

Firearm Aiming Systems Co. Sues CBP, Claims Duties Error

By **Nicole Rosenthal**

Law360 (June 1, 2022, 6:53 PM EDT) -- A manufacturer of firearm aiming systems has accused U.S. Customs and Border Protection of unlawfully assessing duties on its imports of aiming aids, telling the U.S. Court of International Trade that the imports should be classified as duty-free.

In a complaint filed Tuesday, Michigan-based military optics manufacturer Trijicon claimed that CBP applied improper duties of 6% on the company's imported tritium sight inserts, which are used with firearms to improve aim. The imports should instead be treated as duty-free products that rely on the use of alpha, beta or gamma radiations since the aiming devices emit radiation inside a tube, activating phosphor which allows the item to be visible in the dark, the company said.

"Without the beta radiation persistently emitted by the tritium gas within the glass ampule, the sight inserts would serve no function because the insert cannot otherwise create the requisite glowing effect for the insert to act as an aiming alignment aid," Trijicon said. "As the tritium decays, the device begins to lose its functionality."

Trijicon had initially requested that its sight inserts be entered duty-free under a harmonized tariff schedule classification in December 2018 as an "apparatus based on the use of alpha, beta, or gamma radiations, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus."

But not until July 2020 did CBP ask for additional information in connection with the request, according to the complaint. CBP ruled in August 2020 that the sight inserts' proper classification carries a duty rate of 6% under a category that covers lamps, searchlights and spotlights because the imports serve as a source of light.

CBP denied Trijicon's protest of the ruling in October 2021, prompting the manufacturer's lawsuit, according to the complaint.

Trijicon asked the court declare that CBP incorrectly classified its imports and is seeking a refund of duties it already paid with interest.

Representatives for Trijicon and the U.S. government did not immediately return requests for comment.

Trijicon is represented by Alexander David Chinoy, Cynthia Cristina Galvez, Rishi Raj Gupta and Victor Duen-Li Ban of Covington & Burling LLP.

The U.S. government is represented by Luke Mathers of the U.S. Department of Justice.

The case is Trijicon Inc. v. United States, case number 1:22-cv-00040 in the U.S. Court of International Trade.

--Editing by Peter Rozovsky.

