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NY K80551

November 20, 2003

MAR-2-64:RR:NC:247:K80551

CATEGORY: Marking

Ms. Maristella Iacobello
Customs Compliance Manager
Phillips-Van Heusen Corporation
200 Madison Avenue
New York, NY 10018

RE: Marking of Footwear Boxes

Dear Ms. Iacobello:

In your letter dated November 4, 2003, you requested a binding ruling concerning the country of origin marking of certain footwear boxes.

You state that the shoe cartons in question will be manufactured in China. The cartons will be filled with shoes manufactured in various countries including China, Bulgaria, Dominican Republic, El Salvador, Italy, Romania, Tunisia and Vietnam and imported into the United States. The shoes will be marked with their respective county of origin.

The sample shoebox submitted contains a woman's size chart on its bottom indicating the appropriate sizes for America, United Kingdom, Mexico, Europe and Japan. You state that the word "Bass" appears on each side of the box., in addition, the phrase "Easy American Style" appears on three sides of the box. You ask whether "Easy American Style" triggers the requirements of Customs Regulation (CR) 134.46.

19 C.F.R. 134.46 provides for marking when name of country or locality other than country of origin appears. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any city or location in the United States, or the name of any foreign country or locality other than the country or locality in which the article was manufactured or produced appear on an imported article or its container, and those words may mislead or deceive the ultimate purchaser as to the actual country of origin

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of the article, there shall appear legibly and permanently in close proximity to such words, letters or name, and in at least a comparable size, the name of the country of origin preceded by "Made in," "Product of," or other words of similar meaning.

If the shoes of foreign origin are conspicuously and legibly marked with their country of origin, then marking the unsealed shoe box with the country of origin of the shoe is unnecessary, provided that the boxes have no place or locality references printed on them. Customs has previously held that cardboard shoe boxes are disposable containers excepted from marking with their own country of origin under 19 C.F.R. 134.24(c)(1).

However, if the shoe box has a locality reference other than the country of origin of the imported footwear, it must be marked with the country of origin of the imported footwear in a conspicuous place to satisfy the requirements of 19 C.F.R. 134.46. The presence of the phrase "Easy American Style" along with the well known "Bass" name, whose web site claims that they are "America's Foremost Manufacturer of Classically Styled, Top Quality Footwear..." require that the country of origin of the imported footwear appear in close proximity and in letters of at least equal size to the potentially misleading references to comply with 19. C.F.R. 134.46. The purpose of 19 C.F.R. 134.46 is to prevent the possibility of misleading the ultimate purchaser as to the origin of the imported article. Shoe boxes, in particular, are held to a strict standard of compliance to the country of origin marking requirements of 19 C.F.R. 134.46. Therefore, if imported as is, it will not meet the country of origin marking requirements of 19 U.S.C. 1304. Customs has ruled that in order to satisfy the close proximity requirement of 19. C.F.R. 134.46, the country of origin marking must appear on the same side(s) or surface(s) in which the name of the locality other than the country of origin appears.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177)).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist, Richard Foley at 646-733-3042.

Sincerely,

Robert B. Swierupski

Director,

National Commodity

