



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Appeals

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## DECISION AND REASONS

Appeal No. AP-2011-049

Cycles Lambert Inc.

v.

President of the Canada Border  
Services Agency

*Decision and reasons issued  
Thursday, November 22, 2012*

*Corrigendum issued  
Tuesday, December 11, 2012*

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IN THE MATTER OF an appeal heard on October 11, 2012, pursuant to subsection 67(1) of the *Customs Act*, R.S.C. 1985 (2d Supp.), c. 1;

AND IN THE MATTER OF a decision of the President of the Canada Border Services Agency, dated September 19, 2011, with respect to a request for re-determination pursuant to subsection 60(4) of the *Customs Act*.

**BETWEEN**

**CYCLES LAMBERT INC.**

**Appellant**

**AND**

**THE PRESIDENT OF THE CANADA BORDER SERVICES  
AGENCY**

**Respondent**

**DECISION**

The appeal is dismissed.

Serge Fréchette  
Serge Fréchette  
Presiding Member

Dominique Laporte  
Dominique Laporte  
Secretary

Place of Hearing:	Ottawa, Ontario
Date of Hearing:	October 11, 2012
Tribunal Member:	Serge Fréchette, Presiding Member
Counsel for the Tribunal:	Nick Covelli Laura Little
Manager, Registrar Programs and Services:	Michel Parent
Registrar Officer:	Ekaterina Pavlova

**PARTICIPANTS:**

<b>Appellant</b>	<b>Counsel/Representative</b>
Cycles Lambert Inc.	Michael Kaylor
<b>Respondent</b>	<b>Counsel/Representative</b>
President of the Canada Border Services Agency	Geneviève Lecours

**WITNESSES:**

Jean-Paul Brutus, M.D.	Sylvain Gagnon, M.D.
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## STATEMENT OF REASONS

### BACKGROUND

1. This is an appeal filed by Cycles Lambert Inc. (Cycles Lambert) on December 6, 2011, pursuant to subsection 67(1) of the *Customs Act*<sup>1</sup> from a re-determination of a tariff classification, dated September 19, 2011, made by the President of the Canada Border Services Agency (CBSA) pursuant to subsection 60(4).

2. The issue in this appeal is whether bicycle gloves (the goods in issue) are properly classified under tariff item No. 6116.93.00 of the schedule to the *Customs Tariff*<sup>2</sup> as other gloves, mittens and mitts, knitted or crocheted, of synthetic fibres, as determined by the CBSA, or should be classified under tariff item No. 9021.10.00 as orthopaedic or fracture appliances, as claimed by Cycles Lambert.

### PROCEDURAL HISTORY

3. Cycles Lambert imported the goods in issue in June 2007. The goods in issue were classified under tariff item No. 6116.93.00.

4. On May 11, 2011, Cycles Lambert requested a re-determination of the tariff classification of the goods in issue, pursuant to subsection 74(1) of the *Act*, and requested that they be classified under tariff item No. 9021.10.00.

5. On July 18, 2011, pursuant to paragraph 59(1)(a) of the *Act*, the CBSA upheld the classification of the goods in issue under tariff item No. 6116.93.00.<sup>3</sup>

6. On July 29, 2011, Cycles Lambert requested a further re-determination of the classification of the goods in issue, pursuant to subsection 60(1) of the *Act*.

7. On September 19, 2011, pursuant to subsection 60(4) of the *Act*, the CBSA upheld its previous decision, confirming the classification of the goods in issue under tariff item No. 6116.93.00.

8. Cycles Lambert filed its notice of appeal with the Tribunal on December 6, 2011.

9. A hearing was held in Ottawa, Ontario, on October 11, 2012.

10. Two witnesses testified at the hearing. Dr. Jean-Paul Brutus testified on behalf of Cycles Lambert as an expert in the anatomy of the hand, wrist and lower arm. Dr. Sylvain Gagnon testified on behalf of the CBSA as an expert in hand micro-vascular surgery and compressive neuropathy.

### GOODS IN ISSUE

11. In an agreed statement of facts signed by the parties, the goods in issue are described as various styles of men's and women's half-fingered cycling gloves, of knitted textile material and synthetic fibres, and fitted with gel cushioning in the palm of the glove.<sup>4</sup>

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1. R.S.C. 1985 (2d Supp.), c. 1 [*Act*].

2. S.C. 1997, c. 36.

3. Tribunal Exhibit AP-2011-049-08A, tab 1, Exhibit "C".

4. Tribunal Exhibit AP-2011-049-08A, tab 1 at para. 10 and Exhibits "C" and "D".

12. Specifically, the transaction at issue involved the following brand names and model numbers of the goods in issue:

- Evo Men Exotek Gel Gloves (G-24 # 870049)
- Evo Men Exotek Gel Gloves (G-24 # 870050)
- Evo Men Pilot Super Gel Gloves (G-6A # 870051, # 870052)
- Men and Women Comfort Super Gel Gloves (G-5A # 870053, # 870054)
- Men and Women Comfort . . . Gel Gloves (G-5 # 870056)<sup>5</sup>

## STATUTORY FRAMEWORK

13. In appeals under section 67 of the Act concerning tariff classification matters, the Tribunal determines the proper tariff classification of goods in accordance with prescribed interpretative rules.

14. The schedule to the *Customs Tariff* is designed to conform to the Harmonized Commodity Description and Coding System (the Harmonized System) developed by the World Customs Organization.<sup>6</sup> It is divided into sections and chapters, with Chapters 1 to 98 containing a list of goods categorized in a number of headings and subheadings and under tariff items. Chapter 99 is divided into tariff items only.

15. Subsection 10(1) of the *Customs Tariff* provides that classification shall, unless otherwise provided, be determined in accordance with the *General Rules for the Interpretation of the Harmonized System*<sup>7</sup> and the *Canadian Rules*<sup>8</sup> set out in the schedule.

16. The *General Rules* comprise six rules structured in sequence so that classification at the heading level shall first be attempted having regard to Rule 1, which provides that “. . . classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes . . .” If the classification cannot be determined in accordance with Rule 1, then regard must be had to Rule 2, and so on, until classification is completed.

17. Pursuant to Rule 6 of the *General Rules*, “. . . the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, *mutatis mutandis*, to the above Rules (i.e. Rules 1 through 5) . . .” With respect to tariff items, Rule 1 of the *Canadian Rules* states that goods shall be classified “. . . according to the terms of those tariff items and any related Supplementary Notes and, *mutatis mutandis*, to the [*General Rules*] . . .”

18. Section 11 of the *Customs Tariff* provides that, in interpreting headings and subheadings, regard shall be had to the *Explanatory Notes to the Harmonized Commodity Description and Coding System*.<sup>9</sup> While the *Explanatory Notes* are not binding, the Tribunal will apply them, unless there is a sound reason to do otherwise.<sup>10</sup>

5. Tribunal Exhibit AP-2011-049-08A, tab 1 at para. 8.

6. Canada is a signatory to the *International Convention on the Harmonized Commodity Description and Coding System*, which governs the Harmonized System.

7. S.C. 1997, c. 36, schedule [*General Rules*].

8. S.C. 1997, c. 36, schedule.

9. World Customs Organization, 5th ed., Brussels, 2012 [*Explanatory Notes*]. Section 11 of the *Customs Tariff* also specifies that regard shall be had to the *Compendium of Classification Opinions to the Harmonized Commodity Description and Coding System*, World Customs Organization, 2d ed., Brussels, 2003, but no classification opinion is applicable to the present appeal.

10. *Canada (Attorney General) v. Suzuki Canada Inc.*, 2004 FCA 131 (CanLII) at paras. 13, 17.

## Tariff Nomenclature

19. The relevant provisions of the *Customs Tariff* provide as follows:

**61.16**        **Gloves, mittens and mitts, knitted or crocheted.**

...

**-Other:**

...

**6116.93.00**   **- -Of synthetic fibres**

...

**90.21**        **Orthopaedic appliances, including crutches, surgical belts and trusses; splints and other fracture appliances; artificial parts of the body; hearing aids and other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability.**

...

**9021.10.00**   **-Orthopaedic or fracture appliances**

20. The Notes to Chapter 61 provide as follows:

1. This Chapter applies only to made up knitted or crocheted articles.
2. *This Chapter does not cover:*
  - (a) Goods of heading 62.12;
  - (b) Worn clothing or other worn articles of heading 63.09; or
  - (c) *Orthopaedic appliances, surgical belts, trusses or the like (heading 90.21).*

[Emphasis added]

21. The *Explanatory Notes* to heading No. 61.16 provide as follows:

*This heading covers all knitted or crocheted gloves, without distinction between those for women or girls and those for men or boys. It includes ordinary short gloves with separate fingers, mittens covering only part of the fingers, mitts with separation for the thumb only and gauntlet or other long gloves that may cover the forearm or even part of the upper arm.*

The heading also covers unfinished gloves, knitted or crocheted, provided they have the essential character of the finished article.

*The heading **does not cover:***

- (a) Knitted or crocheted gloves, mittens and mitts lined with furskin or artificial fur, or with furskin or artificial fur on the outside (**other than** as mere trimming) (**heading 43.03 or 43.04**).
- (b) Gloves, mitts and mittens for babies (**heading 61.11**).
- (c) *Textile gloves*, mittens and mitts, *not knitted or crocheted* (**heading 62.16**).
- (d) Friction “gloves” for massage or toilet use (**heading 63.02**).

[Italics added for emphasis]

22. The Notes to Chapter 90 define the expression “orthopaedic appliances” as follows:

6. For the purposes of heading 90.21, the expression “orthopaedic appliances” means appliances for:

- Preventing or correcting bodily deformities; or
- Supporting or holding parts of the body following an illness, operation or injury.

Orthopaedic appliances include footwear and special insoles designed to correct orthopaedic conditions, provided that they are either (1) made to measure or (2) mass-produced, presented singly and not in pairs and designed to fit either foot equally.

[Emphasis added]

23. Further to the above definition, the *Explanatory Notes* to heading No. 90.21 set out a list of “orthopaedic appliances”:

They include:

- (1) Appliances for hip diseases (coxalgia, etc.).
- (2) Humerus splints (to enable use of an arm after resection), (extension splints).
- (3) Appliances for the jaw.
- (4) Traction, etc., appliances for the fingers.
- (5) Appliances for treating Pott’s disease (straightening head and spine).
- (6) Orthopaedic footwear and special insoles designed to correct orthopaedic conditions, provided that they are either (1) made to measure or (2) mass-produced, presented singly and not in pairs and designed to fit either foot equally.
- (7) Dental appliances for correcting deformities of the teeth (braces, rings, etc.).
- (8) Orthopaedic foot appliances (talipes appliances, leg braces, with or without spring support for the foot, surgical boots, etc.).
- (9) Trusses (inguinal, crural, umbilical, etc., trusses) and rupture appliances.
- (10) Appliances for correcting scoliosis and curvature of the spine as well as all medical or surgical corsets and belts (including certain supporting belts) characterised by:
  - (a) Special pads, springs, etc., adjustable to fit the patient.
  - (b) The materials of which they are made (leather, metal, plastics, etc.); or
  - (c) The presence of reinforced parts, rigid pieces of fabric or bands of various widths.

The special design of these articles for a particular orthopaedic purpose distinguishes them from ordinary corsets and belts, whether or not the latter also serve to support or hold.

(11) Orthopaedic suspenders (**other than** simple suspenders of knitted, netted or crocheted materials, etc.).

...

*The heading **does not include**:*

- (a) Stockings for varicose veins (**heading 61.15**).
- (b) Simple protectors or *devices designed to reduce pressure on certain parts of the foot*, (**heading 39.26**, if made of plastics, or **heading 40.14**, if of cellular rubber fixed on gauze with adhesive plaster).

- (c) Supporting belts or other support articles of the kind referred to in Note 1 (b) to this Chapter, e.g., pre-natal or maternity belts (generally **heading 62.12 or 63.07**).
- (d) Mass-produced footwear the inner soles of which have been simply arched to alleviate flat-footedness (**Chapter 64**).

[Italics added for emphasis]

## POSITIONS OF PARTIES

### Cycles Lambert

24. Cycles Lambert's position is that the goods in issue should be classified in heading No. 90.21 as "orthopaedic appliances".

25. Cycles Lambert submits that the goods in issue comply with Note 6 to Chapter 90 because they are appliances which prevent bodily deformities. Specifically, Cycles Lambert claims that ulnar neuropathy and carpal tunnel syndrome (CTS) are bodily deformities that can be caused by compression of the nerves in cyclists' hands and are preventable with the use of the cycling gloves which are padded with gel in the palm area of the glove.

26. In this regard, Cycles Lambert relies on the dictionary definitions of the following words:<sup>11</sup>

**Deformity** . . . the condition of being deformed . . . a deformed . . . part of the body . . .

**Bodily** . . . physical: opposed to MENTAL 2. of, in, by, or to the body . . .

**physical** . . . 5. a) of the body as opposed to the mind (*physical* exercise) . . .

**prevent** . . . 3. to keep from happening; make impossible by prior action; hinder – *vi.* to put some obstacle in the way . . .

27. Cycles Lambert refers to the dictionary definition of "appliance" as a ". . . device or machine for performing a specific task, esp. one that is worked mechanically or by electricity"<sup>12</sup> and, in turn, to the definition of "device" as ". . . a piece of equipment or a mechanism designed to serve a special purpose or perform a special function".<sup>13</sup>

28. Cycles Lambert argues that the list of "orthopaedic appliances" set out in the *Explanatory Notes* to heading No. 90.21 is not exhaustive and that Parliament intended to give a fairly wide scope to the "ordinary" meaning of "appliance" on the basis of the particular statutory context in which it is being used in this case.<sup>14</sup>

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11. Tribunal Exhibit AP-2011-049-04A at para. 4; Tribunal Exhibit AP-2011-049-14B, tab 13 at 112-13.

12. Tribunal Exhibit AP-2011-049-04A at para. 11.

13. *Ibid.* at para. 10.

14. *Ibid.* at paras. 12-15; *Transcript of Public Hearing*, 11 October 2012, at 88.

## CBSA

29. The CBSA submits that the exclusion of “orthopaedic appliances” from Chapter 61, as set out in Note 2(c), is not applicable because the goods in issue are not “orthopaedic appliances” and, thus, cannot be classified in heading No. 90.21. Specifically, the CBSA argues that the goods do not meet the definition of “orthopaedic appliances” set out in Note 6 to Chapter 90, i.e. to prevent “bodily deformities”, for the following reasons:

- the fact that cycling gloves reduce some pressure on the hands or that they are specifically designed and padded for the sport of cycling is not sufficient to establish or imply a finding that they prevent a bodily deformity;
- the use of cycling gloves alone would not prevent ulnar neuropathy or CTS, since other factors, such as bicycle ergonomics and hand positioning, may also contribute to these conditions;
- the goods are worn for a number of non-orthopaedic purposes, including “. . . comfort, better handlebar grip, protection against the environmental elements and safety in case of a fall”,<sup>15</sup> and are therefore not analogous to the “orthopaedic appliances” listed in the *Explanatory Notes* to heading No. 90.21;
- the goods in issue are sold by sports retail stores but not medical supply retailers;
- the product literature and the commercial invoice do not describe the goods in issue as “orthopaedic appliances”, nor do they make any reference to the orthopaedic nature of the goods in issue; and
- the goods in issue are not generally used in orthopaedic medicine and/or designed to function as appliances for orthopaedic purposes.

30. The CBSA takes the position that the goods in issue are properly classified in heading No. 61.16 because, on the basis of the description of the goods in issue in the agreed statement of facts, they are expressly named and meet the terms of that heading (and the related *Explanatory Notes*) as “gloves” that are composed of a synthetic fabric that is “knitted or crocheted”. The CBSA further relies on the following:

- dictionary definition of “glove”;
- common industry/trade usage of “glove” to describe the goods in issue;
- Cycles Lambert’s product catalogue describes the goods in issue as “cycling gloves”; and
- commercial invoice for the transaction at issue describes the goods in issue as “sports gloves”.

## ANALYSIS

31. Having regard to the terms of heading No. 61.16, the *Explanatory Notes* to heading No. 61.16 and the description of the goods in issue in the parties’ agreed statement of facts, it is clear that the goods in issue are *prima facie* classifiable in heading No. 61.16, in accordance with Rule 1 of the *General Rules*. They are knitted gloves.

32. However, in light of Note 2(c) to Chapter 61, the goods in issue would fall to be classified in heading No. 90.21 instead if they meet the definition of “orthopaedic appliances”, as defined in Note 6 to Chapter 90.

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15. Tribunal Exhibit AP-2011-049-08A at para. 36.

33. As discussed, Cycles Lambert claims that the goods in issue are orthopaedic appliances because they are appliances which “prevent or correct bodily deformities”; namely, ulnar neuropathy and CTS.

34. Therefore, to succeed in this appeal, Cycles Lambert must establish the following: (1) ulnar neuropathy or CTS is a bodily deformity; (2) the goods in issue prevent or correct ulnar neuropathy or CTS; and (3) the goods in issue are appliances.

35. It is clear that the term “bodily deformity” implies that the deformity must be of the body. In this regard, there is no dispute that ulnar neuropathy and CTS afflict parts of the body, namely, the ulnar or median nerve of the hand or wrist.<sup>16</sup>

36. Is ulnar neuropathy or CTS a “deformity” of the hand or wrist, or the ulnar or median nerve specifically?

37. The dictionary definition of “deformity” is “**1** the state of being deformed; ugliness, disfigurement. **2** a malformation, esp. of body or limb.”<sup>17</sup> In turn, “deformed” is defined as “**1** (of a person or limb) misshapen”.<sup>18</sup>

38. The medical definition of “deformity” is similar and reads as follows: “A deviation from the normal shape or size, resulting in disfigurement . . . .”<sup>19</sup>

39. Dr. Brutus did not opine on the meaning of the expression “bodily deformity” during his appearance. However, Dr. Gagnon testified that a “bodily deformity” in the medical sense means a deformation, disfigurement, congenital malformation, misalignment or abnormal shaping of the body.<sup>20</sup>

40. Thus, to constitute a “deformity” within the ordinary meaning of that word, ulnar neuropathy or CTS must cause the ulnar or median nerve to be disfigured, malformed, misshapen or misaligned.

41. Dr. Gagnon offered examples of bodily deformities. Specifically, he referred to a “crooked spine” and a “bent knee”.<sup>21</sup> He also mentioned devices for the spine, hip and ankle.<sup>22</sup> At least three of these examples correspond to the list of inclusions in the *Explanatory Notes* to heading No. 90.21. In particular, the list includes devices to treat curvature of the spine. While there is no express reference to knees, the list is merely illustrative. In addition to the spine and hip, there are other body parts that are specifically named which appear to be *sui generis* in relation to both the spine and the knee: the leg, finger, head, jaw, tooth, and foot. These are all limbs or parts of the skeletal system. Thus, Dr. Gagnon’s examples seem appropriate.

42. Cycles Lambert’s case is premised on ulnar neuropathy and CTS constituting deformities to a very different kind of body part: blood vessels.

43. Ulnar neuropathy and CTS are common problems for cyclists.<sup>23</sup> Direct pressure from the cyclist’s grip on the handlebars causes compression of the ulnar nerve, which is located within “Guyon’s Canal” at

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16. Tribunal Exhibit AP-2011-049-19A, tab 2 at 26, tab 3 at 44, 48-49; Tribunal Exhibit AP-2011-049-20A at 3.

17. *Canadian Oxford Dictionary*, Thumb Index Edition, s.v. “deformity”.

18. *Ibid.*, s.v. “deformed”.

19. *Stedman’s Medical Dictionary*, 23rd ed., Tribunal Exhibit AP-2011-049-20A at 80.

20. *Transcript of Public Hearing*, 11 October 2012, at 58.

21. *Ibid.* at 59.

22. *Ibid.* at 59.

23. Tribunal Exhibit AP-2011-049-19A, tab 3 at 43; Tribunal Exhibit AP-2011-049-20A at 71.

the hand and wrist.<sup>24</sup> Dr. Gagnon and Dr. Brutus testified that compression does not change the shape of the nerve at all.<sup>25</sup> However, they added that, when the nerve is compressed, the blood flow inside decreases.<sup>26</sup> Cycles Lambert therefore takes the position that ulnar neuropathy causes the body, i.e. the blood vessels on the ulnar nerve, to change shape and thus deform.<sup>27</sup> Although Dr. Brutus's testimony focused largely on ulnar neuropathy, it seems that the same argument applies in respect of CTS, which involves compression of the median nerve at the wrist.<sup>28</sup>

44. In the Tribunal's view, there are several problems with this argument.

45. First, having regard to the kinds of body parts named in the list of inclusions in the *Explanatory Notes* to heading No. 90.21, it is obvious that a blood vessel is something quite distinct, being neither a limb nor part of the skeletal system.

46. Second, the *Explanatory Notes* to heading No. 90.21 exclude from heading No. 90.21 "... devices designed to reduce pressure on certain parts of the foot ...". By analogy, it seems reasonable to infer that conditions which result from pressure on certain parts of the hand or wrist do not constitute "bodily deformities".

47. Third, the same list also indicates that varicose veins are a type of condition that does not constitute a "bodily deformity". Being a condition that relates to the blood system, the Tribunal is of the view that blood vessels are more analogous to veins than they are to the spine, head or jaw.

48. Fourth, during his testimony, Dr. Brutus did not actually describe ulnar neuropathy or CTS as a "deformity". Rather, he described the resulting symptoms as "... sensory disturbances and motor disturbances ...".<sup>29</sup>

49. For his part, Dr. Gagnon specifically testified that ulnar neuropathy is not a "bodily deformity".<sup>30</sup> Instead, he described ulnar neuropathy, when it results in permanent nerve damage, as a "disease" or "dysfunction".<sup>31</sup> He also referred to CTS as a "disease".<sup>32</sup>

50. Dr. Gagnon's opinion is consistent with the dictionary definition of "neuropathy", which means "a disease or dysfunction of one or more peripheral nerves".<sup>33</sup>

51. In the medical literature on the record, there is no description of ulnar neuropathy or CTS as a "deformity". Instead, nerve compression in general is described as a "disorder" or "condition".<sup>34</sup> CTS is a "syndrome".<sup>35</sup> Ulnar neuropathy is commonly referred to as "Cyclist's Palsy" or "Handlebar Palsy".<sup>36</sup> In

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24. Tribunal Exhibit AP-2011-049-19A, tab 2 at 26, tab 3 at 44, *Transcript of Public Hearing*, 11 October 2012, at 10, 47.

25. *Transcript of Public Hearing*, 11 October 2012, at 33-34, 77.

26. *Ibid.* at 33-34, 77.

27. *Ibid.* at 89, 96.

28. Tribunal Exhibit AP-2011-049-20A at 63; *Transcript of Public Hearing*, 11 October 2012, at 50.

29. *Transcript of Public Hearing*, 11 October 2012, at 10; Tribunal Exhibit AP-2011-049-20A at 64, 71.

30. *Transcript of Public Hearing*, 11 October 2012, at 58.

31. *Ibid.* at 49, 55-56.

32. *Ibid.* at 48-49, 56; Tribunal Exhibit AP-2011-049-20A at 2.

33. *Canadian Oxford English Dictionary*, Thumb Index Edition, s.v. "neuropathy".

34. Tribunal Exhibit AP-2011-049-20A at 65, 71.

35. *Ibid.* at 66.

36. Tribunal Exhibit AP-2011-049-19A, tabs 2, 3. CTS experienced by cyclists has also been referred to by the same name, Tribunal Exhibit AP-2011-049-20A at 76.

this regard, the dictionary definition of “palsy” is “*esp.* paralysis with involuntary tremors”.<sup>37</sup> There is no mention of “deformity”, “deformed”, “deformation”, “disfigurement”, “malformation”, “misshapen”, “misalignment” or similar descriptors.

52. Moreover, it is not even clear that, when the nerve is compressed and the flow in the blood vessels of the nerve is decreased, the shape or form of the blood vessel changes. Dr. Gagnon expressed the opinion that there are “. . . no physical changes.”<sup>38</sup>

53. Therefore, Cycles Lambert has failed to demonstrate that ulnar neuropathy and CTS are not “bodily deformities”.

54. Accordingly, whether the goods in issue are appliances which prevent or correct ulnar neuropathy or CTS is moot; the goods in issue are not orthopaedic appliances of heading No. 90.21.

55. Consequently, Note 2(c) to Chapter 61 does not apply, and the goods in issue fall to be classified in heading No. 61.16 pursuant to Rule 1 of the *General Rules*.

56. As the goods in issue are made of synthetic fibres, the Tribunal finds that they fall under tariff item No. 6116.93.00 pursuant to Rule 6 of the *General Rules* and Rule 1 of the *Canadian Rules*, as determined by the CBSA.

## DECISION

57. The appeal is dismissed.

Serge Fréchette  
Serge Fréchette  
Presiding Member

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37. *Canadian Oxford English Dictionary*, Thumb Index Edition, s.v. “palsy”.

38. *Transcript of Public Hearing*, 11 October 2012, at 78.

IN THE MATTER OF an appeal heard on October 11, 2012, pursuant to subsection 67(1) of the *Customs Act*, R.S.C. 1985 (2d Supp.), c. 1;

AND IN THE MATTER OF a decision of the President of the Canada Border Services Agency, dated September 19, 2011, with respect to a request for re-determination pursuant to subsection 60(4) of the *Customs Act*.

**BETWEEN**

**CYCLES LAMBERT INC.**

**Appellant**

**AND**

**THE PRESIDENT OF THE CANADA BORDER SERVICES  
AGENCY**

**Respondent**

**CORRIGENDUM**

Paragraph 53 should have read as follows:

53. Therefore, Cycles Lambert has failed to demonstrate that ulnar neuropathy and CTS are “bodily deformities”.

By order of the Tribunal,

Dominique Laporte  
Dominique Laporte  
Secretary