

A-570-504
Scope Review
Public Document
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By Electronic Mail Notification

To All Interested Parties:

On August 13, 2004, the Department of Commerce (“the Department”) received a request from Kintetsu World Express (U.S.A.), Inc. (“Kintetsu”) on behalf of its client, Noteworthy, a division of Papermates, Inc. (“Noteworthy”) for a scope ruling on whether two candles it plans to import are covered by the antidumping duty order on petroleum wax candles from the People’s Republic of China (“PRC”).

In accordance with 19 CFR 351.225(k)(1)(2004), the Department has determined that Noteworthy’s “Floater Flower Candle” and “Rose Pillar Candle” are included within the scope of the antidumping duty order on petroleum wax candles from the PRC.

Enclosed is a memorandum containing the Department’s analysis. We will notify U.S. Customs and Border Protection (“CBP”) of this decision. If you have any questions, please contact Nicole Bankhead at (202) 482-9068.

Sincerely,

Alex Villanueva
Program Manager
AD/CVD Enforcement, NME Unit, Office IX
Import Administration

Enclosure

MEMORANDUM FOR: Barbara E. Tillman
Acting Deputy Assistant Secretary
for Import Administration

FROM: James C. Doyle
Office Director
AD/CVD Enforcement, NME Unit, Office IX

SUBJECT: Final Scope Ruling: Antidumping Duty Order on Petroleum Wax
Candles From the People's Republic of China (A-570-504);
Kintetsu World Express (U.S.A.), Inc. ("Kintetsu") on behalf of
Noteworthy, a Division of Papermates Inc. ("Noteworthy")

Summary

On August 13, 2004, the Department of Commerce ("the Department") received a request from Kintetsu on behalf of its client, Noteworthy, for a scope ruling to determine whether its "Floater Flower Candle" and "Rose Pillar Candle" are included within the scope of the antidumping duty order on petroleum wax candles from the People's Republic of China ("PRC"). Antidumping Duty Order: Petroleum Wax Candles from the People's Republic of China, 51 FR 30686 (August 28, 1986) ("Order"). In accordance with 19 CFR 351.225(k)(1), we recommend that the Department determine that Noteworthy's "Floater Flower Candle" and "Rose Pillar Candle" are within the scope of the Order.¹

Background

On August 13, 2004, the Department received a letter from Kintetsu requesting a scope ruling on the "Floater Flower Candle" and "Rose Pillar Candle" that Noteworthy plans to import from the PRC. On

¹ The Department has developed an internet website that allows interested parties to access prior scope determinations regarding the Order. This website lists all scope determinations from 1991 to the present. It can be accessed at <http://ia.ita.doc.gov/download/candles-prc-scope/index>, and will be updated periodically to include newly issued scope determinations.

November 5, 2004, the National Candle Association (the “NCA”) submitted comments on Noteworthy’s scope ruling requests.

Product Description

Noteworthy’s request concerns two sets of candles which it calls “Floater Flower Candle” (#80416) and “Rose Pillar Candle” (#80417”). Noteworthy provided samples of both candles for the Department’s review.

Noteworthy’s “Floater Flower Candle” is a floating candle made of 100% paraffin wax and classified under Harmonized Tariff Schedule of the United States (“HTS”) subheading 3406.00.0000. It is red and in the shape of a flower with molded detail of flower petals evident from the top and side views of the candle. This candle is approximately 2 inches in diameter and one inch in height.

Noteworthy’s “Rose Pillar Candle” is made of 100% paraffin wax, classified under HTS subheading 3406.00.0000. The candle measures approximately 3 and 1/4 inches in height and 2 and 1/2 inches wide. This “Rose Pillar Candle” is decorated with pink molded roses surrounding all sides as well as the top of the candle. Noteworthy claims that these molded roses are discernible from a majority of angles.

Noteworthy’s Scope Request

Noteworthy argues that its “Floater Flower Candle” is in the shape of an identifiable object, and that the object, in this case a flower, is discernible from a majority of angles, and therefore should be found to be outside the scope of the Order. Noteworthy argues that its “Floater Flower Candle” is similar to a flower candle the Department previously found to be outside the scope of the Order. See Final Scope Ruling Jo-Ann Fabric Stores (January 29, 2002) at 7 (“Jo-Ann Fabric Ruling”) (the Department found Jo-Ann Fabric’s “Floating Flower Candle outside the scope of the Order because it was identifiable as an open flower blossom from most angles). Noteworthy argues that the “Floater Flower Candle” it plans to import is similar in description to the one referenced in the Jo-Ann Fabric Ruling, is shaped in the form of an identifiable object, and is discernible from a majority of angles, and therefore, should be outside the scope of the Order.

Noteworthy argues that its “Rose Pillar Candle” should be outside the scope of the Order based on a U.S. Customs & Border Protection (“CBP”) Bulletin. See U.S. Customs Service Port of Los Angeles Public Bulletin Number 02-005 (March 8, 2002) (“CBP Bulletin”). Noteworthy references the CBP Bulletin statement that “decorated pillars, columns, and rounds generally fall under within (*sic*) the scope, however, ‘one exception is when the decoration overwhelms the pillar; that is, the decoration is discernible from a majority of angles.’” See Noteworthy August 13, 2004 Submission at 4 and attachment 1.

Noteworthy argues that the “Rose Pillar Candle” fulfills this exception because the decoration of the candle, molded roses surrounding all sides of the candle, overwhelms the decoration of the candle. Noteworthy states that because, the “Rose Pillar Candle” falls under the exception outlined in the CBP Bulletin, the candle should not be included within the scope of the Order.

NCA Comments

The National Candle Association (“NCA”) submitted comments regarding the above scope ruling requests on November 5, 2004. In its comments, the NCA retraces the history of this antidumping duty order, including the import surges and resultant injury suffered by domestic manufacturers which prompted the original September 1985 antidumping petition. The NCA contends that the antidumping statute and antidumping duty orders are remedial in nature and exceptions to them should be construed as narrowly as possible to preserve the efficacy of the Order. In support of its assertion, the NCA cites a Court of International Trade conclusion, with regard to the novelty exception, that “a candle must be specifically designed for use only in connection with a religious holiday or special event to fall within the novelty candle exception.” See Russ Berrie & Co., Inc. v. United States, 57 F. Supp. 2d. 1184, 1194 (CIT 1999)(Russ Berrie). Thus, the NCA argues that the Department narrowly limited the novelty candle exception to figurine candles, candles shaped in the form of identifiable objects, and candles specifically designed for use only in connection with the holiday season.

In its submission, the NCA claims that Noteworthy’s candles are:

petroleum wax candles made in China having fiber- or paper-cored wicks. Noteworthy’s candles are not in the shape of identifiable objects, they are not designed for use in connection with the holiday season and, therefore, they fall within the scope of the Order.

See NCA November 5, 2004 Submission at 6 (“NCA Submission”).

Furthermore, the NCA argues that Noteworthy’s “Floating Flower Candle” is not recognizable as a flower from the majority of angles. The NCA claims that the “flower characteristic can only be discerned from looking straight down onto the top of the candle.” See NCA Submission at 6. According to the NCA, this candle is similar to Premier’s “tulip lantern” candle, which the Department found was not recognizable from most angles. See Final Scope Ruling Premier Candle Corporation (February 25, 2002) at 5 (“Premier Candle Ruling”) (the Department determined that Premier’s “Tulip Lantern Candle” was within the scope of the Order because the characteristic which it claimed rendered it a novelty candle was not visible from all of its angles). The NCA also references the Department’s finding that Hallmark’s “leaf” candles were not recognizable from a majority of angles as leaves and therefore not an identifiable object pursuant to the novelty candle exception. See Final Scope Ruling Hallmark Cards (May 19, 2004) at 7-8 (“Hallmark Ruling”) (the Department determined that Hallmark’s “Red Maple Leaf” candle was within the scope of the Order because the candle was

not easily recognizable as a “dark green leaf with red berries” from most angles, and, therefore, not an identifiable object pursuant to the novelty candle exception). The NCA points to the Atico Ruling to demonstrate that the instant candles should be included within the scope of the Order because Noteworthy’s “Floating Flower Candle” lacks the detail of the flower in the Atico Ruling. See Final Scope Ruling Atico International, Inc. (February 19, 2002) at 6-7 (“Atico Ruling”) (the Department determined that two of Atico’s candles that had petals on the top and sides and could, therefore, be identified from most angles and thus excluded from the scope of the Order). Therefore, the NCA argues that, because Noteworthy’s flower candle does not qualify as an identifiable object, it must be included within the scope of the Order.

According to the NCA, Noteworthy states that its rose pillar candle is a pillar candle decorated with molded flowers on all sides. The NCA argues that because the rose pillar candle is a pillar candle and pillar candles are included in the Order, and because the candle does not have a design that limits its use solely to a specific holiday, Noteworthy’s “Rose Pillar Candle” should be included within the scope of the Order.

Legal Framework

The regulations governing the Department’s antidumping scope determinations are found at 19 CFR 351.225 (2004). On matters concerning the scope of an antidumping duty order, the Department first examines the descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the U.S. International Trade Commission (“ITC”). This determination may take place with or without a formal inquiry. If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling as to whether or not the subject merchandise is covered by the order. See 19 CFR 351.225(k)(1).

Conversely, where the descriptions of the merchandise are *not* dispositive, the Department will consider the five additional factors set forth at 19 CFR 351.225(k)(2). These criteria are: (1) the physical characteristics of the merchandise; (2) the expectations of the ultimate purchasers; (3) the ultimate use of the product; (4) the channels of trade in which the product is sold; and (5) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope inquiry is made on a case-by-case basis after consideration of all evidence before the Department.

In the instant case, the Department has evaluated Noteworthy’s requests in accordance with 19 CFR 351.225(k)(1) and finds that the descriptions of the products contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the ITC are dispositive with respect to Noteworthy’s “Floater Flower Candle” and “Rose Pillar Candle.” Therefore, for these candles, the Department finds it unnecessary to consider the additional factors set forth at 19 CFR 351.225(k)(2).

Documents and parts thereof from the underlying investigation that the Department deemed relevant to this scope ruling were made part of the record of this determination and are referenced herein.

Documents that the Department did not present, or place on the record, do not constitute part of the administrative record for this scope determination.

In its petition of September 4, 1985, the NCA requested that the investigation cover:

{c}andles {which} are made from petroleum wax and contain fiber or paper-cored wicks. They are sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars; votives; and various wax-filled containers. These candles may be scented or unscented ... and are generally used by retail consumers in the home or yard for decorative or lighting purposes.

See Antidumping Petition (September 4, 1985), at 7.

The Department defined the scope of the investigation in its notice of initiation. This scope language carried forward without change through the preliminary and final determinations of sales at less than fair value and the eventual antidumping duty order:

{c}ertain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers.

See Petroleum Wax Candles from the People's Republic of China: Initiation of Antidumping Duty Investigation, 50 FR 39743 (September 30, 1985); Petroleum Wax Candles from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 51 FR 6016 (February 19, 1986); Petroleum Wax Candles from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 51 FR 25085 (July 10, 1986) ("Final Determination"); and Order.

The ITC adopted a similar definition of the "like product" subject to its determinations, noting that the investigations did not include "birthday, birthday numeral and figurine type candles." See Candles from the People's Republic of China: Determination of the Commission in Investigation No. 731-TA-282 (Final), Publication 1888 (August 1986) ("ITC Determination"), at 4, note 5, and A-2.

Also of relevance to the present scope inquiry is the Department's instructions to the U.S. Customs Service (now renamed U.S. Customs and Border Protection ("CBP")) (see Letter from the Director, Office of Compliance, to Burditt, Bowles & Radzius, Ltd., July 13, 1987 ("CBP Notice") issued in connection with a July 1987 scope determination concerning an exception from the Order for novelty candles which states:

The Department of Commerce has determined that certain novelty candles, such as Christmas novelty candles, are not within the scope of the antidumping duty order on petroleum-wax candles from the People's Republic of China (PRC). Christmas novelty candles are candles specially designed for use only in connection with the Christmas holiday season. This use is clearly indicated by Christmas scenes and symbols depicted in the candle design. Other novelty candles not within the scope of the order include candles having scenes or symbols of other occasions (*e.g.*, religious holidays or special events) depicted in their designs, figurine candles, and candles shaped in the form of identifiable objects (*e.g.*, animals or numerals).

See CBP Notice (*emphasis added*).

When determining whether a particular product claimed as a novelty candle is within the scope of the Order, the Department's first line of inquiry is whether the shape of the candle falls within those shapes listed by the inclusive language of the Order's scope, *i.e.*, "tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers." If a candle falls within one of the above-delineated shapes, it will be determined to be within the Order's scope. Candles of a shape not listed by the inclusive language of the Order's scope will then be evaluated to determine whether they are "scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks."

In November 2001, the Department changed its practice on the issue of candle shapes. See Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People's Republic of China (A-570-504); J.C. Penney (November 9, 2001) ("J.C. Penney Scope Ruling"). In this ruling, the Department reviewed the text of the scope of the Order, beginning with the text of the first sentence of the scope which covers "{c}ertain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks." See Order. The text following this broad inclusive sentence provides a list of shapes; this list is not modified by any express words of exclusivity. The result of our prior practice of not including within the scope of the Order candles of a shape other than those specifically listed in the Order was inconsistent with the fact that the candles were "scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks."² In the J.C. Scope Penney Ruling, the Department determined to revise this practice because it

² See, *e.g.*, Final Scope Ruling - Antidumping Duty Order on Petroleum Wax Candles From the People's Republic of China (A-570-504); Endar Corp. (January 11, 2000) ("Endar") ("dragonfly")

had the effect of narrowing the broad coverage of the first sentence of the Order's scope. The list of shapes in the second sentence of the Order's scope does not provide a textual basis for such a narrowing of the coverage of the first sentence of the Order's scope. Accordingly, to give full effect to the first sentence of the inclusive language of the scope, the Department now will normally evaluate whether candles of a shape not listed by the inclusive language of the Order's scope are scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks.

This approach of evaluating such candles in light of the entire text of the Order's scope is in keeping with the opinion of the Court of International Trade ("CIT"), noting that a better approach in scope rulings is to avoid subjective issues of intent and, instead, look to the petition's language to determine whether the class or kind of merchandise at issue was expressly included. Duferco Steel, Inc. v. United States, 146 F. Supp. 2d 913 (May 29, 2001) ("Duferco Steel"). Such an approach is a departure from past CIT precedent that required the Department to give ample deference to the NCA's intent when examining a petition's description of the subject merchandise. See, e.g., Torrington Co. v. United States, 995 F. Supp. 117, 121 (CIT 1998).

Although the specific scope decision in Duferco Steel has been overturned by the United States Court of Appeals of the Federal Circuit ("CAFC") in Duferco Steel, Inc. v. United States, 296 F.3d 1087 (Fed. Cir. 2002) ("Duferco Steel II"), we do not believe that the CAFC's decision undermines the Department's decision in the J.C. Penney Scope Ruling. The plain language of the scope of the Order clearly states "{c}ertain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks . . . sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers" are included within the scope of the Order. Thus, the Order offers a descriptive list of the shapes of candles included within the Order, but, as the courts have recognized, there is no requirement that every single product covered must be identified in the scope. More specifically, the CAFC has stated that "the petitions that led to the issuance of the order did not need to specifically identify the {product} in order to cover {it}; our precedent, to say nothing of the regulations, makes clear that neither a petition nor an antidumping or countervailing duty order requires that level of specificity."³ The CAFC further stated "{a}s a matter of law, a petition need not list the entire universe of products . . . in order {for the petition} to cover those products."⁴ Thus, as applied to this Order, there is no requirement, nor is it possible, for all the

candle, in the shape of a rough-hewn stone with a dragonfly carved on top, not within scope because it is of a shape not listed by the scope), and Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People's Republic of China (A-570-504); American Drug Stores, Inc. (March 16, 1998) (sphere or ball-shaped candle not within scope because it is a shape not listed by the scope).

³ Novosteel SA v. United States, 284 F.3d 1261, 1264 (Fed. Cir. 2002).

⁴ Id.

shapes of candles to be listed.⁵ In fact, if the list were exhaustive, there would have been no need for the Department to render a decision on novelty candles or any other candle that was not explicitly listed as a shape in the scope of the Order. However, the Department did render the novelty candle exception that offered a narrowly construed exception, leaving all other petroleum wax candles from the PRC covered by the Order.

If the Department determines that the candle is made from petroleum wax and has a fiber or paper-cored wick, but the candle possesses characteristics set out in the CBP Notice, it will not fall within the scope of the Order. In order for a candle to qualify for this exception, the characteristic which is claimed to render it a novelty candle (i.e., the shape of an identifiable object or a holiday-specific design) should be easily recognizable in order for the candle to merit not being included within the scope of the Order. Specifically, among other determining factors, the Department will examine whether the characteristic is identifiable from most angles and whether or not it is minimally decorative, e.g., small and/or singularly placed on the candle. If the identifiable object or holiday-specific design is not identifiable from most angles, or if the design or characteristic is minimally decorative, the Department may determine that the candle is included within the scope of the Order. See Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China (A-570-504); JCPenney Purchasing Corp. (May 21, 2001) (“JCPenney Corp. Ruling”); Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China (A-570-504); San Francisco Candle Co. (Feb. 12, 2001) (“SFCC”); and Endar. If a candle does not possess the characteristics set out in the July 1987 novelty candle exception, and it is a scented or unscented petroleum wax candle made from petroleum wax and having a fiber or paper-cored wick, the Department will determine that the candle is within the scope of the Order.

Analysis

With respect to the instant request, we find that for the reasons outlined below, Noteworthy’s “Floating Flower Candle” and “Rose Pillar Candle” fall within the scope of the Order, because the “Floating Flower Candle” is not identifiable as a flower from multiple angles and the “Rose Pillar Candle” is not limited to a specific holiday and its “heart” shape is only visible when the candle is viewed from the top. Therefore, the Department finds that these candles do not qualify for the novelty exception and are included within the Order’s scope.

“Floater Flower Candle” (#80416)

⁵ See Petroleum Wax Candles from China, USITC Pub. No. 3226 Investigation No. 731-TA-282 (Review) (August 1999) (“USITC Pub. No. 3226”), at 18 (“Candles come in a wide variety of shapes and sizes. Major U.S. candle manufacturers reportedly will offer 1,000 to 2,000 varieties of candles in their product lines.”).

Noteworthy contends that because its “Floating Flower Candle” is in the shape of an identifiable object and is discernable as a flower from a majority of angles, it qualifies for the novelty candle exception. Noteworthy argues that the flower-shaped candles have molded flower petals which are evident from the top and side views of the candles.

We disagree with Noteworthy’s argument that the “Floating Flower Candle” is in the shape of an identifiable object, and, therefore, should not be included within the scope of the Order. Pursuant to the Department’s change in practice stated in J.C. Penney Scope Ruling, if a candle is not in a shape specifically listed in the scope of the Order, it will not automatically be excluded from the scope of the Order. See J.C. Penney Scope Ruling. Instead, the Department will normally evaluate whether the candle is a scented or unscented petroleum wax candle made from petroleum wax and having a fiber or paper-cored wick. Noteworthy’s “Floating Flower Candle” is a petroleum wax candle with a wick.⁶ Therefore, we must evaluate whether the characteristics of this candle bring it outside the scope of the Order pursuant to the novelty candle exception detailed in the CBP Notice and our interpretation set forth in the J.C. Penney Scope Ruling.

Based on Noteworthy’s comments and an examination of the samples Noteworthy provided, we examined whether the “Floating Flower Candle” is in the shape of an identifiable object. We find that this candle contains rudimentarily molded petals, which are only visible when viewing the candle from above. However, when the candle is viewed from the sides, the petals, and thus, the shape of the flower is not discernible. When viewed from any side, the candle does not show any identifiable flower motif. Given that the flower design is only discernible when the candle is viewed from above, we find that the “Floating Flower Candle” is not identifiable as a flower from a majority of angles. See San Francisco Candle Co. v. United States, 265 F.Supp. 2d 1274 (May 14, 2003). Because this candle is not readily recognizable and identifiable as a flower from multiple angles, we find that it is not an identifiable object and, therefore, it does not qualify for the novelty exception. Thus, the Department finds that Noteworthy’s “Floating Flower Candle” does not fall under any exception, and is therefore included within the scope of the Order.

“Rose Pillar Candle” (#80417)

Noteworthy argues that its heart-shaped pillar candle, decorated with molded roses on all sides and the top of the candle should not be included within the scope of the Order based on the CBP Bulletin. According to Noteworthy, its “Rose Pillar Candle” falls under this exception because it is overwhelmingly covered in roses and is discernible from the majority of angles.

We disagree with Noteworthy’s argument that its “Rose Pillar Candle” should not be included within the scope of the Order. Noteworthy’s “Rose Pillar Candle” candle is approximately 3 and 1/4 inches in height and 2 and 1/2 inches wide, contains a wick in the top of the candle’s center, and is made from

⁶ Noteworthy did not specify what type of wick is used in its “Floating Flower Candle.”

petroleum wax. The candle is decorated with molded pink roses. The Department finds that this candle's shape, when viewed from most angles, is not clearly identifiable as a heart. Only when viewed from the top is the heart shape apparent; when viewed from its multiple side angles, this candle's shape appears to be that of a pillar. See Final Scope Ruling - Antidumping Duty Order on Petroleum Wax Candles From the People's Republic of China (A-570-504); Atico International Inc. (March 31, 2003) at 8 ("Atico Ruling 2002") (the Department determined that Atico's "Tier Disk Heart-Shaped Candle" was only discernible as a heart when viewed from the top; when viewed from multiple side angles, this candle's shape appears to be that of a pillar). Thus, we find that this candle is included within the Order because it has a shape, *i.e.*, a "pillar", that is specifically included within the language of the scope.

In addition, we find that Noteworthy's "Rose Pillar Candle" is within the scope of the Order because this candle is not exclusively used in connection with any holiday. We find that the presence of the roses on the candle are not scenes or designs that are exclusively associated with any recognized holiday. See Atico Ruling 2002 at 8; see also Final Scope Ruling Russ Berrie Inc. (September 9, 1997) ("Russ Berrie Ruling 1997") (the Department determined that the floral design on Russ Berrie's "trinket box" heart-shaped wax-poured candles did not represent symbols which would limit the candle's use to a particular holiday). Thus, the roses do not transform this candle into an out-of-scope candle. Moreover, we find that Noteworthy's argument that its "Rose Pillar Candle" qualifies for an exclusion noted in the CBP Bulletin is misplaced because CBP rulings are not dispositive to the Department's scope determinations. Therefore, because the Department finds that Noteworthy's "Rose Pillar Candle" does not contain any scenes or symbols which are exclusively related to a specific holiday or other special event, and because the "heart" shape of Noteworthy's candle is only apparent when the candle is viewed from the top, this candle does not qualify for the novelty exception and, therefore, is within the scope of the Order.

Summary

Noteworthy argues that because its "Floating Flower Candle" is an identifiable object and that its "Rose Pillar Candle" is a decorated pillar overwhelmed by decoration that both candles should not be included within the scope of the Order. The Department disagrees that the "Floating Flower Candle" is identifiable as a flower from the majority of angles. The Department further finds that the "Rose Pillar Candle" is not identifiable as a heart from the majority of angles and that this candle does not have scenes or symbols that are exclusively associated with any recognized holiday. Therefore, the Department finds that these candles are included within the scope of the Order. This conclusion is consistent with the scope of the petition, the initial investigation, the determinations of the Secretary (including prior scope determinations), and the ITC.

Recommendation

Based on the preceding analysis, we recommend that the Department find that Noteworthy’s “Floating Flower Candle” and “Rose Pillar Candle” fall within the scope of the Order. If you agree, we will send the attached letter to the interested parties, and will notify CBP of our determination.

_____Agree

_____Disagree

Barbara E. Tillman
Acting Deputy Assistant Secretary
for Import Administration

Date

Attachment

Noteworthy - Product Samples



Floating Flower 1



Floating Flower 2



Floating Flower 3



Floating Flower 4



Rose Pillar 1



Rose Pillar 2



Rose Pillar 3