NY M85579

August 22, 2006

CLA-2-85:RR:NC:N1:112 M85579

CATEGORY: Classification

TARIFF NO.: 8543.89.9795; 3824.90.2800

Mark Weiss
Weiss & Moy, P.C.
4204 N. Brown Avenue
Scottsdale, AZ 85251-3914

RE: The tariff classification of a nicotine inhaler and parts from China

Dear Mr. Weiss,

In your letter dated July 20, 2006, you requested a tariff classification ruling.

The items concerned are the Ruyan Electronic Cigarette and the Ruyan Electronic Cigarette cartridge. The Cigarette is a spherical, metal tube with a plastic mouthpiece tip on the end which measures approximately 5 ½" in length. Inside the tube are a sensor, electronic atomizer, integrated circuits and a lithium ion battery. The spherical cartridge is attached to a plastic mouthpiece tip and contains nicotine and propylene glycol.

The purpose of the Ruyan Electronic Cigarette is to act as a nicotine inhaler that has atomized smoke being forced out of the plastic mouthpiece tip.

You state that the these items will be marketed in five, different packages:

1. Electronic cigarette with two rechargeable 3.7-volt batteries

2. Electronic cigarette with two rechargeable 3.7-volt batteries and five cartridges
3. Five cartridges, ten cartridges and twenty cartridges

The applicable classification subheading for the Ruyan Electronic Cigarette with batteries and the Ruyan Electronic Cigarette with batteries and cartridges will be 8543.89.9795, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Electrical … apparatus, having individual functions, not specified or included elsewhere ... : Other … apparatus: Other: Other: Other: Other: Other". The rate of duty will be 2.6%.

The applicable classification subheading for the packages of five Cartridges, ten Cartridges and twenty Cartridges will be 3824.90.2800, Harmonized Tariff Schedule of the United States (HTSUS), which provides for " … preparations of the chemical or allied industries … , not elsewhere specified or included: Other: Other: Mixtures containing 5 percent or more by weight of one or more aromatic or modified aromatic substances: Other". The rate of duty will be 6.5%.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTS and the accompanying duty rates are provided on World Wide Web at http://www.usitc.gov/tata/hts/.

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

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the Ruyan Electronic Cigarette, contact National Import Specialist Richard Laman at 646-733-3017. If you have any questions regarding the Ruyan Electronic Cigarette cartridge, contact National Import Specialist Richard Dunkel at 646-733-3032.

Sincerely,

Robert B. Swierupski
Director,
National Commodity
Specialist Division