

Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 9th day of September, 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-55,499]

#### Marshall Erdman, Waunakee, WI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 23, 2004 in response to a petition filed by the United Brotherhood of Carpenters and Joiners Local 2190 on behalf of workers at Marshall Erdman, Waunakee, Wisconsin.

The petitioning group of workers is covered by an active certification (TA-W-50,208) that remains in effect through March 10, 2005. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 27th day of August 2004.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-55,021]

#### Parametric Technology Corporation Solutions and Marketing Group WC Publication and Documentation Department, Needham, MA; Notice of Negative Determination Regarding Application for Reconsideration

By application of July 22, 2004, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on July 1, 2004, and published in the **Federal Register** on August 3, 2004 (69 FR 46574).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Parametric Technology Corporation, Solutions and Marketing Group, WC Publication and Documentation Departments, Needham, Massachusetts engaged in developing, writing and maintaining technical documentation integrated into the software code was denied because the petitioning workers did not produce an article within the meaning of section 222 of the Act.

The petitioner contends that the Department erred in its interpretation of work performed at the subject facility as a service and further conveys that workers of the subject company produced manuals and help systems which were components of compact disks—a physical product sold to customers. He further states that because these components were essential parts of complete products, the workers writing manuals should be considered workers engaged in production.

A company official was contacted for clarification in regard to the nature of the work performed at the subject facility. The official stated that petitioning group of workers at the subject firm develops, writes, and maintains technical documentation, which indeed includes online help files and manuals. The official further clarified that the documentation created is merged with the software code which is further compiled onto the gold CDs. However, the physical gold CDs are not sold to customers, but rather represent a master copy of the software, which in its turn is sent to an independent non-affiliated party vendor for further duplication and distribution. The official supported the information previously provided by the subject firm that codes and software created at the subject facility are not recorded on any media device by the subject firm for further duplication and distribution to customers and that there are no products manufactured within Parametric Technology Corporation, Needham, Massachusetts.

The sophistication of the work involved is not an issue in ascertaining whether the petitioning workers are eligible for trade adjustment assistance, but rather only whether they produced an article within the meaning of section 222 of the Trade Act of 1974.

Developing, writing, editing, and maintaining on-line technical documentation are not considered production of an article within the meaning of section 222 of the Trade Act. Petitioning workers do not produce an "article" within the meaning of the Trade Act of 1974. Informational electronic databases, technical documentation and codes, which are not printed or recorded on media devices (such as CD-ROMs) for further mass production and distribution, are not tangible commodities, and they are not listed on the Harmonized Tariff Schedule of the United States (HTS), as classified by the United States International Trade Commission (USITC), Office of Tariff Affairs and Trade Agreements, which describes articles imported to the United States.

To be listed in the HTS, an article would be subject to a duty on the tariff schedule and have a value that makes it marketable, fungible and interchangeable for commercial purposes. Although a wide variety of tangible products are described as articles and characterized as dutiable in the HTS, informational products that could historically be sent in letter form and that can currently be electronically transmitted are not listed in the HTS. Such products are not the type of products that customs officials inspect and that the TAA program was generally designed to address.

The investigation on reconsideration supported the findings of the primary investigation that the petitioning group of workers does not produce an article.

The petitioner further alleges that because workers lost their jobs due to a transfer of job functions to India, petitioning workers should be considered import impacted.

The company official stated that some technical writing positions were shifted to India. The official further stated that the results of the work assignments completed in India is transmitted back to the US group who create the gold CD via Parametric's Technology Corporation's electronic internal systems.

Informational material that is electronically transmitted is not considered production within the context of TAA eligibility requirements, so there are no imports of products in this instance. Further, as the technical material does not become a product