
UNITED STATES DEPARTMENT OF
COMMERCE
NEWS

WASHINGTON, D.C. 20230

E640-1

BUREAU OF
EXPORT
ADMINISTRATION

FOR IMMEDIATE RELEASE

Date: Sept. 30, 1999

www.bxa.doc.gov

CONTACT: Eugene Cottilli
Marlene MacDonald
202-482-2721

**CALIFORNIA EXPORTER FINED IN CONNECTION WITH ATTEMPTED
TAIWAN EXPORT**

WASHINGTON -- The U.S. Department of Commerce today imposed a \$10,000 civil penalty on Laser Devices, Inc., a Monterey, California exporter, to settle allegations that the company attempted to illegally ship laser gun aimer/sights to Taiwan, Commerce Assistant Secretary for Export Enforcement F. Amanda DeBusk announced.

The Department alleged that in March, 1995 Laser Devices attempted to export U.S.-origin laser gun aimer/sights to Taiwan without the required Commerce authorizations. Commerce's Office of Export Enforcement, San Jose Field Office and the U.S. Customs Service, RAC/San Jose investigated the case.

The Department of Commerce, through its Bureau of Export Administration, administers and enforces export controls for reasons of national security, foreign policy, nonproliferation and short supply. Criminal penalties, as well as administrative sanctions, can be imposed for violations of the Regulations.

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
LASER DEVICES, INC.)
2 Harris Court, A-4)
Monterey, California 93940,)
)
Respondent)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified Laser Devices, Inc. (Laser Devices) of its intention to initiate an administrative proceeding against Laser Devices pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act),¹ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the Regulations),² based on allegations that, on or about March 21, 1995, Laser Devices attempted to export, through the U.S. Postal Service, U.S.-origin laser aimers/sights from the United States to Taiwan, without obtaining from BXA

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).

² The violation at issue occurred in 1995. The Regulations governing the violation at issue are found in the 1995 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995) (hereinafter the former Regulations)). The former Regulations define the violation that BXA alleges occurred. The Regulations establish the procedures that apply to this matter.

the validated export license that was required under Section 772.1(b) of the former Regulations, in violation of Section 787.3 of the former Regulations; and

BXA and Laser Devices having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$10,000 is assessed against Laser Devices which shall be paid to the U. S. Department of Commerce within 30 days from the date of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1999)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Laser Devices will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that, as authorized by Section 11(d) of the Act, the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Laser Devices. Accordingly, if Laser Devices should fail to pay in a timely manner the civil penalty set forth above, the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of Laser Devices' export privileges for a period of one year from the date of this Order.

FOURTH, that the proposed Charging Letter, Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.


A. Amanda DeBusk
Assistant Secretary
for Export Enforcement

Entered this 30th day of September, 1999.

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
LASER DEVICES, INC.)
2 Harris Court, A-4)
Monterey, California 93940,)
)
Respondent)

SETTLEMENT AGREEMENT

This Agreement is made by and between Laser Devices, Inc. (Laser Devices) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act).²

Whereas, the Office of Export Enforcement, Bureau of Export Administration (BXA), has notified Laser Devices of its intention to initiate an administrative proceeding against Laser

¹ The alleged violation occurred in 1995. The Regulations governing the violation at issue are found in the 1995 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995)). Those Regulations define the violation that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured. The restructured Regulations establish the procedures that apply to this matter.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)) and August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).

Devices pursuant to the Act and the Regulations, based on allegations that, on or about March 21, 1995, Laser Devices attempted to export, through the U.S. Postal Service, U.S.-origin laser aimers/sights from the United States to Taiwan, without the validated export license that was required under Section 772.1(b) of the former Regulation, in violation of Section 787.3 of the former Regulations;

Whereas, Laser Devices has reviewed the proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; it fully understands the terms of this Settlement Agreement and the Order; it enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and it states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

Whereas, Laser Devices neither admits nor denies the allegations contained in the proposed Charging Letter;

Whereas, Laser Devices wishes to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

Whereas, Laser Devices agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

Now Therefore, Laser Devices and BXA agree as follows:

1. BXA has jurisdiction over Laser Devices, under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter.

2. BXA and Laser Devices agree that the following sanction shall be imposed against Laser Devices in complete settlement of the alleged violation of the Act and the former Regulations set forth in the proposed Charging Letter:

- (a) Laser Devices shall be assessed a civil penalty of \$10,000, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of an appropriate Order;
- (b) As authorized by Section 11(d) of the Act, the timely payment of the civil penalty agreed to in paragraph 2(a) is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Laser Devices. Failure to make timely payment of the civil penalty shall result in the denial of all of Laser Devices' export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.

3. Laser Devices agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) to request a refund of the civil penalty imposed pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any further administrative proceedings against Laser Devices, or any of its successors, assignees, officers, partners, representatives, agents or employees, in connection with any violations of the Act or the Regulations arising out of the transaction identified in the proposed Charging Letter.

5. Laser Devices understands that BXA will make the proposed Charging Letter, this Settlement Agreement and the appropriate Order, when entered, available to the public.

6. BXA and Laser Devices agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(a) of the Regulations, BXA and Laser Devices agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

LASER DEVICES, INC.

BY: John J. McKenna
John J. McKenna
Acting Director
Office of Export Enforcement

BY: Heinz Thummel
Heinz Thummel
President

Date: 9/14/99

Date: September 2, 1999



EG40-10
UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington, D.C. 20230

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Laser Devices, Inc.
2 Harris Court, A-4
Monterey, California 93940

Attention: Heinz Thummel
President

Dear Mr. Thummel:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described in detail below, Laser Devices, Inc. (Laser Devices) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act).²

Facts constituting violation:

Charge 1

On or about March 21, 1995, Laser Devices attempted to export, through the U.S. Postal Service, U.S.-origin laser aimers/sights from the United States to Taiwan, without the validated export license that was required under Section 772.1(b) of the former Regulations. BXA alleges that, by doing an act that constitutes an attempt to bring about a violation of the

¹ The alleged violation occurred in 1995. The Regulations governing the violation at issue are found in the 1995 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995)). Those Regulations define the violation that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to this.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)) and August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).



Act or any regulation, order, or license issued thereunder, Laser Devices committed one violation Section 787.3 of the former Regulations.

Accordingly, Laser Devices is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$10,000 per violation (see Section 764.3(a)(1) of the Regulations);

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If Laser Devices fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Laser Devices is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a consent settlement.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Accordingly, Laser Devices' answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of Laser Devices' answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Mi-Yong Kim, Esq." below the address. Ms. Kim may be contacted by telephone at (202) 482-5311.

Sincerely,

John J. McKenna
Acting Director
Office of Export Enforcement

Enclosure