

FTDC 2018

Long Beach, California

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Classification Principles & Issues

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McGUIREWOODS

Introduction

- ▶ What is included in Chapter 64?
- ▶ What is excluded?
- ▶ Must footwear have a complete sole or bottom?
- ▶ Must footwear have an upper? The first step is to determine the material of the upper and outsole

What is the Upper

- ▶ 1) Top and sides of the foot
- ▶ 2) Line of demarcation
- ▶ 3) Lasting allowance
- ▶ 4) Tongues excluded
- ▶ 5) Loosely-attached appurtenances
- ▶ 6) Foxing or foxing-like bands

ESAU

- ▶ Material with the greatest surface area
- ▶ 1) Accessories and reinforcements
 - ▶ a) Is it lasted?
 - ▶ b) Does it contribute to structural integrity?
 - ▶ c) R/P on leather
 - ▶ d) Lasted but purely decorative
- ▶ 2) 40-30-30 rule
- ▶ 3) Measure only what is visible
- ▶ 4) Add-back rules
 - ▶ a) 6402 - all accessories and reinforcement
 - ▶ b) 6404 - only leather accessories are reinforcements

Outersole

- ▶ Material in contact with the ground
- ▶ 1) Accessories and reinforcements (spikes, cleats etc.)
- ▶ 2) Applied heels excluded
- ▶ 3) Textile or leather overlays
- ▶ 4) Durability requirement - indoor footwear
- ▶ 5) Plastic dots on textile sole
- ▶ 6) Lug bottoms - degree of coverage

Materials

- ▶ 1) Leather
- ▶ 2) Rubber/Plastics - a single material
- ▶ 3) Textiles
- ▶ 4) 5 mm - R/P strip only
- ▶ 5) Composition leather
- ▶ 6) Coated textiles or leather
- ▶ 7) All other

Foxing and Foxing-Like Band

- ▶ Foxing - Traditional sneakers and tennis shoes
- ▶ FLB
- ▶ 1) Same qualities, characteristics and appearance
- ▶ 2) Need not be a separate component
- ▶ 3) Need not be functional
- ▶ 4) Must be applied or molded at the sole
- ▶ 5) Must overlap the upper

FLB Continued

- ▶ 6) Must encircle or substantially encircle
- ▶ 7) 60-40 rule
- ▶ 8) Unit-molded bottoms
 - ▶ a) 1/4"
 - ▶ b) Children 3/16"
 - ▶ c) Infants - 1/8"
- ▶ 9) Foxing under (mudguards)
- ▶ 10) Mock welts
- ▶ 11) Shell bottoms with sidewalls that are part of the upper

Soles that overlap the upper

- ▶ 1) Must be the sole
- ▶ 2) Any discernable overlap will suffice
- ▶ 3) Except at the toe or heel (2.5")
- ▶ 4) 6404 Only

Protective Footwear

- ▶ 1) Cold, inclement weather or chemicals
- ▶ 2) Protects the wearer not the shoe
- ▶ 3) “Goretex”, “Thinsulate”
- ▶ 4) No sports footwear
- ▶ 5) Protective active

Sports Footwear

- ▶ 1) Designed for a sporting activity
 - ▶ a) Trail running?
 - ▶ b) Liberally construed
- ▶ 2) Spikes, cleats, etc.
 - ▶ a) Pointed, sharp, widely spaced, 1/4"
 - ▶ b) Not suitable for street wear
 - ▶ c) Narrowly construed
- ▶ 3) Ski-boots, cycling, wrestling, boxing
- ▶ 4) Avoids Protective

Athletic footwear - (Frozen in the 80s)

- ▶ 1) Issue for Textile uppers only (Protective Active)
- ▶ 2) Tennis shoes and the like-need not be designed for an athletic activity
- ▶ 3) Flexibility of sole, light weight
- ▶ 4) Slip-ons excluded?
- ▶ 5) Sport sandals
- ▶ 6) Very broadly interpreted
- ▶ 7) Highly decorated - Appearance is important (subjective)
- ▶ 8) No Protective Rate

Construction

- ▶ 6401 - Vulcanized, molded or cemented only
- ▶ 6404 - Adhesive
- ▶ 1) Upper and bottom held together exclusively by adhesive
- ▶ 2) No nails or rivets
- ▶ 3) Not vulcanized or molded

Gender

- ▶ 1) Leather uppers only
- ▶ 2) Men's youths' and boys' (8.5%)
- ▶ 3) Other persons (10%)
- ▶ 4) A shoe "commonly worn by both sexes" is classified as for other persons
- ▶ 5) Labeling controls in most cases
- ▶ 6) Unisex - dual sizes

Miscellaneous I

- ▶ ***Slip-on***
 - ▶ 1) Any means of closure
 - ▶ 2) Partial zippers
 - ▶ 3) Athletic footwear
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- ▶ ***Open toe or open heel*** - when any part of the toe or heel is visible

Miscellaneous II

▶ *Price*

- ▶ 1) Appraised value
- ▶ 2) Rebates
- ▶ 3) Tie-in sales
- ▶ 4) First cost issue

▶ *Weight*

- ▶ 1) Condition as imported - not as manufactured
- ▶ 2) Manufacturer's certifications are not sufficient

Questions or Comments?

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