



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Multifunctional Digital Imaging Systems

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 certain multifunctional digital imaging systems. Based upon the facts presented, CBP has concluded in the final determination that the United States is the country of origin of the multifunctional digital imaging systems for purposes of U.S. Government procurement.

DATES: The final determination was issued on May 21, 2013. A copy of the final determination is attached. Any party-at-interest, as defined in 19 C.F.R. § 177.22(d), may seek judicial review of this final determination on or before [insert 30 days from date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Suzanne Kane, Valuation and Special Programs Branch: (202) 325-0119.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on May 21, 2013, pursuant to subpart B of part 177, Customs Regulations (19 C.F.R. part 177, subpart B), CBP issued a final determination concerning the country of origin of certain multifunctional digital imaging systems which may be offered to the U.S. Government under an undesignated procurement contract. This final determination, in HQ H240213, was issued at the request of Ricoh Electronics, Inc. under procedures set forth at 19 C.F.R. part 177, subpart B, which

implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511-18). In the final determination, CBP concluded that, based upon the facts presented, the particular multifunctional digital imaging systems, assembled in the United States from parts made in China, Japan, and the Philippines, are substantially transformed in the United States, such that the United States is the country of origin of the finished article for purposes of U.S. Government procurement.

Section 177.29, Customs Regulations (19 C.F.R. § 177.29), provides that notice of final determinations shall be published in the *Federal Register* within 60 days of the date the final determination is issued. Section 177.30, Customs Regulations (19 C.F.R. § 177.30), provides that any party-at-interest, as defined in 19 C.F.R. § 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 21, 2013

Glen E. Vereb

Acting Executive Director

Regulations and Rulings
Office of International Trade

Attachment

HQ H240213

May 21, 2013

OT:RR:CTF:VS H240213 SEK

CATEGORY: Marking

Ms. Fusae Nara
Pillsbury Winthrop Shaw Pittman LLP
1540 Broadway
New York, NY 10036-4039

RE: U.S. Government Procurement; Country of Origin of Ricoh Aficio SP5200SG/5210SFG/5210SRG Multifunctional Digital Imaging Systems

Dear Ms. Nara:

This is in response to your letter, dated March 11, 2013, requesting a final determination on behalf of your client, Ricoh Electronics, Inc. (Ricoh), pursuant to subpart B of Part 177, Customs and Border Protection (CBP) Regulations (19 CFR § 177.21 *et seq.*). Under these regulations, which implement Title III of the Trade Agreements Act of 1979 (TAA), as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin trade advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government. This final determination concerns the country of origin of certain multifunctional digital imaging systems (MFPs) that Ricoh may sell to the U.S. Government. We note that Ricoh 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 products at issue in this ruling are certain MFPs manufactured by Ricoh, consisting of the Ricoh Aficio SP 5200SG (base model), the SP 5210SFG (incorporating a fax machine), and the SP 5210SRG (incorporating a finisher unit for stacking and stapling). All three MFP models have monochrome copying, printing, and scanning functions, and one model, the SP 5210SFG, has an additional facsimile function. Ricoh intends to import the components and subassemblies of the MFPs from China and the Philippines for manufacture in the U.S. and subsequent sale to U.S. government agencies.

Ricoh states that it developed the SP5200-series MFPs in Japan, and that the entire engineering, development, design and artwork processes for the MFPs took place in Japan. The project team consisted of approximately 50 engineers, who were all based in Japan and worked for Ricoh’s parent company, Ricoh Company, Ltd. At the initial stage of the MFP production process, individual parts are assembled into various assemblages of parts called subassemblies. The manufacture of subassemblies takes place in multiple countries, including the United States, China, and the Philippines. The subassembly units incorporated in Ricoh’s SP5200-series include the following:

- Automatic Reverse Document Feeder Unit (ARDF unit): the ARDF unit has a 50 sheet capacity, and its main task is to feed paper, sheet by sheet, to the next scanning process. The ARDF unit is assembled in China.
- Scanning Unit: performs the task of converting the original images into digital signals. It is assembled in China.
- Duplex Unit: enables double-sided copying and printing. It is assembled in China.
- Fusing Unit: contains a fusing roller and a pressure roller, which are both manufactured in Korea, and a heater manufactured in Japan. The main task of the Fusing unit is to permanently affix the toner on the paper by applying heat and pressure to the toner powder. The Fusing unit is assembled in China.
- Laser Unit: receives the image from the Scanning unit and copies the image onto the organic photo conductor (OPC) drum. The Laser unit is assembled in China. The two key components of the Laser unit, the laser diode unit and two lenses, are manufactured in Japan.
- All in One Unit (AIO): is assembled in China and contains the toner powder manufactured in Japan using a formula developed by Ricoh Company, Ltd.
- Base Engine and Image Control unit (BICU): controls the mechanical function of the MFP and is, in turn, controlled by the Controller unit. It is assembled in China.
- Power Supply Unit (PSU): provides the DC power to the system and AC power to the fusing. It is assembled in China.
- Fax Unit: is either a standard or optional item depending on the model type of the SP5200-series MFP. It is assembled in China.
- Hard Disk Drive (HDD): is either a standard or optional item depending on the model type of the SP5200-series MFP. Ricoh purchases HDDs made in the Philippines from another company.
- Operation Panel: acts as the interface between the user and MFP and is assembled in China.

Ricoh states that the above subassemblies are assembled in China to construct the incomplete and non-functional printer engine. The incomplete engine includes the automatic document feeder, scanning unit, duplex unit, fusing unit, laser unit, AIO, BICU, PSU and other paper tray and mechanical parts to move paper throughout the MFP. Ricoh asserts that the assembly of the incomplete and non-functional printer engine does not require sophisticated skills or expensive machinery.

The next stage of the production process is the Controller unit subassembly. Ricoh states that in a completed MFP, the Controller unit functions as the electronic “brain” of the MFP and controls its functions. Ricoh states that it has invested significant amounts for R&D in Japan to develop the Controller unit, as well as millions of dollars in Ricoh’s factory in Tustin, California for the machinery to manufacture different types of Controller units. Ricoh considers the manufacturing of the Controller unit, including the printed circuit board (PCB) and programming of the firmware (the fixed internal programs that control electronic devices), to be extremely complex, and necessitating highly skilled labor to perform optical inspections, soldering, functional testing and circuit testing.

The Controller unit is manufactured in the United States in three stages. First, Ricoh manufactures the PCB in the United States, including the automatic board stuffing process using

surface mount technology (SMT), automated optical inspection (AOI), and manual soldering. Ricoh states that approximately 1,335 components, including integrated circuits, diodes, capacitors, connectors, and other semiconductor devices are mounted on the PCB using both automated and manual soldering processes. Second, Ricoh programs the PCB with firmware that was developed in Japan. Once the installation of the firmware on the PCB is complete, the Controller unit becomes functional as the “brain” of the MFP. Finally, after the assembly of the PCB and the installation of the firmware, the PCB undergoes testing to ensure the functionality and quality of the PCB.

The final assembly of the MFPs consists of incorporating the Controller unit and HDD into the incomplete, non-functional printer engines. The HDD is mounted on the Controller unit, and the HDD control board is inserted into the socket of the controller unit. The assembled unit is inserted to the rear of the incomplete printer engine. The operation panel is connected to the incomplete printer engine by several cables, and then attached to the front of the printer engine. An AIO is installed to the printer engine, and finally the fax unit is installed to the printer engine. The final MFPs will undergo inspection at Ricoh’s Tustin, California factory.

ISSUE:

What is the country of origin of the Ricoh Aficio SP5200SG/5210SFG/5210SRG MFPs for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

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.), 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 or certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government. Under the rule of origin set forth in 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 advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of part 177 consistent with the Federal Acquisition Regulations. See 19 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.

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, the extent and nature of post-assembly inspection and testing procedures, and worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of the operations performed and whether the parts lose their identity and become an integral part of the new article. Belcrest Linens v. United States, 6 Ct. Int'l Trade 204, 573 F. Supp. 1149 (1983), *aff'd*, 741 F.2d 1368 (Fed. Cir. 1984). If the manufacturing or combining process is a minor one that leaves the identity of the imported article intact, a substantial transformation has not occurred. Uniroyal, Inc. v. United States, 3 Ct. Int'l Trade 220, 542 F. Supp. 1026 (1982). Assembly operations that are minimal or simple, as opposed to complex or meaningful, generally will not result in a substantial transformation. See C.S.D. 80-111, C.S.D. 85-25, C.S.D. 89-110, C.S.D. 89-118, C.S.D. 90-51, and C.S.D. 90-97. In Data General v. United States, 4 Ct. Int'l Trade 182 (1982), the court determined that for purposes of determining eligibility under item 807.00, Tariff Schedules of the United States (predecessor to subheading 9802.00.80, Harmonized Tariff Schedule of the United States), 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 programming the imported PROMs, the U.S. engineers systematically caused various distinct electronic interconnections to be formed within each integrated circuit. The court noted that the programs were designed by a U.S. project engineer with many years of experience in "designing and building hardware."

CBP has held in a number of cases involving similar merchandise that complex and meaningful operations involving a large number of components result in a substantial transformation. In support of its position, Ricoh cites HQ H018467 (Jan. 4, 2008). In HQ H018467, CBP considered the country of origin of multi-function printers in which manufacturing took place in two countries. In that case, the following eighteen units were manufactured in the Philippines from components produced in various countries: the automatic document feeder unit, scanner unit, operation panel unit, feed unit, manual paper feed unit, lift up motor unit, subassembly units, automatic document transferring unit, induction heating fuser unit, induction heating power supply unit, transcription unit, developing unit, laser scanning unit, main drive unit, motor drive board, high voltage power supply board, low voltage power supply board, and automatic duplex unit board. The units were sent to Japan where the system control board, engine control board, OPC drum unit, and the toner reservoir were manufactured and incorporated into the units. The control boards were then programmed in Japan with Japanese firmware that controlled the user interface, imaging, memories, and the mechanics of the

machines. The machines were then inspected and adjusted as necessary. CBP found that the manufacturing operations in Japan substantially transformed the Philippine units such that Japan was the country of origin of the multifunctional machines. In making our determination we took into consideration the fact that the system control board, the engine control board, and the firmware, which were very important to the functionality of the machines, were manufactured in Japan. We also found that the operations performed in Japan were meaningful and complex and resulted in an article of commerce with a new name, character and use.

Ricoh also cites HQ H185775 (Dec. 21, 2011). In HQ H185775, CBP considered the country of origin of a multifunction office machine. In that case, the incomplete print engine was produced in Vietnam and consisted of a metal frame, plastic skins, motors, controller board with supplier-provided firmware, a laser scanning system, paper trays, cabling paper transport rollers, and miscellaneous sensing and imaging systems. The incomplete print engine was shipped to Mexico, where the following assemblies were added: the formatter board, scanner/automatic document feeder, control panel, fax card, hard disk drive/solid state drive, firmware (which was developed and written in the U.S.), along with other minor components and accessories. The finished products were also tested and prepared for shipping to their ultimate destinations. CBP determined that Mexico was the country of origin because a substantial transformation of the various components occurred in Mexico, and the assembly of the materials from various countries resulted in the final multifunctional office machine product.

In this case, substantial manufacturing operations are performed in both China and Japan. Chinese subassemblies are imported into the United States, where they are combined with U.S.-origin Controller units containing U.S.-origin PCBs, and programmed with Japanese-origin firmware. The Controller unit is stated to control the functions and mechanics of the MFPs along with the Japanese firmware. The HDD, which is manufactured in a third country, is also installed into the MFPs in the United States. As the MFPs are comprised of subassemblies and components from various countries, but are also comprised of a Controller unit assembled in the United States (with U.S.-origin PCBs), which is important to the function of the MFPs, and the assembly in the United States completes the MFPs, we find that the last substantial transformation occurs in the United States. See HQ H198875, dated June 5, 2012 (CBP found that Singapore was the country of origin of MFPs assembled to completion in Singapore, where they were also fitted with Singaporean-origin PCBs and programmed with Japanese-origin application software); HQ 563012, dated May 4, 2004 (CBP found that Hong Kong was the country of origin of fabric switches assembled to completion in Hong Kong, where they were also configured and programmed with U.S.-origin software that transformed the switches from non-functional devices into fabric switches capable of performing various Storage Area Network related functions); HQ H170315, scenario III, dated July 28, 2011 (application and transceiver boards for satellite phones were assembled in Malaysia and programmed with U.K.-origin software in Singapore, where the phones were also assembled. CBP found that no one country's operations dominated the manufacturing operations of the phones and that the last substantial transformation occurred in Singapore.) Therefore, the country of origin of the Ricoh Aficio SP5200SG/5210SFG/5210SRG MFPs is the United States.

HOLDING:

The imported components that are used to manufacture the Ricoh Aficio SP5200SG/5210SFG/5210SRG MFPs are substantially transformed as a result of the assembly

and firmware installation operations performed in the United States. Therefore, we find that the country of origin of the Ricoh Aficio SP5200SG/5210SFG/5210SRG MFPs for government procurement purposes 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,

Glen E. Vereb

Acting Executive Director
Regulations and Rulings
Office of International Trade