



A-570-967, C-570-968
Scope Inquiry: Screen Kits
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September 12, 2013

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

THROUGH: Melissa Skinner
Director, Office 8
Antidumping and Countervailing Duty Operations

Eugene Degnan
Program Manager, Office 8
Antidumping and Countervailing Duty Operations

FROM: Andrew Medley
International Trade Compliance Analyst, Office 8
Antidumping and Countervailing Duty Operations

RE: Antidumping and Countervailing Duty Orders on Aluminum
Extrusions from the People's Republic of China

SUBJECT: Final Scope Ruling on Law St. Enterprises, LLC's Disappearing
Door Screens

SUMMARY

On May 1, 2013, the Department of Commerce ("Department") received a scope ruling request from Law St. Enterprises, LLC ("Law St."),¹ to determine whether its disappearing door screens (hereafter, "disappearing screens") are subject to the antidumping duty ("AD") and countervailing duty ("CVD") orders on aluminum extrusions from the People's Republic of China ("PRC").² On the basis of our analysis of the comments received, we have determined that the disappearing screens are included in the scope of the *Orders*.

¹ See letters from Law St. entitled: "Request for Scope Ruling/Determination A-570-967" and "Request for Scope Ruling/Determination C-570-968," dated April 25, 2013, and filed in IA ACCESS on May 1, 2013 (collectively, "Law St.'s Scope Request").

² See *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011) and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (collectively, the "*Orders*").



BACKGROUND

On May 1, 2013, Law St. requested that the Department determine whether its disappearing screens were outside the scope of the *Orders*.³ On May 3, 2013, the Department sent Law St. a supplemental questionnaire requesting additional details regarding Law St.'s disappearing screens.⁴ On May 31, 2013, in response to a request from Law St., the Department extended the deadline for Law St.'s response to the supplemental questionnaire and, at the same time, extended the deadline for the scope ruling to 45 days after Law St.'s supplemental response was received.⁵ On June 14, 2013, Law St. submitted its response to the Department's supplemental questionnaire.⁶ On July 17, 2013, the Department extended the deadline for a final scope ruling a further 45 days, to September 12, 2013.⁷ Petitioner did not submit comments regarding this scope inquiry.⁸

SCOPE OF THE ORDERS

The merchandise covered by these *Orders* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods.

³ See Law St.'s Scope Request.

⁴ See letter from James Terpstra to Law St. entitled "Aluminum Extrusions from the People's Republic of China – Scope Ruling Request Supplemental Questionnaire," dated May 3, 2013.

⁵ See letter from James Terpstra to Law St. entitled "Aluminum Extrusions from the People's Republic of China: Scope Request Regarding Screen Kits," dated May 31, 2013.

⁶ See letter from Law St. entitled "Response to Department of Commerce Request for Supplemental Questionnaire Regarding Scope Request Pursuant to A-570-967 & C-570-968," dated June 14, 2013 ("Law St.'s Supplemental Questionnaire Response").

⁷ See letter from Eugene Degnan to all interested parties entitled "Aluminum Extrusions from the People's Republic of China: Extension of Time for Scope Ruling," dated July 17, 2013.

⁸ Petitioner is the Aluminum Extrusions Fair Trade Committee.

Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including bright-dip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods ‘kit’ defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation.

The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a “finished goods kit.” A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled ‘as is’ into a finished product. An imported product will not be considered a ‘finished goods kit’ and therefore excluded from the scope of the investigation merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 mm or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (“HTS”): 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8516.90.50.00, 8516.90.80.50, 8708.80.65.90, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.30, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTS chapters. In addition, fin evaporator coils may be classifiable under HTS numbers: 8418.99.80.50 and 8418.99.80.60. While HTS subheadings

are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.⁹

LEGAL FRAMEWORK

When a request for a scope ruling is filed, the Department examines the scope language of the order at issue and the description of the product contained in the scope-ruling request.¹⁰ Pursuant to the Department's regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from the investigations, and prior scope determinations made for the same product.¹¹ If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling as to whether the merchandise is covered by an order.¹² If the Department determines that these sources are not sufficient to decide the matter, the Department will consider the five additional factors set forth at 19 CFR 351.225(k)(2). 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.

DESCRIPTION OF MERCHANDISE SUBJECT TO THIS INQUIRY

At issue are disappearing screens which are imported by Law St.¹³ A disappearing screen is a device that may be installed across a door opening as a screen, but may be retracted and concealed when not in use.¹⁴ The disappearing screens consist of the following parts that are primarily constructed of aluminum hollow profiles whose aluminum is designated as Aluminum 6063 (or AA 6063): housing, a top track, a bottom track, a track protector, and a side profile.¹⁵ Additionally, Law St.'s disappearing screens also include a mesh screen, a rubber magnet, and an accessory kit.¹⁶

Law St. states that its disappearing screens may be assembled "as is" and that further fabrication and cutting are not necessarily required for installation.¹⁷ Moreover, at importation, Law St. states that all of the necessary parts to assemble a final finished disappearing screen are included and arrive in the United States as part of the same shipment, in the same shipping container, and at the same time and are recorded on the same customs entry summary form (U.S. Customs and Border Protection ("CBP") 7501 form).¹⁸ At the time of importation, like parts are packaged together; *e.g.*, five housings are boxed together, 10 top tracks are packaged together, 24 bottom tracks are packaged together, 30 track protectors are packaged together, 20 side profiles are packaged together, and five accessory kits are packaged together.¹⁹

⁹ *See Orders*.

¹⁰ *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

¹¹ 19 CFR 351.225(k)(1).

¹² 19 CFR 351.225(d).

¹³ *See* Law St.'s Scope Request at 2-3.

¹⁴ *Id.*

¹⁵ *Id.* at 3-6 and Law St.'s Supplemental Questionnaire Response at 3-6.

¹⁶ *Id.*

¹⁷ *See* Law St.'s Scope Request at 6 and Law St.'s Supplemental Questionnaire Response at 6.

¹⁸ *See* Law St.'s Scope Request at Exhibit A and Law St.'s Supplemental Questionnaire Response at 2 and 6-7.

¹⁹ *See* Law St.'s Supplemental Questionnaire Response at 6.

Law St. sells all imported disappearing screens directly to its affiliate, Casper Disappearing Screen Systems, Inc. (“Casper”).²⁰ Casper acts as a distributor of the disappearing screens and is a retractable screen dealer.²¹ Law St. sells its products to Casper in the same packages they were imported in; Casper then combines the parts necessary to make a complete screen kit and distributes the disappearing screens to the ultimate customers.²² Law St. imports all parts necessary to assemble a disappearing screen as part of the same shipment and does not acquire additional inventory from any other source.²³

ARGUMENTS FROM INTERESTED PARTIES

Law St.’s Request

Law St. argues that, based on 19 CFR 351.225(k)(1), the Department should find its aluminum disappearing screens are excluded from the *Orders* as finished goods kits.²⁴ In support of its statement, Law St. avers that its disappearing screen kits contain all the parts needed to fully assemble a final finished product without additional fabrication or cutting necessarily being required for installation.²⁵

Law St. asserts that the Department should find its disappearing screens to be excluded as a finished goods kit because Law St.’s disappearing screens contain all the necessary parts to assemble a disappearing screen door, and cites the Department’s scope rulings on Banner Stands,²⁶ Solarmotion Controllable Sunshades,²⁷ EZ Wall Systems,²⁸ Side Mount Valve Controls,²⁹ Window Kits,³⁰ Aluminum Anodes,³¹ and Solar Panel Mounting Systems³² as precedential cases where the Department previously found certain finished goods kits to be outside the scope of the *Orders*.³³ In fact, Law St. contends, its disappearing screens are even more inclusive and complete than the finished goods kits in Banner Stands and EZ Wall

²⁰ *Id.* at 8-9.

²¹ *Id.*

²² *Id.*

²³ *Id.* at 7.

²⁴ See Law St.’s Scope Request at 6-7.

²⁵ *Id.* at 6 and 10.

²⁶ See Memorandum to Christian Marsh entitled “Final Scope Ruling on Banner Stands and Back Wall Kits,” dated October 19, 2011 (“Banner Stands”).

²⁷ See Memorandum to Christian Marsh entitled “Final Scope Ruling on Solarmotion Controllable Sunshades,” dated August 17, 2012 (“Solarmotion Controllable Sunshades”).

²⁸ See Memorandum to Christian Marsh entitled “Final Scope Ruling on EZ Fabric Wall Systems,” dated November 9, 2011 (“EZ Wall Systems”).

²⁹ See Memorandum to Christian Marsh entitled “Final Scope Ruling on Side Mount Valve Controls” dated October 25, 2012 (“Side Mount Valve Controls”).

³⁰ See Memorandum to Christian Marsh entitled “Final Scope Ruling on Window Kits,” dated December 6, 2011 (“Window Kits”).

³¹ See Memorandum to Christian Marsh entitled “Final Scope Ruling on Aluminum Anodes for Water Heaters” dated October 17, 2012 (“Aluminum Anodes”).

³² See Memorandum to Christian Marsh entitled “Final Scope Ruling on Clenergy (Xiamen) Technology’s Solar Panel Mounting Systems” dated October 31, 2012 (“Solar Panel Mounting Systems”).

³³ See Law St.’s Scope Request at 10-18.

Systems, which the Department found, pursuant to the finished goods kit exclusion, to be outside the scope of the *Orders*.³⁴

Additionally, Law St. cites to the scope rulings on Drapery Rail Kits³⁵ and Retractable Awning Mechanisms,³⁶ where the draperies and awnings, respectively, were not included and where the Department determined that the kits were covered by the scope of the *Orders*.³⁷ Law St. argues that, unlike in these two cases where the window coverings were not included, its disappearing screens include the screen (*i.e.*, window covering) and all other parts necessary to assemble the disappearing door screens.

Petitioner's Comments

The Petitioner did not submit any comments regarding Law St.'s disappearing screens.

RELEVANT SCOPE DETERMINATIONS³⁸

A. Flag Poles³⁹

In Flag Poles, the Department found that 5 Diamond's flag pole sets do not meet the "finished goods kit" exclusion. Although 5 Diamond's flag pole sets required no further fabrication once imported, the Department found that the flag pole sets do not constitute finished goods kits because, at the time of importation, similarly-sized unassembled flag pole sections are bundled together for shipment, meaning that all of the sections necessary to assemble a final finished product (*i.e.*, the flag pole) are not packaged together as a complete set in one package. Even though 5 Diamond imported a sufficient number of packages of unassembled sections to create a predetermined number of three- and/or four-section assembled flag pole sets together on the same CBP 7501 form, after importation, the packages had to be opened, and the parts needed to fully assemble an entire flag pole had to be re-packaged before being sold to the end user.

B. Solarmotion Controllable Sunshades

Construction Specialties Inc. ("CS Group"), an importer of Solarmotion controllable sunshades, stated that its kits constituted finished merchandise because after importation they were intended to be inserted directly into a frame (albeit one shipped separately and already attached to a building). According to CS Group, these components could not be treated as a single part of a larger system. Petitioner responded that the sunshades CS Group imported from the PRC were

³⁴ See Law St.'s Scope Request at 16.

³⁵ See Memorandum to Christian Marsh entitled "Final Scope Ruling on Drapery Rail Kits" dated February 3, 2012 ("Drapery Rail Kits").

³⁶ See Memorandum to Christian Marsh entitled "Final Scope Ruling on Certain Retractable Awning Mechanisms" dated October 14, 2011 ("Retractable Awning Mechanisms").

³⁷ See Law St.'s Scope Request at 13-18.

³⁸ See the Department's memorandum entitled: "Antidumping ("AD") and Countervailing Duty ("CVD") Orders on Aluminum Extrusions from the People's Republic of China ("PRC"): Screen Kits from the PRC: Transmittal of Scope Determinations to the File," dated September 12, 2013.

³⁹ See Memorandum to Christian Marsh entitled "Final Scope Ruling on 5 Diamond Promotions, Inc.'s Aluminum Flag Pole Sets," dated April 19, 2013 ("Flag Poles").

merely components of the complete sunshade system it sold. They highlighted a CBP ruling determining that parts needed for the sunshades to rotate and track the sun throughout the day (*i.e.*, necessary parts to assemble a final finished good) were missing from the imported kits. Petitioner also pointed out that CS Group’s marketing materials advertised a complete system as including components not present in the kit.

Approximately five weeks after its initial filing, CS Group submitted a revised scope request. This filing stated that the sunshades would now be shipped from the PRC to Canada and consolidated with Canadian-manufactured parts to form a finished goods kit before entry into the United States. The new kit would contain all parts necessary (*e.g.*, blade frames, motors, brackets) to assemble a final finished good. Owing to their large size, each kit could not be transported in a single trailer, but would be imported in the same shipment and with the same commercial invoice, bill of lading, and CBP 7501 form.

The Department determined that CS Group’s original kit did not constitute finished merchandise or a finished goods kit.⁴⁰ However, the Department found that the revised kit included the components necessary to qualify as a finished goods kit as described in the scope of the *Orders*.⁴¹ That the revised kit was to be imported from Canada in a single shipment with the same commercial invoice, bill of lading, and CBP 7501 form further supported this conclusion, according to the Department. In addition, the Department found that the revised kit was not subject to the *Orders* merely because it was shipped in separate containers.⁴² This was because, in addition to being listed on a single CBP 7501 form, the revised kit ultimately contained all of the necessary parts to assemble a final finished good. Therefore, the Department ruled that the revised kits should fall outside the scope of the *Orders*.

DEPARTMENT’S POSITION

Pursuant to 19 CFR 351.225(k)(1), the Department has examined the language of the *Orders* and the description of the products contained in this scope request, as well as previous rulings made by the Department. We find that the scope and the Department’s prior rulings are dispositive as to whether the products at issue are subject merchandise. Accordingly, for this determination, the Department finds it unnecessary to consider additional factors specified in 19 CFR 351.225(k)(2).

The scope of the *Orders* covers aluminum extrusions in “a wide variety of shapes and forms, including... hollow profiles... with a variety of finishes (both coatings and surface treatments), and types of fabrication.” Additionally the scope covers, aluminum extrusions “fabricated, *i.e.*, prepared for assembly... {including} extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun” and including aluminum extrusions that are “finished (coated, painted, *etc.*), fabricated, or any combination thereof.” Furthermore, subject “aluminum extrusions may be described at the time

⁴⁰ See the Department’s memorandum entitled: “Final Scope Ruling on Solarmotion Controllable Sunshades,” dated August 17, 2012 at 11.

⁴¹ *Id.*

⁴² *Id.* at 11-12.

of importation as parts for final finished products that are assembled after importation, including... window frames, door frames, solar panels, curtain walls, or furniture.”

Law St. imports all of the parts necessary to assemble disappearing screens. Some of the parts are described as “aluminum hollow profiles,” which are covered under the scope of the *Orders*.⁴³ However, the scope of the *Orders* also provides an exclusion for a “finished goods kit,” which is defined by the scope language as a “packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled ‘as is’ into such a finished product.” The Department’s analysis of whether Law St.’s disappearing screens fit this exclusion, therefore, examined the two criteria in the scope that define finished goods kits: 1) a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good; and 2) requires no further finishing or fabrication, such as cutting or punching, and is assembled “as is” into a finished product.

The Department finds that Law St.’s disappearing screens do not meet the first criterion. The disappearing screens do not constitute finished good kits because, at the time of importation, like parts are packaged together for shipment, meaning that all of the pieces necessary to assemble a final finished product (*i.e.*, a disappearing screen) are not packaged together at the time of importation.⁴⁴ Although Law St. imports together, on the same CBP 7501 form, “each and every element or part that makes up the completed screen kit,” the packages must be opened, and the parts needed to fully assemble an entire disappearing door screen must be re-arranged and re-packaged, after importation, before being sold to the end user.⁴⁵

In support of its position, Law St. cites to the Department’s previous scope rulings on Banner Stands, EZ Wall Systems, Side Mount Valve Controls, Aluminum Anodes, Solar Panel Mounting Systems, Solarmotion Controllable Sunshades, Window Kits, Drapery Rail Kits, and Retractable Awnings. However, the Department finds that the products at issue in these prior rulings are distinguishable from disappearing screens and thus these rulings do not inform the analysis in the instant case. For instance, while the Department found that Banner Stands, EZ Wall Systems, and Solar Panel Mounting Systems were outside the scope of the *Orders* pursuant to the “finished goods kit” exclusion, the issue of separately packaged items did not arise because these goods were imported as finished goods kits, *i.e.*, containing all of the components necessary to assemble a completed product.⁴⁶ Side Mount Valve Controls are also distinguishable from disappearing screens because they are “subassemblies” (merchandise that is partially assembled and inherently part of a larger whole) that entered the United States as finished goods kits.⁴⁷ In addition, the Aluminum Anodes ruling does not apply to this case

⁴³ See Law St.’s Scope Request at Exhibit A.

⁴⁴ See Law St.’s Supplemental Questionnaire Response at 6-7.

⁴⁵ *Id.*

⁴⁶ See Banner Stands at 10; EZ Wall Systems at 9-10; Solar Panel Mounting Systems at 8-9. In these scope determinations, the Department explained that finished goods kits need not include the interchangeable graphic materials, fabric covers, or removable/replaceable solar panels, respectively, to satisfy the finished goods kit exclusion of the scope.

⁴⁷ See Side Mount Valve Controls at 2; Memorandum to Christian Marsh entitled “Initiation and Preliminary Scope Ruling on Side Mount Valve Controls” dated September 24, 2012 at 7-8.

because the anodes were imported in the United States as finished merchandise, rather than a finished goods kit.⁴⁸

Further, the Department finds that our determination in Solarmotion Controllable Sunshades is distinguishable from the present case because the method by which Law St.'s disappearing screens are packaged and imported is not analogous to the method by which the merchandise in Solarmotion Controllable Sunshades was packaged and imported. While the Solarmotion controllable sunshades were necessarily shipped using multiple containers because of the large size of each individual unit, those containers nevertheless constituted one large kit, which required no re-arrangement or re-packaging of components after importation and before reaching its ultimate customer for assembly.⁴⁹ Similarly, our determination in Window Kits is distinguishable from the instant case. In that ruling, we found that the window kits met the finished goods kit exclusion because the product contained all the necessary parts to assemble a final, finished good. Even though the window kits were shipped in one or more containers and listed on a single CBP 7501 form, the Department's determination was not based on the manner in which the merchandise was packaged at the time of importation. In contrast, Law St. imports multiple packages of disappearing screen parts as part of a single entry but does not package them as individual sets that would allow the final U.S. customers, to assemble individual, finished disappearing screens directly from the Law St.'s shipment and import packaging.⁵⁰ Specifically, the merchandise, as described in the request, at the time of importation, does not constitute a packaged combination of parts to fully assemble a disappearing screen. Rather, the merchandise constitutes separately packaged parts that, after importation, must be un-packaged, re-arranged, and re-packaged before being sold to the end user as a finished goods kit that includes all of the parts needed to fully assemble finished disappearing screens.⁵¹

Law St. distinguishes its merchandise from the products the Department considered in Drapery Rail Kits and Retractable Awning Mechanisms. The Department has not relied on the analysis in Drapery Rail Kits or Retractable Awning Mechanisms in this scope inquiry. However, we find the Department's recent ruling in Flag Poles to be most analogous to the instant case. In Flag Poles, the Department found that because the imported packages did not each contain all the necessary parts at importation (*i.e.*, like parts were boxed together), but were instead assembled into kits after importation, the product did not meet the criteria of the finished goods kit exclusion.

⁴⁸ See Aluminum Anodes at 5-6.

⁴⁹ See Solarmotion Controllable Sunshades at 2-3.

⁵⁰ See Law St.'s Scope Request at Exhibit A and Law St.'s Supplemental Questionnaire Response at 6-7.

⁵¹ See Law St.'s Supplemental Questionnaire Response at 6 and 8-9.

RECOMMENDATION

For the reasons discussed above, and in accordance with 19 CFR 351.225(d) and 351.225(k)(1), we recommend finding that Law St.'s disappearing screens, as described in its request and supplemental questionnaire response, are subject to the scope of the *Orders*.

If the recommendation in this memorandum is accepted, we will serve a copy of this determination to all interested parties on the scope service list via first-class mail, as directed by 19 CFR 351.225(f)(4).

_____ Agree _____ Disagree

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

Date