

DEPARTMENT OF HOMELAND SECURITY**U.S. Customs and Border Protection****Notice of Issuance of Final Determination Concerning Photocopying Machines**

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

ACTION: Notice of final determination.

SUMMARY: This document provides notice that the U.S. Customs and Border Protection (CBP) has issued a final determination concerning the country of origin of certain photocopying machines which may be offered to the United States Government under an undesignated government procurement contract. Based on the facts presented, CBP has concluded that certain goods imported into Japan are substantially transformed in Japan such that Japan is the country of origin of the finished photocopying machines for government procurement purposes.

DATES: The final determination was issued on June 11, 2008. 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 July 17, 2008.

FOR FURTHER INFORMATION CONTACT: Yuliya A. Gulis, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade (202-572-8783).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on June 11, 2008, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain photocopying machines which may be offered to the United States Government under an undesignated government procurement contract. This final determination, in HQ H025106, was issued at the request of Ricoh Company, Ltd. 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 final determination concluded that, based upon the facts presented, certain goods imported into Japan are substantially transformed in Japan such that Japan is the country of origin of the finished photocopying machines for government procurement purposes.

Section 177.29, Customs Regulations (19 CFR 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, CBP Regulations (19 CFR 177.30), states 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: June 11, 2008.

Sandra L. Bell,

Executive Director, Office of Regulations and Rulings, Office of International Trade.

Attachment: HQ H025106.

HQ H025106

June 11, 2008

OT:RR:CTF:VS H025106 YAG

Category: Marking.

Mr. Yoshihiro Saito, Manelli Denison & Selter, PLLC, 2000 M Street, NW., Suite 700, Washington, DC 20036-3307

RE: U.S. Government Procurement; Country of Origin of Photocopying Machines; Substantial Transformation; 19 CFR Part 177

Dear Mr. Saito: This is in response to your letter, dated March 20, 2008, requesting a final determination on behalf of Ricoh Company, Ltd. ("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 advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purpose 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 photocopying machines 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 subject to this ruling are certain photocopying machines manufactured by Ricoh, referred to as the "AC1 Series", and to be imported from Japan for the purpose of sales to U.S. government agencies. The AC1 Series have photocopying, printing, faxing, and scanning functions. The AC1 Series is capable of producing 40 or 50 black-and-white copies of documents per minute, depending on

the model. However, some copiers in this series are capable of scanning color images in documents. Ricoh has developed the AC1 Series in Japan and performed the entire engineering, development, design, and art work in Japan.

An AC1 copier is stated to be a complex machine comprising a total of 2,534 pieces of individual parts. You state that at the initial stage of the copier production process, individual parts are assembled into various assemblages of parts called "sections," "systems," "subassemblies," or "units." These part assemblages represent 53 basic building blocks for each AC1 copier. These blocks are in turn incorporated into modularized units or subassemblies with distinct functions. You claim that the primary functional modules of the AC1 copier are: the Scanning Unit, Laser Scanning Unit, Controller Unit ("Controller"), Photoconductor Unit, Developer Unit, Transfer Unit, and Fusing Unit. Additionally, the Main Frame, automatic document feeder (ADF), duplexer, and paper trays perform support functions by supplying power through the electrical systems, driving the engine and feeding/guiding and flipping the paper. You state that Ricoh will conduct the fabrication and/or the final assembly of the Scanning Unit, Laser Scanning Unit, Controller, Photoconductor Unit, and Main Frame in Japan, using blocks and individual parts of Japanese, Chinese, and third-country origins. On the other hand, the Developer Unit, Transfer Unit, Fusing Unit, and Base Engine and Image Control Unit ("BICU") as well as the ADF, paper trays, etc. will be assembled in China by Ricoh Asia Industry, Ltd. ("RAI") or its contractors, using Chinese and Japanese parts. The final assembly of AC1 photocopying machines will take place in Japan. Ricoh will also conduct testing on the subassemblies and finished copiers in Japan. The final assembly process will comprise at least 30 significant steps, not including pre-assembly work, tests or adjustments performed on individual subassemblies. Finally, the finished AC1 Series copiers will undergo final inspection and packing for shipment to the United States.

Scanning Unit

The Scanning Unit performs the initial task of converting the original images into digital signals. An original document is scanned when the xenon lamp irradiates the original document through the exposure glass. The light that reads the document is reflected by three separate mirrors and arrives at a Charge Coupled Device ("CCD") after

passing through an assemblage of small lens pieces. CCD incorporates photo diodes, which convert the light (i.e. photons) on the pixels into analog electronic signals. The analog signals are then converted into digital form through the printed wiring board called sensor board unit ("SBU") and from there transmitted to the DRAM and flash memory boards located in the Controller Unit for storage. The DRAM stores the image memory, while the flash memory stores the program. The xenon lamp is a Japanese part. The reflection mirrors and the lens block are produced in China to Ricoh's specifications and Ricoh designs these optical parts. The CCD is manufactured in Japan by an unaffiliated producer. The first and second carriage sections of the Scanning Unit are pre-assembled by RAI in China by inserting a xenon lamp, a reflector, and mirrors into designated spots. However, after this pre-assembly is complete, the carriage sections are shipped to Ricoh in Japan, where the subsequent assembly is performed by combining the first and second carriages together, installing a set of six lenses into a lens block, and CCD in perfect alignment with each other and with the rest of the components in the Scanning Unit. The exposure and sheet-through glasses are also attached at that stage. The complete Scanning Unit is then tested and a Scanner Validation Tool ("SVT"), which is a software package developed by Ricoh engineers, evaluates the test results against parameters.

Controller Unit Subassembly

The Controller contains a central processing unit ("CPU"), a hard disk drive, a flash memory (ROM), two dual in-line memory modules ("DIMM"), a random access memory (DRAM or SDRAM), a non-volatile random access memory ("NVRAM") and interface cards. The Controller controls all applications of AC1 as a photocopier, as well as its additional/optional functions as a printer, a scanner, or a fax machine. Once the information is stored in the DRAM and flash memory of the Controller, it is transmitted to the three application-specific-integrated circuits ("ASICs"), located on the BICU board in the Main Frame section of the copier. All three ASICs will be manufactured in Japan. The CPU on the Controller Unit will be purchased from a Canadian producer. The DRAM and flash memory will be purchased from multiple countries. However, the Controller Unit itself will be assembled and tested in Japan.

Laser Scanning Unit

The electronic signals processed by the ASICs are transmitted to the Laser Scanning Unit. In the Laser Scanning Unit, two laser diodes convert the electronic signals into pulsed laser beams, which are then sent to the photoconductor drum. On the way to the drum, the laser beams pass through a collimator lens, a cylindrical lens, and barrel troidal lens ("BTL") and are reflected by polygonal and f-theta mirrors. The laser diodes, the f-theta mirror, BTL and the collimator lens will be produced in Japan. The cylindrical lens will be supplied from China. Nonetheless, the assembly of the Laser Scanning Unit will take place in Japan.

Photoconductor Unit

The Photoconductor Unit contains a photoconductive drum and an electron-charging roller. The drum, coated with an Organic Photo Conductor ("OPC") is the main component of the Photoconductor Unit. This unit is charged with electricity and the laser beam sweeps across it to make the electrostatic latent image. The drum is a Japanese product, and the time-consuming and capital intensive assembly of the photoconductor unit will take place in Japan.

Developer Unit

The Developer Unit supplies the toner to the drum. The developer roller and developer doctor are the key components of this Unit and are manufactured in Japan. All other parts will be produced or purchased in China. The Developer Unit will be assembled and tested in China before being shipped to Japan for the final assembly of the copier.

Transfer Unit

The Transfer Unit transfers the visible image from the drum to paper. The Transfer Unit will be assembled in China. The assembly of the Transfer Unit involves two steps. First, a toner sensor and a cleaning blade will be attached to the frame. Second, the Japanese made transfer belt will be installed. The transfer belt is specifically produced in Japan.

Fusing Unit

The Fusing Unit permanently settles toner on the paper by applying heat and pressure to the migrated toner. It is a simple process and the Fusing Unit for the AC1 Series will be entirely assembled in China from Japanese and Chinese parts.

Main Frame

The shell of the main frame will be made from steel sheets formed in China on Japanese dies. The Main Frame will be completely built in Japan. The engine, I/O board, BICU, and operation panels, as well as the exterior covers for the Main Frame, will be installed in Japan. The software for all PCBs will be supplied by Ricoh Japan.

You request an origin determination that the subject photocopying machine is the country of origin Japan i.e., if the "substantial configuration" is performed in Japan.

Issue

What is the country of origin of the subject photocopying machines for the purpose of U.S. Government procurement?

Law and Analysis

Pursuant to Subpart B of Part 177, 19 CFR 177.21 *et seq.*, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

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

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

See also 19 CFR 177.22(a).

In determining whether the combining of parts or materials constitutes a substantial transformation, 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. *Belcrest Linens v. United States*, 573 F. Supp. 1149 (Ct. Int'l Trade 1983), *aff'd*, 741 F.2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally 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 C.S.D. 85-25, 19 Cust. Bull. 844 (1985),

CBP held that for purposes of the Generalized System of Preferences ("GSP"), the assembly of a large number of fabricated components onto a printed circuit board in a process involving a considerable amount of time and skill resulted in a substantial transformation. In that case, in excess of 50 discrete fabricated components (such as resistors, capacitors, diodes, integrated circuits, sockets, and connectors) were assembled. Whether an operation is complex and meaningful depends on the nature of the operation, including the number of components assembled, number of different operations, time, skill level required, attention to detail, quality control, the value added to the article, and the overall employment generated by the manufacturing process.

The courts and CBP have also considered the essential character of the imported article in making these determinations. See *Uniroyal, Inc. v. United States*, 542 F. Supp. 1026, 3 CIT 220, 224–225 (1982) (where it was determined that imported uppers were the essence of a completed shoe) and *National Juice Products Association, et al v. United States*, 628 F. Supp. 978, 10 CIT 48, 61 (1986) (where the court addressed each of the factors (name, character, and use) in finding that no substantial transformation occurred in the production of retail juice products from manufacturing concentrate).

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, 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.

CBP has held in a number of cases involving similar merchandise that complex and meaningful assembly operations involving a large number of components result in a substantial transformation. In Headquarters Ruling Letter ("HRL") 563491 (February 8, 2007), we addressed the country of origin of certain digital color multifunctional systems manufactured

by Sharp and assembled in Japan of various Japanese—and Chinese—origin parts. In that ruling, we determined that color multifunctional systems were a product of Japan based on the fact that "although several subassemblies are assembled in China, enough of the Japanese subassemblies and individual components serve major functions and are high in value, in particular, the transfer belt, control box unit, application-specific integrated circuits, charged couple device, and laser diodes." Further we found that the testing and adjustments performed in Japan were technical and complex and the assembly operations that occurred in Japan were sufficiently complex and meaningful. Thus, through the product assembly and testing and adjustment operations, the individual components and subassemblies of Japanese and foreign-origin were subsumed into a new and distinct article of commerce that had a new name, character, and use. See also HRL 562936, dated March 17, 2004.

In HRL 561734, dated March 22, 2001, CBP held that certain multifunctional machines (consisting of printer, copier, and fax machines) assembled in Japan were a product of that country for the purposes of U.S. government procurement. The multifunctional machines were assembled from 227 parts (108 parts obtained from Japan, 92 from Thailand, 3 from China, and 24 from other countries) and eight subassemblies, each of which was assembled in Japan. See also HRL 561568, dated March 22, 2001.

Based on the facts and law in this case, we find that the assembled AC1 copiers are products of Japan for the purposes of U.S. Government procurement. Out of eight (8) subassemblies, only three (3) will be put together in China. Although the Developer Unit and the Transfer Unit will be assembled in China, we find that enough of the Japanese subassemblies and individual components serve major functions and are high in value, in particular, the transfer belt, Controller, ASCIS, CCD, laser diode, and Photoconductor Unit. In making this determination, we particularly note that the Controller Unit and the Photoconductor Unit are being assembled in Japan, with the Photoconductor Unit made entirely out of Japanese parts and the Controller Unit containing mostly Japanese products. Additionally, AC1's scanning and laser scanning units will be assembled in Japan, using a CCD, laser diodes, f-theta mirror, BTL, and collimator lens of Japanese origin. The Developer Unit subassembly is also

important to the performance of photocopying machines. Although the developer unit will be assembled in China, the developer roller and developer doctor, 2 key components of the unit, are of Japanese origin. Similarly, even though the Transfer Unit is partially assembled in China, the transfer belt itself is a Japanese part. We further note that the testing and adjustments performed in Japan are technical, complex, and time consuming. Based on your submission, it is evident that a large variety of adjustments are made to each subassembly prior to and during the final copier assembly process. These tests and adjustments utilize technologically advanced equipment and firmware, such as the SVT, LD Checker, and LSU Checker. The tests and adjustments will consume nearly one-third of the total final assembly time for AC1 copiers. Finally, the assembly operations that occur in Japan are sufficiently complex and meaningful. Through the product assembly and testing, the individual components and subassemblies of Japanese and foreign origin are subsumed into a new and distinct article of commerce that has a new name, character, and use. Therefore, we find that the country of origin of the AC1 series copiers for the purposes of U.S. Government procurement is Japan.

Holding

Based on the facts of this case, we find that the processing in Japan substantially transforms the non-Japanese components. Therefore, the country of origin of the AC1 Series photocopying machines is Japan for purposes of U.S. Government procurement.

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

Sincerely,
Sandra L. Bell,
Executive Director, Office of Regulations and Rulings, Office of International Trade.

[FR Doc. E8–13544 Filed 6–16–08; 8:45 am]

BILLING CODE 9111–14–P