DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning

Certain Multifunction Printer Products

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection ("CBP") has issued a final determination concerning the country of origin of certain multifunction printer products known as bizhub C3850FS multifunction digital printers ("bizhub MFP"). Based upon the facts presented, CBP has concluded that the country of origin of the bizhub MFP is Japan for purposes of U.S. Government procurement.

DATES: The final determination was issued on December 23, 2015. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within [**INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

FOR FURTHER INFORMATION CONTACT: Antonio J. Rivera, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade (202) 325-0226.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on December 23, 2015, pursuant to subpart B of part 177, U.S. Customs and Border Protection Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin certain multifunction printer products known as bizhub C3850FS multifunction digital printers, which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, HQ 263561, was issued under procedures set forth at 19 CFR

part 177, subpart B, which implements title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511-18). In the final determination, CBP concluded that the processing in Japan resulted in a substantial transformation. Therefore, the country of origin of the bizhub MFP is Japan for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: December 23, 2015.

Myles B. Harmon
Acting Executive Director
Regulations and Rulings
Office of International Trade

Attachment

HQ H263561

December 23, 2015

OT:RR:CTF:VS H263561 AJR

CATEGORY: Origin

Daniel E. Waltz, Esq.
Squire Patton Boggs (US) LLP
2550 M Street, NW
Washington, DC 20037

RE: U.S. Government Procurement; Country of Origin of Multifunction Printers; Substantial Transformation

Dear Mr. Waltz:

This is in response to your letter, dated March 23, 2015, requesting a final determination on behalf of Konica Minolta ("K/M"), pursuant to subpart B of part 177 of the U.S. Customs and Border Protection ("CBP") Regulations (19 C.F.R. Part 177). Under these regulations, which implement Title III of the Trade Agreements Act of 1979 ("TAA"), as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of K/M's bizhub C3850FS multifunction digital printers ("bizhub MFP(s)"). We note that K/M is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

K/M plans to sell its bizhub MFPs to the U.S. government. The bizhub MFPs are multifunction color machines that perform printing, copying, scanning, and faxing functions. According to K/M's counsel, the bizhub MFP was designed and developed in Japan, and its most important and complex components will be manufactured in Japan. The assembly process for the bizhub MFPs will start in Thailand and finish in Japan, assembling a total of 11 subassemblies into the final bizhub MFP product.

Assembly Processes in Thailand:

In Thailand, the following four subassemblies (collectively, "Subassemblies 1-4") will be assembled into their final form within the bizhub MFP's frame:

1. The **Print Head** will be produced in Thailand from five sub-components:
   - a G1 lens manufactured in Japan;
   - a G2 lens manufactured in Japan;
   - a polygonal motor manufactured in China;
   - a housing case manufactured in China; and,
   - a laser diode manufactured in Taiwan.

   According to K/M's counsel, while the quantity at which the G1 and G2 lenses are produced lowers their relative cost, the lenses are more complex than the other sub-components of the Print Head as noted by the higher skill and technology levels needed to produce them. The Print Head operates by reflecting a laser beam off of the lenses and onto the rotating polygonal mirrors in order to produce a copied image in the Latent Image Unit's photoconductor ("OPC"). The Print Head will be assembled into, and permanently integrated within, each bizhub MFP in Thailand.

2. The **Optical Lens** will be manufactured in China from Chinese-origin materials. It operates by accurately collecting the light reflected from external documents onto its lens. It will be assembled into, and permanently integrated within, each bizhub MFP in Thailand.

3. The **Charge Coupled Device ("CCD") Board** will be manufactured in China. It separates the colors collected by the Optical Lens, and converts them into independent colors. It will be assembled into, and permanently integrated within, each bizhub MFP in Thailand.

4. The **Mechanical Control Board** will be manufactured in Thailand. It controls the bizhub MFP's input and output process through an engine that feeds the paper. It will be assembled into, and permanently integrated within, each bizhub MFP in Thailand.

Additionally, six subassemblies (collectively, "tested subassemblies") will be assembled into the bizhub MFP for testing purposes, but then removed after testing, as follows:

5. The **Latent Image Unit** will be produced in Thailand from three sub-components:
   - OPC drums manufactured in Japan;
   - a developer, with toner and carrier developing materials, manufactured in Japan; and,
   - an electrostatic charging roller manufactured in Japan.

   The OPC drums receive the laser beam. Then, the developing materials and electrostatic charging roller sense the image being transmitted by the laser, regulate its thickness and precision, and transfer it to the Image Transfer Belt. The Latent Image Unit will be installed within a bizhub MFP for testing purposes, and then removed, while in Thailand.

6. The **Image Transfer Belt Unit** will be manufactured in China from three sub-components:
   - an image transfer belt manufactured in China;
   - a 1st image transfer roller manufactured in China; and,
   - a cleaning blade manufactured in China.

   It receives the single-color image from the Latent Image Unit and creates a multi-color image to transfer onto paper. The Image Transfer Belt Unit will be shipped to Thailand, where it will be installed within a bizhub MFP for testing purposes, and then removed.

7. The **2nd Image Transfer Roller Unit** will be manufactured in China. It supports the Image Transfer Belt Unit. The 2nd Image Transfer Roller Unit will be shipped to Thailand, where it will be installed within a bizhub MFP for testing purposes, and then removed.

8. The **Fusing Unit** will be produced in Thailand from three sub-components:
   - a fusing belt manufactured in Japan;
   - a fusing roller manufactured in China; and,
   - a pressure sub-component manufactured in China.

According to K/M's counsel, the fusing belt accounts for a significant percentage of the Fusing Unit's cost and is a key sub-component. The Fusing Unit will be installed within a bizhub MFP for testing purposes, and then removed, while in Thailand.

9. The **Hard Disk Drive ("HDD")** will be manufactured in China or Thailand. It will be installed within a bizhub MFP for testing purposes, and then removed, while in Thailand.

10. The **Power Supply Unit** will be manufactured in China. It will be shipped to Thailand, where it will be installed within a bizhub MFP for testing purposes, and then removed.

Assembly Process in Japan:

Once the tested subassemblies are removed, the bizhub MFPs as assembled with Subassemblies 1-4 will be shipped to Japan without the tested subassemblies. Instead of shipping the tested subassemblies, six separate but identical subassemblies (collectively, "Subassemblies 5-10," as described above) will be shipped to Japan for final assembly. In Japan, these integrated and unintegrated subassemblies will be assembled to completion with the following subassembly:

11. The **MFP Board** will be manufactured from Japanese materials, and installed with Japanese-developed software, in Japan. According to K/M''s counsel, it constitutes the machine's "brain", integrating the printer and copier functions, and converting electric signals to digital signals, which are sent to the Print Head to create the image. It will be assembled into, and permanently integrated within, each bizhub MFP in Japan.

The finished bizhub MFP will be tested, adjusted, and calibrated in Japan before shipment to the U.S. The testing conducted in Japan includes electronically adjusting the laser position and intensity of the laser diode's beam in the Print Head, and electronically and physically adjusting the Latent Image Unit to calibrate the unit's position and imaging accuracy. According to K/M's counsel, the testing conducted in Japan requires skilled workmanship, involving more complex and precise tests than the initial testing and adjustments conducted in Thailand.

ISSUE:

What is the country of origin of the bizhub MFP for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 C.F.R. § 177.21 *et seq.*, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

> An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 C.F.R. § 177.22(a).

To determine whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens v. United States*, 573 F. Supp. 1149 (Ct. Int'l Trade 1983), *aff'd*, 741 F.2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. *See* C.S.D. 80-111, C.S.D. 85-25, C.S.D. 89-110, C.S.D. 89-118, C.S.D. 90-51, and C.S.D. 90-97. CBP will make these decisions on a case-by-case basis, considering the totality of the circumstances. The country of origin of the article's components, the extent of the processing that occurs within a given country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, facts such as resources expended on product design and development, extent and nature of post-assembly inspection procedures, and worker skill required during the actual manufacturing process will be considered when analyzing whether a substantial transformation has occurred; however, no one such factor is determinative.

In various cases concerning similar merchandise, CBP has held that complex and meaningful assembly operations involving a large number of components will generally result in a substantial transformation. In Headquarters Ruling Letter ("HQ") 562936, dated March 17, 2004, CBP addressed the country of origin of certain MFPs assembled in Japan of various Japanese- and Chinese-origin parts. CBP determined that the MFP was a product of Japan based on the fact that a "substantial portion of the printer's individual components and subassemblies [were] of Japanese origin." Furthermore, CBP noted that some of the Japanese components and subassemblies were essential parts of the finished article, and other Japanese parts, including the reader scanner unit and the control panel unit, were critical to the production of the printer. Finally, CBP noted that the Japanese processing operations were complex and meaningful, that required "the assembly of a large number of components, and render[ed] a new and distinct article of commerce that possesse[d] a new name, character, and use."

In HQ H025106, dated June 11, 2008, CBP addressed the country of origin of certain photocopying machines, which had photocopying, printing, faxing, and scanning functions. The machines were comprised of a scanning unit, controller unit subassembly, laser scanning unit, photoconductor unit, developer unit, transfer unit, and fusing unit. Three of these components were assembled into the machine's frame in China, and the rest were assembled into the frame in Japan, where the machines were completed. CBP noted that though the developer unit and transfer unit were assembled in China, enough of the subassemblies and individual components

(e.g. the transfer belt and photoconductor unit, among others) were from Japan, with the photoconductor being made of entirely Japanese parts. It also noted that though the developer unit would be assembled in China, two of the unit's key components were from Japan; and while the transfer unit would be partially assembled in China, the transfer belt was from Japan. CBP also noted that there were a large variety of adjustments that were made to the subassemblies in Japan, using advanced equipment and firmware. As a result, CBP held that the country of origin of the machines was Japan because the Japanese and foreign origin parts were substantially transformed into the machines through the product assembly that took place in Japan. *See also* HQ H020516, dated November 7, 2008 (holding that the country of origin of certain MFPs was Japan, using the same reasoning as HQ 562936 and HQ H025106, and also noting that the MFPs were designed and developed in Japan).

Based on the facts presented, we note that though the assembly of the bizhub MFP will take place in Japan and Thailand, there are also operations that contribute to this assembly which will take place in China. In situations like these, no one country imparts the dominant portion of the work conducted. Nonetheless, based upon the applicable legal standard, we determine that, the frame and subassemblies of the bizhub MFP that will be imported into Japan will be substantially transformed in Japan such that Japan will be the country of origin for purposes of U.S. Government procurement. In making this determination, we note that only four of the bizhub MFP's subassemblies (i.e. Subassemblies 1-4) will be assembled into the bizhub MFP's frame in Thailand, while the remaining seven subassemblies (i.e. Subassemblies 5-10, plus the MFP Board) will be assembled into, and permanently integrated within, the bizhub MFP in Japan. Further, we note that the MFP Board (the "brain" of the bizhub MFP) will be manufactured from all Japanese parts, will be integrated into the bizhub MFP in Japan, and accounts for a significant percentage of total subassemblies cost. Although many of the individual subassemblies will be assembled outside of Japan, we note sufficient use of Japanese sub-components in producing these subassemblies, such as the fusing belt that will be used to make the Fusing Unit, and the OPC drums, developer, and electrostatic roller that will be used to make the Latent Image Unit. As a result, the Japanese subassemblies and sub-components collectively attribute a significant percentage of the total subassemblies cost. Moreover, though we note the importance of the subassemblies and sub-components from Thailand and China, these subassemblies and sub-components will be integrated into a product that was designed and developed in Japan, and will be operated by Japanese-developed software that will also be installed onto the bizhub MFP in Japan. *See* HQ H198875, dated June 5, 2012 (noting that a foreign HDD that was integrated into an MFP in Singapore and installed with Japanese software in Singapore contributed to the reason that the HDD was substantially transformed into the MFP in Singapore). In this case, K/M incurred significant resources in Japan by developing and designing the MFP product, and its proprietary software, in Japan. Finally, the assembly operations that occur in Japan will be sufficiently complex and meaningful. Through the product assembly, as well as the testing and adjustment operations, the individual subassemblies and sub-components of Japanese and foreign-origin will be subsumed into a new and distinct article of commerce that has a new name, character, and use. Therefore, under the totality of the circumstances, we find that the country of origin of the bizhub MFP will be Japan for purposes of U.S. Government procurement.

HOLDING:

Based on the facts provided, the country where the last substantial transformation will take places is Japan. As such, the bizhub MFPs will be considered products of Japan for purposes of U.S. Government procurement.

Notice of this final determination will be given in the Federal Register, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the Federal Register Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Myles B. Harmon, Acting Executive Director
Regulations and Rulings
Office of International Trade

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