CAFC Reverses CIT Festive Decision on Imitation Jewelry

The Court of Appeals for the Federal Circuit (CAFC) has reversed a Court of International Trade (CIT) decision extending heading 9505 "festive article" classification to imitation jewelry with Christmas and Halloween holiday theme. At trial in the case, Russ Berrie & Co., Inc. v. United States, the CIT had held that the items were prima facie classifiable under both the "imitation jewelry" provision, heading 7117, and the "festive articles" provision of heading 9505, but it interpreted Chapter Notes in the relevant chapters to conclude that chapter 95 and not chapter 71 covered these articles. The CAFC rejected Customs' position that the articles were not prima facie classifiable as festive articles in Chapter 95, but disagreed with the CIT's interpretations of the Chapter notes.

Note 3(n) to Chapter 71 excludes from that chapter "Articles covered by Note 2 to Chapter 95." The CAFC found this Note to be inapplicable because Note 2 to Chapter 95 indicates that Chapter 95 may cover articles in which natural or cultured pearls, precious or semiprecious stones (natural, synthetic or reconstructed), precious metal or metal clad with precious metal constitute only minor constituents. Since there were no precious materials in the articles before the court, the CAFC concluded that the articles were not covered by note 2 to Chapter 95 and therefore not excluded from classification within Chapter 71 by the note 3(n) exclusion relied upon by the CIT. The CAFC also analyzed whether the "imitation jewelry" provision is more specific than the "festive article" provision for purposes of General Rule of Interpretation 3, and concluded that it was, in fixing the classification within heading 7117.