A-570-900
Remand Scope
Public Document
E&C/OI: HP

FINAL RESULTS OF REMAND REDETERMINATION
Diamond Sawblades Manufacturers Coalition v. United States
Court No. 18-00134, Slip Op. 19-123 (CIT September 19, 2019)

Summary

The final results of this remand redetermination are prepared in accordance with the order of the U.S. Court of International Trade (CIT) in *Diamond Sawblades Manufacturers Coalition v. United States*, Court No. 18-00134, Slip Op. 19-123 (CIT September 19, 2019) (*Remand Order*). The litigation involves challenges to the final scope ruling of the U.S. Department of Commerce (Commerce) in the antidumping duty (AD) order on diamond sawblades from the People's Republic of China (China).[1] This remand redetermination addresses the issue of whether Lyke Industrial Tools LLC's (Lyke) cupwheels are within the scope of the *Diamond Sawblades Order*.[2]

As discussed below, pursuant to the CIT's *Remand Order*, we have analyzed, under respectful protest,[3] whether Lyke's cupwheels are within the scope of the *Diamond Sawblades Order* under 19 CFR 351.225(k)(2).

Scope of the Order

The products covered by the order are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof,

---

[1] *See* Memorandum, "Final Scope Ruling on the Antidumping and Countervailing Duty Order on Diamond Sawblades and Part Thereof from the People's Republic of China: Final Scope Determination for Scope Request from Lyke Industrial Tool, LLC," dated May 17, 2018 (*Final Scope Ruling*).
[2] *See Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea: Antidumping Duty Orders,* 74 FR 57145 (November 4, 2009) (*Diamond Sawblades Orders*).
[3] *See Viraj Grp., Ltd. v. United States*, 343 F.3d 1371, 1376 (Fed. Cir. 2003).

regardless of specification or size, except as specifically excluded below. Within the scope of the order are semi-finished diamond sawblades, including diamond sawblade cores and diamond sawblade segments. Diamond sawblade cores are circular steel plates, whether or not attached to non-steel plates, with slots. Diamond sawblade cores are manufactured principally, but not exclusively, from alloy steel. A diamond sawblade segment consists of a mixture of diamonds (whether natural or synthetic, and regardless of the quantity of diamonds) and metal powders (including, but not limited to, iron, cobalt, nickel, tungsten carbide) that are formed together into a solid shape (from generally, but not limited to, a heating and pressing process).
Sawblades with diamonds directly attached to the core with a resin or electroplated bond, which thereby do not contain a diamond segment, are not included within the scope of the order. Diamond sawblades and/or sawblade cores with a thickness of less than 0.025 inches, or with a thickness greater than 1.1 inches, are excluded from the scope of the order. Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that protrude from the outer diameter of the plate, whether or not finished, are excluded from the scope of the order. Diamond sawblade cores with a Rockwell C hardness of less than 25 are excluded from the scope of the order. Diamond sawblades and/or diamond segment(s) with diamonds that predominantly have a mesh size number greater than 240 (such as 250 or 260) are excluded from the scope of the order.

Merchandise subject to the order is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. On October 11, 2011, Commerce included the 6804.21.00.00 HTSUS classification

number to the customs case reference file, pursuant to a request by U.S. Customs and Border Protection (CBP).[4] Pursuant to requests by CBP, Commerce included to the customs case reference file the following HTSUS classification numbers: 8202.39.0040 and 8202.39.0070 on January 22, 2015, and 6804.21.0010 and 6804.21.0080 on January 26, 2015.[5]

The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

Background

In the *Final Scope Ruling*, we determined that although the scope language covers diamond sawblades regardless of specification, Lyke's cupwheels are physically distinguishable from diamond sawblades that are described in the investigation and the scope of the *Diamond Sawblades Order*. Further, in the *Final Scope Ruling*, we stated that the scope does not indicate coverage of merchandise other than diamond sawblades, and as a result, we determined that Lyke's cupwheels are not within the scope of the *Diamond Sawblades Order*.[6]

CIT's Remand

The Diamond Sawblades Manufacturers' Coalition (DSMC) challenged Commerce's *Final Scope Ruling* that Lyke's cupwheels are not within the scope of the *Diamond Sawblades Order*. In its *Remand Order*, the CIT held that because Commerce's determination under 19 CFR 351.225(k)(1) did not answer the scope question with regard to whether Lyke's cupwheels are within the scope of the *Diamond Sawblades Order*, Commerce is directed to conduct a full

[4] *See Diamond Sawblades and Parts Thereof from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 76128 (December 6, 2011).
[5] *See* Memorandum, "Diamond Sawblades and Parts Therefore from the People's Republic of China: Placing Two Memoranda on the Record for Additional HTSUS Subheadings," dated November 28, 2018.
[6] *See Final Scope Ruling* at 10.

inquiry under 19 CFR 351.225(k)(2).[7] Specifically, in its opinion, the CIT indicated that "the criteria under 19 CFR 351.225(k)(1) is not dispositive for a scope inquiry and a determination pursuant to 351.225(k)(2) is warranted."[8] As a result, to comply with the CIT's directive, on October 15, 2019, we invited DSMC and Lyke to provide further information related to the factors enumerated under 19 CFR 351.225(k)(2).[9] On October 24, 2019, DSMC and Lyke submitted further information concerning the factors enumerated in 19 CFR 351.225(k)(2), and on October 31, 2019, we received rebuttal comments from the parties.[10]

Discussion

In accordance with the *Remand Order*, under respectful protest, we have analyzed whether Lyke's cupwheels are within the scope of the order under 19 CFR 351.225(k)(2).

Legal Framework

As we indicate above, the CIT has directed Commerce to consider the five additional factors set forth in 19 CFR 351.225(k)(2). These additional factors are: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed.

Product Description

In its scope request, Lyke described cupwheels as follows:

---

[7] *See Remand Order* at 15-17.
[8] *Id.* at 18.
[9] *See* Commerce's Letter to DSMC and Lyke, dated October 15, 2019.
[10] *See* Lyke's Letter, "Diamond Sawblades and Parts Thereof from the People's Republic of China (A-570-900): Lyke's Comments on Remand," dated October 24, 2019, (Lyke's Comments); *see also* DSMC's Letter, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Comments on (k)(2) Factors," dated October 24, 2019 (DSMC's Comments); Lyke's Letter, "Diamond Sawblades and Parts Thereof from the People's Republic of China (A-570-900): Lyke's Rebuttal to Petitioners' Remand Comments," dated October 31, 2019, (Lyke's Rebuttal Comments) and DSMC's Letter, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Rebuttal Comments on (k)(2) Factors," dated October 31, 2019 (DSMC's Rebuttal Comments).

Lyke's cupwheels consist of a steel plate that takes the shape of a cup or a hat – the center of the plate is concave and the outside is flat. Diamond segments are installed on the flat surface of the plate.[11]

Arguments

Physical Characteristics of the Merchandise

Lyke's Affirmative Comments

Lyke explains that its cupwheels consist of a steel cup and multiple diamond segments that are installed on the flat surface of the cup, and the height of the cup ranges from 1 – 2 inches, the diameter of the cup ranges from 4 – 7 inches, and the thickness of the segment is approximately 6 mm.[12]

Lyke indicates that in the Petition,[13] DSMC described the physical characteristics of diamond sawblades as follows:

- Diamond sawblades are physically distinguished from all other types of sawblades by the presence of diamonds in the working part of the blade. Diamond sawblades are used to "cut" products that are too hard for conventional sawblades such as asphalt, cement, marble, stone, tile, and so forth. In fact, unlike other sawblades, diamond sawblades do not actually cut materials; rather, diamond sawblades mill (*i.e.*, grind) them. Diamond sawblades are physically distinguishable from other diamond cutting solutions such as diamond drill bits and diamond wires by shape and use.
- Diamond sawblades typically range in size from a few inches to 70 inches in diameter. Many diamond sawblades are considered "mid-range" blades in the 10- to 14-inch category. Diamond sawblades greater than 30 inches are typically produced to order and in small quantities. Finished sawblades are often categorized in terms of: (1) whether their cutting surfaces are cooling during their use or not (dry blades); and (2) in how diamond surface is attached (sintering, soldering, or laser welding)….[14]

According to Lyke, the International Trade Commission (ITC) noted that the principal physical characteristic of the blades is whether the cutting surfaces are "segmented rim" or

[11] *Id.* at 3.
[12] *See* Lyke's Comments at 9.
[13] *Id*.
[14] *Id.*

"continuous rim."[15] Lyke states that segmented blades have slots cut into the core between the segments on the rim or cutting edge to allow the blade to flex under pressure, cool the blade while cutting, and facilitate the removal of cut material from the blade.[16] Lyke states further that the slots can be either wide or narrow and that continuous rim blades are attached to a non-slotted metal core.[17] Lyke asserts that in the subject product, the cup is not segmented because it does not have slots cut into the steel cup. Lyke contends that its cupwheels do not have a continuous rim because the segments are not attached to the rim of the cup but to the bottom of the cup. Therefore, according to Lyke, its cupwheels do not have the physical characteristics of diamond sawblades. Lyke states that this supports finding that its cupwheels are not subject to the *Diamond Sawblades Order*.[18]

DSMC's Rebuttal Comments

DSMC argues that Lyke, in its comments, acknowledges that in the Petition, DSMC described diamond sawblades as "physically distinguished from all other types of sawblades by the presence of diamonds in the working part of the blade."[19] DSMC argues further that Lyke also acknowledges that it stated in the Petition that, "{i}n fact, unlike other sawblades, diamond sawblades do not actually cut materials; rather, diamond sawblades mill (*i.e.*, grind) them."[20] According to DSMC, cupwheels have diamonds on the working part of the blade and they also "cut" through materials by grinding them.[21] Thus, according to DSMC, cupwheels meet the description provided in the Petition of subject merchandise.[22]

---

[15] *See* Lyke's Comments at 10.
[16] *Id*.
[17] *Id*.
[18] *Id*.
[19] *Id*.
[20] *See* DSMC Rebuttal Comments at 5.
[21] *Id*.
[22] *Id*.

DSMC asserts that diamond sawblades subject to the order are not limited to segmented and continuous rim blades.[23] DSMC argues that this is clear from Commerce's antidumping duty questionnaire, which requests that respondents report whether the cutting edge is "Standard segment with undercut," "Standard segment without undercut," "Turbo," "Continuous," or "Other (please describe)."[24] According to DSMC, the inclusion of an "Other" category indicates that products with cutting edges other than segmented and continuous are covered by the scope of the order.[25]

DSMC contends that for these reasons, Lyke has not identified any differences in the physical characteristics of diamond sawblades and cupwheels. To the contrary, according to DSMC, the record demonstrates that the physical characteristics of these products are the same.[26]

DSMC's Affirmative Comments

DSMC argues that both diamond sawblades and cupwheels consist of a circular steel core and diamond segments that are attached to the core.[27] DSMC argues further that both diamond sawblades and cupwheels also have a hole in the center of the core to allow them to be attached to a grinding tool.[28] DSMC asserts that while the cores for diamond segments are generally flat, they may be convex or concave, and Commerce has expressly found that diamond sawblades with convex/concave cores are covered by the scope.[29] DSMC asserts further that, similarly, the cores for cupwheels are typically convex or concave, and therefore there are no differences in the diamond segments used for diamond sawblades and cupwheels.[30]

[23] *Id*.
[24] *Id.*
[25] *Id*. at 6.
[26] *Id*.
[27] *Id.* at 4.
[28] *Id*. at 5.
[29] *Id*.
[30] *Id*.

Lyke's Rebuttal Comments

Lyke argues that DSMC's comparison between cupwheels and diamond sawblades is overly generalized.[31] Lyke argues that, for example, air conditioners and refrigerators can be the same class or kind of merchandise because they both incorporate electric motors and compressors (*i.e.*, similar in physical characteristics).[32] Lyke asserts that under DSMC's analysis, a diamond core drill is also covered by the *Diamond Sawblades Order* because it consists of a core and diamond segments and has a hole in the center of the core for attaching the core drill bit to a grinding tool.[33] However, according to Lyke, diamond core drill bits, similar to diamond cupwheels, were treated by Commerce and the ITC as non-subject merchandise.[34] Lyke contends that DSMC described diamond sawblades as "circular sawblades with an inner core of steel (the diamond core) and an outer ring (the working part) of diamond segments."[35] Lyke argues that Commerce and the ITC's investigation only focused on such products and now, to encompass diamond cupwheels in the scope of the *Diamond Sawblades Order*, which were omitted from the Petition, DSMC conveniently dropped the key phrases "inner core" and "outer ring."[36] Lyke states that to DSMC, the configuration and placement of the diamond segments cease to be relevant. Lyke argues that in the Petition, DSMC stated that, "diamond sawblades are used to 'cut' products that are too hard for conventional sawblades such as asphalt, cement, marble, stone, tile, and so forth" and this was also Commerce's and the ITC's focus in the investigation.[37] Lyke argues further that under DSMC's physical characteristic analysis,

[31] *See* Lyke Rebuttal Comments at 2.
[32] *Id*. at 3.
[33] *Id*.
[34] *Id.* at 4.
[35] *Id*.
[36] *Id*.
[37] *Id*.

cupwheels and diamond core drill bits, which were treated by Commerce and the ITC as different products than diamond sawblades, would be covered by the *Diamond Sawblades Order*.[38]

With regard to DSMC's argument that cupwheels and diamond sawblades are similar in physical characteristics because convex or concave diamond sawblades are covered by the scope of the *Diamond Sawblades Order*, Lyke argues that Commerce in its decision found that the concave/convex cores were still circular plates because a plate is defined as "a forged rolled or cast metal in sheet usually thicker than one fourth inch (6 millimeters)."[39] Lyke contends that the specification of Ehwa's concave/convex diamond sawblades, which were the subject of Commerce's scope ruling from the investigation that diamond sawblades with convex or concave cores are covered, indicates that their cores are only slightly deformed (10 mm of height compared to 4-7 inches in diameter).[40] According to Lyke, slight deformation makes it possible for the concave/convex diamond sawblades to meet the "circular plate" definition (*i.e.*, a metal sheet).[41] Lyke argues that its cupwheels are different from the Ehwa concave/convex diamond sawblade because the core in the cupwheel is no longer a plate and, more importantly, Ehwa's convex/concave diamond sawblades still meet the definition of diamond sawblades because they have diamond segments on the outer ring of the core whereas Lyke's cupwheels' diamond segments are located on the flat surface of the cup.[42]

The Expectations Of The Ultimate Purchasers and the Manner In Which The Product is Advertised and Displayed

[38] *Id.* at 5.
[39] *Id.*
[40] *Id.*
[41] *Id.*
[42] *Id.* at 6.

Lyke's Affirmative Comments

Lyke asserts that both diamond sawblades and diamond cupwheels can be purchased in stores and on the internet from big-box retail stores such as Home Depot or Lowes.[43] According to Lyke, the manner in which both big-box retail stores advertise diamond sawblades creates the consumer expectations that the tools are designed for and intended for use as cutting tools for hard materials.[44] Lyke contends that consumers do actually use diamond sawblades to cut material, as can be seen from the consumer comments on the webpages placed on the record from both big-box retail stores (Home Depot or Lowes).[45] On the other hand, according to Lyke, the advertisement and marketing for cupwheels as shown in the Home Depot and Lowe's websites creates consumer expectations that these tools are designed for and intended to be used for grinding and leveling surfaces and/or fast surface or coating removal.[46] Lyke argues that, in fact, Home Depot's and Lowe's customers did use cupwheels in such applications. For example, according to Lyke, a Home Depot customer said that the grinding produced an "impressive, very smooth, almost silky-looking concrete surface."[47] Lyke states that a Lowe's customer used the cupwheel to level his/her ceramic tile floor, and another Lowe's customer used the cupwheel for removing paint on his/her concrete floor.[48] Therefore, according to Lyke, the expectations of the ultimate consumers of these two products are very different, where cupwheels are marketed for grinding and leveling concrete floors and diamond sawblades are marketed for cutting applications.[49]

[43] *See* Lyke's Comments at 10.
[44] *Id*.
[45] *Id*. at 11.
[46] *Id*.
[47] *Id*.
[48] *Id*.
[49] *Id*. at 12.

DSMC Rebuttal Comments

DSMC argues that, like diamond sawblades, cupwheels are also advertised as being used for cutting, creating the consumer expectation that cupwheels can be used for cutting as well.[50] For example, according to DSMC, Home Depot describes the "Product Overview" for the 4-inch Double Row Diamond Cup Wheel as follows:

> "RIGID Double Row Diamond Cup Wheels are engineered with top-grade industrial diamond for maximum cutting performance and superior grinding life."[51]

Similarly, according to DSMC, Home Depot also advertises a "5-inch Diamond Cup Grinding Cut-off Wheel for Cutting Concrete," and Amazon advertises a "Concrete Turbo Diamond Grinding Cup Wheel" as an "aggressive turbo cup grinding wheel {that} provides for very fast cutting action on masonry, stone and concrete."[52] DSMC argues also that customer reviews of cupwheels also note their cutting capabilities. For example, according to DSMC, a customer review of Makita's diamond cup wheel discusses different brands of cupwheels, noting that "{s}ome brands have more diamonds per square inch which means it will cut much faster and last much longer."[53] DSMC indicates that in discussing one product in particular, the customer review states, "we were impressed with how fast the wheel cut through the concrete…."[54] In other words, according to DSMC, both diamond sawblades and cup wheels are advertised as being used for cutting and, according to DSMC, thereby create the expectation that they can be used for cutting. Thus, DSMC contends that the manner in which diamond sawblades and cup wheels are advertised and displayed is the same and the expectation of the

[50] *See* DSMC' Rebuttal Comments at 6.
[51] *Id*.
[52] *Id.*
[53] *Id*. at 7.
[54] *Id*.

ultimate purchasers of these products are the same.[55]

DSMC Affirmative Comments

DSMC argues that the expectations of the ultimate purchasers of diamond sawblades and cupwheels are largely the same.[56] According to DSMC, both diamond sawblades and cupwheels are expected to grind or abrade material by way of contact between the diamond segments and the material at issue.[57] Further, DSMC argues that for both diamond sawblades and cupwheels, the ultimate purchaser expects that the tool will be able to grind or abrade the material for which it was purchased based on the bond of segment; if the material to be ground is hard, the bond should be soft, whereas if the material to be ground is soft, the bond should be hard.[58] DSMC states that purchasers of both diamond sawblades and cupwheels expect that the products will be able to maintain their strength during the grinding/abrading process.[59]

Lyke's Rebuttal Comments

Lyke asserts that with regard to DSMC's argument concerning the expectations of the ultimate purchasers, there is no evidence that the ultimate purchasers expect diamond sawblades to be able to grind or abrade materials.[60] Lyke contends that the only evidence submitted by DSMC is a declaration or affidavit it submitted on the record.[61] To the contrary, according to Lyke, it offered online customer comments showing that the consumers' expectations are much more specific—diamond sawblades are used to cut material whereas cupwheels are used to level or remove material surface.[62]

---

[55] *Id*.
[56] *See* DSMC Comments at 5.
[57] *Id*.
[58] *Id.*
[59] *Id*.
[60] *See* Lyke's Rebuttal Comments at 6.
[61] *Id*.
[62] *Id*.

Ultimate Use Of The Product

Lyke's Affirmative Comments

Lyke argues that, in the Petition, DSMC stated that "diamond sawblades are used to 'cut' products that are too hard for conventional sawblades such as asphalt, cement, marble, stone, tile, and so forth."[63] According to Lyke, when asked about the different uses for different types of blades (*i.e.*, castellated versus continuous versus segmented) by the ITC investigator, DSMC's counsel answered that "as a very general end use, the fundamental similarity is that they are all used for cutting things, that same general end use."[64] Lyke argues that DSMC's counsel and its members explained that differences in end uses were "the different substances that {could} be used to be cut."[65]

Lyke asserts that the ITC noted that "diamond sawblades have numerous functions and applications for cutting, ranging from cement, asphalt, marble, and tile, to masonry work such as brick and stone," or "are used to groove road, highway, and airport runway surfaces to give then antiskid characteristics."[66] Lyke indicates that the ITC stated that "{m}ost of segmented blades are specially designed for large, high horsepower, walk-behind or self-propelled cutting equipment," and "'{g}eneral-use' blades are typically utilized in tile- and stone-cutting equipment."[67] Lyke notes that the ITC stated that "{d}ifferent configurations of diamond sawblades will also be selected by end users based upon the material being cut, as a blade for cutting soft, abrasive material must have a strong bonding matrix to resist erosion of the blade for the diamonds to cut, while a blade for cutting hard material must have a weaker bond matrix

[63] *See* Lyke's Comments at 12.
[64] *Id*.
[65] *Id*.
[66] *Id*. at 13.
[67] *Id*.

to expose more diamonds for cutting."[68] Lyke argues that in the investigation it is stated that "diamond segments are designed specifically to wear at a rate appropriate to the material being cut," and that "the cutting edge of the diamond segments is designed to expose additional diamond as the blade is consumed."[69] Thus, according to Lyke, the word "cutting" is pervasive in the investigation record.[70]

Lyke asserts that the ultimate use of the diamond sawblades is for cutting, as supported by customer comments left on the Homedepot.com or Lowes.com websites, and that cupwheels are for levelling and surface removing, as also confirmed by customer comments on the Homedepot.com or Lowes.com websites.[71]

DSMC's Rebuttal Comments

DSMC argues that information on the record indicates that diamond sawblades "do not actually cut materials; rather, diamond sawblades mill (*i.e.*, grind) them."[72] According to DSMC, this is also the manner in which cupwheels are used.[73] DSMC argues that, to the extent that diamond sawblades can be considered to be used for cutting, cupwheels are also promoted as being used for cutting.[74] DSMC asserts that, while the specific application of any given diamond sawblade or cupwheel is going to depend on the specific characteristics of that product, both diamond sawblades and cupwheels are generally used to grind or abrade materials (*i.e.*, cut) through contacting the diamond segments with the material at issue.[75] Thus, according to DSMC, the ultimate use of diamond sawblades and cupwheels is the same.

[68] *Id.*
[69] *Id.*
[70] *Id.*
[71] *Id.*
[72] *See* DSMC's Rebuttal Comments at 8.
[73] *Id.*
[74] *Id.*
[75] *Id.*

DSMC's Affirmative Comments

DSMC argues that both diamond sawblades and cupwheels are used to grind or abrade materials via diamond segments, and according to DSMC, these materials include but are not limited to, concrete, granite, and marble.[76] DSMC contends that, while the exact application for which a diamond sawblade or cupwheel is used will depend on the specific characteristics of each product, all diamond sawblades and cupwheels are used in this same manner.[77]

Lyke's Rebuttal Comments

Lyke argues that DSMC repeatedly stated in the investigation that diamond sawblades are used for cutting and only mentioned grinding when it explained how diamond sawblades actually cut.[78] According to Lyke, DSMC stated that "Diamond sawblades are used for a variety of applications including cutting concrete, asphalt, masonry, brick, block, tile and other ceramic products…{t}hrough the utilization of a diamonds – the hardest natural material on earth – a diamond sawblade actually grinds the material that is meant to be cut or divided."[79] Therefore, according to Lyke, the ultimate use of the diamond sawblades is to cut or divide a material into parts whereas cupwheels are incapable of cutting or dividing.[80] Lyke argues that abrading was never mentioned by DSMC in the investigation.[81]

The Channels of Trade in which the Product is Sold

Lyke's Comments

Lyke argues that in the Petition, DSMC stated that the channels of trade of finished diamond sawblades are as follows:

[76] *See* DSMC Comments at 6.
[77] *Id*.
[78] *See* Lyke's Rebuttal Comments at 6.
[79] *Id*.
[80] *Id*.
[81] *Id*.

> Diamond sawblades are principally sold to: 1) distributors who generally cater to the construction trade and carry a wide variety of construction-related products; 2) large rental houses that own diamond saws and rent them to end-users; 3) end-users including producers of diamond saws; and 4) retail outlets such as Home Depot. Other types of sawblades and cutting solutions are offered, produced, and sold by each of these channels of distribution…. While there is some overlap in the channels of distribution for diamond sawblades with other cutting solutions, diamond sawblades are, nonetheless, perceived to be a discrete product category by producers, resellers, and consumers.[82]

According to Lyke, the ITC found that diamond sawblades are distributed via different channels: distributors to the same customers – primarily general contractors, national "big-box" retail stores, original equipment manufacturers, professional construction firms, *etc.*[83]

Lyke states that some of its customers purchased both diamond sawblades and cupwheels and some only purchased cupwheels.[84] Lyke asserts that it is common that a seller of diamond sawblades also sells cupwheels and as such, for example, both diamond sawblades and cupwheels can be purchased at Home Depot or Lowe's.[85] Therefore, according to Lyke, the channels of trade through which Lyke's cupwheels are sold is not indicative of whether they are covered by the *Diamond Sawblades Order*.[86]

DSMC's Rebuttal Comments

DSMC argues that Lyke concedes that diamond sawblades and cupwheels are sold in the same channels of trade, and therefore it is undisputed that diamond sawblades and cupwheels are sold through the same channels of trade.[87] DSMC indicates that this factor supports a finding that cupwheels are included within the scope of the order.[88]

---

[82] *See* Lyke's Comments at 14; see also the Petition at 6.
[83] *Id*.
[84] *Id*.
[85] *Id*.
[86] *Id*.
[87] *See* DSMC's Rebuttal Comments.
[88] *Id.*

DSMC's Affirmative Comments

DSMC indicates that both diamond sawblades and cupwheels are mainly sold to distributors, retailers, and original equipment manufacturers.[89] Therefore, according to DSMC, both products are sold in the same channels of trade.[90]

Lyke's Rebuttal Comments

Lyke argues that concerning the channels of trade, although both diamond sawblades and cupwheels are sold by the same entities to the same type of customers, this factor is not indicative of whether they are covered by the *Diamond Sawblades Order*.[91] For example, according to Lyke, refrigerators and washers are sold by the same entities (such as Lowe's) to the same type of customers (homeowners) but they are not the same class or kind of merchandise.[92]

Analysis

We respectfully disagree with the CIT's decision that Commerce improperly considered 19 CFR 351.225(k)(2) factors in its analysis under 19 CFR 351.225(k)(1). Specifically, 19 CFR 351.225(k)(1) directs Commerce to take into account "{t}he descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the Commission." Commerce therefore looked to these sources when conducting its analysis. The CIT's decision faults Commerce for considering information relating to the factors listed in 19 CFR 351.225(k)(2) but does not discuss the fact that such information comes from the descriptions of the merchandise contained in the sources listed at 19 CFR 351.225(k)(1). There is nothing in Commerce's regulations to

[89] *See* DSMC's Comments at 6.
[90] *Id*.
[91] *See* Lyke's Rebuttal Comments at 7.
[92] *Id.*

suggest that Commerce cannot consider a description contained in a (k)(1) source because that description relates to a (k)(2) factor. For this reason, we are conducting this remand under respectful protest. Nonetheless, the CIT found that an analysis under 19 CFR 351.225(k)(1) is not dispositive and directed Commerce to conduct an analysis considering the (k)(2) factors. Accordingly, under respectful protest,[93] we have evaluated the information placed on the record in order to determine whether Lyke's cupwheels are in-scope or non-scope merchandise using the factors enumerated under 19 CFR 351.225(k)(2) pursuant to the CIT's directive.

A. Physical Characteristics of the Merchandise

With respect to the first criterion, "the physical characteristics of the merchandise," we find that cupwheels are physically distinguishable from diamond sawblades. Lyke's cupwheels are not segmented and they do not have slots cut into the steel cup.[94] Although the scope covers diamond sawblades whether slotted or not, Lyke's cupwheels also do not have a continuous cutting rim because the segments are not attached to the rim of the cup, but to the bottom of the cup.[95] Whereas segmented blades have slots cut into the core between the segments on the rim or cutting edge to facilitate the removal of cut material from the blade,[96] Lyke's cupwheels have individual segments but no slots cut into the core between the segments. In other words, Lyke's cupwheels are distinguishable from both slotted diamond sawblades and continuous rim diamond sawblades. Citing Commerce's questionnaire, DSMC argues that diamond sawblades subject to the order are not limited to segmented or continuous rim blades. We find DSMC's citation of Commerce's questionnaire unpersuasive because, while we agree that diamond sawblades

[93] *See Viraj*, 343 F.3d at 1376.
[94] *See* Lyke's Comments at 9-10.
[95] *Id*.
[96] *Id*.

subject to the order may not be limited to segmented or continuous rim blades per Commerce's questionnaire, diamond sawblades nonetheless will still incorporate a type of "cutting edge," as specified in Commerce's questionnaire,[97] whereas cupwheels do not have a "cutting edge" because, as we indicate above, the diamond segments in cupwheels are not attached to the rim of the cup, but to the bottom of the cup.[98] Therefore, because cupwheels do not have a "cutting edge," as defined by Commerce's questionnaire ("Standard segment with undercut," "Standard segment without undercut," "Turbo," "Continuous," "Other (please describe)"), or ("Not applicable (cores)"), we find Lyke's cupwheels are physically distinguishable from diamond sawblades. In addition, DSMC's placement of certain sections of Commerce's Questionnaire on the record further supports Commerce's determination that diamond sawblades must have an "attacking edge," or "cutting edge" to be considered a finished diamond sawblade.[99] Thus, as we explained in the *Final Scope Determination*, in response to DSMC's request for clarification, in the *Final Determination*,[100] for the scope of the investigation, diamond segments must be attached to the outer periphery of the core (creating an "attacking edge," or "cutting edge") to be within the scope of the *Diamond Sawblades Order*.[101] This clarification is consistent with Commerce's questionnaire in terms of its requirement from respondents in identifying a particular diamond sawblade model based on the type of "attacking edge," or "cutting edge" it must have for model matching purposes, suggesting that, without such an edge, it would not be considered a finished diamond sawblade. Thus, as we indicate above, a finished diamond

[97] *See* DSMC's Rebuttal Comments at Exhibit 1, pages 19-20.
[98] *See* Lyke's Comments at 10.
[99] *See* DSMC's Rebuttal Comments at Exhibit 1, pages 19-20.
[100] *See Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances*, 71 FR 29303 (May 22, 2006) (*Final Determination*) and accompanying Issues and Decision Memorandum (I&D Memo) at Comment 3.
[101] *See Final Determination* and I&D Memo at Comment 3.

sawblade must incorporate a type of "cutting edge" as outlined in Commerce's questionnaire ("Standard segment with undercut," "Standard segment without undercut," "Turbo," "Continuous," "Other (please describe)," or "Not applicable (cores))."[102] This model match requirement has been understood by interested parties, including DSMC, since the beginning of the investigation in this case. All interested parties initially had an opportunity to comment on the physical characteristics Commerce utilizes in conducting its antidumping duty administrative reviews in this proceeding for model matching purposes. We clarify that the "Not applicable (cores)" designation identified in Commerce's antidumping duty questionnaire corresponds to the "Parts Thereof" of the scope of the *Diamond Sawblades Order*, and therefore refers to an unfinished diamond sawblade.

In addition, since DSMC invoked Commerce's questionnaire as part of its rebuttal analysis, we find it reasonable to analyze whether cupwheels could be distinguishable from diamond sawblades in terms of other physical characteristics as outlined by Commerce's questionnaire (physical form, diameter, type of attachment, cutting edge, diamond mesh size, total diamond weight, diamond grade, segment height, segment thickness, segment length, number of segments, core metal, core type, core thickness). For example, we find that with respect to physical form, Commerce's questionnaire provides participating respondents three options to identify the type of physical form of their merchandise, "finished diamond sawblades," "cores," or "segment." Lyke's cupwheels do not have any of the physical forms listed in Commerce's questionnaire.[103]

With regard to DSMC's affirmative arguments, we agree with Lyke that DSMC's comparison between cupwheels and diamond sawblades are overly generalized. DSMC argues

[102] *See* DSMC's Rebuttal Comments at Exhibit 1, pages 19-20.
[103] *Id*.

that both diamond sawblades and cupwheels consist of a circular steel core and diamond segments that are attached to the core and also both have a hole in the center of the core to allow them to be a grinding tool. We agree with Lyke that, under DSMC's analysis, a diamond core drill would also be covered by the scope because it consists of a core and diamond segments and has a hole in the center of the core for attaching the core drill bit to a grinding tool. However, Commerce and the ITC treated diamond core drill bits as non-subject merchandise because they are not diamond sawblades and have a different function than diamond sawblades.[104] We find the same is true with respect to Lyke's cupwheels. As such, we continue to find that Lyke's cupwheels are physically distinguishable from diamond sawblades that are described in the investigation and the scope of the *Diamond Sawblades Order*.

B. Expectations of the Ultimate Purchasers and the Manner in which the Product is Advertised and Displayed

With respect to the expectations of the ultimate purchasers and the manner in which the product is advertised and displayed, Lyke provided consumer reviews of a "RODGID 14 inc. Segmented High-Rim Diamond Sawblade," from the Home Depot website.[105] The printout of the Home Depot website identifies under the "Customers Who Viewed This Item Bought…" heading that customers viewed and purchased other similar diamond sawblades.[106] The consumer reviews indicate that the diamond sawblade reviewed was used to cut concrete, retaining wall blocks, cement, and concrete driveway.[107] The printout of the Lowe's website information concerning customer reviews on purchases of diamond sawblades provided similar

[104] *See* USITC Publication 3862 (July 2006) (ITC Final Determination) at I-2 ("importer…reported that nonsubject merchandise such as core bits are often importer under the same HTS number as sawblades).
[105] *See* Lyke's Comments at Exhibit 9.
[106] *Id*.
[107] *Id*.

information as included in the printout of the Home Depot website.[108] For example, based on a customer review, the consumer indicated that the diamond sawblade rented or bought was used to cut concrete landscape blocks for a driveway.[109]

In addition, Lyke provided a printout of Home Depot's website identifying a segmented diamond grinding cup wheel for purchase.[110] The Home Depot website provides an overview of the cupwheel where it states, "The SPP Series Double Row Cup Wheels are an excellent cost performance value. Designed for grinding concrete, masonry and a variety of other applications. The double now configuration provides a smoother finish…."[111] The printout of the Home Depot website identifies under the "Customers Who Viewed This Item Bought…" heading that customers viewed and purchased similar grinding cupwheels.[112] Based on the Home Depot website printout provided by Lyke, under the customer reviews section, customers used the cupwheel to grind concrete surfaces.[113] Similarly, a printout of the Lowe's website indicates that customers used cupwheels to grind bricks, ceramic tile floor, and concrete block surfaces.[114]

DSMC relies mostly on an affidavit to support its contention that the expectations of the ultimate purchasers for diamond sawblades and cupwheels are largely the same.[115] That is, according to DSMC, the ultimate purchasers expect both products to grind or abrade material. We point out, however, in exhibit 2 of its initial comments, DSMC provided a printout of a

[108] *Id.*
[109] *Id*.
[110] *Id*. at Exhibit 10.
[111] *Id*.
[112] *Id*.
[113] *Id*.
[114] *Id*.
[115] *See* DSMC's Comments at Exhibit 1.

website (U.S. Diamond) where it describes diamond sawblades and its uses.[116] The U.S. Diamond website excerpt on the record has the following description:

> Are you looking to cut block? If so, you'll want a diamond blade, as opposed to a general purpose saw blade. Diamond saw blades have diamonds fixed on their edges, which allow for cutting hard or abrasive materials. There are many types of diamond sawblades, and they have many uses, including cutting stone, concrete, asphalt, bricks, and many others.[117]

In the same website, it states that cup grinding wheels are used for grinding and polishing, and available to grind and polish concrete and granite/marble.[118] We further note that in the U.S. Diamond website's search category we find that diamond sawblades and cupwheels are listed separately and therefore, are likely considered distinct products.[119]

With regard to DSMC's argument that the Home Depot description for the 4-inch Double Row Diamond Cup Wheel's indicates that the product is "engineered with top-grade industrial diamond for maximum cutting performance…," we agree in part.[120] However, DSMC in its arguments did not provide the full description of the product as indicated in the Home Depot website description of this particular cupwheel. Specifically, the website information on the record indicates the following:[121]

> RIDGID Double Row Diamond Cup Wheels are engineered with top-grade industrial diamond for maximum cutting performance and superior grinding life. These cup wheels can be used for a wide range of projects from shaping and polishing of concrete surfaces and floors, to fast aggressive concrete grinding or leveling and coating removal. Heavy-duty steel core offers lasting durability. 4 in. cup wheel will fit a variety of small angle grinders with a 5/8-11 threaded arbor. Suitable for both dry or wet cutting conditions.
>
> - Professional-grade quality
> - Engineered for dry or wet concrete grinding, leveling, or coating removal

[116] *Id*. at Exhibit 2.
[117] *Id.*
[118] *Id*.
[119] *Id*.
[120] *Id*. at 6.
[121] *See* DSMC's Rebuttal Comments at Exhibit 2.

- Double row segment design is formulated with high-grade diamond and unique bond Matrix for fast and aggressive grinding
- For use on 4 in. or 4.5 in. angle grinders
- 5/8 in. – 11 mm threaded arbor
- MAX RPM 15,000
- Faster grinding and longer life than standard abrasive grinding wheels

Based on the full description of the product as specified on the Home Depot website, we interpret the term "cutting" in the context as advertised to mean that cupwheels are designed to cut materials in a parallel fashion. Specifically, as on the Home Depot website, cupwheels are used to grind, shape or polish the surface of a material, but not to cut into the surface of a material in a perpendicular fashion as one would expect from a diamond sawblade. (emphasis added).[122]

Further, with regard to the other grinding cupwheels to which DSMC refers, we find that based on the product descriptions, the referenced cupwheel is used to grind, shape or polish the surface of a material. For example, the "5-inch Diamond Cup Grinding Cut-off Wheel for Cutting Concrete," referenced by DSMC is further described in the Home Depot website as "For Use in small angle grinders," "Ideal to quick grinding down of thick concrete layers," and the power tool accessory type for this product is "Sanding/Grinding/Polishing Accessory."[123] Therefore, again, based on the description of the product on the website, we find that the term "Cutting" in this context means cutting a surface of a material in a parallel fashion just as a sandpaper would cut or grind a surface of a material for a smoother surface. As such, based on the consumer reviews and advertisement printouts of the websites provided by the parties, we find that the expectations of the ultimate purchasers are different and not largely the same as DSMC claims, and the manner in which the products are advertised and displayed are also

[122] *Id.*
[123] *Id.*

different. That is, based on the consumer reviews and the advertisements of both diamond sawblades and cupwheels, we find that consumers would, for example, purchase a diamond sawblade if they expected to use the tool to cut a block of concrete from a driveway (diamond sawblades "allow for cutting hard or abrasive materials"), and they would purchase a cupwheel if they expected to "grind and polish hard or abrasive materials."[124]

C. Ultimate Use of the Product

With regard to the ultimate use of the product, as we indicate above, based on the information provided on the record by the parties, we find that diamond sawblades are used for cutting hard or abrasive materials whereas cupwheels are used for coarse grinding, or polishing materials.[125] We interpret DSMC's assertion that diamond sawblades "do not actually cut materials; rather, diamond sawblades mill (*i.e.*, grind) them,"[126] to mean that the manner in which diamond sawblades cut hard or abrasive materials is by grinding the material in a perpendicular manner at one specific point of the hard or abrasive material, such as how you would use a general purpose saw blade or typical saw. However, based on the information provided on the record, the ultimate use of a grinding cupwheel is to grind the material in a parallel manner similar to what one would expect from a sandpaper power tool.

In addition, the advertisement DSMC placed on the record from the U.S. Diamond website and referenced above indicates that if one is looking to "cut block," one would want a diamond sawblade, as opposed to a general purpose saw blade because diamond saw blades have diamonds fixed on their edges, which allow for cutting hard or abrasive materials.[127] Further, DSMC placed on the record a printout from Wikipedia describing a "Diamond grinding cup

[124] *See* DSMC's Rebuttal Comments at Exhibit 2; *see* also, Lyke's Comments at Exhibit 10.
[125] *See* Lyke's Comments at Exhibits 9 and 10., *see also* DSMC's Rebuttal Comments at Exhibit 2.
[126] *See* the Petition.
[127] *See* DSMC's Comments at Exhibit 2.

wheel," which states that cupwheels with "big diamond segments can undertake workloads, for example, grinding concrete and stone, while those with small or sparse diamond segments are normally used for fast removal of paints, wallpapers, glues, epoxy, and other surface coatings."[128] Therefore, based on the information on the record, we find that diamond sawblades are not designed to be used to grind concrete or stone in the manner that a grinding cupwheel would be used to grind concrete and stone, and diamond sawblades are also not designed to remove paint, wallpaper, glues, epoxy and other surface coatings in the same manner that a grinding cupwheel is designed to handle these types of tasks.

In this case, it is helpful to review the end use description set forth by the ITC of the merchandise covered by the *Diamond Sawblades Order*:

> Diamond sawblades have numerous functions and applications for cutting concrete, asphalt, masonry (brick, block, pavers, *etc.*), tile, refactory, stone (marble, granite, and other rock), ceramics, and glass. Diamond sawblades also are used to groove road, highway, and airport runway surfaces to give them antiskid characteristics. Different configurations of diamond sawblades will also be used selected by end users upon the material being cut, as a blade for cutting soft, abrasive material must have a strong bonding matrix upon the material being cut, as a blade for cutting soft, abrasive material must have a strong bonding matrix to resist erosion of the blade for the diamonds to cut, while a blade for cutting hard material must have a weaker bond matrix to expose more diamonds for cutting.[129]

As the ITC report describes, diamond sawblades' end use is to cut concrete, asphalt, masonry, stone, ceramics, *etc.* From the investigation and throughout administrative reviews in the diamond sawblades proceeding, Commerce's and the petitioner's understanding of the end use of diamond sawblades has been consistent with the ITC's understanding of the end use of

[128] *Id*. at Exhibit 4.
[129] *See* Lyke's Comments at Exhibit 5; *see* also Diamond Sawblades and Parts Thereof from China and Korea, Prehearing Report to the Commission on Investigation Nos. 731-TA-1092-1093 (Final), May 2, 2006.

diamond sawblades, which is to cut particularly hard materials.[130] This understanding is supported by the information provided on the record of this scope remand. Thus, based on the information on the scope record, the ITC's description of the end use of the products, and Commerce's experience in conducting numerous administrative reviews in this proceeding, we find that the ultimate use of Lyke's cupwheel is not the same as the ultimate use of diamond sawblades.

D. Channels of Trade in which the Product is Sold

Based on our review of the information placed on the scope record, we find that diamond sawblades and Lyke's cupwheels are generally sold in the same channels of trade. For example, based on record evidence, both products are sold to distributors, retail outlets such as Home Depot and Lowe's, and end-users.[131]

Conclusion

In summary, under respectful protest,[132] in accordance with 19 CFR 351.225(k)(2), based on our review of information placed on the record of this remand redetermination concerning Lyke's cupwheels, we find that the physical characteristics, expectations of the ultimate purchasers, the manner in which the products are advertised and displayed, and the

[130] *See*, *e.g.*, *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303 (May 22, 2006), and accompanying IDM at Comment 4 ("Given that diamond sawblades are used to cut particularly hard materials (*e.g.*, concrete) and generate high levels of heat during operations, the type of attachment used to bind segments to cores is important."), *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 71980 (December 4, 2014), and accompanying PDM at 3 ("Therefore, according to the petitioner, when a diamond sawblade cuts a dense, hard material like porcelain tile, it is best to design a blade with a soft bond that will wear quickly to expose more diamonds and, conversely, when a diamond sawblade cuts soft, abrasive material like asphalt, it is best to design a hard bond to give the diamonds more time to work. The petitioner claims that the two most important criteria in diamond sawblades quality are speed of cut and life of the diamond sawblade. The petitioner explains that, in order to satisfy these two criteria, manufacturers produce diamond sawblades with different quality based on the specific material being cut."), unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 32344 (June 8, 2015).

[131] *See* Lyke's Comments and DSMC's Comments.

[132] *See Viraj*, 343 F.3d at 1376.

ultimate use of the product all weigh against finding that Lyke's cupwheels are covered by the scope of the *Diamond Sawblades Order*. Although we find that the channels of trade are relatively the same for both products, we find that it is not indicative or dispositive that they are subject to the *Diamond Sawblades Order* for the reasons outlined above.

Draft Results of Redetermination

On December 20, 2019, Commerce issued its draft results of redetermination results to interested parties. On January 6, 2020, we received comments from Lyke and DSMC on Commerce's draft results of redetermination.[133] Lyke, in its comments endorses in all aspects Commerce's reasoning in the draft results of redetermination, and DSMC, in its comments disputes Commerce's analysis outlined in the draft results of redetermination.[134] Commerce addresses interested parties' comments as follows:

Comment 1: Physical Characteristics of the Merchandise

DSMC argues that while Commerce has analyzed the physical characteristics of Lyke's cupwheels, its draft results of redetermination ignores important similarities between the physical characteristics of diamond sawblades and Lyke's cupwheels.[135] DSMC argues further that the scope language of the *Diamond Sawblades Order* indicates that the physical distinctions that the agency has found most relevant are distinctions without a difference.[136] DSMC asserts that Commerce, in its draft results of redetermination, has again ignored the scope of the *Diamond Sawblades Order* by indicating that Lyke's cupwheels "are not segmented and they do not have

[133] *See* Lyke's Letter, "Diamond Sawblades and Parts Thereof from the People's Republic of China (A-570-900): Comments on Draft Remand Redetermination," dated January 6, 2020, (Lyke's Comments on Draft Remand); *see also* DSMC's Letter, "Diamond Sawblades and Parts Thereof from the People's Republic of China*:* DSMC Comments on Draft Remand Determination," dated January 6, 2020 (DSMC' Comments on Draft Remand).
[134] *See* Lyke's Comments on Draft Remand; *see also* DSMC's Comments on Draft Remand.
[135] *See* DSMC's Comments on Draft Remand, at 7.
[136] *Id*.

slots cut into the steel cup."[137] According to DSMC, the scope of the *Diamond Sawblades Order* covers "all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size."[138] DSMC claims that in-scope merchandise are those products with a working part comprised of diamond segments, regardless of whether the products are slotted.[139] DSMC contends that in finding that Lyke's cupwheels are distinguished from subject sawblades by the lack of slots, Commerce has introduced a distinction that is unmoored from the plain language of the scope of the *Diamond Sawblades Order*, which is indifferent to the presence or absence of slots.[140]

DSMC asserts that Commerce is incorrect that "Lyke's cupwheels do not have any of the physical forms listed in its standard diamond sawblade questionnaire."[141] According to DSMC, Commerce's questionnaire lists three physical forms: finished diamond sawblade, diamond segment, and core.[142] DSMC further asserts that Commerce's questionnaire includes the physical characteristic fields for diameter, type of attachment, the style of the "cutting edge" of the product, diamond mesh size, total diamond weight, and diamond grade.[143] According to DSMC, each of these categories apply to diamond sawblades and cupwheels equally and cupwheels are finished diamond sawblades with a specific "as-sold" diameter and diamond segments attached to the core.[144] DSMC claims that the cupwheels' diamond mesh size, total weight, and grade are easily identifiable, and therefore, it is not the case that cupwheels are so

[137] *Id*.
[138] *Id*.
[139] *Id*.
[140] *Id.*
[141] *Id.* at 8.
[142] *Id*.
[143] *Id*.
[144] *Id*.

physically distinct from subject goods that the physical characteristics called out in the agency's model match criteria for diamond sawblades do not apply to cupwheels.[145]

DSMC claims that in the original final scope ruling, Commerce placed great weight on the cupwheel's lack of a "cutting" or "attacking edge," which results from the placement of the segments along the flat side of the core, rather than along the core's "outer periphery."[146] DSMC contends that just as with the presence or absence of slots, the scope language is indifferent to the location of segment placement.[147] In particular, according to DSMC, the scope of the *Diamond Sawblades Order* does not state that diamond segments must be attached to "the outer periphery of the core" to create a "cutting" or "attacking edge."[148] DSMC asserts that the scope of the *Diamond Sawblades Order* states only that diamond segments must comprise the "working part" of the product and Lyke's diamond cupwheels fit this description.[149]

DSMC argues that even if the presence or absence of a "cutting" edge were reasonably relevant in this case, Commerce has not adequately explained its conclusion that Lyke's cupwheels do not have a "cutting edge."[150] DSMC states that although cupwheels' diamond segments are positioned differently than the diamond segments of the goods that Commerce considers subject merchandise, these diamond segments nonetheless come into contact with the material being worked, and use abrasion to grind that material.[151] According to DSMC, the abrasive edge of a cupwheel may be positioned at an angle nearly parallel to the surface of the material being worked, but it nonetheless operates by grinding the surface of that material, and

[145] *Id*.
[146] *Id*.
[147] *Id*.
[148] *Id*.
[149] *Id*.
[150] *Id.* at 9.
[151] *Id*.

thus "attacking" it.[152] DSMC argues that while the segments of the goods that Commerce considers sawblades are typically positioned perpendicular to the material being worked, they are not always so positioned, and these diamond segments also function by grinding (*i.e.*, abrading) the material being worked.[153] DSMC argues further that to the extent that this gives them a "cutting" edge, so too do cupwheels have a "cutting" edge.[154]

DSMC contends that the fact that Commerce's model match criteria for diamond sawblades includes a "cutting edge" criterion does not establish that cupwheels do not have "cutting" edges.[155] DSMC argues that the model match names certain types of edges, such as "standard segments with undercut" and "turbo," but also provide for "other" edges.[156] DSMC claims that the record indicates that cupwheels come in "turbo" models, such as the "RIDGID 7 in. 24-Segment Turbo Cup Grinding Wheel."[157] According to DSMC, this further underscores the physical similarities between cupwheels and goods otherwise considered subject merchandise by Commerce.[158]

DSMC contends that Commerce erred in accepting Lyke's inaccurate comparison of diamond sawblades and diamond core drills.[159] According to DSMC, diamond sawblades and cupwheels are similar products because they both consist of a circular steel core and diamond segments that are attached to the core, with a hole in the center to allow them to be used as a grinding tool.[160] DSMC asserts that this description should be understood in the larger context

---

[152] *Id*.
[153] *Id*.
[154] *Id*.
[155] *Id*.
[156] *Id*.
[157] *Id*.
[158] *Id.* at 10.
[159] *Id*.
[160] *Id*.

of the scope language which specifies that "{d}iamond sawblade cores are circular steel plates."[161] DSMC asserts further that despite this clear scope language, Lyke claimed, and Commerce accepted, that DSMC's analysis would lead to the conclusion that the scope language also covers diamond core drills or drill bits, products which consist of a steel tube/cylinder with diamond segments arranged around one of the tube/cylinder's terminal ends.[162] DSMC argues that, while such products incorporate diamond segments (as do cupwheels and other diamond sawblades), these drill/bits do not incorporate cores in the form of circular steel plates, which is a key requirement of the scope of the *Diamond Sawblades Order*.[163] DSMC contends that Commerce's claim that its physical similarity arguments are over-generalized is based on an erroneous analogy to a dissimilar product that is clearly excluded from the scope of the *Diamond Sawblades Order*.[164]

DSMC argues that, in sum, Commerce ignored important similarities in the physical characteristics of diamond sawblades and Lyke's cupwheels, while placing undue weight on minor differences in characteristics that the scope language indicates are a matter of indifference.[165] DSMC asserts that for these reasons, Commerce should revise its draft results of redetermination regarding physical characteristics to accurately reflect the requirement of the scope and similarities between diamond sawblades and Lyke's cupwheels.

Lyke asserts that in the draft results of redetermination, Commerce properly considered Lyke's argument that DSMC's comparison between cupwheels and diamond sawblades are

[161] *Id*.
[162] *Id*.
[163] *Id*.
[164] *Id*.
[165] *Id*.

overly generalized, resulting in diamond cupwheels or diamond core drill bits being included in the scope of the *Diamond Sawblades Order*.[166]

Lyke further asserts that Commerce also correctly rejected DSMC's reliance on Commerce's questionnaire and properly found that even though diamond sawblades subject to the *Diamond Sawblades Order* may not be limited to segmented or continuous rim blades per Commerce's questionnaire, diamond sawblades nonetheless will still incorporate a type of cutting edge or attacking edge (*i.e.*, the diamond segments must be attached to the outer periphery of the core) as specified in Commerce's questionnaire.[167]

Lyke further notes that Commerce should consider Lyke's comments on the 19 CFR 351.225(k)(1) factors—mainly the 1A1R specification, and the descriptions of diamond sawblades in the Petition, the investigation, and the relevant Commerce or ITC determinations.[168] According to Lyke, the fact that these descriptions are found in the 19 CFR 351.225(k)(1) sources does not prevent them from being considered in analyzing the physical characteristics aspect of the (k)(2) factors. Lyke indicates that just as Commerce noted in the draft results of redetermination, there is nothing in Commerce's regulations to suggest that Commerce cannot consider a description contained in a 19 CFR 351.225(k)(1) source because that description also relates to a 19 CFR 351.225(k)(2) factor.[169] Lyke claims that the CIT also indicates that "analyzing (k)(1) sources for evidence that certain physical characteristics are relevant to the scope of the antidumping order is not equivalent to the more generalized analysis of physical characteristics involved in weighing (k)(2) factors."[170]

---

[166] *See* Lyke's Comments on Draft Remand at 3.
[167] *Id*.
[168] *Id*.
[169] *Id*.
[170] *Id* at 4.

Lyke argues that the *Diamond Sawblades Order* defines in-scope merchandise as "those products that meet the 1A1R specification, where the segment thickness is larger than the thickness of the core."[171] Lyke asserts that Commerce explained 1A1R specification as:

- "The segment or rim is slightly wider than the steel blade to allow the attacking edge to penetrate the material without the steel blade rubbing against it" (citing DSMC's May 3, 2005, submission at Exhibit I-10)."[172]
- "[T]he segment or rim is slightly wider than the steel blade to allow the attacking edge to penetrate the material without the steel blade rubbing against it" (citing DSMC's May 10, 2005 submission, at 14)."[173]
- "[I]international codes for sawblades are 1A1R, 1A1RS, and 1A1RSS, where the R means recessed. And that refers to the core, [where] the core is thinner than the segments" (citing DSMC's own statement in Transcript to April 25, 2006 Public Hearing in the companion investigation of diamond sawblades from the PRC)."[174]
- "The segment, or rim, is slightly wider than the steel blade to permit the leading edge to penetrate the material without the steel blade rubbing against it and to discourage blade binding" (citing ITC Investigation No. 731-TA-1093, August 2005)."[175]

Lyke points out that it has previously submitted information about 1A1R specification where it shows that the scope of the *Diamond Sawblades Order* defines a sawblade as products with segments attached to the outer periphery of the core where the thickness of the segment is larger than the thickness of the core. According to Lyke, its cupwheels, however, have segments attached to the bottom/flat surface of the steel cup and the segment thickness is normally 6 mm, much thinner than the height of the steel cup (ranging from 1 to 2 inches) which is the thickness of the cup, and therefore, its cupwheels are not covered by the *Diamond Sawblades Order*.

According to Lyke, the in-scope diamond sawblades were described as "circular sawblades with *an inner core of steel* (the diamond core) and *an outer ring* (the working part) of

[171] *Id*.
[172] *Id*.
[173] *Id*.
[174] *Id*.
[175] *Id*.

diamond segments," and have two fundamental elements, a steel plate and the diamond-impregnated segments.[176] Lyke contends that the core generally contains "slots (frequently referred to as 'keyhole slots') cut into the outer diameter."[177] "The slots allow for the *bonding of individual segments onto the blade's periphery* as well as compensation for any expansion caused by the heating of the blades during use."[178] The slots allow the blade a certain amount of bending during the cutting. "The segments or rim is slightly wider than the steel blades to allow the attacking edge to penetrate the material without the steel blade rubbing against it."[179] The "diamond segments must be attached to the outer periphery of the core."[180] Therefore, according to Lyke, the in-scope diamond sawblades must have a core that is a plate or a sheet with segments bonded to the outer periphery of the core to form the outer ring of the diamond sawblade.[181] Lyke argues that the core of its cupwheels is neither a plate or sheet, it is a cup and the segments are bonded to the bottom (*i.e.*, the flat surface) of the cup.[182] As such, Lyke contends that the physical characteristics of the cupwheels are dramatically different from the in-scope diamond sawblades.[183]

Commerce's Position: In our analysis above with respect to the first criterion, we indicated that we find cupwheels physically distinguishable from diamond sawblades. We based this finding in part on the fact that Lyke's cupwheels do not have a "cutting edge" because the diamond segments in Lyke's cupwheels are not attached to the rim of the cup, but to the bottom

[176] *Id.* at 5-6.
[177] *Id.* at 6.
[178] *Id*.
[179] *Id*.
[180] *Id*.
[181] *Id.* at 7.
[182] *Id*.
[183] *Id*.

of the cup.[184] We explained that, although we recognized that diamond sawblades subject to the order are not limited to segmented or continuous rim blades, per the physical characteristics outlined in Commerce's antidumping duty questionnaire, diamond sawblades nonetheless will still incorporate a type of "cutting edge."[185] DSMC argues that Commerce, in its draft results of redetermination, has again ignored the scope of the *Diamond Sawblades Order* by indicating that Lyke's cupwheels "are not segmented and they do not have slots cut into the steel cup." Therefore, according to DSMC, Commerce has introduced a distinction that is unmoored from the plain language of the scope of the *Diamond Sawblades Order*. As an initial matter, we find Lyke's cupwheels are not finished circular diamond sawblades.[186] We clarify that while we recognize that the scope covers "all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size," the purpose of our analysis was to point out that Lyke's cupwheels consist of neither segmented rims (with slots) nor continuous rims (without slots) because the diamond segments are located at the bottom of the cupwheel. In other words, the diamond segments on Lyke's cupwheels do not form part of a rim or cutting edge. Although the rim of the core used in Lyke's cupwheels does not have slots, Lyke's cupwheels would not constitute continuous rim diamond sawblades because the diamond segments do not form a continuous rim around the core's edge. The ITC noted that, "{d}iamond sawblades can be distinguished by their rims (*i.e.*, segmented or continuous)."[187] Lyke's cupwheels, by contrast, cannot be

[184] *See* Lyke's Comments on Draft Remand at 10.
[185] *See* DSMC's Rebuttal Comments at Exhibit 2.
[186] We note that the term or product identified as "cupwheels" was never mentioned in DSMC's Petition nor in any of the ITC reports as a product that is of the same "class or kind" of the subject merchandise.
[187] *See* Lyke's Comments on Draft Remand at Exhibit 4. *See* also, Diamond Products and Parts Thereof from China and Korea: Investigation Nos. 731-TA-1092 and 1093 (Final), USITC Publication 3862 (July 2006), at I-6.

distinguished in the same manner. Further, based on information on the record, it is our understanding that segmented blades have slots cut into the core between the segments on the rim or cutting edge to allow the blade to flex under pressure,[188] and continuous diamond sawblades or continuous rim blades are attached to a *non-slotted metal core*, and therefore do not contain "slots."[189] Thus, a reading of the ITC report and the Petition indicates that diamond sawblades will either have "segmented rims" or "continuous rims," or some combination of both, but there is no indication that diamond sawblades will have neither.[190]

We point out that DSMC has not provided any evidence on the record demonstrating that a diamond sawblade can be produced without "segmented rims," or "continuous rims." In addition, it is our understanding that the description of the scope of the *Diamond Sawblades Order*, where it states that the "products covered by the order are all finished circular sawblades, *whether slotted or not*, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size, except as specifically excluded below," refers to whether the diamond sawblade has "segmented rims" or "continuous rims."[191] Therefore, if the diamond sawblade is "slotted" then it identifies a diamond sawblade that contains "segmented rims," and if the diamond sawblade does not contain "slots," then it identifies a diamond sawblade that contains "continuous rims." Although DSMC argues that based on Commerce's antidumping questionnaire, diamond sawblades are not limited to segmented or continuous rim blades, as we indicate above, we find no evidence on the record to indicate that diamond sawblades contain neither "segmented rims," nor "continuous rims."[192]

[188] *See* ITC Staff Report at I-8.
[189] *Id*. (emphasis added)
[190] *Id*.; *see* also Petition at Exhibit I-10.
[191] *See* Lyke's Comments on Draft Remand at 5-7 (emphasis added).
[192] *Id*. at 5 and 6.

Although Commerce's questionnaire provides interested parties with another "cutting edge" option ("Other (please specify)"), there is no evidence that this option was intended to encompass cupwheels, which are designed to grind flat surfaces and therefore do not have a "cutting edge" to identify. As we indicate above, the ITC noted that, "Diamond sawblades can be distinguished by their rims (*i.e.*, segmented or continuous)."[193] Further, in the Petition, DSMC indicated that diamond sawblades "could have three different appearances: the segmented rim, the continuous rim, and the castellated rim."[194] We note that the antidumping duty questionnaire provides also the "Turbo" cutting edge option, which we understand, based on information on the record, is a hybrid of both types of "cutting edges" (*i.e.*, diamond sawblades that contain both segmented rims and continuous rims).[195] Therefore, because evidence on the record indicates that Lyke's cupwheels cannot be considered to have "segmented rims" (with slots) nor "continuous rims" (without slots) or some combination thereof, we find that they do not share the same physical characteristics as diamond sawblades.

DSMC argues that the scope of the *Diamond Sawblades Order* is indifferent to the location of segment placement, and in particular does not state that diamond segments must be attached to "the outer periphery of the core" to create a "cutting" or "attacking edge." As we explained in the *Final Scope Determination*, while the scope language does not describe in-scope merchandise and non-subject merchandise by their cutting function, grinding function, or spin direction, statements from DSMC itself and the ITC in the investigation stage, clarify that a product that does not have an attacking edge that penetrates the material is not subject

[193] *See* Lyke's Comments on Draft Remand at Exhibit 4; *see* also, Diamond Products and Parts Thereof from China and Korea: Investigation Nos. 731-TA-1092 and 1093 (Final), USITC Publication 3862 (July 2006), at I-6.
[194] *See* Lyke's Comments on Draft Remand at 4; *see* also Petition at Exhibit I-10. It is our understanding that "Turbo" diamond sawblades are also known as diamond sawblades with a "castellated rim."
[195] *See* DSMC's Rebuttal Comments at Exhibit 1; *see* also Lyke's Comments at 6.

merchandise.[196] As we indicate above, this understanding is consistent with how the physical characteristics for model matching purposes are outlined in Commerce's antidumping duty questionnaire with regard to this proceeding.[197] Furthermore, as we explain in the *Final Scope Determination*, language from the ITC investigation describes segments as being wider than the steel blade, so that the attacking edge penetrates the material without the steel blade rubbing against it. Moreover, the emphasis placed on the 1A1R specification in the investigation, in which the diamond element is on the outside edge of the core,[198] further supports the finding that "attached to the outer periphery" means attached on the outside edge, rather than at the bottom of the core. Although the Court discredited our analysis in our *Final Scope Determination* for improperly considering 19 CFR 351.225(k)(2) factors in our 19 CFR 351.225(k)(1) analysis, here, we are conducting a scope inquiry under 19 CFR 351.225(k)(2). Accordingly, consideration of these factors relating to the physical differences and differences in how the products are designed to be used, is appropriate.

Moreover, we find that the exclusionary language in the scope of the *Diamond Sawblades Order* also suggests that having a "cutting edge" is associated with having a cutting element on the outside edge of a sawblade, as opposed to being on the flat surface. For example, the scope of the *Diamond Sawblades Order* indicates that, "Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that *protrude from the outer diameter of the plate*, whether or not finished, are excluded from the order."[199]

---

[196] *See Diamond Sawblades Order*, 74 FR at 57146, n.9, quoting the petitioner's statement in the public hearing in the antidumping duty investigation of diamond sawblades from China; *see also Final Determination*, 74 FR at 29305 and, Diamond Products and Parts Thereof from China and Korea: Investigation Nos. 731-TA-1092 and 1093 (Final), USITC Publication 3862 (July 2006), at 3.
[197] *See* DSMC's Rebuttal Comments at Exhibit 2.
[198] *See Final Scope Determination*, at 9.
[199] *See* the scope of the *Diamond Sawblades Order* (emphasis added).

With respect to DSMC's assertion that Commerce is incorrect that "Lyke's cupwheels do not have any physical forms listed in its standard diamond sawblade questionnaire," we disagree. As we explain above, with regard to physical form, Commerce's questionnaire provides participating respondents three options to identify the type of physical form of their merchandise, "finished diamond sawblade," "diamond segment," and "core." Because we find that Lyke's cupwheels are not "diamond sawblades," but a distinct product, Lyke's cupwheels would not be categorized as a "finished diamond sawblade."

With regard to DSMC's assertion that each of the categories ("Diameter," "Type of Attachment," "Cutting Edge," "Diamond Mesh Size," "Total Diamond Weight," and "Diamond Grade") outlined in Commerce's questionnaire apply to diamond sawblades and cupwheels equally, we find that because Lyke's cupwheels do not have the physical form of a finished diamond sawblade, as we explain above, and also do not have a "cutting edge," as contemplated by the diamond sawblade antidumping questionnaire, the ITC report, and in the *Final Determination*,[200] Lyke's cupwheels are physically distinct from the subject merchandise and would not meet Commerce's model match criteria as outlined in the antidumping duty questionnaire. As a result, we are not persuaded that the fact that the other physical characteristics outlined in the antidumping duty questionnaire may also apply to Lyke's cupwheels means they are within the scope.

DSMC argues that even if the presence or absence of a "cutting" edge were reasonably relevant in this case, Commerce has not adequately explained its conclusion that Lyke's cupwheels do not have a "cutting edge." The description provided on the record indicates that Lyke's cupwheels have diamond segments attached to the bottom of the cores, not the outer

[200] *See Final Determination* and accompanying I&D Memo at Comment 3.

periphery.[201] Based on the description of diamond sawblades found on the record, we interpret the term "cutting edge" to mean the diamond segments that are fixed on the outside edge or outer periphery of the circular plate or core, which allows for cutting hard or abrasive materials.[202] Because Lyke's cupwheels have diamond segments attached to the bottom of the cores, not the outer edges or outer periphery of the circular sphere cup, it does not contain a "cutting edge," as understood by the descriptions of finished diamond sawblades.[203] Both parties provided photos of cupwheels and we find that the photos support Commerce's understanding that cupwheels have diamond segments attached to the bottom of the cores, and do not protrude beyond the circular sphere cup to create a "cutting edge,"[204] in order to cut or divide hard or abrasive materials in a perpendicular manner, whereas, diamond sawblades do have diamond segments on the outside edge of the circular plate to create the "cutting edge" required to cut or divide hard or abrasive materials. DSMC claims that the record indicates that cupwheels come in "turbo" models, such as the "RIDGID 7 in. 24-Segment Turbo Cup Grinding Wheel," and that this demonstrates the similarities between diamond sawblades and cupwheels. We are not persuaded by DSMC's argument in this regard because the picture of the "RIDGID 7 IN. 24-Segment Turbo Cup Grinding Wheel" that DSMC placed on the record further demonstrates that cupwheels do not have a "cutting edge," as the diamond segments for this particular cupwheel are at the bottom of the core and therefore do not create a "cutting edge," as one would expect to find in a diamond sawblade.[205]

[201] *See Final Scope Determination* at 9.
[202] *See* DSMC's Rebuttal Comments at Exhibit 2
[203] *See Final Scope Determination* at 9 and 10.
[204] *See* DSMC's Comments at Attachment, pages 34-37; *see* also Lyke's scope ruling request dated April 3, 2018, at 3 and Exhibits 2 and 6.
[205] *See* DSMC's Rebuttal Comments at Exhibit 2, page 23.

Comment 2: Expectations of the Ultimate Purchasers and the Manner in which the Product is Advertised and Displayed

DSMC asserts that Commerce largely dismisses its arguments by noting that DSMC "relies mostly on an affidavit to support its contention that the expectations of the ultimate purchaser for diamond sawblades and cupwheels are largely the same."[206] DSMC argues that Commerce, however, has not adequately explained its reasons for finding that an affidavit from an industry expert should be disregarded.[207] Specifically, according to DSMC, the affidavit confirms that customers of diamond sawblades and cupwheels expect that both products will be able to "grind or abrade materials by pressing the diamond segments against said materials."[208] DSMC indicates that in the final remand results, Commerce should explain why it has disregarded its affidavit.[209]

DSMC contends that Commerce's draft results of redetermination interprets the expectation of ultimate customers in an inappropriately narrow manner.[210] According to DSMC, Commerce distinguishes the ultimate expectations of the customer based on whether a customer intends to "cut{}hard or abrasive materials" or whether they expect to "grind and polish hard or abrasive materials."[211] DSMC asserts that, as it explained, both cupwheels and other diamond sawblade products all function by grinding/abrading materials by means of a working part of diamond segments.[212] DSMC argues that the distinction between "cutting" and "grinding/polishing" is neither supported by the scope nor by the nature of the products

[206] *See* DSMC's Comments on Draft Remand at 11.
[207] *Id*.
[208] *Id*.
[209] *Id.* at 12.
[210] *Id*.
[211] *Id*.
[212] *Id*.

themselves.[213] DSMC argues further that, at points in the draft results of redetermination, Commerce describes cupwheels as "cutting" the material that they work on.[214] Moreover, according to DSMC, cupwheels are advertised as providing customers with "maximum *cutting* performance and superior grinding life."[215] DSMC asserts that the distinction that the agency draws is illusory, and easily susceptible to misinterpretation, such that it would greatly compromise the enforcement of the *Diamond Sawblades Order*.[216]

DSMC points out that the fact that an order encompasses a spectrum of goods, each of which has applications that reflect their particular nature is not a basis for excluding goods from the scope.[217] DSMC contends that rebar with a diameter of 3/8 inches is suitable for different applications than rebar with a diameter of 5/8 inches, but that does not mean that either products cease to be a rebar, or that customers do not broadly expect the products to reinforce concrete.[218] Likewise, according to DSMC, customers using a 6" continuous rim sawblade with a diamond matrix specialized for work tile have somewhat different expectations for that product than a customer that buys a 36" segmented sawblade with a diamond matrix optimized for working concrete; the customers nonetheless broadly expect that both products will allow them to grind or abrade away at the material being worked by means of the diamond segments.[219] DSMC asserts that the expectations of the purchasers of a cupwheel is that the product will allow them to grind or abrade the material being worked by means of the diamond segments.[220]

---

[213] *Id*.
[214] *Id*.
[215] *Id*.
[216] *Id*.
[217] *Id*.
[218] *Id.* at 13.
[219] *Id*.
[220] *Id*.

DSMC argues that Commerce appears also to have misinterpreted information regarding the advertising and display of diamond sawblades and cupwheels.[221] In particular, according to DSMC, Commerce claims that U.S. Diamond's website lists diamond sawblades and cupwheels separately and cites this a supportive of a finding that the products are differently advertised.[222] DSMC states that, however, the exhibit it provided in its initial comments demonstrates that cupwheels are included under the page heading "Diamond Saw Blades."[223] According to DSMC, the website then lists five variations of diamond blade products: dry diamond blades, wet diamond blades, tile blades, cup grinding wheels, and tuck point blades and crack chasers.[224] DSMC points out that when the website refers to "diamond blades," it is referring to all of these products generally, indicating that its customers consider these diamond blade products to be subsets of the same class of products.[225] In contrast, according to DSMC, U.S. Diamond provides a separate category for "diamond core bits" and "diamond core drilling machines and accessories."[226]

DSMC asserts that Commerce incorrectly interprets evidence pertaining to advertising to support its view that cupwheels are used to grind (but not to cut) while diamond sawblades are used to cut (but not to grind).[227] Instead, according to DSMC, record evidence demonstrates that sellers of these products use the terms "grinding" and "cutting" interchangeably to refer to these products' abrasion of hard material.[228] DSMC asserts further that Home Depot, for example, advertises cupwheels as providing customers with "maximum cutting performance and

[221] *Id.*
[222] *Id.*
[223] *Id.*
[224] *Id.*
[225] *Id.*
[226] *Id.*
[227] *Id.* at 14.
[228] *Id.*

superior grinding life."[229] According to DSMC, Home Depot also compares the grinding capabilities of the "RIDGID Double Row Diamond Cup Wheel" with those of grinding wheels, a class of goods which Commerce has previously found to be included in-scope merchandise."[230]

DSMC claims that Commerce attempts to brush away these facts by stating that while sellers of cupwheels refer to the products as having performed a "cutting" action, "cupwheels are designed to cut materials in a parallel fashion," rather than "cut into the surface of a material in a perpendicular fashion."[231]

According to DSMC, this is not a distinction sellers of diamond sawblades and cupwheels make, and thus, it is not a distinction Commerce should impose in analyzing the manner in which the products are advertised or displayed.[232] Rather, DSMC argues that the record evidence in this regard only underscores the similarities of the two products, in that both utilize diamond segments attached to a circular core to abrade hard materials, and are used (and expected to be used) to grind away at such materials through the mechanism of diamond segments set into a circular core.[233]

Lyke contends that Commerce correctly considered evidence provided by the parties and found that the cupwheels and diamond sawblades were advertised and displayed differently and considered as different products.[234] Lyke states that Commerce correctly also found that the ultimate purchasers expect the cupwheels to grind and polish on abrasive materials while they expect the diamond sawblades to cut into the surface of a material in a perpendicular fashion.[235]

---

[229] *Id*.
[230] *Id*.
[231] *Id*.
[232] *Id*.
[233] *Id*.
[234] *See* Lyke's Comments on Draft Remand at 8.
[235] *Id*.

Commerce's Position: The second criterion enumerated under 19 CFR 351.225(k)(2), "expectations of the ultimate purchasers," directs Commerce to analyze comments and reviews from ultimate purchasers to determine whether consumer's expectations differ or are the same with respect to the product in question in comparison to the subject merchandise.[236] Further, the fifth criterion enumerated under 19 CFR 351.225(k)(2), "the manner in which the product is advertised and displayed," directs Commerce to analyze whether both products are advertised and displayed similarly or in a different manner.[237] As part of our analysis with respect to these two criteria, we reviewed all of the information provided by both parties including the affidavit submitted by DSMC, and we find, however, that the consumer comments and reviews ("expectations of the ultimate purchasers"), as well as actual product advertisements placed on the record directly satisfy the directive under 19 CFR 351.225(k)(2). We find the information from actual consumers on their expectations of the products (diamond sawblades and cupwheels), as well as the advertisements themselves provide more compelling information for our analysis in comparison to the affidavit submitted on the record.[238]

DSMC argues that it explained that both cupwheels and other diamond sawblade products all function by grinding/abrading materials by means of a working part of diamond segments and that the distinction between "cutting" and "grinding/polishing" is neither supported by the scope nor by the nature of the product themselves. As we indicate above, although the scope language does not describe in-scope merchandise and non-subject merchandise by their cutting function, grinding function, or spin direction, statements from DSMC and the ITC in the

[236] *See* 19 CFR 351.225(k)(2).
[237] *Id.*
[238] For more information, and further analysis, which contains business proprietary information, *see* Separate Factual Memo.

investigation stage describe that diamond sawblades are used to cut or divide hard or abrasive materials. For example, in the Petition, DSMC states the following:[239]

> 1. Physical Characteristics and End Uses
>
> Diamond sawblades are physically distinguished from all other types of sawblades by the presence of diamonds in the working part of the blade. Diamond sawblades are used to "cut" products that are too hard for conventional sawblades such as asphalt, cement, marble, stone, tile and so forth. In fact, unlike other sawblades, diamond sawblades do not actually cut materials; rather, diamond sawblades mil (*i.e.*, grind) them. Diamond sawblades are physically distinguishable from other diamond cutting solutions such as diamond drill bits and diamond wires by shape and use.
>
> 2. Interchangeability
>
> Some non-diamond sawblades could, in theory, be used to cut some of the materials that diamond saw blades are used on, but it would be uneconomical or impractical to do so. Indeed, one could, in theory, use a hammer and a chisel to accomplish some of the tasks that diamond sawblades are used for, but again, it would be uneconomical or impractical to do so. Since *diamond sawblades are produced to fit onto diamond saws*, it necessarily follows in the narrowest sense that there is no interchangeability between diamond sawblades on the one hand and any other product on the other.

The ITC, in its report stated the following:[240]

> Diamond sawblades are circular cutting tools composed of two fundamental components: an inner steel core ("core") and a diamond-impregnated outer ring of one or more segments ("segments") that make up the cutting surface.
>
> Diamond sawblades have numerous functions and applications for cutting, ranging from cement, asphalt, marble, and tile, to masonry work such as brick and stone.

Under the "Physical Description" heading of DSMC's Petition, and cited above, DSMC refers to an exhibit under footnote 4 ("*See* Exhibit I-10") of the Petition. Exhibit I-10 of the Petition provides a printout from a diamond manufacturer with the heading, "What is a diamond blade?" and "How does a diamond blade work?" The information states the following:[241]

---

[239] *See* Lyke's Comments at Exhibit 2.
[240] *Id*. at Exhibit 4.
[241] *Id*. at Exhibit 2.

> A diamond blade does not cut but works by milling. During the sharpening process performance at the factory, individual diamond crystals are exposed on the face and sides of the segment and it is these that do the milling work. The metal matrix holds each diamond in place. During the work, each diamond is supported by a comet's tail which strengthens the supporting action of the bond immediately "behind" the diamond crystals.
>
> The diamonds exposed in this way cut into the material reducing it to find powder.
>
> During the cutting, the exposed diamonds may crack or break (all the more rapidly, the harder and denser the material).

Based on these statements and information from the Petition, we understand that the technical manner in which a diamond sawblade cuts through hard or abrasive materials, such as concrete, for example, is by milling it, with the end use purpose of dividing the concrete or separating it from the rest of the concrete. Moreover, this specific function is accomplished when the sawblade is pushed towards or into the hard or abrasive material in a perpendicular manner. Thus, we find that the term "grinding," as used by DSMC describes the technical process of how a diamond sawblade cuts through materials such as concrete, bricks, *etc.* We point out, however, as the record demonstrates, consumers who purchase diamond sawblades expect the tool to cut or divide hard or abrasive materials and are not privy to the technical process by which diamond sawblades are able to slice or cut through hard or abrasive materials. For example, record evidence suggests that customers who purchased diamond sawblades from Home Depot and Lowes indicated the following:[242]

> The manufacturer doesn't make any claims about how much concrete this can cut before it stops working so I'll describe how much mine cut. I used a push concrete saw rented from Home Depot and I used the water attachment to extend the life of the blade. I never went more than one inch depth at a time. I cut through 100 linear feet of 5 inch thick concrete with ½' rebar every 10 feet. After this, the blade measured 12-13/16' diameter and would not even make shallow cut without freezing up.
>
> Excellent performance cutting 39 year old hardened concrete. A total of 44 linear feet at a depth of 3-1/2 inches was cut. Two cuts were made 22 feet long - 2 inches wide. When

[242] *Id*. at Exhibit 9

> the concrete was removed between the two cuts, the edges of the cuts were very smooth and clean. There was a wire mesh in the concrete and the blade handled those without any complications. These were dry cuts and the blade ran surprisingly cool. Initially a guide cut was made along the layout at a depth of one quarter inch. After the cuts were made in increments of one inch in depth until the cut to the full 3-1/2 inch was complete. A two thumbs up on the blade. I appreciated the quick clean cut.
>
> I bought this to cut concrete landscape blocks for a driveway culvert project. It sliced through 4 inch thick blocks with ease using an old chop saw. Excellent results.

In addition, consumers who purchased grinding cupwheels expect the grinding tool to grind, shape or polish the *surface* of a material.[243] (emphasis added). For example, record evidence suggests that consumers who purchased grinding cupwheels from Home Depot and Lowes indicated the following:[244]

> I've been really impressed with this grinder attachment. Seeing that many different ones were for sale on the site, I went to this one because of the price and simply because it looked solid. As you can see in my video, this thing absolutely devoured the slate table top I was working on, grinding it down almost a quarter inch in very little times. Yes, it's hard to grind even a soft stone completely smooth with this grinder attachment, but it's a first step. I've also used this grinder for an initial treatment on rough barn wood, and it's worked well. Sanding after takes much less time. It's a simple tool that does the job and lasts longer than a grit grinder wheel. So I like it a lot.
>
> This grinder worked perfectly. It's well built, solid, and for the price it cannot be beat! I used it to grind off about 60 square feet of paint in my laundry room floor, and another 30 square feet of mastic residue from the linoleum tile that I removed from the half bath next to the laundry. It took about three 3 hours but I now have a perfect surface to lay tile with mortar.
>
> Pretty nifty tool if you're looking to grind a concrete slab flat. I used it after removing some tile to replace the flooring in my house. It did a great job making the slab silky smooth…

Thus, based on the record of this proceeding, we find that the expectations of the ultimate purchasers are different and not largely the same as DSMC claims. That is, based on the consumer reviews of both diamond sawblades and cupwheels, we find that consumers would, for

[243] *See* Lyke's Comments at Exhibit 9, 28-30.
[244] *See* DSMC's Rebuttal Comments at Exhibit 2, page 53 of 74.

example, purchase a diamond sawblade if they expected to use the tool to cut a block of concrete from a driveway, and they would purchase a cupwheel if they expected to "grind and polish hard or abrasive materials."[245]

With respect to the fifth criterion enumerated under 19 CFR 351.225(k)(2), "the Manner in which the Product is Advertised and Displayed," DSMC argues that Commerce misinterpreted information regarding the advertising and display of diamond sawblades and cupwheels. Specifically, DSMC argues that the "U.S. Diamond" website lists five variations of diamond blade products: dry diamond blades, wet diamond blades, tile blades, cup grinding wheels, and tuck point blades and crack chasers, and therefore, according to DSMC, customers consider these diamond blade products to be subsets of the same class of products.[246] A review of the "U.S. Diamond" website indicates that "cup grinding wheels" are not considered to be "diamond sawblades," as DSMC claims. For example, the website states the following:

> At USDiamondTool.com we know how important saw blades are in getting the job done. The right saw blade makes the job easier and the end result is better because of it. Subpar saw blades will crack, break or chip, leaving you with more than you started with. If you're looking for the best diamond sawblades and cup grinding wheels then you've come to the right place!!
>
> Are you looking to cut block? If so, you'll want a diamond blade, as opposed to a general purpose saw blade. Diamond saw blades have diamonds fixed on their edges, which allow for cutting hard or abrasive materials. There are many types of diamond sawblades, and they have many uses, including cutting stone, concrete, asphalt, bricks, and many others.[247]

Although the website identifies "cup grinding wheels" as a type of "Diamond Blade," it does not identify it as a "diamond sawblade," or a type of "diamond sawblade." None of the advertisements placed on the record by parties identify "grinding cupwheels," as a diamond

[245] *See* DSMC's Rebuttal Comments at Exhibit 2;*s*ee also Lyke's Comments at Exhibit 10.
[246] *See* DSMC's Comments on Draft Remand at 13.
[247] *Id.*

sawblade. In fact, in the Home Depot, Lowes, and other advertisements placed on the record, "grinding cupwheels," are identified as a distinct product that are used for grinding and polishing hard or abrasive materials.[248] We note that in the Home Depot and Lowes advertisements placed on the record, when the product reviewed is a "grinding cupwheel," the "Related Searches," and "Related Products" feature of the websites alert consumers with information concerning other consumers' searches and other related products.[249] For example, in Lyke's October 24, 2019, submission at Exhibit 10, the product selected from the Home Depot's website is a grinding cupwheel and the "Related Searches" feature identifies that consumers also searched for products such as "concrete grinding cup wheel," "diamond grinding cup wheel," "diamond grinding wheel," "single row cup wheel," and "grinding cup wheel."[250] Further, the "Related Products" feature on the website identifies products such as the "4.5 in. Turbo Cup Wheel," and various cup disks used to deburr, and a product used for a wide variety of shadow-free finishes.[251] Similarly, the Lowes website provides that when the selected product is a grinding cupwheel, the "Customers Also Viewed" feature indicates that other customers searched for other similar types of grinding cupwheels or other products used for sanding or paint stripping.[252] Moreover, the "Related Items" feature indicates that products related to the grinding cupwheel being reviewed are Angler Grinding machines, and other surface related grinding products.[253] In addition, we find that the record indicates the same is true when a diamond sawblade is being reviewed in the Home Depot or Lowes websites.[254] For instance,

[248] *See* Lyke's Comments at Exhibits 9 and 10. *See* DSMC's Rebuttal Comments at Exhibit 2.
[249] *Id*
[250] *See* Lyke's Comments at Exhibits 9.
[251] *Id*.
[252] *Id*.
[253] *Id*.; *see* also DSMC's Rebuttal Comments at Exhibit 2.
[254] *See* Lyke's Comments at Exhibits 9. *See* also DSMC's Rebuttal Comments at Exhibit 2.

the "Related Products," or "Related Items" feature provides other similar types of diamond sawblades for consumers to consider buying or researching. We find, however, the websites do not identify grinding cupwheels as a "Related Item" or "Related Product" when the item reviewed or selected is a diamond sawblade and vice versa.[255]

In addition, DSMC provided a catalog of all diamond products, including various types of "diamond sawblades," "Cup Grinders," "Core Prep Surface Products," and other types of blade products and accessories.[256] The catalog provides the consumer with various types of information including specifications, sizes, applications, and the best machinery to use for each type of product outlined in the catalog.[257] On page two of the catalog, the table of contents identifies the various types of "Wet Blades," and also the various types of "Dry Blades," along with the page number of where you can find technical information about each product outlined in the catalog.[258] Cup grinders are identified as "dry blades" according to the catalog, and on page 41 of the catalog, it provides the specifications for all types of "dry blades" found in the catalog.[259] For example, "High Speed Blade Specifications," "Small Diameter Blade Specifications," and "Masonry Blade Specifications," all have specific coding or specifications identifying the quality, the best blade to use in relation to the type of hard or abrasive material being worked on, and the application of the "dry blade."[260] Thus, the specifications provided on this page of the catalog apply to various types of dry diamond sawblades.[261] We note, however, grinding cupwheels are not listed on this page of the catalog and more importantly,

---

[255] *Id*.
[256] *See* DSMC's Comments at Attachment.
[257] *Id*.
[258] *Id*. We note that DSMC did not provide the relevant pages concerning "Wet Blades" listed in the catalog and therefore, the catalog provides only specifications concerning "Dry Blades."
[259] *Id*.
[260] *Id*.
[261] *Id*.

grinding cupwheels are not grouped with the various types of dry diamond sawblades outlined in the catalog.[262] This is particularly telling because, in the Petition, DSMC indicated the following:[263]

> As detailed in the lost sales and lost revenue affidavits attached to the Petition at Exhibit I-8, diamond sawblades are perceived by producers and consumers to be a distinct product category. Diamond sawblades, for example, are grouped together in the product catalogs of the largest producers. There are even association codes that are specific to diamond sawblades but not to other products.

Thus, the "2019 Master Catalog" provided by DSMC supports our understanding that "grinding cupwheels" are a distinct product and are not considered a "diamond sawblade" by the diamond blade industry, as they don't share the same specifications.[264] Further, a review of the "Dry Blade Specification" page of the catalog indicates that all of the dry diamond sawblades identified in the catalog are grouped together under the specification page, therefore, reinforcing DSMC's statement that "diamond sawblades are perceived by producers and consumers to be a distinct product category. Diamond sawblades, for example, are grouped together in the product catalogs of the largest producers."[265]

DSMC argues that a rebar with a diameter of 3/8 inches is suitable for different applications than a rebar with a diameter of 5/8 inches, but that does not mean that either product ceases to be a rebar, or that customers do not broadly expect the products to reinforce concrete.[266] DSMC argues further that, customers using 6 inch continuous rim sawblade with a diamond matrix specialized for working tile have somewhat different expectations for that product than a customer that buys a 36 inch segmented sawblade with a diamond matrix

---

[262] *Id*.
[263] *See* Petition at 3; *see also*, Lyke's Comments at Exhibit 9.
[264] *See* DSMC's Comments at Attachment.
[265] *Id*.
[266] *See* DSMC's Comments on Draft Remand, at 13.

optimized for working concrete, but the customers nonetheless broadly expect that both products will allow them to grind or abrade away at the material being worked by means of the diamond segments.[267] DSMC then argues that, "{l}ikewise, the expectations of the purchasers of a cupwheel is that the product will allow them to grind or abrade the material being worked by means of the diamond segments."[268] With regard to DSMC's analogy using rebar as an example, we find this line of argument unpersuasive because DSMC is comparing two products that are the same albeit with different diameters. As we indicated above, and believe the record supports, Lyke's cupwheels are not finished diamond sawblades. Further, with regard to DSMC's rebar analogy, we point out that we have no information on the record regarding rebar and whether customers' expectations would change depending on the product's diameter. Thus, we are not persuaded by DSMC's argument in this regard. With respect to DSMC's comparison between diamond sawblades and cupwheels in terms of customers' expectations, as we noted above, consumers who purchase diamond sawblades expect it to cut or divide hard or abrasive materials by pushing the diamond sawblade into the material in a perpendicular manner, as one would do with a general purpose sawblade, and consumers who purchase grinding cupwheels expect it to grind/polish/smooth/level the surface of the hard or abrasive material by rotating the cupwheel in a parallel manner over the material as one would using a power sanding tool.[269] Thus, we are not persuaded by DSMC's generalized comparison of consumers' expectations when it comes to diamond sawblades and grinding cupwheels.

[267] *Id*.
[268] *Id*.
[269] *See* DSMC's Rebuttal Comments at Exhibit 2; *see also* Lyke's Comments at Exhibit 9.

Comment 3: The Ultimate Use of The Product

DSMC asserts that while the scope does not contain a limitation based on end use, Commerce nonetheless finds that cupwheels are used differently than diamond sawblades, and that this difference in end use supports a finding that cupwheels are not covered by the scope of the *Diamond Sawblades Order*.[270] DSMC claims that Commerce does not grapple with the fact that the information indicates that cupwheels are both used to "cut" and "grind" materials, and that subject goods have been found to operate by grinding.[271] DSMC claims further that Commerce has elsewhere stated that "diamond sawblades and abrasives such as grinding wheels function by abrading the materials against which they are placed in a grinding process," rather than by actually cutting the material.[272] In this respect, according to DSMC, Commerce's prior findings mirror the U.S. Army's definition of grinding, which is defined as "the remov{ing material} by the application of abrasives which are bonded to form a rotating wheel."[273] DSMC argues that this demonstrates that diamond sawblades are also used to texture and shape surfaces through subtle abrasion, as well as make deeper perpendicular "cuts" into the surface of a material.[274]

DSMC contends that the investigation record indicates that diamond sawblades can be used on machinery that spins the blades parallel to, rather than perpendicular to, the material being worked.[275] DSMC argues that, however, Commerce has ignored these facts, opting to strictly focus on one end use for diamond sawblades, *i.e.*, "perpendicular cuts."[276] DSMC

[270] *See* DSMC Comments on Draft Remand, at 15.
[271] *Id.* at 16.
[272] *Id*.
[273] *Id*.
[274] *Id*.
[275] *Id.* at 17.
[276] *Id*.

argues further that this selective recognition of end uses skews Commerce's comparison and highlights the fact that end use is an amorphous and shifting yardstick for comparing these products.[277] DSMC asserts that Commerce has previously recognized in this proceeding that "end-uses may change over time and, therefore, are an unreliable basis for determining whether a product should be covered by the scope of an investigation or order."[278] Thus, according to DSMC, Commerce has incorrectly and overly relied on a narrow, limited use of diamond sawblade products when comparing the uses of these products.[279]

DSMC states that for these reasons, it respectfully requests that Commerce reevaluate its draft results of redetermination in light of the language of the scope of *Diamond Sawblades Order*, and evidence on the record, when following the CIT's instructions to evaluate the 19 CFR 351.225(k)(2) factors.[280]

Lyke indicates that Commerce correctly found that cupwheels are used for coarse grinding or polishing materials while diamond sawblades are used for cutting hard or abrasive materials.[281] Lyke indicates further that Commerce correctly interpreted DSMC's assertion made in the investigation that diamond sawblades "do not actually cut materials; rather diamond sawblades mill (*i.e.*, grind) them," to mean that grinding is the manner in which diamond sawblades cuts hard or abrasive materials in a perpendicular direction at one specific point of the hard or abrasive material.[282]

Lyke states that it would like to point out that the meaning of "cut" should be read in conjunction with the word "divided."[283] According to Lyke, DSMC stated in its Petition that

[277] *Id*.
[278] *Id*.
[279] *Id*.
[280] *Id*.
[281] *See* Lyke's Comments on Draft Remand at 8.
[282] *Id*.
[283] *Id*.

"[d]iamond sawblades are used for a variety of applications including cutting concrete, asphalt, masonry, brick, block, tile and other ceramic products…[t]hrough the utilization of a diamond-the hardest natural material on earth—a diamond sawblade actually grinds the material that is meant to be cut or divided."[284] Thus, according to Lyke, cutting means dividing or capable of dividing (*i.e.*, partial cuts such as grooving road, highway or airport runway surfaces to give them antiskid characteristics).[285] Lyke contends that, as such, the ultimate use of diamond sawblades is to divide a material into parts by cutting, or to partially separate the material by cutting.[286] Lyke argues that cupwheels are incapable of dividing materials in parts, and therefore are different from diamond sawblades.[287]

Commerce's Position: As we have illustrated above with information from the Petition, the ITC, customers' reviews of both products, and various other documents placed on the record, we find that diamond sawblades are manufactured and designed to cut or divide hard or abrasive materials, whether the diamond sawblade contains "segmented rims," "continuous rims," or some combination thereof (*e.g.*, Turbo diamond sawblade), whereas Lyke's grinding cupwheels are manufactured and designed to grind/polish/smooth/level the surface of hard or abrasive material.[288] Thus, the two distinct products have two different functions and therefore are designed differently for that purpose.[289] DSMC argues that Commerce has elsewhere stated that "diamond sawblades and abrasives such as grinding wheels function by abrading the materials against which they are placed in a grinding process." We point out, however, that Commerce, in support of this statement cited to the Petition, where we already noted above that

[284] *Id*.
[285] *Id*.
[286] *Id.* at 9.
[287] *Id*.
[288] *See* DSMC's Rebuttal Comments at Exhibit 2; *see also* Lyke's Comments at Exhibit 9.
[289] *See* Lyke's Comments at Exhibits 1, 2, 3, and 4.

DSMC explained that, "unlike other sawblades, diamond sawblades do not actually cut materials; rather, diamond sawblades mill (*i.e.* grind them)." As we indicate above, we interpret DSMC's use of the term "grind" to mean the technical manner in which diamond sawblades cut or divide hard or abrasive materials, similar to how a general purpose saw blade or typical saw mills the material in order to cut or divide the less abrasive material. We clarify, however, that diamond sawblades are not designed to polish, smooth or level hard or abrasive materials.[290] We further point out that the document cited by DSMC indicates that Commerce considered, at the time, that diamond sawblades and grinding wheels were two distinct products.[291] DSMC argues that Commerce has previously recognized in this proceeding that "end-uses may change over time and, therefore, are an unreliable basis for determining whether a product should be covered by the scope of an investigation or order." The factors enumerated under 19 CFR 351.225(k)(2) with respect to this criterion directs us to consider the differences or similarities that may exists between the subject merchandise and merchandise in question in terms of their end use.[292] As we have indicated above, based on the information on the record, we find that they have different end uses.

Comment 4: Channels of Trade in which the Product is Sold

Lyke comments that Commerce correctly found that diamond sawblades and cupwheels are generally sold in the same channels of trade, but such similarity is not indicative or dispositive that they are the same products to be subject to the *Diamond Sawblades Order*.[293]

DSMC did not provide comments on this criterion.

[290] *Id*.
[291] *See* Lyke's Letter "Diamond Sawblades and Parts Thereof from the People's Republic of China (A-570-900)," dated March 20, 2019, at Exhibit 1, at 8.
[292] *See* 19 CFR 351.225(k)(2).
[293] *See* Lyke's Comments on Draft Remand at 9.

Commerce's Position: As we indicate above, based on our review of the information placed on the scope record, we find that diamond sawblades and Lyke's cupwheels are generally sold in the same channels of trade. For example, based on record evidence, both products are sold to distributors, retail outlets such as Home Depot and Lowe's, and end users.[294] However, we continue to find that this factor is not dispositive in our analysis.

Results of Redetermination

Pursuant to the *Remand Order*, we have reconsidered our determination consistent with the CIT's opinion, and continue to find that Lyke's cupwheels are not covered by the scope of the order on diamond sawblades from China.

2/3/2020

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

[294] *See* Lyke's Comments and DSMC's Comments.