

HQ H012561

April 28, 2009

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CATEGORY: Classification

TARIFF NO.: 8521.90.00

Port Director
Port of San Francisco
U.S. Customs and Border Protection
555 Battery Street, Room 319
San Francisco, CA 94111

RE: Internal Advice Request; classification of iPod media players

Dear Port Director:

This is in response to your memorandum forwarding a Request for Internal Advice, dated June 1, 2007, initiated by counsel on behalf of Apple, Inc. ("Apple"), concerning the proper classification of iPod media players with audio and video functions under the Harmonized Tariff Schedule of the United States ("HTSUS"). Apple has previously entered the subject iPod under subheading 8521.90.00, HTSUS, which provides for, in part, video recording or reproducing apparatus. On March 5, 2007, U.S. Customs and Border Protection, Port of Dallas ("CBP"), issued an Informed Compliance Notice to Apple, which informed the company that iPods capable of displaying video images (i.e., with a screen) are classified under subheading 8528.21.5501, HTSUSA, as monitors. It is Apple's position that the correct classification of iPod media players with audio and video capabilities is under subheading 8519.81.4050, HTSUSA, as sound recording or reproducing apparatus. The Port of San Francisco agrees with current position taken by Apple.

In reaching our decision we have taken into account arguments made by counsel for Apple during a meeting with staff of this office on December 17, 2008, as well as the demonstrations made at that meeting of how the merchandise works both with and without accessories. In addition, we have also considered arguments made in written submissions dated February 7, 2008, and January 7, 2009.

FACTS:

The iPod media player records, stores, and plays music and video content as well as displays video images and text information on a screen incorporated into the device. It is available in 30 gigabyte (GB) and 80 GB models, both of which are at issue.

According to the Technical Specifications webpage on the Apple website (www.apple.com/ipod/specs.html), the 30GB iPod measures 4.1 x 2.4 x 0.43 inches and weighs 4.8 ounces. The 80GB iPod measures 4.1 x 2.4 x 0.55 inches and weighs 5.5 ounces. The webpage also provides the following information on iPods: Capacity: hold up to 7,500 (30 GB) or 20,000 songs (80GB) in 128-Kbps AAC format, up to 25,000 iPod-viewable photographs, up to 40 hours (30GB) or 100 hours (80GB) of video, and stores data via the USB hard drive. Display: 2.5 inches (diagonal) QVGA transfective, over 65,000 color liquid crystal display with white LED backlight, 320 x 240 pixel resolution with 0.156 mm dot pitch, support for display of multiple languages and characters simultaneously. Audio: Frequency response – 20 Hz to 20,000 Hz, Audio formats supported: AAC (16 to 320 Kbps), Protected AAC (from iTunes Store), MP3 (16 to 320 Kbps) MP3 VBR, Audible (formats 2, 3 and 4), Apple Lossless, AIFF and WAV, user-configurable maximum volume limit. Video: video formats supported: H.264 video, up to 1.5 Mbps, 640 x 480 pixels, 30 frames per sec., Low complexity version of the H.264 Baseline Profile with AAC-LC audio up to 160 Kbps, 48 Hz, stereo audio in .m4v, .mv4, and .mov file formats; H.264 video, up to 768 Kbps, 320 x 240 pixels, 30 frames per sec., Baseline Profile up to Level 1.3 with AAC-LC audio up to 160 Kbps, 48 kHz, stereo audio in .mv4, .mp4, and .mov file formats; MPEG-4 video, up to 2.5 Mbps, 640 x 480 pixels, 30 frames per sec., Simple Profile with AAC-LC audio up to 160 Kbps, 48 kHz, stereo audio in .m4v, .mp4, and .mov file formats. In sum, as Inquirer explains, the 30 GB and 80 GB models are identical, except for their storage capacities which are governed by the size of drive memory incorporated into the units and battery life when fully charged.

In addition, the iPods have a world clock and stop watch, an address book, games, and can store text files. They are sold at retail packaged together with earphones, a USB 2.0 cable, a dock adapter, a carrying/storage case and a quick start guide.

ISSUE:

What is the principal function of the iPod media player under the HTSUS?

LAW AND ANALYSIS:

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule

and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order.

The HTSUS provisions under consideration are as follows:

8519 Sound recording or reproducing apparatus:

Other apparatus:

8519.81 Using magnetic, optical or semiconductor media:

8519.81.40 Other:

8519.81.4050 Other

8521 Video recording or reproducing apparatus, whether or not incorporating a video tuner:

8521.90.00 Other

8528 Monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus:

Other monitors:

8528.59 Other:

Color:

With a flat panel screen:

Incorporating video recording or reproducing apparatus:

8528.59.15 With a video display diagonal not exceeding 34.29 cm

Legal Note 3 to Section XVI, which includes Chapter 85, provides:

Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. While not legally binding nor dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80, 54 Fed. Reg. 35127 (Aug. 23, 1989). The General EN to Section XVI, HTSUS, provides, in pertinent part:

(VI) MULTI-FUNCTION MACHINES

AND COMPOSITE MACHINES
(Section Note 3)

In general, multi-function machines are classified according to the principal function of the machine.

....

Where it is not possible to determine the principal function, and where, as provided in Note 3 to the Section, the context does not otherwise require, it is necessary to apply General Interpretative Rule 3(c); such is the case, for example, in respect of multi-function machines potentially classifiable in several of the headings 84.25 to 84.30, in several of the headings 84.58 to 84.63 or in several of the headings 84.69 to 84.72.

It is not in dispute that an iPod media player is a multi-function machine within the meaning of Note 3 to Section XVI. It is sound recording or reproducing apparatus, which is provided for in heading 8519, HTSUS. It is also video recording or reproducing apparatus, which is provided for in heading 8521, HTSUS. Because of its display screen, the Port of Dallas is of the view that the iPods are classifiable as monitors of heading 8528, HTSUS. There is no single heading in the tariff which describes all the functions of the iPod media player. The question under consideration is, therefore, which of the contemplated headings (if any) best describe the principal function of an iPod media player?

It is the position of Inquirer that the correct classification of the iPod is under heading 8519, HTSUS, which provides for sound recording or reproducing apparatus. EN 85.19 explains, in relevant part:

This heading covers apparatus for recording sound, apparatus for reproducing sound and apparatus that is capable of both recording and reproducing sound. Generally, sound is recorded onto or reproduced from an internal storage device or media (e.g., magnetic tape, optical media, semiconductor media or other media of heading 85.23).

....

(IV) OTHER APPARATUS USING MAGNETIC, OPTICAL OR SEMICONDUCTOR MEDIA

The apparatus of this group may be portable. They may also be equipped with, or designed to be attached to acoustic devices (loudspeakers, earphones, headphones) and an amplifier.

....

(C) Apparatus using semiconductor media

....

This group includes apparatus which uses semiconductor (e.g., solid-state non-volatile) media. Sound is recorded as digital code converted from amplified currents or variable intensity (analogue signal) on the recording medium. Sound is reproduced by reading such medium. The semiconductor media may be permanently installed in the apparatus or may be in the form of removable solid-state non-volatile storage media. Examples include flash memory audio players (e.g., certain MP3 players) which are portable battery operated apparatus consisting essentially of a housing incorporating a flash memory (internal or removable), a microprocessor, an electronic system including an audio-frequency amplifier, an LCD screen and control buttons. The microprocessor is programmed to use MP3 or similar file formats. The apparatus can be connected to an automatic data processing machine for downloading MP3 or similar files.

....

The heading excludes:

....

(d) Video recording or reproducing apparatus of **heading 85.21**.

Based on the fact that EN 85.19 excludes video recording or reproducing apparatus from classification under heading 8519, counsel is of the view that an iPod media player cannot be classified in heading 8521, HTSUS, as video recording or reproducing apparatus. In addition, the Port of San Francisco believes that heading 8521, HTSUS, is not the correct classification for these devices because the principal function of the iPod is sound or music reproduction and video capability is an added feature that does not equal the sound function.

EN 85.21 provides, in relevant part:

(A) RECORDING AND COMBINED RECORDING AND REPRODUCING APPARATUS

....

The heading also includes apparatus which record, generally on a magnetic disc, digital code representing video images and sound, by transferring the digital code from an automatic data processing machine (e.g., digital video recorders).

....

When used for reproduction, the apparatus convert the recording into video signals. These signals are passed on either to a transmitting station or to a television receiver.

The heading **excludes**:

....

- (c) Reception apparatus for television ... and video monitors and video projectors (**heading 85.28**)

In response to the Port of Dallas' view that the correct classification of the iPods is under heading 8528, HTSUS, counsel argues that the display screen (an LCD screen measuring 1.5 x 2.0 inches and 2.5 inches diagonally), "the only component of the device that could be considered to be a 'monitor'," is not of the class or kind of merchandise provided for in heading 8528, HTSUS. Furthermore, counsel argues, EN 85.28 excludes, among other things, video recording or reproducing apparatus of heading 8521. In his submission of January 7, 2009, counsel maintains that EN 85.28 "solidifies the concept that monitors covered by Heading 8528 have one or more input, such that different types of equipment can be plugged into them." In that submission he also remarks, "Apple does not dispute that the iPod has a display. However, nothing can be plugged into it. It is only capable of playing whatever files are downloaded onto its memory. This alone sets it apart from the monitors, televisions and projectors covered by Heading 85.28." EN 85.28 provides, in relevant part:

**(B) MONITORS OTHER THAN THOSE OF A KIND SOLELY OR
PRINCIPALLY USED IN AN AUTOMATIC DATA PROCESSING
SYSTEM OF HEADING 84.71**

This group includes monitors which are receivers connected directly to the video camera or recorder by means of co-axial cables, so that all the radio-frequency circuits are eliminated.... These apparatus consist essentially of devices which can generate a point of light and display it on a screen synchronously with the source signals.... For the reception of coded signals the monitor must be equipped with a decoding device covering (the separation of) the R, G and B signals. The most common means of image reconstitution is the cathode-ray tube ...; however, other monitors achieve the same objective by different means (e.g., liquid crystal screens, diffraction of light rays on to a film of oil). These may be in the form of CRT monitors or flat panel displays, e.g., LCD, LED, plasma.

....

The heading excludes, *inter alia*:

- (a) Video recording or reproducing apparatus (**heading 85.21**).

We first address the view that the iPod can be excluded from classification in any of the headings under contemplation because of exclusionary language in the related EN. An EN is not legally binding and may not be applied in such a

manner that it invalidates or is otherwise inconsistent with the legal text. See T.D. 89-80, 54 Fed. Reg. 35127 (Aug. 23, 1989). Legal Note 3 to Section XVI directs that composite machines are to be classified according to their principal function. Consequently, a composite machine cannot be excluded from a heading describing one of its functions, which may or may not be its principal function, on the basis that another of its functions is excluded from that heading by the EN.

With regard to the Port of Dallas' view that heading 8528, HTSUS, should be considered, we have discussed the applicability of this heading with counsel and he has provided several written submissions on the issue. After considering the language of the HTSUS, we find that the video display function of the iPod is within the parameters of the term "video recording or reproducing apparatus" found in heading 8521, HTSUS. Consequently, we find that there is no need to consider classification under heading 8528, which only covers the display but not video recording or video reproducing functions of the iPod. Therefore, although we have considered them, we will not address any arguments made by counsel concerning heading 8528.

According to counsel, the view that the principal function of the iPod media player is sound recording and reproduction is based on the iPod's physical characteristics, the expectation of purchasers, the manner and environment in which it is marketed and sold, its actual use and the recognition in the trade of such use, and the practicality of using the iPod for sound recording and reproduction. We note that these are some of the factors usually considered under U.S. Additional Rule of Interpretation 1(a) when determining the "principal use" of the class or kind of good to which an imported good belongs. Generally, the courts have provided several factors, which are indicative but not conclusive, to apply when determining whether merchandise falls within a particular class or kind. They include: (1) general physical characteristics, (2) expectation of the ultimate purchaser, (3) channels of trade, environment of sale (accompanying accessories, manner of advertisement and display), (4) use in the same manner as merchandise which defines the class, (5) economic practicality of so using the import, and (6) recognition in the trade of this use. See Lennox Collections v. United States, 20 CIT 194, 196 (1996). See also United States v. Carborundum Co., 63 CCPA 98, 102, 536 F.2d 373, 377 (1976), *cert denied*, 429 U.S. 979 (1976); Kraft, Inc. v. United States, 16 CIT 483, 489 (1992); and G. Heileman Brewing Co. v. United States, 14 CIT 614, 620 (1990). Although not conclusive, CBP nonetheless finds that the guidance set forth by the courts to determine principal use may be helpful in establishing the principal function of a multi-function machine. CBP adopted a similar approach in HQ 966270, dated June 3, 2003. See also HQ W968223, dated January 12, 2007.

Physical characteristics

Counsel states that the main features of the iPod support its classification as sound recording or reproducing apparatus. Specifically, the controls and menu on the device provide for an array of choices relating to musical content, volume, tone, and play lists for music loaded into the memory. In addition, the iPod has jacks for audio headphones as well as a connector, which can be used to attach the iPod to a speaker or stereo system or to a battery charger and to download content. Also, the storage capacity for audio versus video content and the amount of audio versus video content available for download further emphasizes the auditory nature of the iPod.

Counsel describes the screen of the iPod as its “control panel”, along with the click wheel, which contains switching functions. In the opinion of counsel, “the small size of the screen compromises viewing for the sake of portability, which is vastly more important to a music product.”

We find that none of these features are dispositive of the classification of the iPod as sound recording or reproducing apparatus. All of the features highlighted by counsel equally can be used to obtain, view, and control video content.

In his original submission, counsel provided us with comments from the trade on how the physical characteristics of the iPod impact its designation as a video player. The reviews were found on such websites as The Travel Insider (Apple iPod 80GB Personal Music Player: Improved Fifth Generation with Video iPod, October 27, 2006, www.thetravelinsider.com) and PC World (First Look: Apple’s Video-Ready iPod, October 20, 2005, www.pcworld.com). After reading these reviews and others, we find that they acknowledge that the iPod stores and plays video. The fact that these reviews may lament the iPod’s small screen size or the number of pixels the screen contains does not diminish this fact.

In sum, we find that the physical characteristics of the iPod do not prove that it principally functions either as sound or video recording or reproducing apparatus. We note the review on the CNET website, *Best Portable Video Players*, which states: “Portable video players (aka PVPs or portable media players) are the video equivalent of portable MP3 players. In fact, they are MP3 players at heart, with the additional capability to play back video on a larger (2.5 inches or more) color screen.” (Donald Bell, CNET Reviews, at <http://reviews.cnet.com/best-pvps/?tag=lnav> (updated July 18, 2008)).

With regard to counsel’s argument concerning accessories, we note that this argument was raised in the context of the channels of trade, environment of sale and actual use of iPods in the initial submission made to CBP. In order to avoid repetition, we will address the impact of accessories on the determination of principal function when discussing the iPods’ channels of trade, environment of sale and actual use.

Expectations of the Ultimate Purchaser

According to counsel, when consumers purchase an iPod, they expect high quality in both audio and video capabilities. He argues, “the content available for both audio and video formats is a significant factor when determining principal function. Currently, about 5 million songs and approximately 350 programs and 500 movies are available for download through the iTunes store. In addition, there are 9,000 music videos.” Counsel believes that the ratio of songs to video programs (5000:1) “is a strong indicator of the expectations of the ultimate purchaser [because] [a]vailable content is critical to how a prospective owner expects to use the iPod.”

We do not agree. We find the fact that songs as well as videos are available for download lead purchasers to expect that the iPod will play videos as well as music. The number of each type of download does not detract from this expectation.

We are also of the view that, in considering the expectations of iPod purchasers, regard must be had for the choices of iPod available to a prospective purchaser. At the time that the request for Internal Advice was made, counsel stated the following:

Here the devices at issue include only the iPods with video capabilities. Other Apple products not at issue in this IA request include the iPod Shuffle (Shuffle) and the iPod Nano (“Nano”). The Shuffle has no video display whatsoever and is used exclusively to store and listen to music and audio files ... The Nano has a 1.5 inch diagonal color display where menu options are displayed and controlled through the “click wheel.” When downloaded songs are played, album art appears on the display which correspond to the selected song and artist. Digital photos ... can also be displayed on the Nano screen as a slideshow or individually, with or without music. Unlike the iPods at issue here, the Nano is not capable of displaying moving video such as movies or television programs.

The fact that a choice existed between an iPod with video capability, an iPod with limited video capability, and an iPod with no video capability leads us to believe that a consumer who purchased one of the iPods at issue (that is, with video capability) expected that he would be able to both listen to music and watch videos on the device. We note that as of the date of this decision, there are four types of iPod advertised on the Apple website – the iPod Shuffle, the iPod Nano, the iPod Classic, and the iPod Touch. In addition to music and other audio content, all are able to playback downloaded video content, except for the iPod Shuffle which still does not have video functions. In addition, there are many more brands of media players in the marketplace that play audio, video, or a combination of both, and that are considered by the trade to be comparable to iPods. See, for example, Donald Bell, *Best 5 MP3 Players* (July 21, 2008), CNET Reviews, at <http://reviews.cnet.com/best-mp3-players/>, *Best Small MP3*

Players, CNET Reviews, at <http://reviews.cnet.com/best-small-mp3-players/?tag=lnav> (updated July 18, 2008), and *Zen Vision: M, Product Information*, Creative Technology Ltd., at <http://us.creative.com/products/pfriendly.asp?product=14331> (7/21/2008). Based on these facts, we conclude that a purchaser who buys an iPod multi-media player does so because he expects that it will be able to play video as well as music.

Channels of Trade, Environment of Sale

iPods are sold by various electronics retailers, and directly by Apple through Apple stores and online through its website. According to counsel, the subject iPods are advertised and displayed to highlight their capabilities. However, counsel states, “because the music capabilities of all iPods are well-known in the marketplace, marketing materials for Apple’s latest line of products emphasize the newest functions of the Apple’s iPod devices – video capabilities. In addition, the video content available in the iTunes store is also well-publicized by Apple as the company aggressively markets the new capability of the device.” Counsel intimates that despite this marketing campaign, the iPod principally functions as a music player.

In addition, counsel is of the opinion that the array of available accessories, “which expand the uses of the device as sound recording or reproducing apparatus,” is an important indicator that the iPod principally functions as an audio device. In particular, counsel notes the “vast array” of products sold that enable connectivity of the player to different makes of cars and the “very limited number of products that expand or enhance the video capabilities” of the iPod. With regard to the latter, counsel also notes that “the only available video accessories enable the user to hook up the device to a larger video monitor or display so that the video content stored on the device can be shown on a more viewable screen, making it possible for a viewer to actually see the content from beyond arms-length.”

Whatever the reasons behind Apple’s marketing campaign, the fact remains that the company aggressively markets the video functionality of the iPod. We take the view, however, that the way in which the iPod is marketed does not resolve the question of its principal function because its marketing as a video player is counterbalanced by its well-known reputation as a music player. Further, its channels of trade and environment of sale do not resolve this issue because most retailers that sell iPods also sell portable video players, portable music players, and machines that are a combination of the two. For these reasons, we find that channels of trade and environment of sale do not determine the principal function of an iPod that both plays music and displays video.

In addition, in this instance, we find that accessories are not determinative of principal function because, by their nature, they are extra or additional items that are subordinate to the principal item, regardless of their number. In this

regard, we note that although there may be many different types of car connection kits because there are different makes of cars, a car connection kit is one type of accessory and not numerous accessories as stated by counsel. Further, we find that a car connection kit is very similar to a monitor/display connection kit, in that, although one is for audio and the other for video, both allow the contents of the iPod to be shared through another medium. In this way, they both convert the player from a device for personal use to one for social use. Other accessories mentioned in the submitted information, such as speakers, headphones, chargers, and carrying cases, can equally be used in conjunction with the iPod's audio or video functions and do not tip the scale in favor of either function.

Use in the Same Manner as Merchandise which defines the Class

Inquirer argues that iPods are principally used in the same manner in which portable cassette tape players and other portable MP3 music players are used, that is, "by plugging headphones into the device, turning it on and listening to music or other audio content."

We find that headphone usage is not specific to music players. There are many portable DVD players and TVs that also use headphones. See, for example, "The Dual Wireless Headphone Portable DVD Player" on the Hammacher Schlemmer website (<http://www.hammacher.com/publish/73505.asp>), and the "Portable DVD Player TV Wireless Headphone" on BitsSite.com (<http://www.bitssite.com/portable-dvd-player---tv/6831/wireless-headphone/accessory.html>). As such, we conclude that the fact that the iPod is used with headphones is not dispositive of classification of the iPod in heading 8519, HTSUS.

Inquirer further argues, "[t]he existence of video capability does not put the video features of the device on an equal footing with the audio features from the legal perspective of principal function."

We agree that the mere existence of a particular function of an iPod does not make it equal to another function of the iPod. However, Inquirer's argument appears to be premised on the notion that when an iPod has both audio and video functions, the audio function is the principal function. We note that this premise is at the heart of the existing dispute and is yet to be resolved.

Recognition in the Trade of Use

In addressing the use for which the iPod is recognized by the trade counsel states, "the best indication of recognition in the industry as a leader in portable sound recording and reproducing apparatus is when competitors develop similar products."

We note that this statement concerns more the standing of iPod in the industry than whether the trade recognizes the iPod media player as an audio player, a video player or a combination of the two. Nonetheless, Inquirer's own submission indicates that the iPod is regarded as a portable multi-media player. For example, in explaining "*What Your iPod Does*", the review on The Travel Insider website states, "In addition to strictly audio functions, it can also store/display photos, and store/display videos, ranging from movies you shoot yourself to television shows and full length movies." Further, as previously indicated when considering the physical characteristics of iPods, our research indicates that many portable multi-media players that are comparable to iPods are used for both their audio and video functions.

Economic Practicality of Using the Product

In his submission of January 7, 2009, counsel stated, in relevant part, that "mp3 players, such as the iPod Nano and Classic are priced competitively across makes and models of other mp3 players, depending of course on quality and memory capacity, ranging from \$149 to \$249". He concedes that:

In the case of the subject iPods, although it is ancillary to the audio recording and reproducing capability, the video recording and reproducing capability is present and has some appeal to potential consumers. When evaluating mp3 players, a consumer may prefer the option of having video recording and reproducing capabilities together with audio capabilities in one device.

In this case, we find that it is not economically practical to purchase a dual function device, the price of which reflects its dual functionality, only to use one of its functions. We note that, at the date of this ruling, the retail price difference between an iPod Shuffle, which does not have video functionality, and one of the models under consideration is almost \$200. An economically practical purchase for a consumer who wants to only listen to music would be a device that only plays music and that cost significantly less than a device that plays both music and video.

Based on all the information before us, we find that none of the factors discussed above aid in finding the principal function of the iPod. It is marketed, sold, and used as a music player as well as a video player.

Having been unable to determine the principal function of the iPod, we apply GRI 3(c), as per the General EN to Section XVI above, and classify the merchandise under the heading which occurs last in numerical order among those which equally merit consideration. We find, therefore, that the iPod media player is classified in heading 8521, HTSUS, as video recording or reproducing apparatus.

Finally, the iPods are imported packaged as they are sold as retail, that is, with earphones, a USB 2.0 cable, a dock adapter, a carrying/storage case, and a quick start guide. Consequently, they are classifiable as a set pursuant to GRI 3(b), which states that goods put up in sets for retail sale shall be classified as if they consisted of the material or component which gives them their essential character. All the items are classifiable in different headings, are “put up together” to enable a user to charge, carry and listen to the iPod, and are offered for sale directly to users without repacking. Consequently, the items may not be classified separately under their respective headings. Furthermore, CBP finds that the item which imparts the essential character of this set is the iPod. It is the dominant component, by use and cost in relation to the other constituent components of the set. It is also the reason why a consumer would purchase the set.

HOLDING:

By application of GRI 1 and Note 3 to Section XVI, HTSUS, the 30G and 80G models of iPod media player with audio and video functions and integrated screens are classified under heading 8521, HTSUS. They are specifically provided for under subheading 8521.90.00, HTSUS, which provides for, in relevant part: “Video recording or reproducing apparatus, whether or not incorporating a video tuner: Other.” The 2007 column one, general rate of duty is Free.

Pursuant to GRI 3(b), iPod multi-function media players imported packaged for retail sale together with earphones, a USB 2.0 cable, a dock adapter, a carrying/storage case, and a quick start guide are classified as a set under heading 8521 (subheading 8521.90.00), HTSUS.

You are to mail this decision to the internal advice requester no later than 60 days from the date of the decision. At that time, the Office of International Trade, Regulations and Rulings, will make the decision available to CBP personnel and to the public on the CBP Home Page on the World Wide Web at www.cbp.gov, by means of the Freedom of Information Act, and other methods of public distribution.

Sincerely,

Myles B. Harmon, Director
Commercial and Trade Facilitation Division