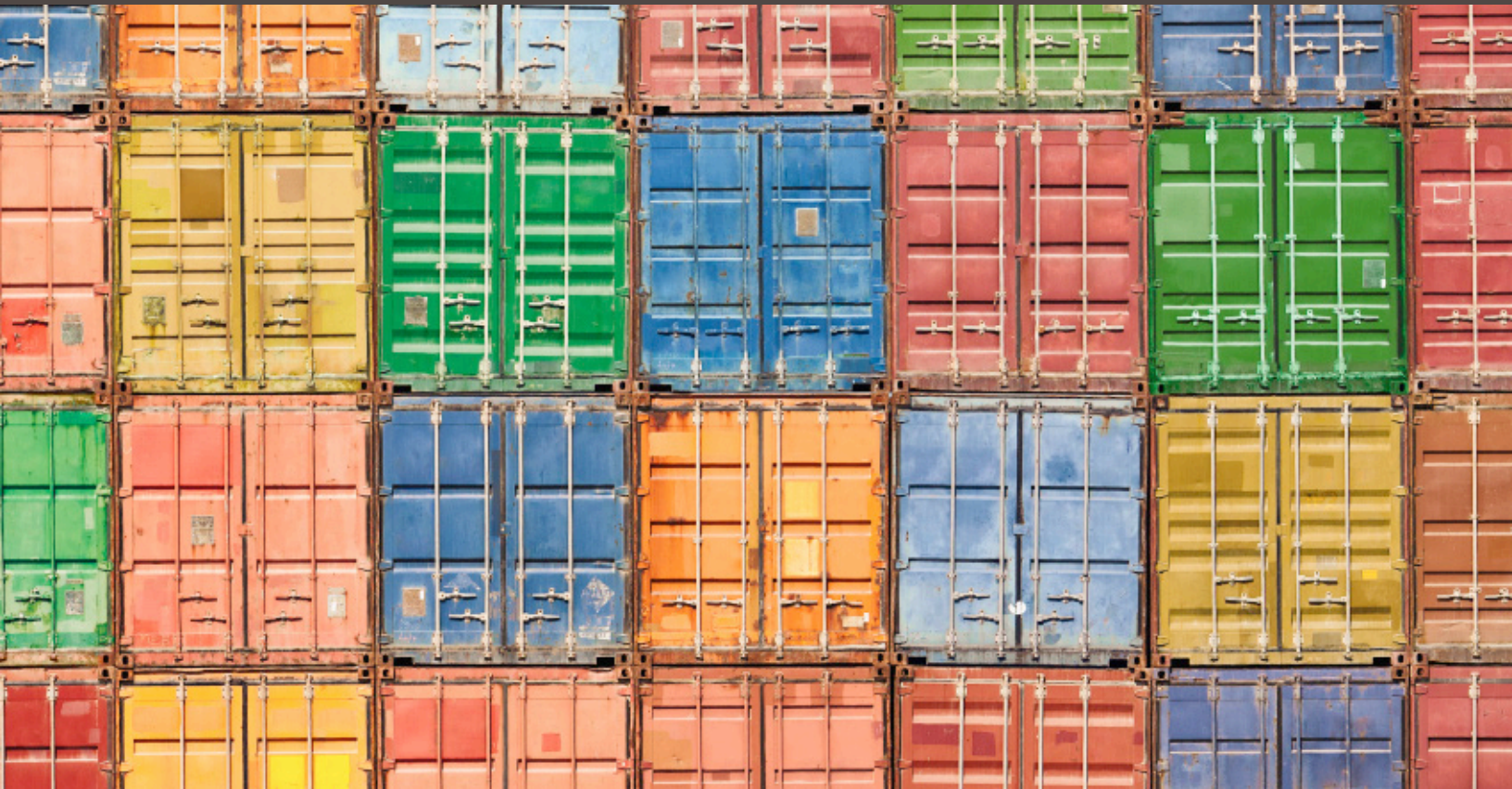




FOOTWEAR DISTRIBUTORS AND RETAILERS OF AMERICA

Footwear Customs Rulings & Analysis Handbook

2013



Innovative Customs Program



Customs Experts & Alerts

FDRA Members have access to the leading legal experts on footwear customs issues, as well as top U.S. Customs officials, to ensure they have full knowledge of customs rulings. FDRA also produces a monthly newsletter to keep professionals updated on all things related to footwear customs worldwide.

Additionally, FDRA uses its decades of customs experience to help companies understand and adapt to footwear import classifications.



FDRA Customs Working Group

FDRA hosts conference calls and provides key analysis documents on customs issues to its working group. The working group allows FDRA members to interact with leading customs experts to help them understand customs rulings and how to adapt to them.

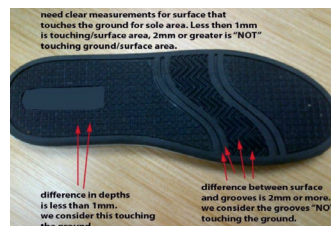
Customs Document Archive

FDRA has built the largest archive for footwear customs documents, analysis, memos, and letters in the U.S. Members are able to access this archive, containing documents dating back to the 1990s, to help them understand customs issues and past rulings as they move forward on the development of new footwear.

Customs Classification Expertise Customs Rulings Clarity Customs Intelligence

Cutting-Edge Customs Tools

FDRA and Amber Road have employed an innovative app that allows footwear customs professionals to enter pictures of footwear samples and component information into a private software system. FDRA reviews the information and provides a HTS classification of the footwear within 24 hours.



FTDC

FDRA's Footwear Traffic Distribution and Customs (FTDC) Conference is the largest footwear conference of its kind in the U.S. This innovative workshop draws nearly 200 of the industry's top footwear executives, traffic and distribution specialists, customs experts, and service providers.

FDRA is the largest and only U.S. footwear association focused solely on footwear issues, like customs classifications. Email info@fdra.org for more information on how FDRA can help you.

January 2013 (*Keywords: unisex slipper clog*)

[NY N234556](#) (November 21, 2012) involves the classification of a unisex slipper clog with a one-piece R/P upper. The outsole, which is stitched to the bottom, is a quarter inch thick felt with widely spaced R/P traction dots measuring an eighth of an inch in diameter. New York ruled that the slipper is classified in subheading 6405.90.90 (12.5%).

This ruling serves as a reminder that the ongoing prohibition against rulings on textile sole footwear does not apply to indoor footwear.

February 2013 (*Keywords: textile, raffia, flip flop*)

From time to time the question of what constitutes textile for purpose of classification in Chapter 64 arises. One of the basic rules is that plastic strip that is less than 5mm in width is considered textile not plastic. Generally, we have understood this to apply primarily, if not exclusively, to what is referred to artificial raffia. That is not necessarily the case.

Two rulings illustrate that the concept is broader. In NY [N185179](#) (October 19, 2011), the New York office addressed the classification of a "flip-flop" consisting of Y-shaped upper of interlaced PU strips, each measuring approximately 4mm in width. The importer argued for classification in HTS 6402.99.31, covering footwear with uppers of rubber and plastics. CBP ruled otherwise, finding that the PU strips were considered "textile". NY [N230983](#) (September 6, 2012) reaches a similar conclusion.

A search of earlier rulings has revealed none that are explicitly on point. The earlier rulings involve footwear with uppers in whole or in part of artificial raffia treated as textile.

March 2013

No noteworthy rulings.

April 2013

No noteworthy rulings.

May 2013

No noteworthy rulings.

June 2013 (*Keywords: plastic, boot, textile liner, waterproof boot, PVC*)

The following is a brief description of two recent classification rulings issued by New York.

The first, NY [N240950](#) (May 17, 2013), addresses an attempt by an importer to classify a waterproof boot of molded rubber or plastic construction as parts. The boot is approximately 17 inches in height and is not lined. After importation, a textile bootie liner will be inserted in the boot. The importer suggested that the boot, without the liner, is properly classified under HTS heading 6406 as parts of footwear. Not surprisingly, CBP disagreed.

CBP points out that the imported article is a boot having both an upper and an outer sole and for that reason considered complete footwear and not a part of footwear. The boot was classified in subheading 6401.92.90 (37.5%).

In NY [N240381](#) (April 29, 2013) CBP addressed another waterproof boot. In this case it was a child's boot in which the upper and outer sole consist of PVC. The boot is constructed in a fashion that does not introduce holes and for that reason would be properly classified in heading 6401.

This specific classification assigned by CBP is subheading 6401.90.60 (4.6%). This provision is limited to footwear in which the soles and uppers are over 90% PVC whether or not supported or lined with PVC but not otherwise supported or lined. Essentially, the boot must be entirely PVC.

July 2013 (*Keywords: molded sandal, R/P, plastic upper, oxford, leather, mutilated, flocked*)

NY [N241414](#) (May 24, 2013) addresses the classification of a one-piece-molded sandal. The sandal is described as women's open-toe sandal with a textile bow glued to the upper and a textile insole cemented to the foot bed. The bow is considered a loosely attached appurtenance. The insole is considered to be an ancillary feature. Accordingly, CBP ruled that the shoe is considered to be molded in a one-piece and therefore classified in subheading 6402.99.27 (3%).

Remember that the presence of so-called ancillary features (they can be removed without affecting use of the shoe) do not preclude classification in subheading 6402.99.27.

In HQ [N242552](#) (June 19, 2013), New York addressed the question of a classification of a man's plastic upper oxford with a rubber/plastic ("R/P") outer sole to which flocked leather has been attached. The flocked leather constitutes as the material having the greatest surface area in contact with the ground. CBP ruled that the shoe was properly classified in subheading 6405.90.90 (12.5%).

Statements by NIS Kalkines at last October's Footwear Traffic Distribution & Customs (FTDC) Conference to the effect that CBP would be looking at flocked leather and composition leather attached to R/P outer soles does not seem to have come to fruition.

NY [N242549](#) (June 19, 2013) addresses the question of what constitutes "mutilated" in relation to the classification of tariff samples. The particular footwear at issue was marked "Sample Not For Resale" by means of a heat transfer label. The labels are located on the inside tongue of one sample and on the inside rear quarter medial side of the sample. New York ruled that the heat transfer label and their location satisfied the requirements for classification in subheading 9811.00.60 (Free).

August 2013

No noteworthy rulings.

September 2013 (*Keywords: child's rain boot, PVC, R/P, unlined*)

The following are brief summaries of recent decisions issued by the footwear NIS.

In NY [N243528](#) (July 26, 2013), the NIS classified a child's rain boot with a molded PVC outer sole and upper. The boot is unlined. The ruling found classification HTS subheading 6401.92.60 (4.6%).

The second ruling concerns a woman's waterproof rain boot with R/P upper lined with textile material. Composition leather was embedded in the R/P outer sole during a molding process. The boot was classified in HTS subheading 6409.90.90 (12.5%).

October 2013 (*Keywords: closed toe/open heel clog, R/P, leather coated, plastic, sandal, flip-flop, sequins, closed toe/open heel slipper, indoor footwear*)

The following are brief summaries of recent decisions issued by the footwear National Import Specialist.

The first ruling is NY [N244940](#) (September 6, 2013) in which CBP ruled that a women's closed toe/open heel clog with R/P outer sole was classified in HTS subheading 6402.99.23. The upper of the clog was made of what the ruling describes as composition leather completely covered with a layer of R/P. Without explanation, CBP ruled that the upper was R/P. Whether this signals a change in position on the issue of the treatment of leather coated with plastic is not clear. Generally, rulings that address this issue have based the decision on the essential character principle and in most cases determined that the leather portion imparted essential character.

NY [N245030](#) (September 6, 2013) addresses a similar issue. There, the footwear was a women's sandal with a R/P outer sole. The upper consists of leather straps across the

instead that are completely covered by a metallic PVC overlay. According to CBP, the presence of the PVC overlay meant that the upper was R/P. Accordingly, classification was held to be in HTS subheading 6402.99.49 (37.5%).

In NY [N245077](#) (September 10, 2013) CBP ruled on the classification on a "flip-flop" in which the upper has plastic sequins securely attached to its surface. The "flip-flop" appears to qualify as a zori in all other respects but was not classified as such because of the plastic sequins, which, since CBP described them as being securely attached, did not qualify as loosely-attached appurtenances. Therefore, you have an upper that is more than one piece, a factor that precludes classification as a zori. Classification was found in subheading 6402.99.31 (6%).

Finally, NY [N245330](#) (September 17, 2013) examined the classification of a closed toe/open heel slipper with a textile upper. The R/P outer sole has a textile overlay that covers the R/P. The importer provided a laboratory report to substantiate the presence of the textile. However, when CBP examined the outer sole under magnification it concluded that although the outer sole has textile material, the material is covered by R/P which totally obscures the presence of any textile fibers. Accordingly, the textile was ignored and the outer sole was deemed R/P resulting in classification in subheading 6404.19.39 (37.5%). You may ask why CBP ruled on this footwear. Since the footwear is described as a slipper, classification in heading 6405 was possible, and CBP will rule on the classification of indoor footwear with textile attached to the outer.

November 2013

No noteworthy rulings.

December 2013 (*Keywords: women's slip-on waterproof rain, R/P, resale, boot protector, shell*)

The following is a brief summary of three recent rulings issued by the National Import Specialist Division.

NY [N246933](#) (October 30, 2013) concerns the classification of a women's slip-on waterproof rain boot with an R/P upper. Composition leather is embedded into the forefoot and heel sections of the R/P outer sole. The R/P area between the front of the heel and the back of the forefoot section does not have contact with the ground when the boot is worn. The composition leather is the constituent material having the greatest surface area in contact with the ground. Accordingly, classification was held to be in subheading 6405.90.90 (12.5%).

In NY [N246189](#) (October 29, 2013) the issue was whether certain footwear was properly classified as tariff samples in subheading 9811.00.60 (Free). The footwear had the words "sample not for resale" embossed on the outer sole. The ruling notes that since the samples appear to be valued at more than \$1.00 each, classification in subheading 9811.00.60 is not possible unless they are marked as samples or otherwise mutilated. The

ruling held that the embossed statement was satisfactory for that purpose and that classification as tariff samples was appropriate.

In NY [N246771](#) (November 14, 2013) CBP addressed the classification of what is referred to a boot protector. The article is a form-fitted shell that fits over the sole of a finished boot. The article is pliable so that it may be slipped over the sole of the boot and can be attached and removed easily and repeatedly. The article covers the entire sole of the boot but does not cover the top and sides of the boot. CBP held that the article is properly classified in subheading 3926.90.99 (5.3%), covering other articles of plastic.

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