

# U.S. Customs and Border Protection



## **ACCREDITATION AND APPROVAL OF INSPECTORATE AMERICA CORPORATION (PASADENA, 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 Inspectorate America Corporation (Pasadena, TX), as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation (Pasadena, 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 February 7, 2018.

**DATES:** Inspectorate America Corporation (Pasadena, TX) was accredited and approved, as a commercial gauger and laboratory as of February 7, 2018. The next triennial inspection date will be scheduled for February 2021.

**FOR FURTHER INFORMATION CONTACT:** Dr. Justin Shey, Laboratories and Scientific Services Directorate, 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 Inspectorate America Corporation, 141 N. Pasadena Blvd., Pasadena, TX 77506 has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Inspectorate America Corporation is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3 .....	Tank Gauging.
5 .....	Metering.
7 .....	Temperature Determination.
8 .....	Sampling.
12 .....	Calculations.
14 .....	Natural Gas Fluids Measurement.
17 .....	Marine Measurement.

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

CBPL No.	ASTM	Title
27-02 .....	D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27-03 .....	D 4006	Standard Test Method for Water in Crude Oil by Distillation.
27-04 .....	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27-05 .....	D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27-06 .....	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-11.....	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27-13 .....	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy Dispersive X-ray Fluorescence Spectrometry.
27-14 .....	D 2622	Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27-46 .....	D 5002	Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer.

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: August 6, 2018.

DAVE FLUTY,  
*Executive Director,  
Laboratories and Scientific  
Services Directorate.*

[Published in the Federal Register, August 31, 2018 (83 FR 44641)]



**NOTICE OF ISSUANCE OF FINAL DETERMINATION  
CONCERNING THE VISIONARY ADVANCED 2 DIETARY  
SUPPLEMENT TABLETS**

**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 three Visionary Advanced 2 vitamin and mineral dietary supplement tablets. Based upon the facts presented, for purposes of U.S. Government procurement, CBP has concluded that the United States is the country of origin of the Advanced 2 vitamin and mineral dietary supplement tablets.

**DATES:** The final determination was issued on August 27, 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 October 4, 2018.

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

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on August 27, 2018, pursuant to subpart B of part 177, U.S. Customs and Border Protection Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of three versions of the Visionary Advanced 2 vitamin and mineral dietary supplement tablets which may be

offered to the U.S. Government under an undesignated government procurement contract. This final determination, HQ H299717, copy attached, was issued under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). The three products are Visionary Advanced 2 coated tablets, Visionary Orange Advanced 2 chewable tablets, and Visionary Cherry Advanced 2 chewable tablets. Each of the dietary supplement tablets contains the same basic formula of vitamins and minerals, but with different flavorings. In the final determination, CBP concluded that the combining of the various vitamins and minerals in one tablet in the United States results in a product that has a name, character and use that is distinct from the individual ingredients that are used to make the dietary supplement.

Therefore, for purposes of U.S. Government procurement, the United States is the country of origin. 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: August 27, 2018.

Alice A. Kipel,  
*Executive Director,*  
*Regulations and Rulings, Office of Trade.*

HQ H299717

August 27, 2018  
 OT:RR:CTF:VS H299717 RSD  
 CATEGORY: Origin

MR. MARINO APOLLINARI  
 VISIONARY VITAMIN CO.  
 P.O. BOX 1825  
 DEARBORN, MICHIGAN 48122

RE: U.S. Government Procurement; Country of Origin of Advanced 2  
 Multiple Vitamin and Mineral Dietary Supplement Tablets;  
 Substantial Transformation

DEAR MR. APOLLINARI:

This is in response to the Visionary Vitamin Company’s (Visionary’s) request of June 4, 2018, for a final determination concerning the country of origin of products known as the Visionary Advanced 2 dietary supplements pursuant to subpart B of Part 177 of the U.S. Customs and Border protection (“CBP”) Regulations (19 C.F.R. Part 177). The National Commodity Specialist Division forwarded your request to the Headquarters office of Regulations and Rulings to issue this final determination.

As an importer, Visionary is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

**FACTS:**

Visionary is a manufacturer of dietary supplements. At issue are three different multiple vitamin and mineral dietary supplement tablets. The three dietary supplement tablets are the Advanced 2 Coated tablets, the Visionary Orange Advanced 2 chewable tablets, and the Visionary Cherry Advanced 2 chewable tablets.

The vitamin and mineral tablets contain the following raw materials:

	Country of origin
<b>Medicinal Ingredients</b>	
Vitamin C DC grade (Ascorbic Acid) (97%).....	China.
Vitamin E (As DL-Alpha Tocopherol Acetate) 50%-Tab grad...	China.
Zinc (as oxide) (80.34%).....	India.
Copper (as cupric oxide) (78.3%).....	USA.
Lutein (5%) beadlets.....	China.
Zeaxanthin (5%) beadlets from Omnixan .....	USA.
<b>Other ingredients:</b>	
DI Calcium Phosphate.....	China.
Micro crystalline Cellulose.....	India.
Croscarmellose Sodium .....	Brazil.
Silicon Dioxide .....	USA.
Magnesium Stearate (vegetable source) .....	Spain.
Stearic Acid Vegetable grade.....	Malaysia.
Pharmaceutical Glaze (only used for coated tablets).....	USA.

Instead of pharmaceutical glaze, the chewable orange and cherry tablets contain a natural masking flavor from the United States, either in a natural orange flavor or natural cherry flavor. In addition, the chewable cherry and orange tablets also incorporate sucralose from China. You have indicated that the most expensive single ingredient used in making the Advanced 2 dietary supplement tablets is the Zeaxanthin Omnixan from the United States.

The manufacturing processes of the three products occurs at Visionary's facility in Michigan, United States. The same basic procedures are used to manufacture the three different dietary supplement tablets. A flow chart of the processes was submitted. The active and inactive ingredients in powder form are weighed and all vital information is logged in.

Next, the ingredients are dispensed, and the dry mix is blended. A vibro sifter is used to pass the raw powder materials through a 40-mesh screen, while being added to a drum for mixing. Weight and yield are recorded. Mixing and lubrication is performed by a blender.

The approved blend is then transferred to the compression area. The blend is loaded into the hopper of a tablet press. The tablet press is set for the specified parameters and the details are noted in a start-up test during the tablet compression. The weight of the first few tablets is taken and checked against the actual weight of the product. Adjustments in the weight of the tablets are made until the right weight is obtained. The hardness of the tablets is also adjusted by carefully turning the pressure rollers by hand until the correct hardness is obtained. The tablets are then compared to previous samples. A series of in-process quality checks are performed in various intervals while the tablets are produced. These include: 1) appearance; 2) average weight per 10 tablets; 3) tablet thickness; 4) disintegration of tablet; 5) friability; 6) hardness; and 7) temperature and humidity.

The coating solution is prepared by loading the tablets in a pan and recording the actual weight. The tablets are pre-heated until the temperature reaches 100 degrees Fahrenheit. The coating solution is sprayed on the tablets until all surfaces of the tablets are covered. The tablets are unloaded into trays and placed in an oven room for drying. The tablets are then sorted and damaged tablets (such as broken, color or thickness variance, capping issues, or black/foreign material) are rejected.

Next, the product moves to the packaging line using the following equipment: an unscrambler, a conveyor, a tablet counter, a cottoner, a capper labeler, induction sealer, heat tunnel, printer coder, accumulation table and weighing balance. A system of quality controls occurs to ensure that the tablets are properly packaged, coded, and labeled.

#### **ISSUE:**

What is the country of origin of the Visionary Advanced 2 Coated tablets, Visionary Orange Advanced 2 Chewable tablets, and Visionary Cherry Advanced 2 Chewable tablets for purposes of U.S. Government procurement?

#### **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.*) (“TAA”).

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(8):

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 advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with Federal Acquisition 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 TAA. 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 a name, character, or use distinct from that of the article or articles from which it was transformed.

48 C.F.R. § 25.003.

A substantial transformation occurs when an article emerges from a process with a new name, character or use different from that possessed by the article prior to processing. A substantial transformation will not result from a minor manufacturing or combining process that leaves the identity of the article intact. See *United States v. Gibson-Thomsen Co.*, 27 C.C.P.A. 267 (1940); and, *National Juice Products Association v. United States*, 628 F. Supp. 978 (Ct. Int’l Trade 1986).

With respect to whether combining and mixing different materials results in a substantial transformation, CBP held in Headquarters Ruling Letter (“HQ”) 731685, dated March 15, 1990, that converting fruit concentrates and other ingredients into fruit drinks in Mexico constituted a substantial transformation. The manufacturing process involved mixing the juice concentrates with other ingredients including water, artificial flavor, sodium benzoate, and food coloring. CBP held that, considering the totality of the circumstances, a substantial transformation had occurred because “[t]he juice concentrates are subsumed into a product that is no longer considered a juice.” This situation is distinguished from a situation considered in *National Juice Products Ass’n v. United States*, 628 F. Supp. 978 (Ct. Int’l Trade 1986), in which the United States Court of International Trade (“CIT”) upheld CBP’s decision in HQ 728557, dated September 4, 1985, that imported orange juice concentrate was not substantially transformed when it was mixed with water, essential oils, flavoring ingredients and domestic fresh juice in order to produce frozen concentrated orange juice and reconstituted orange juice. CBP found that the manufacturing process did not create an article with a new name, character or use. The CIT agreed that the manufacturing process did not change the “fundamental character of the product” as “it was still essentially the juice of oranges”. See HQ H237605 dated June 25, 2014. In HQ

731685, a substantial transformation was found because the raw ingredients had been converted into a different article of commerce through a process beyond simple combining, packaging or mere diluting.

In the context of the manufacture of chemical products such as pharmaceuticals, CBP has consistently examined the complexity of the processing and whether the final article retains the essential identity and character of the raw material. CBP has generally held that the processing of pharmaceutical products from bulk form into measured doses does not result in a substantial transformation. See, *e.g.*, HQ 561975, dated April 3, 2002; HQ 561544, dated May 1, 2000; HQ 735146, dated November 15, 1993; HQ H267177, dated November 5, 2016; HQ H233356, dated December 26, 2012; and, HQ 561975, dated April 3, 2002. However, where the processing from bulk form into measured doses involves the combination of two or more active ingredients and the resulting combination offers additional medicinal benefits compared to taking each alone, CBP has held that a substantial transformation occurs. See, *e.g.*, HQ 563207, dated June 1, 2005.

For example, in HQ 563207, CBP held that the combination of two APIs to form Actoplus Met, an alternative treatment for type 2 diabetes, constituted a substantial transformation. The first API, Pioglitazone HCl sourced from Japan or other countries, functioned as an insulin sensitizer that targets insulin resistance in the body. The second API, biguanide sourced from Japan, Spain, and other countries, functioned to decrease the amount of glucose produced by the liver and to make muscle tissue more sensitive to insulin so glucose can be absorbed. In Japan, the two APIs were mixed together to form the Ectoplasm Met. In holding that a substantial transformation occurred when the two APIs were combined, CBP emphasized that “[w]hile we note that pioglitazone and metformin may be prescribed separately, the final product, Actoplus Met, increases the individual effectiveness of pioglitazone and metformin in treating type 2 diabetes patients.”

Similarly, in HQ H253443, dated March 13, 2015, CSP held that the combination of two APIs in China to produce Prepopik, “a dual-acting osmotic and stimulant laxative bowel preparation for a colonoscopy in adults,” constituted a substantial transformation. CBP found that taking Prepopik had “a more stimulative laxative effect” than taking each of the APIs individually. Further, in HQ H290684, dated July 2, 2018, CSP considered the country of origin of Malarone, a drug indicated for the prevention and treatment of acute, uncomplicated *Plasmodium falciparum* malaria. Two separate APIs were mixed to create a fixed combination drug that offered additional medicinal benefits compared to taking each API alone. The first API, atovaquone, was not indicated for the prevention or treatment of malaria, the second API, proguanil hydrochloride, was used to treat malaria, but was less effective than Malarone. Because of the “synergies in [the APIs] method of action,” which resulted in a product that “interfere[s] with 2 different pathways” to prevent and treat malaria, CBP held that the combination of atovaquone, proguanil hydrochloride, and inactive ingredients to form the Malarone tablets in Canada resulted in a substantial transformation.

In this case, to make the dietary supplement tablets, various ingredients from different countries of origin are mixed together based on a specific formula. This results in a finished product that differs from any of the individual ingredients. The vitamins and minerals are put together in one tablet for the purposes of creating a product that is designed to promote certain effects that are distinct from the effects if only the individual ingre-



dients were taken. Similar to HQ H253443, the combination of the vitamins and minerals in a single tablet creates a product with a synergistic effect that promotes benefits that otherwise would only be possible by taking the individual ingredients separately. In other words, the combination of the various vitamins and minerals in one tablet results in a product that has an identity, character and use that is different from and more convenient to use than taking the individual raw materials. Accordingly, we find that the three Visionary dietary supplement tablets have a new name, character and use different from the individual vitamins, minerals, and the inert ingredients used in the production of the finished tablets. Therefore, we find that the country of origin of the Visionary Advanced 2 multiple vitamin and mineral dietary supplement tablets is the United States, where the manufacturing process take place.

**HOLDING:**

The country of origin of the Visionary Advanced 2 Coated Tablets, Visionary Orange Advanced 2 Chewable Tablets, and Visionary Cherry Advanced 2 Chewable Tablets for purpose of U.S. Government procurement is the United States.

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. KIPPEL,

*Executive Director*

*Regulations & Rulings Office of Trade*

[Published in the Federal Register, September 4, 2018 (83 FR 44894)]

## 19 CFR PART 177

### REVOCAION OF ONE RULING LETTER AND REVOCAION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF A BLUETOOTH WIRELESS SPEAKER FROM THE PHILIPPINES

**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 Bluetooth wireless speaker from the Philippines.

**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 Bluetooth wireless speaker from the Philippines 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. 20, on May 16, 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 November 19, 2018.

**FOR FURTHER INFORMATION CONTACT:** Dwayne Rawlings, Electronics, Machinery, Automotive, and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0092.

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

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

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

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 52, No. 20, on May 16, 2018, proposing to revoke one ruling letter pertaining to the tariff classification of a Bluetooth wireless speaker from the Philippines. 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") N233202, dated October 2, 2012, CBP classified a Bluetooth wireless speaker in heading 8517, HTSUS, specifically in subheading 8517.62.00, HTSUS, which provides for "Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network): Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other." CBP has reviewed NY N233202 and has determined the ruling letter to be in error. It is now CBP's position that the Bluetooth wireless speaker is properly classified in heading 8518, HTSUS, specifically in subheading 8518.22.00, HTSUS, which provides for "... loudspeakers, whether or not mounted in their enclosures; ...: ... Loudspeakers, whether or not mounted in their enclosures: ... Multiple loudspeakers, mounted in the same enclosure."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N233202 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H281100, 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: June 27, 2018

GREG CONNOR

*for*

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*

*Attachment*

HQ H281100

June 27, 2018

CLA-2 OT:RR:CTF:TCM H281100 DSR

CATEGORY: Classification

TARIFF NO.: 8518.22.00

MR. PASCALE PANIGHEL  
 EURO COMMUNICATION EQUIPMENTS  
*ROUTE DE FOIX D117*  
*NEVIAS 11500 FRANCE*

RE: Revocation of NY N233202; tariff classification of SuperTooth Disco 2 Bluetooth Wireless Speaker from the Philippines

DEAR MR. PANIGHEL:

In New York Ruling Letter (NY) N233202 (October 2, 2012), U.S. Customs and Border Protection (CBP) classified a device identified as the “SuperTooth Disco 2 Bluetooth Speaker” (hereinafter “Disco 2”) in subheading 8517.62.00, Harmonized Tariff Schedule of the United States (HTSUS), which provides for “Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network): Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other.” Since NY N233202 was issued, CBP has reviewed the ruling and determined that the classification provided for the Disco 2 is incorrect and, therefore, NY N233202 must be revoked for the reasons set forth in this ruling.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed revocation of NY N233202 was published on May 16, 2018, in the Customs Bulletin, Volume 52, No. 20. CBP received no comments in response to the notice.

**FACTS:**

The Disco 2 is a device that houses, among other things, two loudspeakers and a “bass reflex system,” or subwoofer. To enable connectivity, the Disco 2 also contains a CSR8645 Bluetooth chip that permits it to receive and transmit in the frequency range of 2.402–2.480 GHz. When paired with other Bluetooth devices, the unit communicates with those Bluetooth devices using a time division duplex scheme that alternates transmission and reception functions, and thus uses the same antenna to transmit and receive at different times. There is an internal BT radio, digital signal processor, and audio codec that are used to receive and decode streamed music from a mobile phone or any Bluetooth host device. There is also a headset that can communicate with other Bluetooth products that support AD2P/AVRCP Bluetooth profile. Contained within the Disco 2 is an 8 cell nickel-metal hydride (NiMH) rechargeable battery, which can be charged by the 14 volt direct current (DC) charging input. There are built-in buttons for adjustable volume, play/pause, and next/previous music search.<sup>1</sup> The Bluetooth chip contained within has a 3.3 volt voltage regulation circuit, battery protection and a charging circuit.

<sup>1</sup> NY N233202 incorrectly stated that the Disco 2 is capable of up to 15 hours of talk time (as a “speakerphone”) when paired with a Bluetooth enabled cellular phone. However, our research indicates that the Disco 2 is not able to act as a speakerphone – it can only stream music from such a phone.

**ISSUE:**

Whether the Disco 2 is classified under subheading 8517.62.00, HTSUS, which provides for machines for the reception, conversion and transmission or regeneration of voice, images or other data; subheading 8518.22.00, which provides for multiple loudspeakers mounted in the same enclosure; or in subheading 8519.89.30, which provides for other sound recording or sound reproducing devices.

**LAW AND ANALYSIS:**

Classification under the HTSUS is determined in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order. In addition, in interpreting the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. *See* T.D. 89-80, 54 Fed. Reg. 35127 (August 23, 1989). The HTSUS provisions under consideration in this ruling are as follows:

**8517** Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 8443, 8525, 8527 or 8528; parts thereof:

...

Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network):

...

**8517.62.00** Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus

\* \* \*

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

...

Loudspeakers, whether or not mounted in their enclosures:

...

**8518.22.00** Multiple loudspeakers, mounted in the same enclosure

\* \* \*

**8519** Sound recording or reproducing apparatus:

...  
Other apparatus:

...  
Other:

8519.89.30 Other

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

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

...

(II) OTHER APPARATUS FOR TRANSMISSION OR RECEPTION OF VOICE, IMAGES OR OTHER DATA, INCLUDING APPARATUS FOR COMMUNICATION IN A WIRED OR WIRELESS NETWORK (SUCH AS A LOCAL OR WIDE AREA NETWORK)

...

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

This group includes:

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

...

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

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

The heading also covers electric sound amplifier sets.

...

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

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

Matching transformers and amplifiers are sometimes mounted together with loudspeakers. Generally the electrical input signal received by loud-

speakers is in analogue form, however in some cases the input signal is in digital format. Such loudspeakers incorporate digital to analogue converters and amplifiers from which the mechanical vibrations are communicated to the air.

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

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

...

The EN to heading 85.19 provides, in pertinent part, the following:

This heading covers apparatus for recording sound, apparatus for reproducing sound and apparatus that is capable of both recording and reproducing sound. Generally, sound is recorded onto or reproduced from an internal storage device or media (e.g., magnetic tape, optical media, semiconductor media or other media of heading 85.23).

...

#### (IV) OTHER APPARATUS USING MAGNETIC, OPTICAL OR SEMICONDUCTOR MEDIA

The apparatus of this group may be portable. They may also be equipped with, or designed to be attached to acoustic devices (loudspeakers, earphones, headphones) and an amplifier.

...

As in N233202, we continue to hold that the Disco 2 performs two or more complementary functions and that, therefore, Note 3 to Section XVI is applicable. Note 3 to Section XVI, states the following:

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

However, we no longer hold that that the principal function of the Disco 2 is to transmit and receive sounds or data. Specifically, we now believe that in NY N233202, CBP incorrectly reasoned that the Bluetooth chip (*i.e.*, the component that imparts the transmission/reception functionality), rather than the loudspeaker, performs the principal function of this composite machine. Instead, we now find that the Disco 2 compares in functionality to a device that was the subject of H167260, issued *before* NY N233202 (on July 11, 2011), and that was classified in heading 8518 as a loudspeaker. In HQ H167260, the subject device is described as a “Jambox.” It is a Bluetooth-compliant wireless speaker with a built-in microphone. It is a portable device



that connects to laptops, smart phones, tablets and mp3 players through a 3.5mm stereo wire, or via wireless Bluetooth technology, which enables it to play music stored on or streamed through such devices. When paired to a mobile telephone via Bluetooth, the Jambox will also function as a “speakerphone” – i.e., a device that enables its user to command the paired mobile telephone to dial calls, answer calls, and talk hands-free by broadcasting the call.

In H167260, CBP correctly determined that the principal function of the Jambox, which is functionally analogous to the Disco 2, is that of a loudspeaker. Accordingly, H167260 correctly held that, by operation of Note 3 to Section XVI, the Jambox is properly classifiable in subheading 8518.22.00, covering loudspeakers. Like the Jambox of HQ H167260, the principal function of the Disco 2 is to act as a loudspeaker, regardless of the manner in which that function is enabled by its Bluetooth capabilities. The Bluetooth feature enables the speaker to wirelessly connect to the source of the audio signals that the speaker converts into corresponding sounds. Thus, the Bluetooth feature functions essentially like a stereo wire, except it permits the connection to be wireless. Regardless of whether loudspeakers such as the Jambox or the Disco 2 are connected to the source of the audio signals by way of a stereo wire, or wirelessly via the Bluetooth transmission/reception functions, the principal function of such loudspeakers is not to connect to the source of the signal, but rather to convert such signal into sound – that is, to function as a loudspeaker. Accordingly, by operation of Note 3 to Section XVI and because the Disco 2 principally functions as a loudspeaker, it is properly classified under heading 8518, HTSUS, and not in heading 8517, which covers machines for the transmission or reception of data. Moreover, because the Disco 2 consists of multiple loudspeakers mounted in the same enclosure, it is properly classifiable in subheading 8518.22.00.

We also note that because the Disco 2 is unable to record sound or read a recorded file from an internal memory or from a USB flash memory device or other removable solid-state non-volatile media, the Disco 2 is functionally distinct from merchandise that is classifiable in heading 8519, which provides for sound recording or reproducing apparatus. In NY N133779 (December 17, 2010), for example, CBP considered a device identified as the “iHome Airplay Wireless Stereo Speaker System with Rechargeable Battery” (Model No. iW1). The device is described as being designed to play and control audio files that it receives over a wireless (“Wi-Fi”) computer network. It is composed of a Wi-Fi system that incorporates four built-in speakers, an audio controller, an auxiliary input jack, a USB port, and a built-in rechargeable lithium battery. It is designed to reproduce sound that it generates from externally stored digital audio files. It can also play back music when physically connected to such devices as an Apple iPod, iPhone or iPad. Upon connection to a wireless network, the device also receives digital audio files, e.g., within an iTunes library, that it converts into audio signals, and then amplifies and plays the audio through its four built-in speakers. The rechargeable, battery-operated device does not contain a tuner and is not capable of recording. The product page for the device indicates that the device “supports charging *and local audio playback via USB* using the USB sync cable that comes with new iPods and iPhones.” [Emphasis added] See <https://www.ihomeaudio.com/iW1BC/>. CBP classified the device as an “other” sound recording or reproducing apparatus of subheading 8519.89.30, HTSUS. Later, in HQ H234950, CBP affirmed the holding reached in NY

N133779 and provided comprehensive guidance regarding the proper interpretation of the phrase “sound recording or reproducing” as contemplated by heading 8519, HTSUS. Specifically, in HQ H234950 CBP explained that, in accordance with the EN to heading 8519, a “sound-reproducing device” must be able to read a recorded file either from an internal memory or from a removable solid-state non-volatile medium, such as a USB flash memory apparatus:

[T]he ENs define a “sound-recording or reproducing device” as including one that functions by way of semiconductor media. Sound that is recorded onto such a medium is done so as digital code converted from analogue signal on the recording medium, and sound that is reproduced is done so by reading such medium. The fact that the ENs allow for semiconductor media to be either permanently installed in the apparatus or in the form of removable solid-state non-volatile storage media means that sound can be recorded onto an internal file or a removable solid state non-volatile media, such as a USB flash memory apparatus. *In order for a device to be a sound-reproducing device, it must be able to read the recorded file, either from an internal memory or from a removable solid-state non-volatile media, such as a USB flash memory apparatus. See EN 85.19.* [Emphasis added]

This definition is in accordance with definitions of dictionaries and other lexicographic sources. For example, the Oxford English Dictionary defines “record” as “of a machine, instrument or device: to set down (a message, reading, etc.) in some permanent form.” *See www.oed.com*. The Oxford English Dictionary defines “reproduce” as “To relay (sound originating elsewhere) or replay (sound recorded on another occasion) by electrical or mechanical means.... To produce again in the form of a copy.” *See www.oed.com*. In addition, the McGraw-Hill Encyclopedia of Science and Technology defines “sound recording” as “the technique of entering sound, especially music, on a storage medium for playback at a subsequent time.” *See McGraw-Hill Concise Encyclopedia of Science and Technology, 6th Ed., 2009 at 2197*. This encyclopedia defines “sound-reproducing systems,” in pertinent part, as:

Systems that attempt to reconstruct some or all of the audible dimensions of an acoustic event that occurred elsewhere. A sound-reproducing system includes the functions of capturing sounds with microphones, manipulating those sounds using elaborate electronic mixing consoles and signal processors, and then storing the sounds for reproduction at later times and different places.

*Id.* at 2197.

CBP then concluded that the products in question were sound reproducing devices of heading 8519, HTSUS, because they were able to read audio files from an inserted USB device. That conclusion is consistent with prior CBP rulings cited in HQ H234950. *See NY N182121* (September 16, 2011); *NY N129141* (November 16, 2010).

Unlike the devices considered in HQ H234950 and the rulings cited therein, the instant Disco 2 is unable to record files either from an internal memory or from a removable solid-state non-volatile media, nor can the Disco 2 reproduce said files – a requirement that must be met in order for the devices to meet the relevant definition of “sound recording or reproducing”

devices. Accordingly, the Disco 2 is not classified as a sound recording or reproducing device within the scope of heading 8519, HTSUS.

**HOLDING:**

By application of GRI 1 (Note 3 to Section XVI), the SuperTooth Disco 2 Bluetooth Wireless Speaker is classified in heading 8518, HTSUS, specifically in subheading 8518.22.00, HTSUS, which provides in pertinent part for: "... loudspeakers, whether or not mounted in their enclosures; ...: ... Loudspeakers, whether or not mounted in their enclosures: ... Multiple loudspeakers, mounted in the same enclosure." The current column one, general rate of duty is 2.4% *ad valorem*.

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

**EFFECT ON OTHER RULINGS:**

NY N233202, dated October 2, 2012, is revoked in accordance with this decision.

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

*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 TACO TWIN-TEES

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

**ACTION:** Notice of revocation of one ruling letter and revocation of treatment relating to the tariff classification of Taco Twin-Tees.

**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 Taco Twin-Tees 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. 10, on May 16, 2018. One comment was received in response to that notice.

**EFFECTIVE DATE:** This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after November 19, 2018.

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

#### **SUPPLEMENTARY INFORMATION:**

##### **BACKGROUND**

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public and CBP share 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. 10, on May 16, 2018, proposing to revoke one ruling letter pertaining to the tariff classification of Taco Twin-Tees. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

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

In NY M82071, CBP classified Taco Twin-Tees of ductile iron compositions in heading 7326, HTSUS, specifically subheading 7326.90.85 of the 2006 HTSUS, which provided for: "Other articles of iron or steel: Other: Other: Other: Other." In that ruling, CBP classified Taco Twin-Tees of bronze compositions in heading 7419, HTSUS, specifically in subheading 7419.99.50, HTSUS, which provides for "Other articles of copper: Other: Other: Other: Other." CBP has reviewed NY M82071 and has determined the ruling letter to be in error. It is now CBP's position that Taco Twin-Tees of ductile iron are properly classified in heading 7307, HTSUS, specifically in subheading 7307.19.30, HTSUS, which provides for "Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel: Cast fittings: Other: Ductile fittings." It is also CBP's position that Taco Twin-Tees of bronze are classified in heading 7412, HTSUS, specifically in subheading 7412.20.00, HTSUS, which provides "Copper tube or pipe fittings (for example couplings, elbows, sleeves): Of copper alloys."

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY M82071 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter ("HQ") H291783, 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: June 27, 2018

ALLYSON MATTANAH  
*For*  
MYLES B. HARMON,  
*Director*  
*Commercial and Trade Facilitation Division*

Attachment

HQ H291783

June 27, 2018

CLA-2 OT:RR:CTF:EMAIN H291783 NCD

CATEGORY: Classification

TARIFF NO.: 7307.19.3040; 7307.19.3060;

7412.20.0035; 7412.20.0045

MS. HEATHER GANLEY  
TACO, INC.  
1160 CRANSTON STREET  
CRANSTON, RI 02920

RE: Revocation of NY M82071; Classification of Taco Twin-Tees

DEAR MS. GANLEY:

This letter concerns New York Ruling Letter (NY) M82071, issued to Taco, Inc. (“Taco”), on May 5, 2006 by U.S. Customs and Border Protection (CBP), concerning the tariff classification of articles referred to commercially as “Taco Twin-Tee” under the Harmonized Tariff Schedule of the United States (HTSUS). We have reviewed NY M82071, determined that it is incorrect, and for the reasons set forth below, are revoking the ruling.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed action was published in the Customs Bulletin, Vol. 52, No. 20, on May 16, 2018. In response, Taco submitted a comment supporting the action but requesting slight modifications to our determinations as to the articles’ 10-digit subheading classifications under the HTSUS Annotated (HTSUSA). Taco’s comment is addressed below. No further comments were received.

**FACTS:**

The subject Taco Twin-Tees, which are either bronze or ductile iron in composition, consist of main apertures intersected by two smaller “twin” apertures at their centers so as to impart the appearance of “T” shapes (see Figure 1).<sup>1</sup> The intersecting apertures are bifurcated to allow concurrent bidirectional flow into and out of the main apertures. According to product literature, the Taco Twin-Tees are designed for placement in hydroponic piping systems, in which they function as a juncture connecting primary and secondary circuits within the system. Specifically, the main aperture connects the ends of primary circuit pipes, while the intersecting apertures connect the end of a secondary circuit pipe to the main aperture (see Figure 2).

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<sup>1</sup> Brass is a metal alloy consisting of copper and zinc. See Brass Definition, OXFORD DICTIONARY <https://en.oxforddictionaries.com/definition/brass> (last visited March 6, 2018).



Figure 1

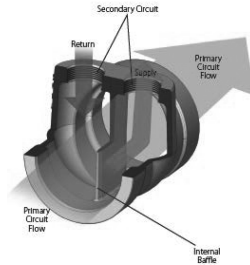


Figure 2

In NY M82071, the bronze Taco Twin-Tees were classified in heading 7419, HTSUS, specifically subheading 7419.99.50, HTSUS, which provides for: “Other articles of copper: Other: Other: Other: Other.” The ductile iron Taco Twin-Tees were classified in heading 7326, HTSUS, specifically subheading 7326.90.85 of the 2006 HTSUS, which provided for: “Other articles of iron or steel: Other: Other: Other: Other.” We note that subheading 7326.90.85, HTSUS, was superseded by subheading 7326.90.86, HTSUS, as part of the 2017 revisions to the HTSUS, but that the provisions are substantively identical.

**ISSUE:**

Whether the bronze Taco Twin-Tees are properly classified in heading 7412, HTSUS, as copper pipe fittings, or in heading 7419, HTSUS, as other articles of copper, and whether the iron Taco Twin-Tees are properly classified in heading 7307, HTSUS, as iron pipe fittings, or in heading 7326, HTSUS, as other articles of iron.

**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.

In understanding the language of the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System, which constitute the official interpretation of the HTSUS at the international level, may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. See T.D. 89–80, 54 Fed. Reg. 35127 (August 23, 1989).

The HTSUS provisions under consideration are as follows:

<b>7307</b>	Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel
<b>7326</b>	Other articles of iron or steel



<b>7412</b>	Copper tube or pipe fittings (for example couplings, elbows, sleeves)
<b>7419</b>	Other articles of copper

Because both headings 7307 and 7412, HTSUS, apply to “pipe fittings,” we initially consider the two headings in conjunction. See *ClearCorrect Operating, LLC v. ITC*, 810 F.3d 1283, 1294 (Fed. Cir. 2015) (“The Supreme Court has consistently held that ‘identical words used in different parts of the same act are intended to have the same meaning.’”). EN 73.07 provides, in relevant part, as follows:

This heading covers fittings of iron or steel, mainly used for connecting the bores of two tubes together, or for connecting a tube to some other apparatus, or for closing the tube aperture...

\* \* \*

This heading therefore includes flat flanges and flanges with forged collars, elbows and bends and return bends, reducers, tees, crosses, caps and plugs, lap joint stub-ends, fittings for tubular railings and structural elements, off sets, multi-branch pieces, couplings or sleeves, clean out traps, nipples, unions, clamps and collars.

EN 74.12 provides in relevant part, as follows:

The Explanatory Note to heading 73.07 applies, *mutatis mutandis*, to this heading.

The term “pipe fitting” is not defined in the HTSUS. As such, it must be construed in accordance with its common meaning, which may be ascertained by reference to “standard lexicographic and scientific authorities” and to the pertinent ENs. See *GRK Can., Ltd. v. United States*, 761 F.3d 1354, 1357 (Fed. Cir. 2014). According to various technical references and EN 73.07, the latter of which guides classification in both heading 7307 and heading 7412, pipe fittings denote articles used to connect pipes to each other and/or to wholly separate apparatus. See *L & B Prods. Corp. v. United States*, 66 Cust. Ct. 424, 429 (Cust. Ct. 1971) (citing *Audels Mechanical Dictionary*, *Knight’s New American Mechanical Dictionary* and *The Dictionary of Mechanical Engineering* in defining “pipe fitting” as “auxiliary pieces to the main pipe system which is generally designed to transmit either a fluid or gas”); see also *GRK Canada, Ltd. v. United States*, 761 F.3d 1354, 1358 (Fed. Cir. 2014) (“Although an *eo nomine* provision generally describes the merchandise by name, not by use, such a provision may be limited by use when the name itself inherently suggests a type of use.”). Those authorities further indicate that for purposes of tariff classification, pipe fittings include tees. See EN 73.07 (enumerating “tee” as an exemplar of a pipe fitting); see also HQ H282279, dated July 6, 2017 (citing *L & B Prods. Corp. v. United States*, 66 Cust. Ct. at 429 (Cust. Ct. 1971) and *Mitsubishi Int’l Corp. v. United States*, 78 Cust. Ct. 4, 19–20 (Cust. Ct. 1977) in determining that tees fall within the scope of “pipe fitting”).<sup>2</sup> As we determined in HQ H282279, pipe fittings also include articles which function as tees, insofar as they combine or split fluid streams among various pipe ends or apparatus intake, even if their constructions vary somewhat from that of traditional tees.

<sup>2</sup> As noted in HQ H282279, *Mitsubishi* and *L & B Prods.* are highly instructive as to the proper interpretation of heading 7307, HTSUS, insofar as they pertained to a provision of the TSUS with substantially identical language.

Here, the Taco Twin-Tees do in fact combine and split the fluid streams within the hydroponic systems in which they are placed. Specifically, one of the two intersecting “twin” apertures diverts fluid from the primary circuit to the secondary circuit, while the other simultaneously joins fluids of the two circuits. As such, while the construction and operation of the articles may vary from those of traditional tees, in that the “vertical” component of the tee consists of two separate apertures that enable bi-directional fluid flow into and out of the main aperture, it nevertheless retains the form of a tee classifiable as a “pipe fitting” in headings 7307 and 7412, HTSUS. That the article can be considered a “tee” is further reinforced by its commercial designation as such. Moreover, that the articles are, by extension, classifiable as pipe fittings is evident in their description as such in an official product guide. See Taco Comfort Solutions, Hydroponic Accessories: Loadmatch<sup>®</sup> Taco Twin-Tee<sup>®</sup> (2006), available at <http://www.taco-hvac.com/uploads/FileLibrary/100-6.8.pdf> (describing Taco Twin-Tee as “a patented single pipe fitting”). Because the Taco Twin-Tees are therefore describable as “pipe fittings,” they are classified in heading 7307, HTSUS, or heading 7412, HTSUS, according to their material composition. As stated above, Taco is in agreement with this determination.

In fact, the sole issue raised in Taco’s comment is whether, within headings 7307 and 7412, the iron and bronze Taco Twin-Tees are classified in (respectively) subheadings 7307.19.3085 and 7412.20.0035, HTSUSA, as initially proposed. To this end, as Taco correctly notes, the above-cited product literature states that “[t]he connections to the primary circuit are available in the following types: Sweat...Threaded...Grooved.” See *id.* Taco further explains that of these, it currently imports only the grooved and threaded varieties. Taco accordingly asserts that the universe of 10-digit provisions in which the Taco Twin-Tees are classified consists of subheadings 7307.19.3040, 7307.19.3060, 7412.20.0035, and 7412.20.0045, HTSUSA. We agree that the Taco Twin-Tees at issue span these subheadings, as reflected below.

### **HOLDING:**

By application of GRI 1, Taco Twin-Tees of ductile iron are classified in heading 7307, HTSUS. If grooved at the ends of their main apertures, they are classified in subheading 7307.19.3040, HTSUSA, which provides for: “Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel: Cast fittings; Other: Ductile fittings: Grooved-end fittings (including grooved couplings).” If threaded at the ends of their main apertures, they are classified in subheading 7307.19.3060, HTSUSA, which provides for: “Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel: Cast fittings; Other: Ductile fittings: Other: Other.” The column one, general rate of duty for subheadings 7307.19.3040 and 7307.19.3060, HTSUSA, is 5.6 percent *ad valorem*.

By application of GRI 1, Taco Twin-Tees of bronze are classified in heading 7412, HTSUS. If threaded at the ends of their main apertures, they are classified in subheading 7412.20.0035, HTSUSA, which provides for: “Copper tube or pipe fittings (for example couplings, elbows, sleeves): Of copper alloys: Other: Of copper-zinc base alloys (brass): Threaded: Other.” If grooved at the ends of their main apertures, they are classified in subheading 7412.20.0045, HTSUSA, which provides for: “Copper tube or pipe fittings (for example couplings, elbows, sleeves): Of copper alloys: Other: Of copper-zinc base alloys

(brass): Other.” The column one, general rate of duty for subheadings 7412.20.0035 and 7412.20.0045, HTSUSA, is 3.0 percent *ad valorem*.

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

The merchandise in question may be subject to antidumping duties or countervailing duties (AD/CVD). We note that the International Trade Administration in the Department of Commerce is not necessarily bound by a country of origin or classification determination issued by CBP, with regard to the scope of antidumping or countervailing duty orders. Written decisions regarding the scope of AD/CVD orders are issued by the International Trade Administration and are separate from tariff classification and origin rulings issued by CBP. The International Trade Administration can be contacted at <http://www.trade.gov/ia/>. A list of current AD/CVD investigations at the United States International Trade Commission can be viewed on its website at <http://www.usitc.gov>. AD/CVD cash deposit and liquidation messages can be searched using ACE, the system of record for AD/CVD messages, or the AD/CVD Search tool at <http://addecvd.cbp.gov/index.asp?ac=home>.

**EFFECT ON OTHER RULINGS:**

NY M82071, dated May 5, 2006, is hereby REVOKED.

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

*Sincerely,*

ALLYSON MATTANAH

*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 MEDIA ROLLS ON PLASTIC REELS WITH CODE APERTURES DESIGNED FOR USE WITH SPECIFIC PRINTERS

**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 media rolls on plastic reels with code apertures designed for use with specific printers.

**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 media rolls on plastic reels with code apertures designed for use with specific printers 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. 19, on May 9, 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 November 19, 2018.

**FOR FURTHER INFORMATION CONTACT:** Suzanne Kingsbury, Electronics, Machinery, Automotive and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325–0113.

#### **SUPPLEMENTARY INFORMATION:**

##### **BACKGROUND**

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibil-

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

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 52, No. 19, on May 9, 2018, proposing to revoke one ruling letter pertaining to the tariff classification of media rolls on plastic reels with code apertures designed for use with specific printers. 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") N246471, dated October 29, 2013, CBP classified media rolls on plastic reels with code apertures designed for use with specific printers in headings 3919, 4811, and 4821, HTSUS, specifically in subheading 3919.10.20, HTSUS, which provides for self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls: in rolls of a width not exceeding 20 cm: other; subheading 3919.90.50, HTSUS, which provides for self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls: other: other; subheading 4811.41.21, HTSUS, which provides for paper, paperboard, cellulose wadding and webs of cellulose fibers, coated, impregnated, covered, surface-colored, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, other than goods of the kind described in heading 4803, 4809 or 4810: gummed or adhesive paper and paperboard: self-adhesive: other; and subheading 4821.90.20, HTSUS, which provides for paper and paperboard labels of all kinds, whether or not printed: other." CBP has reviewed NY N246471 and has determined the ruling letter to be in error. It is now CBP's position that the subject media rolls on plastic reels with code apertures designed for use with specific printers are properly classi-

fied in heading 8443, HTSUS, specifically in subheading 8443.99.25, HTSUS, which provides for “printing machinery...other printers...: parts and accessories: other: parts and accessories of printers: other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is revoking NY N246471 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter (“HQ”) H251008, 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: June 14, 2018

GREG CONNOR

*for*

MYLES B. HARMON,

*Director*

*Commercial and Trade Facilitation Division*

*Attachment*

HQ H251008

June 14, 2018

CLA-2 OT:RR:CTF:EMAIN H251008 SKK

CATEGORY: Classification

TARIFF NO.: 8443.99.2550

SANDRA LISS FRIEDMAN  
BARNES, RICHARDSON & COLBURN, LLP  
475 PARK AVENUE SOUTH  
NEW YORK, NY 10016

RE: Revocation of NY N246471 (10/29/13); 8443.99.25, HTSUS; media roll assemblies of pressure-sensitive tape and labels imported on reels with code apertures and designed solely for use with specific machine; GRI 1; Section XVI Note 2(b).

DEAR Ms. FRIEDMAN:

This letter is in response to your November 27, 2013, request for reconsideration of New York Ruling Letter (NY) N246471, issued to Brother International, Inc. on October 29, 2013, concerning the classification under the Harmonized Tariff Schedule of the United States (HTSUS) of four types of media roll assemblies. In NY N246471, U.S. Customs and Border Protection (CBP) classified the subject articles as follows:

- Item DK-2113 (self-adhesive continuous plastic tape on a plastic reel with code apertures), under subheading 3919.10.20, HTSUS, which provides for self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics...in rolls of a width not exceeding 20 cm: other.
- Item DK-1207 (self-adhesive die-cut plastic labels on a plastic reel with code apertures), under subheading 3919.90.50, HTSUS, which provides for self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls: other: other.
- Item DK-2205 (self-adhesive continuous length paper tape on a plastic reel with code apertures), under subheading 4811.41.21, HTSUS, which provides for paper, paperboard, cellulose wadding and webs of cellulose fibers, coated, impregnated, covered, surface-colored, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, other than goods of the kind described in heading 4803, 4809 or 4810: gummed or adhesive paper and paperboard: self-adhesive: other.
- Item DK-1209 (die-cut small self-adhesive paper address labels on a plastic reel with code apertures), under subheading 4821.90.20, HTSUS, which provides for paper and paperboard labels of all kinds, whether or not printed: other (than printed).

Upon reconsideration, we have determined NY 246471 to be in error. Pursuant to the analysis set forth below, CBP is revoking NY N246471.

On May 9, 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. 19. No comments were received in response to that notice.

**FACTS:**

In NY N246471 the subject merchandise was described as follows:

- DK-1207 consists of die-cut self-adhesive plastic CD/DVD labels on a plastic reel with code apertures.
- DK-1209 consists of die-cut small self-adhesive paper address labels on a plastic reel with code apertures.
- DK-2113 consists of self-adhesive continuous length plastic tape on a plastic reel with code apertures.
- DK-2205 consists of self-adhesive continuous length paper tape on a plastic reel with code apertures.

The self-adhesive labels and the continuous length tapes are imported on plastic reels which are designed for use with Brother QL Series Label Printers. Each QL printer is intended to work with specific DK media rolls. The label printers are PC or Mac connectable thermal transfer printers which can print up to 50 labels per minute. Two of the DK media rolls, DK-1209 and DK-1207, consist of die-cut labels which are fed through the appropriate QL printer model to create printed labels. As these are pre-cut, the finished label is peeled off the backing material. DK media rolls DK-2205 and DK 2113 both contain continuous length tape that can be programmed through the QL printer to be cut to specific lengths. In order to load the QL printer with the DK media roll, the user must snap the DK media roll into a compatible QL printer in the center of the carriage. Each model is wound onto a plastic reel or holder that incorporates a unique combination of blocked and open holes in its code aperture. The code aperture allows the printer to distinguish which particular DK media roll is in the printer. A blocked hole will activate the associated switch in the media center switch assembly. When the DK media roll is snapped into the machine, certain switches are engaged while others are not. Switches that touch an area where there is no open hole will be engaged. The holes vary in size as between the different DK tapes as the QL printers have various size media sensor assemblies. When the DK media roll is inserted and the switches are engaged, the media sensor switch assembly sends a code to the printer which is checked by the printer's software. This lets the printer know which model DK media roll is in the machine to inform the print area for the specific DK tape which has been inserted. If an incompatible DK tape is inserted in the printer, the computer monitor displays an error message.

**ISSUE:**

Whether the subject merchandise is classified under: heading 8443, HTSUS, as parts and accessories of printers; heading 3919, HTSUS, as self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics; heading 4811, HTSUS, as paper, paperboard, cellulose wadding and webs of cellulose fibers, coated, impregnated, covered, surface-colored, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, other than goods of the kind described in heading 4803, 4809 or 4810; or heading 4821, HTSUS, as paper and paperboard labels of all kinds, whether or not printed.



**LAW AND ANALYSIS:**

The HTSUS provisions under consideration are as follows:

- 3919 Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls:
- 4811 Paper, paperboard, cellulose wadding and webs of cellulose fibers, coated, impregnated, covered, surface-colored, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, other than goods of the kind described in heading 4803, 4809 or 4810:
- 4821 Paper and paperboard labels of all kinds, whether or not printed:
- 8443 Printing machinery used for printing by means of plates, cylinders and other printing components of heading 8442; other printers, copying machines and facsimile machines, whether or not combined; parts and accessories thereof:

Additional U.S. Rule of Interpretation 1(c) provides:

- 1. In the absence of special language or context which otherwise requires...

\* \* \*

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

\* \* \*

The General Notes to Section XVI provide, in pertinent part:

- 1. This Section does not cover:

\* \* \*

(c) Bobbins, spools, cops, cones, cores, reels or similar supports, of any material (for example, Chapter 39, 40, 44 or 48 or Section XV);

\* \* \*

- 2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules:

\* \* \*

(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 84.79 or 85.43) are to be classified with the machines of that kind or in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 85.17 and 85.25 to 85.28 are to be classified in heading 85.17.

\* \* \*

\* \* \* \* \*

As Additional U.S. Rule of Interpretation 1(c) provides that a provision for parts shall not prevail over a specific provision for such a part, our initial

analysis is whether the subject merchandise is specifically described in a provision in Chapter 39 or Chapter 48 of the tariff schedule before we examine whether classification as a “part” in Chapter 84 is proper.

Heading 3919, HTSUS, an *eo nomine* tariff provision, provides for “[S]elf-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls.” *Eo nomine* provisions are those that describe articles by specific names and not by use. Absent limiting language or contrary legislative intent, *eo nomine* provisions cover all forms of the named article. *Nidec Corporation v. United States*, 68 F.3d 1333, 1336 (Fed. Cir. 1995). See *Lon-Ron Mft. Co. v. United States*, 334 F.3d 1304, 1309 (Fed. Cir. 2003). Further to the issue of *eo nomine* classification, it is well-established legal precedent that “[W]here an article is in character or function something other than as described by a specific statutory provision – either more limited or more diversified – and the difference is significant, it cannot find classification within such provision. It is said to be more than the article described in the statute.” *Robert Bosch Corp. v. United States*, 63 Cust. Ct. 96 (Cust. Ct. 2d Div. 1969), citing *Cragston Corporation v. United States*, 51 CCPA 27, C.A.D. 831 (1963); *United States v. The A.W. Fenton Company, Inc.*, 49 CCPA 45, C.A.D. 794 (1962).

In applying the principles of *eo nomine* classification to the subject media roll assemblies, referenced Items DK-1207 and DK-2113, we find them to be significantly more differentiated in function than the named exemplars listed in heading 3919, HTSUS. In this regard, we note that Items DK-1207 and DK-2113 are media rolls imported on plastic reels that feature code apertures. As noted *supra*, the code apertures allow the printer to distinguish which particular DK media roll is in the printer and to selectively activate the associated switch in the printer’s media center switch assembly. The reels are specifically designed to engage mechanically with a specific Brother QL Series Label Printer (*i.e.*, the printer cannot function without the subject media roll assemblies) and are integral to the printer’s intended function of producing finished labels. This technical feature serves to change the identity of the articles and renders them significantly differentiated in function from the exemplars listed in heading 3919, HTSUS (*i.e.*, self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls). Moreover, the subject media roll assemblies are not commercially interchangeable with the plastic articles described in heading 3919, HTSUS, and, as noted above, can only be used with specific Brother QL printers. For these reasons, Items DK-1207 and DK-2113 are not *prima facie* classifiable in heading 3919, HTSUS. See *CamelBak Prods., LLC v. United States*, 649 F.3d 1361 (Fed. Cir. 2011), in which the court examined whether certain specifications may be considered “merely an improvement” or whether they serve to change the identity of the article described by the statute. See also *Casio, Inc. v. United States*, 73 F.3d 1095 (Fed. Cir. 1996), where the court noted that “[T]he criterion is whether the item possess[es] features substantially in excess of those within the common meaning of the term.”

Similarly, pursuant to the above analysis, the subject merchandise identified as Items DK-2205 and DK-1209 are also not *prima facie* classifiable as rolls or labels of paper. Heading 4811, HTSUS, provides for, “[P]aper, paperboard, cellulose wadding and webs of cellulose fibers, coated, impregnated, covered, surface-colored, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, other than goods of the kind described

in heading 4803, 4809 or 4810.” Heading 4821, HTSUS, provides for “[P]aper and paperboard labels of all kinds, whether or not printed.” While Items DK-2205 and DK-1209 are, respectively, self-adhesive continuous length paper tape and die-cut self-adhesive paper address labels, they are both imported on plastic reels that feature code apertures specifically designed to engage mechanically with a specific printer. As noted above, the code aperture reels render Items DK-2205 and DK-1209 significantly more differentiated in function than mere paper rolls or labels. Therefore, Items DK-2205 and DK-1209 are not *prima facie* classifiable in headings 4811 or 4821, HTSUS.

We now consider classification of the subject articles within Section XVI, HTSUS, specifically in heading 8443, HTSUS, which provides for, in pertinent part, parts of other printers.

As an initial matter, we note that classification in Section XVI is not precluded by Note 1(c) in that the subject articles are not classifiable as “[B]obbins, spools, cops, cones, cores, reels or similar supports, of any material (for example, Chapter 39, 40, 44 or 48 or Section XV).” The subject articles are not mere reels used to support media; rather, they are designed with apertures that provide a necessary code to a printing device to render it functional.

The term “part” is not defined in the HTSUS. In the absence of a statutory definition, the courts have fashioned two distinct but reconcilable tests for determining whether a particular item qualifies as a “part” for tariff classification purposes. See *Bauerhin Techs. Ltd. Pshp. v. United States*, 110 F.3d 774, 779 (Fed. Cir. 1997). Under the test initially promulgated in *United States v. Willoughby Camera Stores, Inc.* (“Willoughby”), 21 C.C.P.A. 322, 324 (1933), an imported item qualifies as a part only if can be described as an “integral, constituent, or component part, without which the article to which it is to be joined, could not function as such article.” *Bauerhin*, 110 F.3d at 779. Pursuant to the test set forth in *United States v. Pompeo*, 43 C.C.P.A. 9, 14 (1955), a good is a “part” if it is “dedicated solely for use” with a particular article and, “when applied to that use...meets the Willoughby test.” *Bauerhin*, 110 F.3d at 779 (citing *Pompeo*, 43 C.C.P.A. at 14); *Ludvig Svensson, Inc. v. United States*, 63 F. Supp. 2d 1171, 1178 (Ct. Int’l Trade 1999) (holding that a purported part must satisfy both the *Willoughby* and *Pompeo* tests).

In the instant case, the subject media rolls imported on plastic reels with code apertures meet the definition of “parts” as defined by the courts because they are integral to, and dedicated solely for use with, the Brother QL Series Label Printer without which the printer machines could not function. Because the subject merchandise does not fall under the scope of a single heading of Section XVI as goods unto themselves, per Note 2(a) to Section XVI, *supra*, the subject merchandise is properly classified under heading 8443, HTSUS, as parts of printers by operation of Note 2(b) to Section XVI. Specifically, the subject media rolls imported on plastic reels with code apertures are classifiable under subheading 8443.99.25, HTSUS, which provides for other parts and accessories of printers. Because the section note provides that goods classifiable as parts of printing machines are to be classified as such, CBP need not perform a relative specificity analysis under GRI 3(a).

Classification of the subject media roll assemblies as parts and accessories of printers is consistent with the holding in *Mita Copystar America v. United*

*States*, 160 F.3d 710 (Fed. Cir. 1998), in which the court classified toner cartridges that were shaped to fit into specific electrostatic photocopiers under heading 8443, HTSUS. The merchandise at issue in *Mita Copystar* is similar to the subject merchandise in that the media roll assemblies are specially designed for specific printing devices so as to warrant classification as a part of those machines. See also *Brother International Corp. v. United States*, 26 C.I.T. 867; 248 F. Supp. 2d (2002), in which the court considered the classification of a printing cartridge used in a multifunction center (MFC) and facsimile machine. The court determined that the printing cartridge was *prima facie* classifiable as part of the MFC and facsimile machines as the machines could not function in their intended capacity without the printing cartridge.

We further note that the subject merchandise at issue is distinguishable from the nylon filament spool cartridge at issue in NY N266336, dated July 23, 2015, which was classified in subheading 3916.90.30, HTSUS, as “[M]onofilament of which any cross-sectional dimension exceeds 1 mm, rods, sticks and profile shapes, whether or not surface-worked but not otherwise worked, of plastics: of other plastics: other: other.” The nylon filament spool cartridge at issue in NY N266336 measures 8 inches by 2 inches in width, and is designed to be placed in a 3D printer (where the nylon filament will be liquefied and extruded onto a glass bed within the printer). The spool cartridge functions only to hold the nylon filament as it is inserted in the printer. In this regard, the spool cartridge at issue in NY N266336 differs significantly in function from the media roll assemblies at issue in this reconsideration in that the subject merchandise is designed with code apertures that allow the printer to distinguish which media roll is in the printer and to selectively activate the associated switch in the printer’s media center switch assembly. As opposed to being a mere conveyance for the continuous tape or labels to be inserted in a printer, the subject media rolls on plastic reels with code apertures are necessary for the printer to perform its intended function of producing labels.

#### **HOLDING:**

By application of GRI 1, the media rolls imported on plastic reels with code apertures at issue in NY N246471 (referenced Items DK-1207, DK-2113, DK-2205 and DK-1209) are classified in subheading 8443.99.25, HTSUS, which provides for printing machinery...other printers...: parts and accessories: other: parts and accessories of printers: other. The 2018 applicable column one general rate of duty is free.

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

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

NY N246471, dated October 29, 2013, is hereby REVOKED pursuant to the above analyses.

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

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