WATER FROM NOR-WAY SPARKLING & BOTTLE DESIGN	VOSS OF NORWAY AS	No
TMK 08-01021	04/03/2018	06/18/2028	Design Only (Configuration of a hand-held safety air gun)	Guardair Corporation	No
TMK 08-01021	04/03/2018	06/18/2028	Design Only (Configuration of a hand-held safety air gun)	Guardair Corporation	No
TMK 09-00024	04/04/2018	05/19/2028	WARIO	Nintendo of America Inc.	No
TMK 09-00024	04/04/2018	05/19/2028	WARIO	Nintendo of America Inc.	No
TMK 09-00405	04/03/2018	04/02/2028	R-14	BENDIX COMMERCIAL VEHICLE SYS-TEMS LLC	No
TMK 09-00405	04/03/2018	04/02/2028	R-14	BENDIX COMMERCIAL VEHICLE SYS-TEMS LLC	No

CBP IPR RECORDATION — APRIL 2018

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 09-00407	04/03/2018	01/02/2028	RE-6	BENDIX COMMERCIAL VEHICLE SYS- TEMS LLC	No
TMK 09-00407	04/03/2018	01/02/2028	RE-6	BENDIX COMMERCIAL VEHICLE SYS- TEMS LLC	No
TMK 09-00408	04/03/2018	04/02/2028	TP-3	BENDIX COMMERCIAL VEHICLE SYS- TEMS LLC	No
TMK 09-00408	04/03/2018	04/02/2028	TP-3	BENDIX COMMERCIAL VEHICLE SYS- TEMS LLC	No
TMK 09-00411	04/03/2018	01/02/2028	R-12	BENDIX COMMERCIAL VEHICLE SYS- TEMS LLC	No
TMK 09-00411	04/03/2018	01/02/2028	R-12	BENDIX COMMERCIAL VEHICLE SYS- TEMS LLC	No
TMK 09-00414	04/03/2018	04/02/2028	R-12DC	BENDIX COMMERCIAL VEHICLE SYS- TEMS LLC	No
TMK 09-00414	04/03/2018	04/02/2028	R-12DC	BENDIX COMMERCIAL VEHICLE SYS- TEMS LLC	No
TMK 09-00417	04/03/2018	08/01/2027	MV-3	Bendix Commercial Vehicle Systems LLC	No
TMK 09-00417	04/03/2018	08/01/2027	MV-3	Bendix Commercial Vehicle Systems LLC	No
TMK 09-00469	04/03/2018	04/09/2028	SR-7	BENDIX COMMERCIAL VEHICLE SYS- TEMS LLC	No

CBP IPR RECORDATION — APRIL 2018

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 09-00469	04/03/2018	04/09/2028	SR-7	BENDIX COMMERCIAL VEHICLE SYS-TEMS LLC	No
TMK 09-00498	04/03/2018	06/15/2025	E-Z-GRIP	Bendix Commercial Vehicle Systems LLC	No
TMK 09-00498	04/03/2018	06/15/2025	E-Z-GRIP	Bendix Commercial Vehicle Systems LLC	No
TMK 09-00585	04/03/2018	12/01/2028	ELLE	HACHETTE FILIPACCHI PRESSE	No
TMK 09-00585	04/03/2018	12/01/2028	ELLE	HACHETTE FILIPACCHI PRESSE	No
TMK 09-00794	04/03/2018	08/01/2027	AD-9	Bendix Commercial Vehicle Systems LLC	No
TMK 09-00794	04/03/2018	08/01/2027	AD-9	Bendix Commercial Vehicle Systems LLC	No
TMK 09-00939	04/03/2018	07/20/2024	PURAGUARD	BENDIX COMMERCIAL VEHICLE SYS-TEMS, LLC	No
TMK 09-00939	04/03/2018	07/20/2024	PURAGUARD	BENDIX COMMERCIAL VEHICLE SYS-TEMS, LLC	No
TMK 09-01194	04/10/2018	08/13/2028	CHRISTIAN LOUBOUTIN	Christian Louboutin	No
TMK 09-01194	04/10/2018	08/13/2028	CHRISTIAN LOUBOUTIN	Christian Louboutin	No
TMK 09-01202	04/10/2018	05/06/2027	CHRISTIAN LOUBOUTIN	Christian LOUBOUTIN	No
TMK 09-01202	04/10/2018	05/06/2027	CHRISTIAN LOUBOUTIN	Christian LOUBOUTIN	No
TMK 09-01209	04/04/2018	04/01/2028	DESIGN ONLY (LACQUERED RED SOLE ON FOOTWEAR)	Christian Louboutin	No
TMK 09-01209	04/04/2018	04/01/2028	DESIGN ONLY (LACQUERED RED SOLE ON FOOTWEAR)	Christian Louboutin	No

CBP IPR RECORDATION — APRIL 2018

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/Tm	Owner Name	GM Restricted
TMK 10-00066	04/10/2018	06/04/2028	SATECHI and Design	SARIANA LLC	No
TMK 10-00066	04/10/2018	06/04/2028	SATECHI and Design	SARIANA LLC	No
TMK 10-00177	04/04/2018	09/03/2028	LEE KUM KEE HONG KONG AND DE-SIGN	Lee Kum Kee Company Limited	No
TMK 10-00177	04/04/2018	09/03/2028	LEE KUM KEE HONG KONG AND DE-SIGN	Lee Kum Kee Company Limited	No
TMK 10-00502	04/03/2018	08/20/2018	HUCK	HUCK DOLL LLC	No
TMK 10-00502	04/03/2018	08/20/2018	HUCK	HUCK DOLL LLC	No
TMK 10-00605	04/26/2018	04/19/2028	SILCA & Design	SILCA S.P.A.	No
TMK 10-00605	04/26/2018	04/19/2028	SILCA & Design	SILCA S.P.A.	No
TMK 10-00743	04/03/2018	09/10/2028	CRAZY 8	Gym-Mark, Inc.	No
TMK 10-00743	04/03/2018	09/10/2028	CRAZY 8	Gym-Mark, Inc.	No
TMK 10-00823	04/30/2018	04/29/2028	DIXIE	GPCP IP HOLDINGS LLC	No
TMK 10-00823	04/30/2018	04/29/2028	DIXIE	GPCP IP HOLDINGS LLC	No
TMK 10-00952	04/09/2018	05/24/2028	20TH CENTURY FOX HOME ENTERTAINMENT & Design	Twentieth Century Fox Film Corporation	No
TMK 10-00952	04/09/2018	05/24/2028	20TH CENTURY FOX HOME ENTERTAINMENT & Design	Twentieth Century Fox Film Corporation	No
TMK 11-00962	04/08/2018	06/25/2028	HOLLISTER CO.	Abercrombie & Fitch Trading Co.	No
TMK 11-00962	04/08/2018	06/25/2028	HOLLISTER CO.	Abercrombie & Fitch Trading Co.	No

CBP IPR RECORDATION — APRIL 2018

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 11-01030	04/10/2018	07/29/2028	TUBE CUT	Top Tobacco, L.P.	No
TMK 11-01030	04/10/2018	07/29/2028	TUBE CUT	Top Tobacco, L.P.	No
TMK 11-01069	04/12/2018	07/01/2028	TOP	Top Tobacco, L.P.	No
TMK 11-01069	04/12/2018	07/01/2028	TOP	Top Tobacco, L.P.	No
TMK 12-00264	04/10/2018	07/22/2028	BMB (Stylized)	KABUSHIKI KAISHA EKUSHINGU	No
TMK 12-00264	04/10/2018	07/22/2028	BMB (Stylized)	KABUSHIKI KAISHA EKUSHINGU	No
TMK 12-00404	04/25/2018	04/22/2028	NF NIGHTFORCE PRECISION OPTICS (Design plus words)	LIGHTFORCE U.S.A., Inc	No
TMK 12-00404	04/25/2018	04/22/2028	NF NIGHTFORCE PRECISION OPTICS (Design plus words)	LIGHTFORCE U.S.A., Inc	No
TMK 12-01318	04/25/2018	02/07/2021	SEBAGO	TOS S.R.L.	No
TMK 12-01318	04/25/2018	02/07/2021	SEBAGO	TOS S.R.L.	No
TMK 13-00877	04/25/2018	05/09/2028	NSK	NSK LTD.	No
TMK 13-00877	04/25/2018	05/09/2028	NSK	NSK LTD.	No
TMK 14-00253	04/12/2018	05/09/2028	DUNLOP	DNA (HOUSEMARKS)	No
TMK 14-00253	04/12/2018	05/09/2028	DUNLOP	DNA (HOUSEMARKS)	No
TMK 14-00436	04/11/2018	04/14/2023	47	'47 BRAND, LLC	No
TMK 14-00436	04/11/2018	04/14/2023	47	'47 BRAND, LLC	No
TMK 14-00466	04/26/2018	07/07/2028	NSK Logo Design	NSK Europe Limited	No
TMK 14-00466	04/26/2018	07/07/2028	NSK Logo Design	NSK Europe Limited	No

CBP IPR RECORDATION — APRIL 2018

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 14-00475	04/26/2018	02/19/2028	DISNEY	Disney Enterprises, Inc.	No
TMK 14-00475	04/26/2018	02/19/2028	DISNEY	Disney Enterprises, Inc.	No
TMK 14-00482	04/11/2018	01/08/2023	47 FORTY SEVEN BRAND (CIRCULAR LOGO)	'47 BRAND, LLC	No
TMK 14-00482	04/11/2018	01/08/2023	47 FORTY SEVEN BRAND (CIRCULAR LOGO)	'47 BRAND, LLC	No
TMK 15-00744	04/09/2018	04/28/2028	DESIGN ONLY (CROWN)	ROLEX WATCH U.S.A., INC.	No
TMK 15-00744	04/09/2018	04/28/2028	DESIGN ONLY (CROWN)	ROLEX WATCH U.S.A., INC.	No
TMK 16-00175	04/26/2018	05/05/2028	BOOKWALTER	SPECIALTY SURGICAL INSTRUMENTATION INC.	No
TMK 16-00175	04/26/2018	05/05/2028	BOOKWALTER	SPECIALTY SURGICAL INSTRUMENTATION INC.	No
TMK 16-00280	04/09/2018	04/01/2028	AEGIS	Kimber IP, LLC	No
TMK 16-00280	04/09/2018	04/01/2028	AEGIS	Kimber IP, LLC	No
TMK 16-00995	04/04/2018	10/03/2027	DESIGN ONLY (Outsole)	Converse Inc.	No
TMK 16-00995	04/04/2018	10/03/2027	DESIGN ONLY (Outsole)	Converse Inc.	No
TMK 17-00072	04/10/2018	04/29/2028	RED SOLE (DESIGN ONLY)	Christian LOUBOUTIN	No
TMK 17-00072	04/10/2018	04/29/2028	RED SOLE (DESIGN ONLY)	Christian LOUBOUTIN	No
TMK 17-01201	04/10/2018	05/26/2028	PERRIER JOUËT	Champagne Perrier-Jouët SA	No
TMK 17-01201	04/10/2018	05/26/2028	PERRIER JOUËT	Champagne Perrier-Jouët SA	No

CBP IPR RECORDATION — APRIL 2018

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 18-00241	04/02/2018	04/30/2027	IBEAT	iBeat, Inc.	No
TMK 18-00242	04/02/2018	08/10/2026	ION WIRELESS	iOttie, Inc	No
TMK 18-00243	04/03/2018	12/03/2023	TRUEFIT & HILL	Truefitt & Hill (Gentlemen's Grooming) Limited	No
TMK 18-00244	04/03/2018	04/23/2028	KING EGG	Grant, Irina	No
TMK 18-00245	04/03/2018	04/23/2028	MAGIK EGG	Grant, Irina	No
TMK 18-00246	04/03/2018	04/23/2028	LUCKY EGG	Grant, Irina	No
TMK 18-00247	04/03/2018	03/03/2024	ALTURA PHOTO	Goja, LLC	No
TMK 18-00248	04/03/2018	02/06/2023	MAGICFIBER	GOJA LLC	No
TMK 18-00249	04/03/2018	03/07/2024	CLIMALITE	ADIDAS AG	No
TMK 18-00250	04/03/2018	07/05/2026	TORY SPORT	River Light V, L.P.	No
TMK 18-00251	04/03/2018	06/13/2028	BOSE	Bose Corporation	No
TMK 18-00252	04/03/2018	01/13/2020	PROTAPER	Lacy Distribution, Inc.	No
TMK 18-00253	04/04/2018	06/30/2019	PROTAPER and Design	Lacy Distribution, Inc.	No
TMK 18-00254	04/04/2018	08/14/2023	PANDORA	Pandora A/S	No
TMK 18-00255	04/04/2018	12/26/2027	WALL NANNY	Tate D. Hancock	No
TMK 18-00256	04/04/2018	09/20/2027	YOUR VITAL AIR SOURCE	Sammy Chu	No
TMK 18-00257	04/04/2018	09/20/2027	TEQUILA	Consejo Regulador del Tequila, A.C.	No
TMK 18-00258	04/05/2018	05/04/2024	DESIGN ONLY (Lexus Grille)	Toyota Jidosha Kabushiki Kaisha TA	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 18-00259	04/05/2018	09/30/2025	DESIGN ONLY (Light)	Toyota Jidosha Kabushiki Kaisha TA Toyota Motor Corporation	No
TMK 18-00260	04/05/2018	02/14/2028	SILVER CANYON BOOT AND CLOTHING COMPANY B (Stylized)	Kavesh Enterprises, LLC DBA 3P Marketplace Solutions Balenciaga	No
TMK 18-00261	04/05/2018	08/02/2027	B (Stylized)	Balenciaga	No
TMK 18-00262	04/05/2018	11/12/2025	BALENCIAGA (stylized)	BALENCIAGA	No
TMK 18-00263	04/05/2018	08/02/2027	T and Design (Perf T Logo)	River Light V, L.P.	No
TMK 18-00264	04/05/2018	12/11/2022	KANGOL and Design	Kangol Limited	No
TMK 18-00265	04/09/2018	08/02/2027	T and Design (Perf T Logo)	River Light V, L.P.	No
TMK 18-00266	04/09/2018	04/16/2028	WASHINGTON REDSKINS	Pro Football, Inc.	No
TMK 18-00267	04/09/2018	01/17/2028	G WEALTH FINANCIAL SERVICES and Design	Walter S Flores	No
TMK 18-00268	04/09/2018	10/30/2023	TIGHTROPE	Tendrill Wine Cellars, Inc.	No
TMK 18-00269	04/09/2018	05/16/2020	BLUE FORCE GEAR	Blue Force Gear	No
TMK 18-00270	04/09/2018	11/08/2027	SPACE CASE	XYZ Precision Manufacturing, Inc.	No
TMK 18-00271	04/09/2018	05/06/2028	FENTY BEAUTY BY RIHANNA	Roraj Trade LLC	No
TMK 18-00272	04/09/2018	05/20/2028	FENTY BEAUTY BY RIHANNA	Roraj Trade LLC	No
TMK 18-00273	04/09/2018	08/02/2026	DORISSA	SUGAR PLUM N.Y., INC.	No
TMK 18-00274	04/09/2018	11/01/2027	CL & DESIGN (Stylized)	M.LOUBOUTIN Christian	No
TMK 18-00275	04/09/2018	09/30/2028	LUNA VINEYARDS	Luna Vineyards, Inc.	No

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Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 18-00276	04/09/2018	04/06/2025	BEE'S WRAP	Bee's Wrap, LLC	No
TMK 18-00277	04/09/2018	05/21/2027	DESIGN ONLY (MICROTECH KNIVES - EAGLE TALON LOGO)	Microtech Knives, Inc.	No
TMK 18-00278	04/09/2018	05/19/2022	RE VIVE	RV SKINCARE BRANDS LLC	No
TMK 18-00279	04/09/2018	06/13/2028	DIAMOND ESSENCE	MEESHAA INC.	No
TMK 18-00280	04/09/2018	12/21/2020	ABEO	The Walking Company Holdings, Inc.	No
TMK 18-00281	04/09/2018	08/12/2025	ABEO	The Walking Company Holdings, Inc.	No
TMK 18-00282	04/09/2018	09/03/2024	ROLAND	ROLAND FOODS, LLC	No
TMK 18-00283	04/10/2018	05/13/2028	MICRODERM GLO	Triton Holdings, LLC	No
TMK 18-00284	04/10/2018	07/01/2024	POLO RED	PRL USA Holdings, Inc.	No
TMK 18-00285	04/10/2018	05/20/2027	M (Design plus words)	MICROTECH KNIVES, INC.	No
TMK 18-00286	04/11/2018	05/09/2020	ALBION (Stylized)	Albion Co., Ltd.	No
TMK 18-00287	04/11/2018	10/04/2027	ESSENTIAL	Albion Co., Ltd.	No
TMK 18-00288	04/11/2018	07/18/2027	TINY HEADED KINGDOM	Tiny Heads LLC	No
TMK 18-00289	04/12/2018	02/22/2027	MARFONE CUSTOM KNIVES	Microtech Knives, Inc.	No
TMK 18-00290	04/12/2018	08/20/2024	INSTA and Design	Instagram LLC	No
TMK 18-00291	04/12/2018	08/09/2027	DESIGN ONLY (Instagram App Icon (spectrum))	Instagram, LLC	No
TMK 18-00292	04/12/2018	08/10/2026	DESIGN ONLY (PINK CAP)	Sulzer Mixpac AG	No
TMK 18-00293	04/12/2018	08/10/2026	DESIGN ONLY (TEAL CAP)	Sulzer Mixpac AG	No

CBP IPR RECORDATION — APRIL 2018

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 18-00294	04/12/2018	08/10/2026	DESIGN ONLY (PURPLE CAP)	Sulzer Mixpac AG	No
TMK 18-00295	04/13/2018	02/22/2027	INSTAGRAM	Instagram, LLC	No
TMK 18-00296	04/13/2018	08/10/2026	DESIGN ONLY (BLUE CAP REGISTRATION)	Sulzer Mixpac AG	No
TMK 18-00297	04/13/2018	12/28/2021	SEA BULK	STEPHEN D. PODD	No
TMK 18-00298	04/13/2018	07/05/2026	DESIGN ONLY (YELLOW CAP REGISTRATION)	Sulzer Mixpac AG	No
TMK 18-00299	04/13/2018	02/01/2027	DESIGN ONLY (BROWN CAP REGISTRATION)	Sulzer Mixpac AG	No
TMK 18-00300	04/13/2018	03/16/2025	SEBAGO	Tos S.r.l.	No
TMK 18-00302	04/23/2018	08/31/2021	SEBAGO DOCKSIDES	Tos S.r.l.	No
TMK 18-00303	04/25/2018	06/27/2028	JORESTECH	Technopack Corporation	No
TMK 18-00304	04/25/2018	02/16/2021	DON BRUNO	ROLAND FOODS, LLC	No
TMK 18-00305	04/25/2018	05/08/2027	BALENCIAGA	BALENCIAGA, S.A.	No
TMK 18-00306	04/25/2018	01/11/2027	BB (Stylized)	BALENCIAGA	No
TMK 18-00307	04/25/2018	05/27/2028	#SPORTYCHIC	Major Trading Inc.	No
TMK 18-00308	04/25/2018	12/29/2025	INSTAGRAM	Instagram, LLC	No
TMK 18-00309	04/25/2018	04/23/2028	INGRAM'S CAMPHOR CREAM	Alpine Pharmaceutica, Inc.	No
TMK 18-00310	04/25/2018	03/26/2028	ECO gardener and Design	Hydra International Inc.	No
TMK 18-00311	04/25/2018	10/26/2026	POWERTEX	Powertext, Inc.	No

CBP IPR RECORDATION — APRIL 2018

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tnm	Owner Name	GM Restricted
TMK 18-00312	04/25/2018	11/12/2024	CLIMACHILL	adidas AG	No
TMK 18-00313	04/25/2018	11/22/2026	MAIDENFORM	MAIDENFORM LLC	No
TMK 18-00314	04/25/2018	02/02/2025	BALENCIAGA	BALENCIAGA	No
TMK 18-00315	04/25/2018	11/11/2025	M Maidenform (Stylized Logo)	Maidenform LLC	No
TMK 18-00316	04/25/2018	07/26/2024	BALI	HBI BRANDED APPAREL ENTERPRISES, LLC	No
TMK 18-00317	04/25/2018	04/23/2028	C9 (Stylized Design)	HBI Branded Apparel Enterprises, LLC	No
TMK 18-00318	04/25/2018	07/03/2028	READY. SET. PUSH!	Baby Be Mine, LLC	No
TMK 18-00319	04/25/2018	06/25/2027	MIGRANAL	VALEANT PHARMACEUTICALS NORTH AMERICA LLC	No
TMK 18-00320	04/25/2018	06/08/2028	PLAYTEX (Stylized)	PLAYTEX MARKETING CORP.	No
TMK 18-00321	04/25/2018	09/17/2024	STARBUZZ	Starbuzz Tobacco, Inc.	No
TMK 18-00322	04/25/2018	06/20/2028	JOSEPH ABBOUD	JA Apparel Corp.	No
TMK 18-00323	04/25/2018	03/13/2026	JMS JUST MY SIZE and Design (Stylized)	HBI BRANDED APPAREL ENTERPRISES, LLC	No
TMK 18-00324	04/26/2018	08/26/2020	L'EGGS	HBI BRANDED APPAREL ENTERPRISES, LLC	No
TMK 18-00325	04/26/2018	10/27/2021	L'eggs Logo (Stylized)	HBI BRANDED APPAREL ENTERPRISES, LLC	No

CBP IPR RECORDATION — APRIL 2018

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tmk/Tm	Owner Name	GM Restricted
TMK 18-00326	04/26/2018	01/22/2027	BONDS	HANES INNERWEAR AUSTRALIA PTY LTD	No
TMK 18-00327	04/26/2018	04/02/2028	DESIGN ONLY (Toon Link Character Design (Color))	NINTENDO OF AMERICA INC.	No
TMK 18-00328	04/26/2018	08/08/2022	DESIGN ONLY (Jordan Elephant Print)	Nike, Inc.	No
TMK 18-00329	04/26/2018	01/10/2027	W (Stylized)	WASHINGTON NATIONALS BASEBALL CLUB, LLC	No
TMK 18-00330	04/26/2018	05/01/2021	HEMOCUE	HemoCue AB	No
TMK 18-00331	04/26/2018	10/05/2026	SPACERAIL	Space Rails	No
TMK 18-00332	04/26/2018	01/17/2028	PRETTY LITTER	Pretty Litter, Inc.	No
TMK 18-00333	04/26/2018	10/25/2027	SIGMAGIC	Sigma Enterprises, LLC	No
TMK 18-00334	04/30/2018	06/29/2026	JOSEPH ABBOUD	JA Apparel Corp.	No
TMK 90-00524	04/09/2018	07/05/2028	FAHRENHEIT	PARFUMS CHRISTIAN DIOR, S.A.	No
TMK 90-00524	04/09/2018	07/05/2028	FAHRENHEIT	PARFUMS CHRISTIAN DIOR, S.A.	No
TMK 95-00534	04/26/2018	04/30/2028	TOYOTA (Stylized)	TOYOTA JIDOSHA KABUSHIKI KAI-SHA	No
TMK 95-00534	04/26/2018	04/30/2028	TOYOTA (Stylized)	TOYOTA JIDOSHA KABUSHIKI KAI-SHA	No
TMK 97-00688	04/30/2018	11/04/2025	Champion Logo (Stylized and Design)	HBI BRANDED APPAREL ENTERPRISES, LLC	No

CBP IPR RECORDATION — APRIL 2018

Recordation No.	Effective Date	Expiration Date	Name of Cop/Tm/Tm	Owner Name	GM Restricted
TMK 97-00688	04/30/2018	11/04/2025	Champion Logo (Stylized and Design)	HBI BRANDED APPAREL ENTERPRISES, LLC	No
TMK 99-00181	04/11/2018	06/14/2028	JOKER (STYLIZED)	ROBERT BURTON ASSOCIATES, LTD.	No
TMK 99-00181	04/11/2018	06/14/2028	JOKER (STYLIZED)	ROBERT BURTON ASSOCIATES, LTD.	No
TMK 99-00528	04/10/2018	12/26/2027	THE REDSKINS (Stylized)	PRO-FOOTBALL, INC.	No
TMK 99-00528	04/10/2018	12/26/2027	THE REDSKINS (Stylized)	PRO-FOOTBALL, INC.	No
TMK 99-00578	04/17/2018	08/12/2028	CATERPILLAR and Design	Caterpillar Inc.	No
TMK 99-00582	04/17/2018	08/19/2028	CAT and Design	Caterpillar Inc.	No

**ACCREDITATION AND APPROVAL OF AMSPEC LLC
(PENUELAS, PR) AS A COMMERCIAL GAUGER AND
LABORATORY**

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

ACTION: Notice of accreditation and approval of AmSpec LLC (Penuelas, PR), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec LLC (Penuelas, PR), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of January 31, 2018.

DATES: AmSpec LLC (Penuelas, PR) was approved and accredited as a commercial gauger and laboratory as of January 31, 2018. The next triennial inspection date will be scheduled for January 2021.

FOR FURTHER INFORMATION CONTACT: Christopher J. Mocella, 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 AmSpec LLC, Road 127, Km 15.6, Penuelas, PR 00624, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. AmSpec LLC is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
1	Vocabulary.
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
11	Physical Properties.
12	Calculations.
17	Maritime Measurement.

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

CBPL No.	ASTM	Title
27-01.....	D287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27-02.....	D1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27-03.....	D4006	Standard Test Method for Water in Crude Oil by Distillation.
27-04.....	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27-06.....	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-08.....	D86	Standard Test Method for Distillation of Petroleum Products.
27-11.....	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids.
27-48.....	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-50.....	D93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27-54.....	D1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method.
27-58.....	D5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

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

Dated: May 16, 2018.

DAVE FLUTY,
Executive Director,
Laboratories and Scientific Services.

[Published in the Federal Register, May 24, 2018 (83 FR 24134)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Application for Foreign-Trade Zone Admission and/or Status Designation, and Application for Foreign-Trade Zone Activity Permit

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

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

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than July 17, 2018) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0029 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

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

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229-1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number (202) 325-0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding

this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

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

Overview of This Information Collection

Title: Application for Foreign-Trade Zone Admission and/or Status Designation, and Application for Foreign-Trade Zone Activity Permit.

OMB Number: 1651-0029.

Form Number: 214, 214A, 214B, 214C, and 216.

Type of Review: Extension (without change).

Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to CBP Forms 214, 214A, 214B, 214C, and 216.

Affected Public: Businesses.

Abstract: Foreign trade zones (FTZs) are geographical enclaves located within the geographical limits of the United States but for tariff purposes are considered to be outside the United States. Imported merchandise may be brought into FTZs for storage, manipulation, manufacture or other processing and subsequent removal for exportation, consumption in the United States, or de-

struction. A company bringing goods into an FTZ has a choice of zone status (privileged/non-privileged foreign, domestic, or zone-restricted), which affects the way such goods are treated by Customs and Border Protection (CBP) and treated for tariff purposes upon entry into the customs territory of the U.S.

CBP Forms 214, 214A, 214B, and 214C, which make up the *Application for Foreign-Trade Zone Admission and/or Status Designation*, are used by companies that bring merchandise into an FTZ to register the admission of such merchandise into FTZs and to apply for the appropriate zone status. CBP Form 216, *Foreign-Trade Zone Activity Permit*, is used by companies to request approval to manipulate, manufacture, exhibit, or destroy merchandise in an FTZ.

These FTZ forms are authorized by 19 U.S.C. 81 and provided for by 19 CFR 146.22, 146.32, 146.39, 146.40, 146.41, 146.44, 146.52, 146.53, and 146.66. These forms are accessible at: <http://www.cbp.gov/newsroom/publications/forms>.

Form 214, Application for Foreign-Trade Zone Admission and/or Status Designation

Estimated Number of Respondents: 6,749.

Estimated Number of Annual Responses per Respondent: 25.

Estimated Total Annual Responses: 168,725.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 42,181.

Form 216, Application for Foreign-Trade Zone Activity Permit

Estimated Number of Respondents: 2,500.

Estimated Number of Annual Responses per Respondent: 10.

Estimated Total Annual Responses: 25,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 4,167.

Dated: May 15, 2018.

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

AGENCY INFORMATION COLLECTION ACTIVITIES:**Crewman's Landing Permit**

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

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

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

DATES: Comments are encouraged and will be accepted (no later than June 20, 2018) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov*.

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

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (82 FR 52935) on November 15, 2017, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions

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

Overview of This Information Collection

Title: Crewman's Landing Permit.

OMB Number: 1651-0114.

Form Number: Form I-95.

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

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: CBP Form I-95, *Crewman's Landing Permit*, is prepared and presented to CBP by the master or agent of vessels and aircraft arriving in the United States for alien crewmen applying for landing privileges. This form is provided for by 8 CFR 251.1(c) which states that, with certain exceptions, the master, captain, or agent shall present this form to CBP for each nonimmigrant alien crewman on board. In addition, pursuant to 8 CFR 252.1(e), CBP Form I-95 serves as the physical evidence that an alien crewmember has been granted a conditional permit to land temporarily, and it is also a prescribed registration form under 8 CFR 264.1 for crewmen arriving by vessel or air. CBP Form I-95 is authorized by Section 252 of the Immigration and Nationality Act (8 U.S.C. 1282) and is accessible at <http://www.cbp.gov/sites/default/files/documents/CBP%20Form%20I-95.pdf>.

Estimated Number of Respondents: 433,000.

Total Number of Estimated Annual Responses: 433,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 35,939.

Dated: May 16, 2018.

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U.S. Customs and Border Protection.

[Published in the Federal Register, May 21, 2018 (83 FR 23477)]