



# FOOTWEAR TRAFFIC DISTRIBUTION AND CUSTOMS CONFERENCE 2013

## CUSTOMS CLASSIFICATION

McGUIREWOODS

# CLASSIFICATION DETERMINES

- Duty Rate
- Origin
- Preference Eligibility
- Whether Subject to Trade Remedies

## CHAPTER 64

<u>Heading</u>	<u>Upper</u>	<u>Outersole</u>	<u>Other</u>
6401	Rubber/Plastics	Rubber/Plastics	Waterproof-No Stitching, Etc.
6402	Rubber/Plastics	Rubber/Plastics	
6403	Leather	Leather Rubber/Plastics Composition Leather	
6404	Textile	Leather Rubber/Plastics Composition Leather	
6405		Everything Else	
6406		Parts	

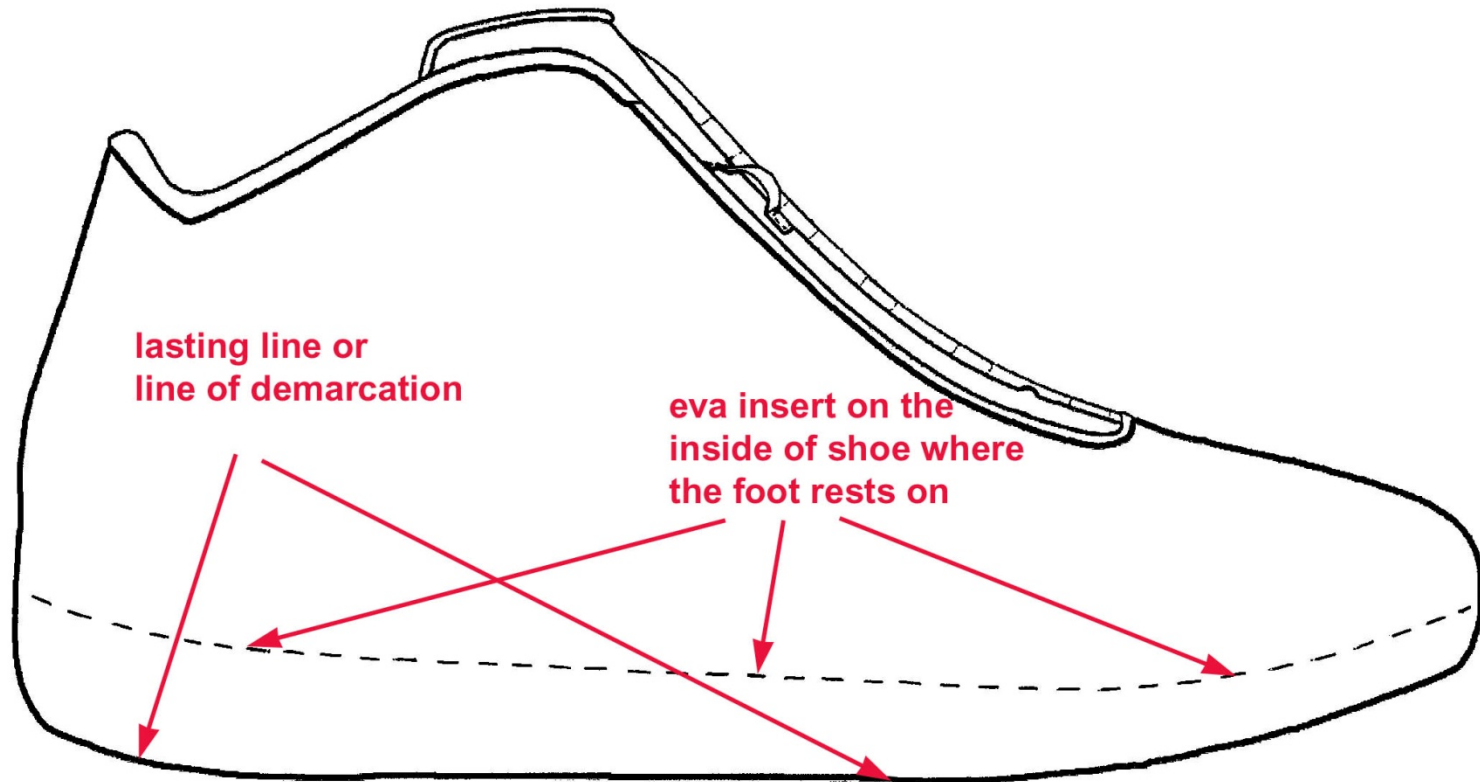


Footwear classification depends first on two factors:

- The Material of the Upper
- The Material of the Sole



## What is considered to be External Surface Area of the Upper?



The upper extends to the line of demarcation for purposes of determining ESAU.

- Material of the Upper is the material with the greatest External Surface Area (ESAU)
- Excluded:
- Accessories and Reinforcements
- Lasting Allowance
- Tongues and Removable Laces
- Loosely Attached Appurtenances
- Foxing and Foxing-Like Bands
- Welt Strips

# Examples of Accessories and Reinforcements

- Ankle Patches
- Buckles
- Edging
- Eyelet Stays
- Pull Tabs
- Embroidery

- 50 Percent not Required
- Material Which Exceeds Each of the Other Materials Taken Individually 40/30/30
- All Textiles are Treated as a Single Material for this Purpose



# ESAU - SOME GUIDEPOSTS

1. WHAT YOU SEE IS WHAT YOU GET - UNLESS YOU SEE MORE THAN ONE MATERIAL.
2. IF THE MATERIAL IS NOT VISIBLE, IT PROBABLY CAN BE IGNORED.
3. IS THE COMPONENT LASTED? IS IT ATTACHED TO A PIECE WHICH IS LASTED?
4. IS THE COMPONENT JOINED AT ITS EDGE TO A LASTED COMPONENT?
5. IS IT A FOXING-LIKE BAND?
6. DOES THE COMPONENT FLOAT?
7. IN MEASURING COMPONENTS, YOU INCLUDE ONLY THE VISIBLE PORTION. THE ALL OR NOTHING RULE NO LONGER APPLIES.
8. TONGUES AND LOOSELY-ATTACHED APPURTENANCES ARE IGNORED.
9. WHAT HAPPENS WHEN A LASTED PIECE IS PURELY DECORATIVE OR IS NOT VIABLE UPPER MATERIAL?
10. DOES *ALPINESTARS* CHANGE THESE RULES?

## EXCEPTIONS – U.S. rule only

- A/R Excluded in Determining Classification at the Heading Level are Added Back to Classify at the 8-Digit Level
- Headings 6401/6402 – All A/R – This is a Requirement to Qualify for Low Duty
- Heading 6404 – Only Leather A/R are Added Back (obsolete?) (*Alpinestars?*)

# The Material of the Outersole is the Material in Contact with the Ground

- Applied Heels are Excluded
- A/R are Excluded
- The Sole A/R are Spikes, Cleats, Bars, Protectors and Nails
- Plastic Dots

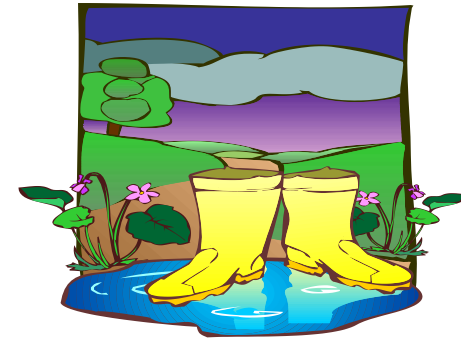


- Textile Surface Area
- Durable? No Real Definition Yet
- Not “Durable” Treated as an Accessory
- Limited Coverage

## The Materials in Chapter 64 are:

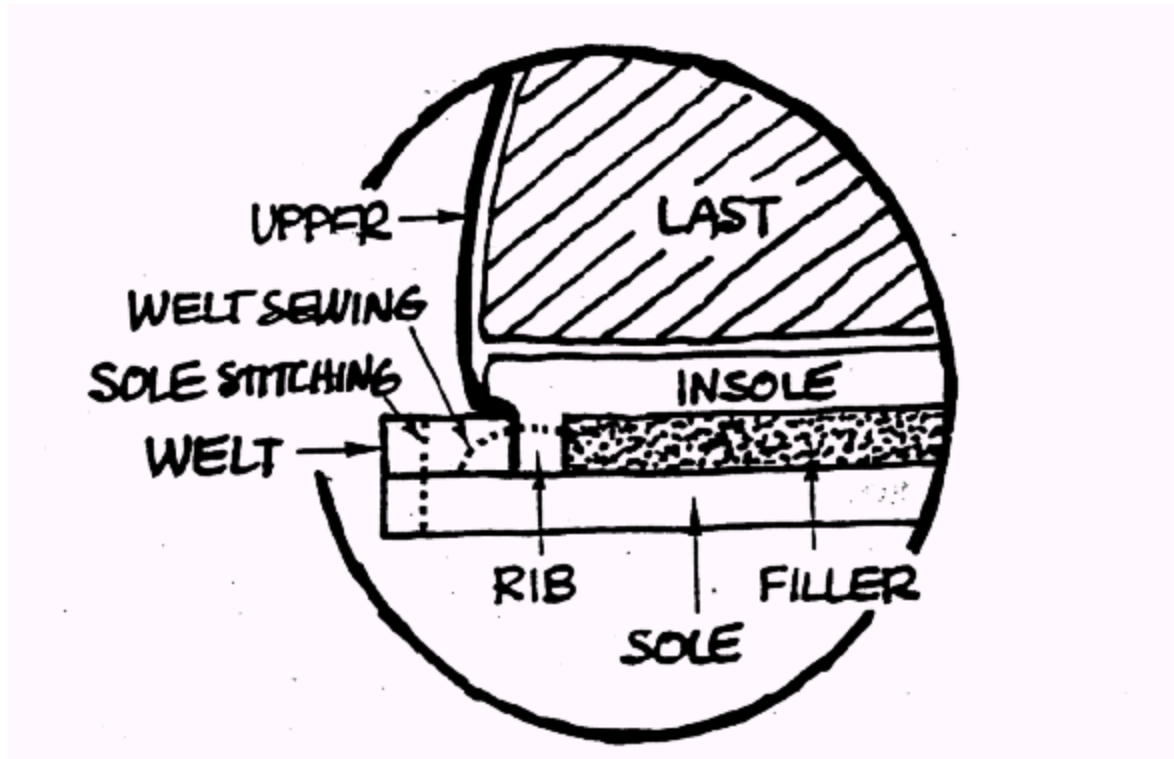
- Leather
- Rubber/Plastics (A single material)
- Textile Materials
- Composition Leather
- Other
- Coated Leather is Usually Leather
- Plastic-Coated Textile is Usually R/P
- All Textiles are a Single Material
- Artificial Raffia (Plastic or Textile)
- Fur (Pony)

# Protective Footwear

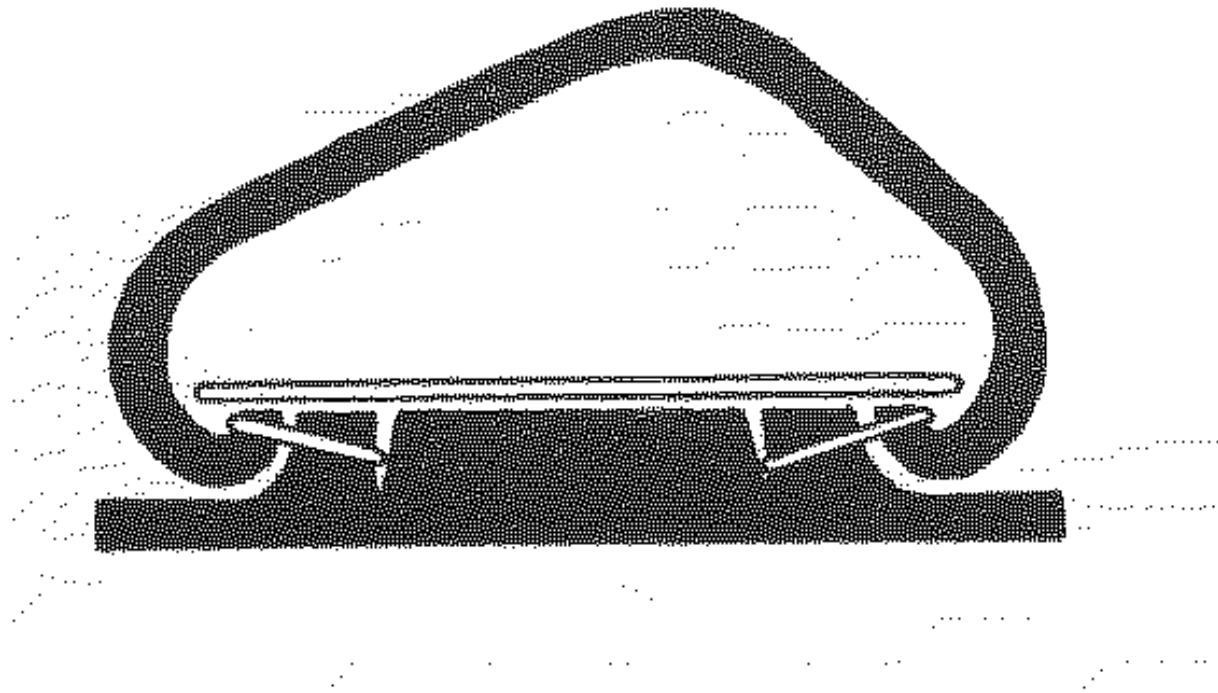


- Protects wearer against water, cold, oil, chemicals - not against abrasion
- Footwear with “Gortex” “Thinsulate” are protective
- Molded rubber clogs are not protective when they are open heel
- Protection must cover the entire foot
- Indoor Footwear – not protective

# Welt Footwear



# Turned Construction





# Price

- Appraised Value
- Rebates
- Tie-In Sales
- First Sale Issue



# Weight

- Condition As Imported – not as Manufactured
- Replace R/P with Non-woven
- What does Reasonable Care Require
- Are Tests Mandatory?
- Manufacturer's Certifications are Not Sufficient



# Gender

- Leather Uppers Only
- Men's, Youths and Boys (8.5%)
- Other Persons (10%)
- A Shoe “Commonly Worn by Both Sexes” is Classified as for Other Persons
- Labels Govern Unless You Want a Fight



# Footwear is not considered Slip-On where there is Any Means of Closure

- Pull-on is Slip-on
- Footwear is Considered Open Toe/Heel when any Part of the Toe or Heel is Visible



# Sports Footwear

- Designed For a Sporting Activity
- With Spikes, Cleats, Etc. that are Pointed or Sharp and Widely-Spaced
- Footwear Useable as Street Wear will not be Classified as Sports Footwear
- Narrowly interpreted by CBP



# Athletic Footwear

- Tennis Shoes and the Like – but not necessarily designed or used for athletic purposes
- Flexibility of Sole and Light Weight are principal defining characteristic
- Sneakers with Bling
- Slip-Ons not considered athletic



# Adhesive Construction

- Upper and Bottom Held Together Exclusively by Adhesive
- Vulcanized and Molded Footwear Excluded
- Functional Nails and rivets, even if secondary, are disqualifying features



# FOXING

Foxing or Foxing-Like Brand Applied or Molded at the Sole and Overlapping the Upper

Foxing – Traditional Sneakers and Tennis Shoes

- Converse – “All Star”
- Keds – “PF Flyers”





# Foxing-Like Band

- Same Qualities, Characteristics and appearance of a Foxing
- Need Not Be a Separate Component
- Need Not Secure Joint Between Sole and Upper
- Must Be Applied or Molded at the Sole
- Must Overlap the Upper
- Must Encircle or Substantially Encircle the Shoe
- Any Means of Attachment



Unit Molded Bottom whether Simultaneous or Separate is not considered a foxing-like band unless the degree of vertical overlap is 1/4 inch or more

3/16 – Children

1/8 – Infants

# Substantial Encirclement

- Need Not Be a Single Component
- More than 60 percent – always a foxing-like band
- Less than 40 percent – no foxing-like band
- Between 40-60 percent appearance is the deciding factor
- Sandals



- Foxing Under – mudguard may be a foxing-like band unless it constitutes the upper
- Mock Welts are not foxing-like bands
- Shell Bottoms, where the side wall constitutes part of the upper, do not exhibit foxing-like bands



# Soles Which Overlap the Upper

- Must Be Sole
- Any Discernable Overlap
- At the Toe or Heel (2.5”)



## Other Issues

- Over-the-Ankle (Sandal Straps)
- Zoris



# Questions or Comments?

[www.mcguirewoods.com](http://www.mcguirewoods.com)