DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Country of Origin of Fleetcam Vehicle Cameras


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 a vehicle digital video camera known as the FleetCam™. Based upon the facts presented, CBP has concluded that the processing in the United States does not substantially transform the imported digital video cameras for purposes of U.S. Government procurement.

DATES: The final determination was issued on May 18, 2018. 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 June 25, 2018.

FOR FURTHER INFORMATION CONTACT: Robert Dinerstein, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade (202–325–0132).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on May 18, 2018, pursuant to subpart B of Part 177, Customs and Border Protection (CBP) Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of the FleetCam™ digital video camera, which may be offered to the United States Government under an undisgined government procurement contract. This final determination, HQ H294933, was issued under the 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 the country of origin of the finished FleetCam™ was China, where the digital video camera and the camera’s firmware were manufactured.

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: May 18, 2018.

Alice A. Kipel,
Executive Director, Regulations and Rulings, Office of Trade.

HQ H294933
May 18, 2018

OT:RR:CTF:VS H294933 RSD

CATEGORY: Origin

Upneet S. Teji, Esq.
Greensfelder, Hemker & Gale, P.C.

220 Madison Street, Suite 3300
Chicago, Illinois 60606

RE: Final Determination of U.S. Government Procurement; Country of Origin of a FleetCam™ vehicle camera

Dear Mr. Teji:

This is in response to your ruling request of January 27, 2018, for final determination on behalf of Forward Thinking Systems LLC, (the Company), concerning the country of origin of a FleetCam vehicle camera pursuant to subpart B of Part 177, U.S. Customs and Border Protection (“CBP”) Regulations (19 CFR § 177.21 et seq.). We note that the Company is a party-at-interest within the meaning of 19 CFR § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

The product at issue is referred to as a FleetCam, which is a high-resolution digital video camera installed in a vehicle for streaming and recording images in real time. The FleetCam allows companies who purchase the product to watch the drivers that they employ in real-time, as well as view recorded speeding and other behavior moments. The FleetCam is also able to capture, record, and transmit images of a driver’s view of the road ahead. The FleetCam is comprised of a physical digital video camera or several cameras setup together. The product also contains related cabling and a receiver that is compatible for use specifically with the Company’s software and mobile applications. To use the FleetCam product, a user must purchase the hardware and a subscription to the software from the Company.

The FleetCam’s physical digital video camera is made in China and sourced by the Company from a Chinese firm. The firmware that is loaded onto the camera to allow it to be operational with the Company’s software was also developed by the Chinese firm; however, you state that the firmware was developed based upon the design, specifications, and software architecture produced by the Company’s staff located in the United States. The firmware developed for the FleetCam is designed specifically for use with the Company’s fleet management software. The digital camera hardware (together with the firmware) is purchased by the Company from a Chinese producer.

The firmware is not loaded onto the camera hardware until it is received by the Company in the United States. Upon receipt of the camera and the firmware code, the Company’s engineers load and install the firmware on the camera hardware at the Company’s offices in the United States. An additional hardware component of the
FleetCam product is the telematics gateway unit (the “cabling”). The cabling units, including the receivers, are purchased from one or more manufacturers, and they are manufactured and procured from other TAA-compliant jurisdictions. The digital camera components (including without limitation, software applications and mobile applications) are designed, developed, and integrated with the Company’s cloud service in the United States. In order for the FleetCam to be functional and operational, the hardware and the related firmware is installed with the cabling and integrated with the FleetCam software platform. This compilation process occurs entirely in the United States.

The Company sells the FleetCam software as a software-as-a-service subscription, whereby the Company’s customers enter into a separate subscription for use of the FleetCam software. After purchase of the FleetCam hardware, the Company’s customers pay a separate monthly fee for using the proprietary software. The FleetCam hardware and software must be purchased together as part of the same package. Without the FleetCam software, it is stated that the camera and the related components are not operational. If a customer cancels its software subscription, the FleetCam product will no longer be functional.

**ISSUE:**

Whether the imported components including the digital video camera and cabling for the FleetCam are substantially transformed through the downloading of the Company’s proprietary software in the United States so as to make the FleetCam a product of the United States.

**LAW AND ANALYSIS:**

CBP applies the provisions of subpart B of Part 177 consistent with the Federal Procurement Regulations. See 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government’s purchase of products to U.S. products or that is substantially end products for acquisitions subject to the Trade Agreements Act. See 48 C.F.R. §§ 25.403(c)(1). The Federal Acquisition Regulations define “U.S.-made end product” as “an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with name, character, or use distinct from that of the article or articles from which it was transformed.” See 46 C.F.R. § 5.2003.

In Data General v. United States, 4 C.I.T. 182 (1982), the court determined that the programming of a foreign PROM (Programmable Read-Only Memory chip) in the United States substantially transformed the PROM into a U.S. article. In the United States, the programming upon each integrated circuit’s electronic function, that is, its “memory” which could be retrieved. A distinct physical change was effected in the PROM by the opening or closing of the fuses, depending on the method of programming. The essence of the article, its interconnections or stored memory, was established by programming. See also, Texas Instruments v. United States, 681 F.2d 778, 782 (CCPA 1982) (stating the substantial transformation issue is a “mixed question of technology and customs law”); HQ 735027, dated September 7, 1993 (programming blank PROM by the opening or closing of the fuses, depending on the method of programming).

The basic software component of the FleetCam product will no longer be functional. If a customer cancels its software subscription, the FleetCam product will no longer be functional.

In rendering final determinations for 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, 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.). 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 or component 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).

In rendering final determinations for purposes of U.S. Government procurement,
video camera by capturing images and recording footage. The installation of the proprietary software onto the FleetCam only customizes the digital cameras to the Company’s particular use and does not change the basic identity of the imported digital video cameras because they retain all their functions with the same name, character and use of the imported digital video cameras. Therefore, we find that the FleetCam is not substantially transformed by the downloading of the Company’s proprietary software onto the imported digital video cameras, and the country of origin of the FleetCam will be China where the main hardware, including the digital cameras and the firmware, is manufactured.

HOLDING:

Based on the information presented in this case, the imported digital video cameras are not substantially transformed by the processing performed in the United States. Therefore, the country of origin of the FleetCams is the country where the digital video cameras and the firmware were originally produced, which in this case is China.

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 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,

Alice A. Kipel,
Executive Director, Cadastral Survey, Bureau of Land Management, Alaska State Office, 222 W. 7th Avenue, Anchorage, Alaska 99513; 1–907–271–5481; dhaywood@blm.gov. Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–677–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week. You may leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lands surveyed are:

- U.S. Survey No. 3813, accepted March 5, 2018
- U.S. Survey No. 3923, accepted March 5, 2018
- U.S. Survey No. 4269, accepted March 5, 2018
- U.S. Survey No. 4738, accepted January 5, 2018
- U.S. Survey No. 9891, accepted January 5, 2018
- U.S. Survey No. 14461, accepted March 13, 2018
- U.S. Survey No. 14462, accepted March 13, 2018
- U.S. Survey No. 14478, accepted January 29, 2018

Copper River Meridian, Alaska:
- T. 67 S., R. 75 E., accepted April 4, 2018
- T. 67 S., R. 76 E., accepted April 4, 2018
- T. 68 S., R. 75 E., accepted April 4, 2018
- T. 68 S., R. 76 E., accepted April 4, 2018
- T. 69 S., R. 79 E., accepted March 26, 2018
- T. 70 S., R. 79 E., accepted April 4, 2018
- T. 75 S., R. 86 E., accepted April 4, 2018

Kateel River Meridian, Alaska:
- T. 2 S., R. 40 W., accepted May 1, 2018
- T. 3 S., R. 40 W., accepted May 1, 2018

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the State Director for Alaska, BLM. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. The notice of protest must be filed before the scheduled date of official filing for the plat(s) of survey being protested. Any notice of protest filed after the scheduled date of official filing will not be considered. A notice of protest is considered filed on the date it is received by the State Director for Alaska during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director for Alaska within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in a notice of protest or statement of reasons, you should be aware that the documents you submit, including your personal identifying information, may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chap. 3.

Douglas N. Haywood,
Chief Cadastral Surveyor, Alaska.

[FR Doc. 2018–11148 Filed 5–23–18; 8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

[PPWOCR010, PCU00P14, R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before May 5, 2018, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by June 8, 2018.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places.

INFORMATION:

The National Park Service is soliciting comments on the significant properties nominated before May 5, 2018, to be listed in the National Register of Historic Places. The properties that are being considered for listing or related actions in the National Register of Historic Places include:

- [Property 1]
- [Property 2]
- [Property 3]

The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Comments are due by June 8, 2018.

Please submit comments to the National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.