

employment occurred at the subject facility during the relevant period.

Conclusion

After careful review of the facts generated through the remand investigation, I determine that a shift in production of financial applications software like or directly competitive to that produced at the subject facility to Mexico contributed importantly to the total or partial separation of a significant number of workers at the subject facility. In accordance with the provisions of the Act, I make the following certification:

"All workers of Electronic Data Systems Corporation, I Solutions Center, Fairborn, Ohio, who became totally or partially separated from employment on or after December 27, 2001, through two years from the issuance of this revised determination, are eligible to apply for Trade Adjustment Assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC this 24th day of March 2006.

Elliott S. Kushner,
Certifying Officer, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-56,688]

Lands'End, A Subsidiary of Sears Roebuck and Company, Business Outfitters CAD Operations, Dodgeville, Wisconsin; Notice of Revised Determination on Remand

In an Order issued on December 7, 2005, the United States Court of International Trade (USCIT) granted the motion filed by the Department of Labor (Department) for voluntary remand in *Former Employees of Lands' End Business Outfitters v. United States Secretary of Labor*, Court No. 05-00517.

The Department denied Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) to workers of Lands' End, a Subsidiary of Sears Roebuck and Company, Business Outfitters CAD Operations, Dodgeville, Wisconsin, (Lands' End) because the workers' separations were due to the subject company's decision to move computer assisted design operations abroad. The subject worker group is engaged in computerizing embroidery and logo designs which are utilized by the production division of Lands' End, also

located in Dodgeville, Wisconsin. The Notice of determination was issued on March 25, 2005, and published in the **Federal Register** on May 2, 2005 (70 FR 22710).

On June 6, 2005, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The Notice of determination was published in the **Federal Register** on June 20, 2005 (70 FR 35456). In the request for reconsideration, the petitioners alleged that workers produce digitized embroidery designs, that production shifted overseas, and that imports had increased following the shift of production abroad.

A negative determination on reconsideration was issued on July 28, 2005. The Notice of determination was published in the **Federal Register** on August 9, 2005 (70 FR 46190). During the reconsideration investigation, the Department was informed that the workers create digitized embroidery designs from customers' logos. The designs are owned by the customers. The digitized designs are readable by the embroidery machines at Dodgeville, Wisconsin, and are embroidered onto clothing and luggage produced by Lands' End. Alternatively, the customer may give the design to another apparel manufacturer for the production of the logo design on clothing and luggage. The Department found that the production of digitized embroidery designs shifted overseas, and that the designs are electronically returned to Dodgeville, Wisconsin. Because the Department's policy required that articles be tangible for purposes of the Trade Act, it was determined that the workers did not produce an article and were not covered by the Trade Act.

Since the issuance of the voluntary remand order, the Department has revised its policy to acknowledge that, at least in the context of this case, there are tangible and intangible articles and to clarify that the production of intangible articles can be distinguished from the provision of services. Software and similar intangible goods that would have been considered articles for the purposes of the Trade Act if embodied in a physical medium will now be considered to be articles regardless of their method of transfer.

The Department stresses that it will continue to implement the longstanding precedent that firms must produce an article to be certified under the Act. This determination is not altered by the fact the provision of a service may result in the incidental creation of an article. For example, accountants provide

services for the purposes of the Act even though, in the course of providing those services, they may generate audit reports or similar financial documents that might be articles on the Harmonized Tariff Schedule of the United States. Because the new policy may have ramifications beyond this case of which the Department is not fully cognizant, the new policy will be further developed in rulemaking.

Moreover, because it is the Department's practice to apply current policy instead of the policy which existed during the investigative period if doing so is favorable to the workers, the Department conducted the remand investigation under the new policy.

After careful review of the facts, the Department has determined that: the petitioners are former employees of Land's End Business Outfitters CAD operations of Dodgeville, Wisconsin; that the workers' firm produced an intangible article (digitized embroidery designs) that would have been considered an article if embodied in a physical medium; that employment at the subject facility declined during the relevant period; that the workers' firm shifted digitized embroidery design production abroad; and that the workers' firm increased imports of articles like or directly competitive with the digitized embroidery designs produced at the subject facility.

In accordance with Section 246 the Trade Act of 1974, as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply ATAA.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met.

Additional investigation has determined that the workers possess skills that are not easily transferable. A significant number or proportion of the worker group are age fifty years or over. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the facts generated through the remand investigation, I determine that increased imports of digitized embroidery designs like or directly competitive with those produced by the subject firm contributed importantly to the total or partial separation of a significant number of workers at the subject facility. In accordance with the

provisions of the Act, I make the following certification:

"All workers of Lands' End, a Subsidiary of Sears Roebuck and Company, Business Outfitters CAD Operations, Dodgeville, Wisconsin, who became totally or partially separated from employment on or after March 3, 2004, through two years from the issuance of this revised determination, are eligible to apply for Trade Adjustment Assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974."

Signed at Washington, DC this 24th day of March 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 21, 2006.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 21, 2006.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C-5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 29th day of March 2006.

Erica R. Cantor

Director, Division of Trade Adjustment Assistance.

APPENDIX—

[TAA Petitions Instituted Between 3/6/06 and 3/10/06]

TA-W	Subject firm (Petitioners)	Location	Date of institution	Date of petition
58965	Monmouth Ceramics, Inc. (Comp)	Monmouth, IL	03/06/06	03/06/06
58966	Quintiles, Inc. (Wkrs)	Morrisville, NC	03/06/06	03/01/06
58967	Spectrum Brands (Wkrs)	Fennimore, WI	03/06/06	03/03/06
58968	Maryland Plastics, Inc. (State)	Federalsburg, MD	03/07/06	03/03/06
58969	Panel Products (Wkrs)	White City, OR	03/07/06	03/06/06
58970	ADC (State)	Shakopee, MN	03/07/06	03/06/06
58971	Sotco, Inc. (Comp)	West Paducah, KY	03/07/06	02/17/06
58972	Elite Furniture Mfg. (Comp)	High Point, NC	03/07/06	03/06/06
58973	Arcona Leather Technologies, LLC (Wkrs)	Hudson, NC	03/07/06	02/24/06
58974	Affinia Group (Comp)	North East, PA	03/07/06	03/07/06
58974A	Affinia Group (Comp)	Erie, PA	03/07/06	03/07/06
58975	Nazar Rubber Company (Union)	Toledo, OH	03/07/06	03/07/06
58976	Berkshire Weaving Corp. (Comp)	Lancaster, SC	03/07/06	03/01/06
58977	Oce' Imagistics, Inc. (State)	Melbourne, FL	03/10/06	03/07/06
58978	Confluent Photonics Corp. (Comp)	Salem, NH	03/10/06	03/09/06
58979	Tension Envelopes Corp. (State)	Minnetonka, MN	03/10/06	03/07/06
58980	Stora Enso (Comp)	Stevens Point, WI	03/10/06	03/07/07
58981	Cardinal Brands, Inc. (Comp)	Topeka, KS	03/10/06	03/08/06
58982	Guildcraft of California (State)	Rancho Dominguez, CA	03/10/06	03/08/06
58983	Hersey Meters (Comp)	Cleveland, NC	03/10/06	03/08/06
58984	Independent Steel Casting Co., Inc. (UAW)	New Buffalo, MI	03/10/06	03/02/06
58985	York International (Wkrs)	Bristol, VA	03/10/06	03/02/06
58986	Galerie DBA Ross Acquisitions (Wkrs)	Wellston, OH	03/10/06	03/06/06
58987	Lady Ester Lingerie Corporation (Comp)	Berwick, PA	03/10/06	03/08/06
58988	Orlandi Valuta (Wkrs)	Cerritos, CA	03/10/06	03/09/06
58989	Thermalcast, LLC (Wkrs)	Worcester, MA	03/10/06	02/09/06
58990	H.W. Close Plant Springs Global (Wkrs)	Fort Lawn, SC	03/10/06	03/01/06
58991	Lear Corporation (Wkrs)	Lebanon, VA	03/10/06	03/06/06
58992	Georgia Pacific Corp. (Union)	Gaylord, MI	03/10/06	03/09/06
58993	Ark-Les Custom Products Corporation (Comp)	New Berlin, WI	03/10/06	03/03/06
58994	Commercial Furniture Group, Inc. (Comp)	Morristown, TN	03/10/06	03/09/06
58995	Moore Wallace, Inc. (Comp)	Nacogdoches, TX	03/10/06	03/08/06