

UNITED STATES COURT OF INTERNATIONAL TRADE

BEFORE:

_____)	
)	
UNITED STATES)	
)	
	Plaintiff,)	
)	Case No. 24-cv-00066
	v.)	
)	
E-DONG, U.S.A., INC.,)	
)	
	Defendant.)	
_____)	

COMPLAINT

The United States, by and through its undersigned attorneys, hereby brings this action and alleges the following:

1. This is an action to recover the payment of lawful duties, taxes and fees pursuant to 19 U.S.C. § 1592, relating to twenty (20) customs entries of distilled spirits.
2. This Court has exclusive jurisdiction to entertain this action pursuant to 28 U.S.C. § 1582.
3. Plaintiff, the United States, through U.S. Customs and Border Protection (CBP), is charged with fixing the final amount of duty to be paid on imported merchandise and determining any increased or additional duties, taxes, and fees due or any excess of duties, taxes, and fees deposited, among other responsibilities. 19 U.S.C. § 1500(c).
4. At all times relevant to the matters described in this complaint, defendant, E-Dong U.S.A., Inc., upon information and belief, was incorporated in the State of

California, with a principal business address of 454 ½ S. New Hampshire Ave., Los Angeles, CA 90020 and an alternative business address of 3060 W. Olympic Blvd., Apt. 527, Los Angeles, California 90006.

5. E-Dong U.S.A., Inc. served as the importer of record for the twenty (20) entries covered by this court action (hereinafter, referred to as the “subject entries”), which are identified in the loss of revenue calculation summary attached as Exhibit A.

6. E-Dong U.S.A., Inc. filed the subject entries between April 7, 2017, through July 12, 2020, at the Los Angeles/Long Beach, California seaport and the port of Chicago, Illinois.

7. The imported merchandise covered by the subject entries (hereinafter, referred to as the “imported merchandise”) consisted of bottles of soju, an alcoholic beverage, manufactured by The Mackiss Company Inc. in the Republic of Korea.

8. E-Dong U.S.A., Inc., when entering the imported merchandise, identified the bottles of soju as Korean Rice Wine under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2206.00.4500 (rice wine or sake).

9. All alcoholic beverages, when entered into the United States, are subject to Federal Excise Tax (FET).

10. Pursuant to 26 U.S.C. §§ 5051(a)(1)(A)(ii), 5052(a), rice wine is subject to FET of \$18 per barrel. E-Dong U.S.A., Inc. did not identify or pay any FET on any of the entries of the imported merchandise.

11. On or around July 15, 2021, CBP discovered that E-Dong U.S.A., Inc. had failed to pay the required FET when entering rice wine into the United States.

12. When asked why it did not pay the required FET, E-Dong U.S.A., Inc. explained that there was a software failure because the custom broker's software required manually inputting the FET for each entry.

13. At CBP's request, E-Dong U.S.A., Inc. provided CBP with the entry documents, an ingredient breakdown, a production flowchart of the imported merchandise, a physical sample, and the product labeling.

14. In and around September 2021, a CBP import specialist examined the imported merchandise and determined that the product was not rice wine or sake. Instead, CBP identified the imported merchandise as a distilled spirit. The product labeling specifically identified the imported merchandise as a distilled spirit. The manufacturing process flowchart indicated that the imported merchandise required a distillation step.

15. CBP determined that E-Dong U.S.A., Inc. misclassified the product. CBP identified the correct classification for soju as HTSUS 2208.90.7500 (Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 percent vol.; spirits, liqueurs and other spirituous beverages: Other: Other Spirits: Other).

16. The FET rate for distilled spirits is \$13.50 per proof gallon compared to the FET rate for rice wine or sake of \$18.00 per barrel. 26 U.S.C. §§ 5001(a)(1), 5051(a)(1)(A)(ii), 5052(a).

17. A barrel contains approximately 31 proof gallons.

18. Consequently, on or around November 9, 2021, CBP advised E-Dong U.S.A., Inc. that based on analysis the subject merchandise had been determined to be properly classified as a distilled spirit and more FET may apply.

19. On or around January 7, 2022, Gae (or Gye) Hang Lee, President of E-Dong U.S.A., Inc., sent a letter to CBP admitting that the imported merchandise was misclassified and acknowledged that it should have been classified as a distilled spirit.

20. By classifying the subject entries as rice wine or sake, E-Dong U.S.A., Inc. would have paid less FET than had the subject entries been correctly classified as a distilled spirit.

21. As a result of the failure to identify any FET owed at entry, E-Dong U.S.A., Inc. did not pay any of the necessary FET regardless of the classification of the imported merchandise.

22. As a result of the incorrect identification of the imported merchandise as rice wine and the failure to identify any FET owed, the United States was deprived of lawful duties and fees in the amount of approximately \$361,479.92.

23. CBP has exhausted all administrative remedies.

24. During the administrative proceedings, E-Dong U.S.A., Inc.'s surety paid \$100,000 to cover its bond obligations. CBP applied that payment to the appropriate entries. CBP issued a final bill for unpaid actual loss of FET in the amount of \$261,479.92.

25. To date, E-Dong U.S.A., Inc. has not paid any amount of FET owing.

26. The statute of limitations has expired for two entries. The remaining entries are worth \$234,748.30 in unpaid actual loss of FET.

COUNT I

27. The allegations contained in paragraphs 1 through 26 are realleged and incorporated herein by reference.

28. Section 1592 of Title 19, United States Code, imposes civil penalties for material false statements or acts, or material omissions, made in connection with the introduction or entry of merchandise.

29. E-Dong U.S.A., Inc. entered or introduced the imported merchandise into the commerce of the United States by means of a document or electronically transmitted data or information, written or oral statement, or act which was material and false, or by means of an omission which was material. *See* 19 C.F.R. Pt. 171, App. B(B).

30. E-Dong U.S.A., Inc. falsely stated or described the imported soju as a Korean rice wine, falsely classified the soju under HTSUS 2206.00.4500, failed to reference or identify any of the owed FET regardless of soju's classification, and did not pay the FET due.

31. The false statements, acts, or omissions described in paragraph 30 were material because they had the potential to affect determinations made by U.S. Customs and Border Protection concerning the liability for duties.

32. The material false statements, acts, or omissions described above constitute negligent violations of 19 U.S.C. § 1592(a).

33. As a result of the negligent violations of 19 U.S.C. § 1592(a) described above, pursuant to 19 U.S.C. § 1592(d), E-Dong U.S.A., Inc. is liable for the payment of lawful duties, taxes and fees in the amount of approximately \$234,748.30.

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests that the Court enter judgment for the United States against defendant E-Dong U.S.A., Inc. for (1) a civil penalty of \$234,748.30, for violations of 19 U.S.C. § 1592(a)(1)(A), at a culpability level

of negligence, plus interest provided by law; and such other relief as this Court deems just and appropriate.

Respectfully Submitted,

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Director

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EXHIBIT A

ENTRY NUMBER	DATE OF ENTRY	SOL DATE	SOL Waiver date	HTS	SPI	DUTY	ENTERED VALUE	DOMESTIC VALUE	TAX OWED	TAX PAID	LOR ACTUAL	POTENTIAL	Paid by Surety	TOTAL
ANP00628835	4/7/2017	4/6/2022	4/6/2024	2206004500	K	0.00%	\$9,900.00	\$19,156.29	\$ 9,243.91	\$0.00	\$9,243.91			\$9,243.91
ANP00628835	4/7/2017	4/6/2022	4/6/2024	2206004500	K	0.00%	\$550.00	\$1,064.24	\$ 513.55	\$0.00	\$513.55			\$513.55
ANP00630377	4/28/2017	4/27/2022	4/27/2024	2206004500	K	0.00%	\$13,200.00	\$25,541.71	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21
ANP00630377	4/28/2017	4/27/2022	4/27/2024	2206004500	K	0.00%	\$2,200.00	\$4,256.95	\$ 2,054.20	\$0.00	\$2,054.20			\$2,054.20
ANP00630377	4/28/2017	4/27/2022	4/27/2024	2206004500	K	0.00%	\$1,100.00	\$2,128.48	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00634866	7/11/2017	7/10/2022	7/10/2024	2206004500	K	0.00%	\$13,200.00	\$25,541.71	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21
ANP00634866	7/11/2017	7/10/2022	7/10/2024	2206004500	K	0.00%	\$1,100.00	\$2,128.48	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00636424	8/2/2017	8/1/2022	8/1/2024	2206004500	K	0.00%	\$13,200.00	\$25,541.71	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21
ANP00636424	8/2/2017	8/1/2022	8/1/2024	2206004500	K	0.00%	\$1,100.00	\$2,128.48	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00638701	9/14/2017	9/13/2022	9/13/2024	2206004500	K	0.00%	\$13,200.00	\$25,541.71	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21
ANP00638701	9/14/2017	9/13/2022	9/13/2024	2206004500	K	0.00%	\$1,100.00	\$2,128.48	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00642307	11/20/2017	11/19/2022	11/19/2024	2206004500	K	0.00%	\$13,200.00	\$25,541.71	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21
ANP00642307	11/20/2017	11/19/2022	11/19/2024	2206004500	K	0.00%	\$1,100.00	\$2,128.48	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00642307	11/20/2017	11/19/2022	11/19/2024	2206004500	K	0.00%	\$1,100.00	\$2,128.48	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00645367	1/29/2018	1/28/2023	1/28/2025	2206004500	K	0.00%	\$13,200.00	\$25,541.71	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21
ANP00645367	1/29/2018	1/28/2023	1/28/2025	2206004500	K	0.00%	\$1,100.00	\$2,128.48	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00647470	3/12/2018	3/11/2023	3/11/2025	2206004500	K	0.00%	\$9,900.00	\$19,156.29	\$ 9,243.91	\$0.00	\$9,243.91			\$9,243.91
ANP00647470	3/12/2018	3/11/2023	3/11/2025	2206004500	K	0.00%	\$1,100.00	\$2,128.48	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00647470	3/12/2018	3/11/2023	3/11/2025	2206004500	K	0.00%	\$1,100.00	\$2,128.48	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00648841	4/18/2018	4/17/2023	4/17/2025	2206004500	K	0.00%	\$9,900.00	\$19,156.29	\$ 9,243.91	\$0.00	\$9,243.91			\$9,243.91
ANP00648841	4/18/2018	4/17/2023	4/17/2025	2206004500	K	0.00%	\$1,100.00	\$2,128.48	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00648841	4/18/2018	4/17/2023	4/17/2025	2206004500	K	0.00%	\$1,100.00	\$2,128.48	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00651530	6/11/2018	6/10/2023	6/10/2025	2206004500	K	0.00%	\$13,200.00	\$25,541.71	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21
ANP00651530	6/11/2018	6/10/2023	6/10/2025	2206004500	K	0.00%	\$1,100.00	\$2,128.48	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00654724	8/22/2018	8/21/2023	8/21/2025	2206004500	K	0.00%	\$13,200.00	\$25,541.71	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21
ANP00654724	8/22/2018	8/21/2023	8/21/2025	2206004500	K	0.00%	\$1,100.00	\$2,128.48	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00662230	1/23/2019	1/22/2024	1/22/2026	2206004500	K	0.00%	\$15,600.00	\$17,974.64	\$ 2,355.14	\$0.00	\$12,325.21		\$9,970.07	\$2,355.14
ANP00662230	1/23/2019	1/22/2024	1/22/2026	2206004500	K	0.00%	\$1,300.00	\$2,328.73	\$ 1,027.10	\$0.00	\$1,027.10			\$1,027.10
ANP00671785	9/14/2019	9/12/2024	8/12/2026	2206004500	K	0.00%	\$11,760.00	\$16,695.84	\$ 4,921.14	\$0.00	\$8,627.65		\$3,706.51	\$4,921.14
ANP00673112	10/13/2019	10/11/2024	10/11/2026	2206004500	K	0.00%	\$16,800.00	\$29,146.21	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21
ANP00675711	12/26/2019	12/24/2024	12/24/2026	2206004500	K	0.00%	\$16,800.00	\$29,146.21	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21
ANP00678020	3/8/2020	3/7/2025	3/7/2027	2206004500	K	0.00%	\$13,958.00	\$24,215.65	\$ 10,240.20	\$0.00	\$10,240.20			\$10,240.20
ANP00679861	4/27/2020	4/26/2025	4/26/2027	2206004500	K	0.00%	\$16,800.00	\$29,146.21	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21
ANP00681255	6/19/2020	6/18/2025	6/18/2027	2206004500	K	0.00%	\$17,280.00	\$29,626.81	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21
ANP00681297	6/29/2020	6/28/2025	6/28/2027	2206004500	K	0.00%	\$17,280.00	\$29,626.81	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21
ANP00681891	7/12/2020	7/11/2025	7/11/2027	2206004500	K	0.00%	\$17,280.00	\$29,626.81	\$ 12,325.21	\$0.00	\$12,325.21			\$12,325.21

\$234,748.30