

Fed. Circ. Says Customs Misclassified Tools In Tariff Row

By Tiffany Hu

Law360 (April 10, 2019, 7:15 PM EDT) -- The Federal Circuit on Tuesday upheld a U.S. Court of International Trade ruling that a tool company's imports should be classified as pliers instead of wrenches, rejecting the federal government's argument that the classification hinged on how the tools were used.

In an 11-page precedential opinion, the panel found that the CIT properly classified Irwin Industrial Tool Co.'s hand tools as pliers for tariff purposes in 2017. Despite the government's contention that the imported tools were wrenches because they were "used to grasp an object and then turn or twist it," the panel was unpersuaded by this particular definition of a wrench.

Industry standards indicated that wrenches and pliers were defined by their physical characteristics, rather than their use, the panel said. Irwin had argued that under the government's definition, a crowbar would have been classified as a wrench because of the described twisting function.

"To be sure, design elements for both pliers and wrenches support their specific uses," Circuit Judge Alan D. Lourie wrote for the panel. "[But] even though the record suggests that the tools may be designed for a particular use, we determine that the language of the particular [tariff schedule] headings here does not imply that use or design is a defining characteristic."

The government had also asked the panel to consider use when defining pliers, arguing that pliers "refer[] to pincers with two handles and jaws adapted for manipulating small objects or for bending and shaping wire, sometimes including a wire cutter, and whose grasp is dependent upon maintaining continuous hand pressure."

But the panel disagreed, instead adopting the CIT's definition that described pliers as a "versatile hand tool with two handles and two jaws that are flat or serrated and are on a pivot, which must be squeezed together to enable the tool to grasp an object."

The tools at issue consist of four styles of locking hand tools, referred to by Irwin as "locking pliers," which have two opposing metal jaws with metal teeth. The tools are designed to remain locked on an object without applying continuous hand force, according to filings.

The dispute stems from 46 entries of Irwin's tool imports, which U.S. Customs and Border Protection entered from November 2012 through June 2013. Customs had classified the tools as

wrenches, and when the agency denied Irwin's administrative protests, the company brought the instant action.

The CIT in April 2017 ruled that the government had improperly classified Irwin's imported tools as wrenches, which are dutiable at 9 percent, rather than as pliers, which are dutiable at 12 cents per dozen plus 5.5 percent.

"The Federal Circuit basically held that the key in this case was how the terms in the tariff are defined and what the products are," Frances Hadfield of Crowell & Moring LLP, an attorney for Irwin, told Law360 on Wednesday. "In short, you can use a hammer as a paperweight, but it's still a hammer and isn't classified as a paperweight."

A representative for the U.S. Department of Justice did not immediately respond to a request for comment Wednesday.

Circuit Judges Alan D. Lourie, Haldane R. Mayer and Jimmie V. Reyna sat on the panel for the Federal Circuit.

Irwin is represented by Daniel J. Cannistra and Frances Pierson Hadfield of Crowell & Moring LLP.

The government is represented by Matthew J. Glover, Jeanne Davidson, Joseph H. Hunt, Amy Rubin and Guy Eddon of the DOJ's Civil Division and Michael W. Heydrich of Customs.

The case is Irwin Industrial Tool Co. v. U.S., case number 18-1215, in the U.S. Court of Appeals for the Federal Circuit.

--Additional reporting by Natalie Olivo. Editing by Aaron Pelc.