



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning the WorkFit-TL Sit-Stand Desktop Workstation

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 the WorkFit-TL Sit-Stand Desktop Workstation. Based upon the facts presented, CBP has concluded in the final determination that the United States is the country of origin of the WorkFit-TL Sit-Stand Desktop Workstation for purposes of U.S. government procurement.

DATES: The final determination was issued on March 07, 2017. 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 no later than [insert 30 days from date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Elif Eroglu, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade (202) 325-0277.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on March 07, 2017, 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 the WorkFit-TL Sit-Stand Desktop Workstation which may be offered to the U.S. Government under an undesignated government procurement contract. This final

determination, Headquarters Ruling Letter (“HQ”) H280512, 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). In the final determination, CBP concluded that, under the totality of the circumstances, the country of origin of the WorkFit-TL Sit-Stand Desktop Workstation is the United States for purposes of U.S. Government procurement.

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

Dated: March 07, 2017.

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

Attachment

HQ H280512

March 07, 2017

OT:RR:CTF:VS H280512 EE

CATEGORY: Marking

Jim Noreault
Ergotron Inc.
1181 Trapp Road

Eagan, MN 55121

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. § 2511); Subpart B, Part 177, CBP Regulations; WorkFit-TL Sit-Stand Desktop Workstation

Dear Mr. Noreault:

This is in response to your correspondence of September 29, 2016 requesting a final determination on behalf of Ergotron Inc. (“Ergotron”), pursuant to subpart B of Part 177, U.S. Customs and Border Protection (“CBP”) Regulations (19 C.F.R. § 177.21 *et seq.*). Under the pertinent regulations, which implement 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 of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of the WorkFit-TL Sit-Stand Desktop Workstation. We note that Ergotron 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:

The merchandise at issue is the WorkFit-TL Sit-Stand Desktop Workstation. You state that the WorkFit-TL is an ergonomic, height adjustable desk intended to help promote a healthy work environment by giving the user the ability to easily adjust between a standing or sitting position. The WorkFit-TL can be adjusted by releasing the hand-brake levers on either side of the unit to position the surface higher or lower to accommodate sitting or standing position. The WorkFit-TL is assembled in the United States from U.S. and Chinese components. Ergotron received a country of origin marking ruling for the WorkFit-T Sit-Stand Desktop Workstation from the National Commodity Specialist Division (New York Ruling Letter (“NY”) N276731, dated July 15, 2016). You state that WorkFit-TL features a larger keyboard tray and wider work surface than the WorkFit-T but the products and the assembly processes are otherwise identical.

You have submitted photographs, an assembly drawing, a process flow map, and two bills of materials for the WorkFit-TL. The first bill of materials is for materials utilized for all processing performed in the United States. The second bill of materials is for all processing performed in China. You state that of the total cost of production, 57 percent is attributable to materials of U.S. origin and U.S. labor costs (including overhead).

You state that the WorkFit-TL is comprised of three main components: a Chinese origin lift assembly, a U.S. origin laminated particle board work surface and keyboard tray. The lift assembly consists of base metal and provides user assisted lift functionality by means of spring force to allow adjustment of the product between sitting and standing positions. The lift assembly from China is assembled with components fabricated in Ergotron’s facility in the United States including the work surface, keyboard tray, right and left keyboard support brackets, and metal support bar. The design and development of the WorkFit-TL occurs in the United States. The production that occurs in the United States includes the following:

The right and left keyboard support brackets and metal support bar

- Laser cutting sheet metal components
- Press braking to bend sheet metal components to create the right and left brackets and the metal support bar
- Stud insertion into the sheet metal components
- Painting the sheet metal components
- Assembling the sheet metal components to the imported lift mechanism.

The work surface and keyboard tray

- Sawing raw Medium-Density Fiberboard (“MDF”) to the size of the work surface and keyboard tray
- Routing of profiles on the MDF sheets
- Sanding of MDF to prepare for the vinyl laminate
- Applying glue to the MDF
- Pressing the vinyl laminate onto the MDF
- Removing the excess laminate from the work surface and keyboard tray
- Removing the excess glue from the bottom of the work surface and keyboard tray
- Printing the Ergotron logo onto work surface
- Attaching the work surface and keyboard tray to the lift mechanism of Chinese origin.

ISSUE:

What is the country of origin of the WorkFit-TL Sit-Stand Desktop Workstation for the 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 of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

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

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 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.

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *See Belcrest Linens v. United States*, 6 CIT 204 (1983), *aff'd*, 741 F.2d 1368 (Fed. Cir. 1984). 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, extent and nature of post-assembly inspection and testing procedures, and the degree of skill required during the actual manufacturing process may be relevant when determining whether a substantial transformation has occurred. No one factor is determinative.

In *Carlson Furniture Industries v. United States*, 65 Cust. Ct. 474 (1970), the U.S. Customs Court ruled that U.S. operations on imported chair parts constituted a substantial transformation, resulting in the creation of a new article of commerce. After importation, the importer assembled, fitted, and glued the wooden parts together, inserted steel pins into the key joints, cut the legs to length and leveled them, and in some instances, upholstered the chairs and fitted the legs with glides and casters. The court determined that the importer had to perform additional work on the imported chair parts and add materials to create a functional article of commerce. The court found that the operations were substantial in nature, and more than the mere assembly of the parts together.

In HQ 561258, dated April 15, 1999, CBP determined that the assembly of numerous imported workstation components with the U.S.-origin work surface, which was the essential and largest component of the workstation, into finished workstations constituted a substantial transformation. CBP held that the imported components lost their identity as leg brackets, drawer units, panels etc. when they were assembled together to form a workstation. In HQ H083693, dated March 23, 2010, CBP held that a certain wood chest assembled in the United States was a product of the United States for purposes of U.S. government procurement. The wood chest was assembled from over twenty U.S. and foreign components. Of the total cost of production, 40 percent was attributable to materials of U.S. origin, U.S. warehouse overhead and U.S. labor costs (including overhead). CBP held that the components that were used to manufacture the wood chest, when combined with a U.S. origin laminate top, were substantially transformed as a result of the assembly operations performed in the United States. *See also* HQ 731676, dated June 22, 1989, (unfinished mahogany table legs and rails from the Philippines were substantially transformed in the United States when assembled into a table base with a U.S. origin wood veneered top).

In the instant case, the lift assembly, manufactured in China, is assembled in the United States with laminated particle board work surface and keyboard tray, right and left keyboard support brackets, and metal support bar which are fabricated in the United States by Ergotron. The processes that occur in the United States include sawing, profiling, sanding, hot-pressing and trimming to manufacture the work surface and keyboard tray as well as laser-cutting, bending and painting of the sheet metal components followed by final assembly of the U.S. origin and the imported components. Based on the facts provided and consistent with the CBP rulings cited above, we find that the imported lift assembly is substantially transformed as a result of the assembly performed in the United States to produce the finished WorkFit-TL Sit-Stand Desktop Workstation. In support of this conclusion, we agree that the lift assembly is not functional to an end user by itself as it does not include the primary features of the U.S. origin work surface and keyboard tray which allow the work to be conducted, and without which, the lifting mechanism is incapable of being used as a workstation. Accordingly, we find that the country of origin of the WorkFit-TL Sit-Stand Desktop Workstation for purposes of U.S. Government procurement is the United States.

HOLDING:

The country of origin of the WorkFit-TL Sit-Stand Desktop Workstation 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 after publication of the *Federal Register* notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

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

[FR Doc. 2017-04806 Filed: 3/10/2017 8:45 am; Publication Date: 3/13/2017]