



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Appeals

DECISION AND REASONS

Appeal No. AP-2014-029

Liteline Corporation

v.

President of the Canada Border
Services Agency

*Decision and reasons issued
Monday, February 1, 2016*

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IN THE MATTER OF an appeal heard on September 25 and November 19, 2015,
pursuant to subsection 67(1) of the *Customs Act*, R.S.C., 1985, c. 1 (2nd Supp.);

AND IN THE MATTER OF a decision of the President of the Canada Border Services
Agency, dated September 10, 2014, with respect to a request for re-determination pursuant
to subsection 60(4) of the *Customs Act*.

BETWEEN

LITELINE CORPORATION

Appellant

AND

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

Respondent

DECISION

The appeal is dismissed.

Peter Burn
Peter Burn
Presiding Member

Place of Hearing: Ottawa, Ontario
Dates of Hearing: September 25 and November 19, 2015
Tribunal Member: Peter Burn, Presiding Member
Counsel for the Tribunal: Peter Jarosz
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STATEMENT OF REASONS

INTRODUCTION

1. This is an appeal filed by Liteline Corporation (Liteline) with the Canadian International Trade Tribunal (the Tribunal) pursuant to subsection 67(1) of the *Customs Act*¹ from six decisions made by the President of the Canada Border Services Agency (CBSA) on September 10, 2014, pursuant to subsection 60(4).

2. The goods in issue are single light-emitting diode (LED) puck lights (puck lights) and 3-puck LED starter kits (starter kits).² These goods have many applications, including interior backlighting, task lighting and decoration. When the puck lights are imported, they are not equipped to be ready for connection to household power; they must be connected to a separately provided power supply. The starter kits do contain this power supply, as well as mounting hardware.

PROCEDURAL HISTORY

3. Liteline imported the goods in issue between July 27, 2009, and June 28, 2010. The goods in issue were classified under tariff item No. 9405.40.90 of the schedule to the *Customs Tariff*³ as other electric lamp and lighting fittings.

4. On July 26, 2013, and January 30, 2014, Liteline filed a request for a refund of duty, pursuant to paragraph 74(1)(e) of the *Act*. Liteline requested that the goods in issue be classified under tariff item No. 8543.70.00 as other machines and apparatus.

5. On August 6, 2013, and May 21, 2014, the CBSA denied the application for a refund of duty, which is treated as a re-determination pursuant to paragraph 59(1)(a) of the *Act*. It determined that the goods in issue remained classified under tariff item No. 9405.40.90. On August 7, 2013, and May 22, 2014, Liteline submitted a request for a further re-determination of the tariff classification pursuant to subsection 60(1). Liteline requested that the goods in issue be classified under tariff item No. 8543.70.00 as other machines and apparatus. On July 7, 2014, the CBSA issued a preliminary decision, finding that the goods in issue were properly classified under tariff item No. 9405.40.90.

6. On September 10, 2014, the CBSA further re-determined the tariff classification pursuant to subsection 60(4) of the *Customs Act*. The goods remained classified under tariff item No. 9405.40.90.

7. On December 5, 2014, Liteline filed the present appeal with the Tribunal with respect to the decisions, requesting that the Tribunal find that the goods in issue should be classified in heading No. 85.43, specifically under tariff item No. 8543.70.00. The hearing was scheduled for June 15, 2015.

8. The following submissions were filed: (1) Liteline's brief; (2) the CBSA's brief; (3) Liteline's additional material; (4) the CBSA's additional material; (5) Liteline's expert report; and (6) the CBSA's expert report.

9. On May 28, 2015, Liteline filed a motion to strike parts of the CBSA's expert report. On the same day, the CBSA filed a response, and Liteline filed reply submissions on June 1, 2015. The Tribunal granted the motion in part and removed page 5 of the expert report from the record because it gave opinion evidence

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

2. Exhibit AP-2014-029-04, tab 1, Vol. 1.

3. S.C. 1997, c. 36.

on the interpretation of the *Explanatory Notes to the Harmonized Commodity Description and Coding System*.⁴

10. On June 8, 2015, the CBSA filed a motion to strike the additional materials filed by Liteline. On June 9, 2015, the Tribunal denied the motion but noted that certain documents did not appear to be filed in response to the CBSA's brief and were available at the time of the filing of Liteline's brief. Accordingly, the Tribunal allowed the CBSA to file additional documents in response.

11. On June 10, 2015, two working days before the hearing, the CBSA wrote to the Tribunal asking for further clarification of Liteline's intentions as to the above-mentioned documents and asked the Tribunal to hold a pre-hearing conference. On June 11, 2015, the CBSA filed its additional materials in response. On June 11, 2015, the Tribunal adjourned the hearing pending a more complete resolution of these issues. The Tribunal directed parties, in its letter of June 18, 2015, to file additional submissions addressing the issues in the CBSA's motion. The CBSA objected to Liteline's response because it was insufficient. The Tribunal issued additional directions on August 13, 2015. Liteline complied with the Tribunal's additional directions on August 19, 2015. The CBSA reiterated its objection on August 21, 2015. On August 24, 2015, the Tribunal maintained its decision to allow the additional materials to remain on the record.

12. The Tribunal held a public hearing on September 25, 2015. Following the hearing of the evidence, the hearing was adjourned due to health issues among the participants. Oral argument was rescheduled, on consent of the parties, and held on November 19, 2015.

LEGAL FRAMEWORK

13. The tariff nomenclature is set out in detail in the schedule to the *Customs Tariff*, which is designed to conform to the Harmonized Commodity Description and Coding System (the Harmonized System) developed by the World Customs Organization (WCO).⁵ The schedule is divided into sections and chapters, with each chapter containing a list of goods categorized in a number of headings and subheadings and under tariff items.

14. Subsection 10(1) of the *Customs Tariff* provides that the classification of imported goods shall, unless otherwise provided, be determined in accordance with the *General Rules for the Interpretation of the Harmonized System*⁶ and the *Canadian Rules*⁷ set out in the schedule.

15. The *General Rules* comprise six rules. Classification begins with Rule 1, which provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the other rules.

16. Section 11 of the *Customs Tariff* provides that, in interpreting the headings and subheadings, regard shall be had to the *Compendium of Classification Opinions to the Harmonized Commodity Description and Coding System*⁸ and the *Explanatory Notes*, published by the WCO. While classification opinions and

4. World Customs Organization, 5th ed., Brussels, 2012 [*Explanatory Notes*].

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

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

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

8. World Customs Organization, 2d ed., Brussels, 2003 [*Classification Opinions*].

explanatory notes are not binding, the Tribunal will apply them unless there is a sound reason to do otherwise.⁹

17. The Tribunal must therefore first determine whether the goods in issue can be classified at the heading level according to Rule 1 of the *General Rules* as per the terms of the headings and any relative section or chapter notes in the *Customs Tariff*, having regard to any relevant classification opinions and explanatory notes. If the goods in issue cannot be classified at the heading level through the application of Rule 1, then the Tribunal must consider the other rules.¹⁰

18. Once the Tribunal has used this approach to determine the heading in which the goods in issue should be classified, the next step is to use a similar approach to determine the proper subheading.¹¹ The final step is to determine the proper tariff item.¹²

RELEVANT CLASSIFICATION PROVISIONS

19. The relevant provisions of the *Customs Tariff* provide as follows:¹³

85.43 Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this Chapter.

...

8543.70.00 -Other machines and apparatus

...

94.05 Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having a permanently fixed light source, and parts thereof *not elsewhere specified or included.*

...

9405.40 -Other electric lamps and lighting fittings

...

9405.40.90 -- -Other

...

9. See *Canada (Attorney General) v. Suzuki Canada Inc.*, 2004 FCA 131 (CanLII) at paras. 13, 17, where the Federal Court of Appeal interpreted section 11 of the *Customs Tariff* as requiring that explanatory notes be respected unless there is a sound reason to do otherwise. The Tribunal is of the view that this interpretation is equally applicable to classification opinions.

10. Rules 1 through 5 of the *General Rules* apply to classification at the heading level.

11. Rule 6 of the *General Rules* provides that "... 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] ..." and that "... the relative Section and Chapter Notes also apply, unless the context otherwise requires."

12. Rule 1 of the *Canadian Rules* provides that "... the classification of goods in the tariff items of a subheading or of a heading shall be determined according to the terms of those tariff items and any related Supplementary Notes and, *mutatis mutandis*, to the [*General Rules*] ..." and that "... the relative Section, Chapter and Subheading Notes also apply, unless the context otherwise requires." Classification opinions and explanatory notes do not apply to classification at the tariff item level.

13. While the goods were imported at various times between 2009 and 2010, the Tribunal notes that the relevant tariff provisions from the 2009 version of the schedule to the *Customs Tariff* were not amended during this period.

-Parts:

...

9405.99 --Other

...

9405.99.90 ---Other

[Emphasis added]

20. Note 1(f) to Chapter 94 (Note 1(f)),¹⁴ along with relevant explanatory notes to Chapter 85, must be also considered as follows:

- Note 1(f) provides that Chapter 94 "... does *not* cover ... [l]amps or lighting fittings of Chapter 85" [emphasis added];
- the explanatory notes to heading No. 85.43 provide that "[t]his heading covers all electrical appliances and apparatus, **not falling** in any other heading of this Chapter, ***nor covered more specifically by a heading of any other Chapter of the Nomenclature . . .***" [emphasis added]; and
- the above explanatory notes also provide that "[t]he heading includes, *inter alia* . . . (16) **Electro-luminescent devices**, generally in strips, plates or panels, and based on electro-luminescent substances (e.g., zinc sulphide) placed between two layers of conductive material."

POSITIONS OF PARTIES

21. The dispute is at the tariff heading level.

22. Liteline argued for classification of the goods in issue in heading No. 85.43 as electrical machines and apparatus, having individual functions, not specified or included elsewhere in Chapter 85. Liteline referred to Note 1(f) which excludes "[l]amps or lighting fittings of Chapter 85" and submitted that, "... if it is determined that the goods are included in heading 85.43, that is the end of the classification analysis. There would be no basis to look at whether the goods fall within the scope of Chapter 94."¹⁵

23. According to Liteline, the evidence, the *Explanatory Notes* and the *Classification Opinions* all pointed to the goods in issue falling within the scope of the term "electro-luminescent devices", as they are devices composed of electro-luminescent diodes. Therefore, Liteline submitted that the goods in issue should be classified in heading No. 85.43.

24. The CBSA submitted that the goods in issue are properly classified in heading No. 94.05 as "[l]amps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included." The CBSA argued that the goods in issue are not lamps or lighting devices that are described in a heading of Chapter 85 and that they are not more specifically described in any heading of Chapter 85 than in heading No. 94.05.

14. There are no applicable section notes.

15. Exhibit AP-2014-029-04 at para. 21, Vol. 1.

25. The CBSA further argued that the goods in issue did not function on the basis of “classical” electro-luminescence-electro-luminescent substances placed between two layers of conductive material—and thus were not covered by the explanatory notes to heading No. 85.43.

26. The CBSA also argued that Liteline’s proposed classification would exclude all electric lamp and lighting fittings from the ambit of heading No. 94.05 and that such an interpretation would render the terms of any of the numerous subheadings to heading No. 94.05 a “nullity”.

TRIBUNAL’S ANALYSIS

27. Note 1(f) states that Chapter 94 does *not* cover “[l]amps or lighting fittings of Chapter 85”. It follows that the relevant provisions of Chapter 85 must be examined first. If the goods are classifiable in Chapter 85, the classification analysis ends.

28. The Tribunal will therefore examine Chapter 85 in order to ascertain whether the goods in issue are lamps or lighting fittings included in Chapter 85 and, therefore, excluded from classification in Chapter 94 by the operation of Note 1(f).

Chapter 85 does not Cover the Goods in Issue

29. The Tribunal does not view Note 1(f) in the same way as Liteline. Rather, the Tribunal is of the view that Chapter 85 does not apply to the goods in issue and that the goods are not classifiable in heading No. 85.43.

30. To fully explain this conclusion, it is helpful to review other lighting and lamp-related headings of Chapter 85, in order to (i) address the reference in Note 1(f) to “[l]amps or lighting fittings” and the purported exclusion of lamps, such as the goods in issue, by virtue of Note 1(f); and (ii) understand the statutory context of Chapter 85 as covering components of electrical devices such as lamps but not necessarily the entirety, i.e. an entire lamp.

Note 1(f) does not Refer to all Electric Lamps

31. Note 1(f) refers to lamps or lighting fittings “of Chapter 85”. There are specific lamp-related headings in Chapter 85.¹⁶ However, the goods in issue are not classifiable in any of these headings.

32. Heading No. 85.43 is not one of the specific headings in Chapter 85 describing certain lamps or lighting fittings; rather, it is a catch-all, residual category. Note 1(f) could have made reference to heading No. 85.43 but it does not do so.

33. Note 1(f) cannot be interpreted to mean that all electric lamps or lighting fittings are to be classified in Chapter 85 instead of Chapter 94, as submitted by Liteline. Liteline’s proposed interpretation would largely rob heading No. 94.05 of meaning, as all electric lamps, which could be classified in heading

16. For example, heading No. 85.12 “**Electrical lighting or signalling equipment (excluding articles of heading 85.39), windscreen wipers, defrosters and demisters, of a kind used for cycles or motor vehicles**”, heading No. 85.13 “**Portable electric lamps designed to function by their own source of energy (for example, dry batteries, accumulators, magnetos), other than lighting equipment of heading 85.12**” and heading No. 85.39 “**Electric filament or discharge lamps, including sealed beam lamp units and ultra-violet or infra-red lamps; arc-lamps**”.

No. 94.05, would now have to be classified in heading No. 85.43. The Tribunal will not adopt such a flawed interpretation.

34. The above conclusions are supported by the explanatory notes to heading No. 85.43 which direct classification elsewhere in the nomenclature if the other heading (i.e. the heading outside Chapter 85) is more specific. These *Explanatory Notes* acknowledge the residual (sometimes referred to as “catch-all”) non-specific nature of heading No. 85.43 and support the Tribunal’s interpretation of Note 1(f).

35. The goods in issue can properly be considered “lamps or lighting fittings” not specifically covered or included in Chapter 85. “Lamps” is a description more specific than the term “electrical machines and apparatus”, which covers a wide variety of goods.¹⁷

36. Therefore, Note 1(f), which excludes “[l]amps or lighting fittings of Chapter 85”, excludes only those lamps or lighting fittings that are specifically named in Chapter 85 and does *not* exclude other lamps (like the goods in issue) that are not specifically named but which arguably are generally described within catch-all, residual heading No. 85.43.

Chapter 85 Covers Certain Components of Electric Lamps but not Lamps or Lighting Fittings

37. The tariff nomenclature in Chapter 85, when taken as a whole, supports the above interpretation (that Chapter 85 does not cover *all* electric lamps). As pointed out by the CBSA, the following explanatory notes to Chapter 85 provide that the chapter covers certain goods which are components rather than an entirety of a product:

GENERAL

(A) SCOPE AND STRUCTURE OF THE CHAPTER

This Chapter covers:

...

- (6) Certain electrical goods not generally used independently, but designed to play a particular role as components, in electrical equipment, e.g., capacitors (heading 85.32), switches, fuses, junction boxes, etc. (heading 85.35 or 85.36), lamps (heading 85.39), thermionic, etc., valves and tubes (heading 85.40), diodes, transistors and similar semiconductor devices (heading 85.41), electrical carbons (heading 85.45).

38. Most important in the above list is heading No. 85.39 “**Electric filament or discharge lamps, including sealed beam lamp units and ultra-violet or infra-red lamps; arc-lamps.**” These “lamps” are only parts of a whole; in essence, their only function is as “bulbs” for lighting units, whether they be freestanding lamps or lighting fittings (lamps which are attached to structures).¹⁸ This explains why LED bulbs are also classified in Chapter 85.

39. Related to the above point is Liteline’s misplaced reliance on the classification opinions to subheading No. 8543.70 as support for its proposed classification:

17. The Tribunal notes that this direction in the *Explanatory Notes* is akin to the analysis that would be undertaken under Rule 3 (a) of the *General Rules* if both competing headings, i.e. Nos. 85.43 and 94.05, were found to be *prima facie* applicable. The Tribunal’s conclusions, as to the proper tariff classification of the goods in issue, in such an analysis would be the same as under Rule 1.

18. Exhibit AP-2014-029-21 at 26-27, Vol. 1D.

6. **Light-emitting diode (LED) “spot lamp”** composed of several light emitting diodes, circuitry to rectify AC power and to convert voltage to a level useable by the LEDs, a heat sink and a *bi-pin base*.
7. **Light-emitting diode (LED) “bulb lamp”** *in the standard shape of an incandescent bulb*, composed of several light emitting diodes inside of an envelope of plastics, circuitry to rectify AC power and to convert voltage to a level useable by the LEDs, a heat sink and an *Edison screw base*.

[Emphasis added]

40. These classification opinions support the Tribunal’s view that heading No. 85.43 is appropriate for the classification of certain lamp components, be they based on LED technology or otherwise. The goods described in the classification opinions are components of lamps and lighting fittings, i.e. they are light bulbs. However, the goods in issue are the lamps themselves and, as such, are not described by the classification opinions. The classification opinions deal with LED bulbs (classified in heading No. 85.43, just as filament bulbs would be classified in heading No. 85.39) and do not deal with complete fixtures and lamps such as the goods in issue which belong specifically in heading No. 94.05.

41. For the above reasons, the Tribunal is of the view that these classification opinions do not mandate classification of the goods in issue in heading No. 85.43 but rather indicate that it would be incorrect to do so. The classification of the goods in issue outside of Chapter 85 is also concordant with the context of Chapter 85 set out above, whereas classification of the goods in issue in Chapter 85 would be discordant with this context.

The Goods in Issue are not Classifiable in Heading No. 85.43

42. As stated above, the explanatory notes to heading No. 85.43 direct classification elsewhere in the nomenclature if the other heading (i.e. the heading outside Chapter 85) is more specific. This is the case with competing heading No. 94.05.

43. Liteline also argued that similar goods have been classified in heading No. 85.43 by U.S. Customs and Border Protection.¹⁹ As is the case with rulings by the CBSA, the Tribunal is neither bound by rulings of administrative agencies nor convinced of their relevance or support for Liteline’s position in this case, given the very brief description of the goods and the rationale for classification set out therein.

44. The issue of whether the goods in issue are electro-luminescent devices within the meaning of the *Explanatory Notes* is not dispositive. Contrary to the position taken by Liteline, whether or not the goods in issue do function on the type of electro-luminescence described in the explanatory notes to heading No. 85.43,²⁰ they are not classifiable in heading No. 85.43.

45. Finally, as correctly pointed out by the CBSA, the reading of Note 1(f) sought by Liteline would appear to render heading No. 94.05 devoid of much of its current meaning, including the meaning conceded

19. *Ibid.* at 23.

20. The Tribunal notes that the evidence of the CBSA’s expert witness established that the goods in issue did not function by using zinc sulphide or any other capacitor, as expressly contemplated by the *Explanatory Notes*, but rather functioned by the application of electric DC current to a semi-conductor and, in particular, a diode, i.e. the LED. *Transcript of Public Hearing*, 25 September 2015, at 39-41.

to be proper by Liteline.²¹ As stated above, the Tribunal does not agree with such an interpretation. The goods in issue are properly classified in heading No. 94.05, as will be explained below.

46. As the goods in issue cannot be classified in heading No. 85.43, heading No. 94.05 must now be reviewed for applicability.

Heading No. 94.05 is Applicable to the Goods in Issue

47. The following explanatory notes to heading No. 94.05 set out the criteria for the classification of the goods in issue in this heading:

...Electrical lamps and lighting fittings of this heading may be equipped with lamp-holders, switches, flex and plugs, transformers, etc., or, as in the case of fluorescent strip fixtures, a starter or a ballast.

This heading covers in particular:

- (1) *Lamps and lighting fittings normally used for the illumination of rooms*, e.g.: hanging lamps; bowl lamps; ceiling lamps; chandeliers; wall lamps; standard lamps; table lamps; bedside lamps; desk lamps; night lamps; water-tight lamps.

...

This heading also **excludes**:

...

- (h) Electric filament lamps, discharge lamps (including tubes in various complex forms such as scrolls, letters, figures, stars, etc.) and arc lamps (**heading 85.39**).²²

[Emphasis added]

48. It was uncontested that the goods in issue emit light and are used for the illumination of rooms.²³ As such, they are properly considered to be lamps or lighting fittings. The goods in issue are not specified or included elsewhere in the nomenclature (this includes heading No. 85.43 as discussed above).

49. It should be noted that the goods in issue bear a physical and functional resemblance to goods previously classified by the Tribunal in Chapter 94. In its decision in *Ulextra Inc. v. President of the Canada Border Services Agency*,²⁴ the Tribunal classified certain models of ceiling-mounted recessed lighting fittings that are sometimes referred to as “pot lights” or “recessed lighting fixtures” as goods of heading No. 94.05. The Tribunal sees no reason to depart from a similar conclusion in this appeal.

21. Liteline conceded in argument that lamps using traditional filament bulbs would continue to be classifiable in heading No. 94.05 but that the same lamp using an LED bulb would be classifiable in heading No. 85.43. *Transcript of Public Hearing*, 25 September 2015, at 90. It should also be noted that the Tribunal has previously found that outdoor lamps using LED technology were properly classified in heading No. 94.05. *Costco Wholesale Canada Ltd. v. President of the Canada Border Services Agency* (29 July 2013), AP-2012-041 and AP-2012-042 (CITT).

22. The Tribunal notes that Chapter 85 explicitly covers some non-LED bulbs as “lamps”, for example, heading No. 85.39 “**Electric filament or discharge lamps, including sealed beam lamp units and ultra-violet or infra-red lamps; arc-lamps**”. The Tribunal is of the view that these terms refer to, *inter alia*, traditional filament light bulbs. Heading No. 85.42, “**Electronic integrated circuits**”, in turn, covers *inter alia* individual LEDs.

23. Exhibit AP-2014-029-10A at paras. 7, 66, Vol. 1A; Exhibit AP-2014-029-04 at para. 35, Vol. 1; *Transcript of Public Hearing*, 19 November 2015, at 20, 43, 56.

24. (15 June 2011), AP-2010-024 (CITT).

50. Finally, as discussed above, Liteline's position would largely rob heading No. 94.05 of any meaning, i.e. only non-electric lamps could be classified in that heading, contrary to the explanatory notes to heading No. 94.05. Liteline's position regarding heading No. 85.43 contradicts the explanatory notes to heading No. 94.05, which direct classification of "electrical lamps" in heading No. 94.05. The classification of the goods in issue in heading No. 94.05 is consistent with the legal notes to the *Customs Tariff*, the *Explanatory Notes*, the *Classification Opinions* and Tribunal case law discussed above.

51. Having determined the heading in which the goods in issue are to be classified, the classification at the subheading and tariff item levels of the starter kits and the puck lights must also be determined.

52. This analysis commences with the starter kits.

53. The Tribunal heard evidence that the starter kits are a "complete lighting solution",²⁵ as the starter kit contains both the puck lights and the driver necessary for functioning as a light source, with no additional equipment being needed.²⁶ Therefore, the Tribunal is of the view that the starter kits constitute an entirety and are therefore properly classified as lamps or lighting fittings of subheading No. 9405.40 and tariff item No. 9405.40.90.

54. As for the puck lights, the Tribunal received and heard evidence that the puck lights are imported and sold without a power source and are intended as replacement parts for, or supplementary additions to, puck light lamps or lighting fittings, such as those formed by a starter kit.²⁷ Therefore, the Tribunal determines that the puck lights are parts of lamps or lighting fittings and, hence, properly classified in subheading No. 9405.99 and tariff item No. 9405.99.90.²⁸

SUMMARY

55. The Tribunal finds that the goods in issue are properly classified in heading No. 94.05 and, more specifically, under tariff item No. 9405.40.90 for the starter kits and tariff item No. 9405.99.90 for the puck lights.

DECISION

56. The appeal is dismissed.

Peter Burn
Peter Burn
Presiding Member

25. *Transcript of Public Hearing*, 25 September 2015, at 42-45.

26. *Ibid.*

27. Exhibit AP-2014-029-10B at 224, 227, 234, Vol. 1B; *ibid.* at 10, 13, 15, 45.

28. At the time of publication of the Tribunal's decision, this tariff item has been changed to tariff item No. 9405.99.00.