

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Extreme Networks, Inc.
3583 Monroe Street
Santa Clara, CA 95051

Attention: *Mr. Gordon Stitt*
President and CEO

Dear Mr. Stitt:

The Bureau of Industry and Security, U. S. Department of Commerce (“BIS”), has reason to believe that Extreme Networks, Inc. (“Extreme Networks”), of Santa Clara, California, has committed six violations of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that Extreme Networks committed the following violations:

Charge 1 15 C.F.R. § 764.2(a): Unlicensed Export to a Listed Entity

On or about February 22, 2002, Extreme Networks engaged in conduct prohibited by the Regulations by exporting computer network switching hardware (the “Hardware”), items subject to the Regulations and classified under export control classification number 5A991, to the Beijing University of Aeronautics and Astronautics (BUAA), of Beijing China, an organization on the Department of Commerce’s Entity List, Supplement No. 4 to Part 744 of the Regulations, without obtaining a license from the Department of Commerce as required by Section 744.1 of the Regulations. In so doing, Extreme Networks committed one violation of Section 764.2(a) of the Regulations.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2005). The violations charged occurred in 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002)). The 2005 Regulations govern the procedural aspects of this case.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2005 (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

Charge 2 **15 C.F.R. § 764.2(e) - Exporting Items to an Entity List Organization with Knowledge that a Violation of the Regulations Would Occur**

In exporting the Hardware described in Charge One above, Extreme Networks transferred that Hardware with knowledge that a violation of the Regulations would occur in connection with the Hardware. Specifically, Extreme Networks had knowledge that a Department of Commerce license was required to export the Hardware to BUAA. Such knowledge is reflected, in part, by the fact that Extreme Networks had previously applied for a Department of Commerce license to export comparable items to BUAA and the fact that such license had been denied. Nonetheless, Extreme Networks transferred the Hardware with knowledge that a Department of Commerce license would not be obtained. In so doing, Extreme Networks committed one violation of Section 764.2(e) of the Regulations.

Charge 3 **15 C.F.R. § 764.2(g) - False Statement Concerning Authority to Export**

In connection with the export described in Charge One above, Extreme Networks indirectly made a false statement to the United States Government in connection with effecting an export subject to the Regulations. In particular, Extreme Networks, through its distribution center, provided false information to a freight forwarder that the Hardware could be exported “No License Required” or “NLR.” The freight forwarder submitted the information to the United States Government through the Automated Export System. In so doing, Extreme Networks committed one violation of Section 764.2(g) of the Regulations.

Charge 4 **15 C.F.R. § 764.2(e) - False Statement Concerning Authority to Export with Knowledge that a Violation of the Regulations Would Occur**

In connection with the false statement described in Charge Three above, Extreme Networks transferred the Hardware with knowledge that a violation of the Regulations would occur in connection with the Hardware. Specifically, Extreme Networks knew that the statement that the export of the Hardware could occur “NLR” was false since, as noted above, it had already applied for, and been denied, a license to export comparable items to BUAA. In so doing, Extreme Networks committed one violation of Section 764.2(e) of the Regulations.

Charge 5 **15 C.F.R. § 764.2(g) - False Statement Concerning Ultimate Consignee**

In connection with the export described in Charge One above, Extreme Networks indirectly made a false statement to the United States Government in connection with effecting an export subject to the Regulations. In particular, Extreme Networks, through its distribution center, provided

false information to a freight forwarder concerning the ultimate consignee of the Hardware. Specifically, Extreme Networks informed its freight forwarder that the ultimate consignee was a company located in Hong Kong when, in fact, the ultimate consignee was BUAA. The freight forwarder submitted the information to the United States Government through the Automated Export System. In so doing, Extreme Networks committed one violation of Section 764.2(g) of the Regulations.

**Charge 6 15 C.F.R. § 764.2(e) - False Statement Concerning Ultimate
Consignee with Knowledge that a Violation of the Regulations Would
Occur**

In connection with the false statement described in Charge Five above, Extreme Networks transferred the Hardware with knowledge that a violation of the Regulations would occur in connection with the Hardware. Specifically, Extreme Networks knew that the freight forwarder's statement concerning the ultimate consignee provided to the United States Government on Extreme Networks's behalf was false. In so doing, Extreme Networks committed one violation of Section 764.2(e) of the Regulations.

Accordingly, Extreme Networks 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 up to \$11,000 per violation;³

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Extreme Networks fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. (Regulations, Sections 766.6 and 766.7). If Extreme Networks defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Extreme Networks. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

Extreme Networks is further notified that it is entitled to an agency hearing on the record if Extreme Networks files a written demand for one with its answer. (Regulations, Section 766.6). Extreme Networks is also entitled to be represented by counsel or other authorized representative

³ See 15 C.F.R. § 6.4(a)(2).

Extreme Networks, Inc.
Proposed Charging Letter
Page 4

who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Extreme Networks have a proposal to settle this case, Extreme Networks or its representative should transmit it to the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Extreme Networks's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

In addition, a copy of Extreme Networks's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Philip Ankel
Room H-3839
United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Philip Ankel is the attorney representing BIS in this case. Any communications that Extreme Networks may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael Turner
Director
Office of Export Enforcement

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

In the Matter of:)
)
Extreme Networks, Inc.)
3583 Monroe Street)
Santa Clara, CA 95051)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Extreme Networks, Inc. (“Extreme Networks”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),²

WHEREAS, Extreme Networks filed a voluntary self-disclosure with BIS’s Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning the transactions at issue herein;

¹ The violations charged occurred in 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002)). The 2006 Regulations govern the procedural aspects of this case.

² Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2005 (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

WHEREAS, BIS has notified Extreme Networks of its intention to initiate an administrative proceeding against Extreme Networks, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to Extreme Networks that alleged that Extreme Networks committed six violations of the Regulations, specifically:

1. *One Violation of 15 C.F.R. § 764.2(a) - Unlicensed Export to a Listed Entity:*

On or about February 22, 2002, Extreme Networks engaged in conduct prohibited by the Regulations by exporting computer network switching hardware (the “Hardware”), items subject to the Regulations and classified under export control classification number 5A991, to the Beijing University of Aeronautics and Astronautics (BUAA), of Beijing China, an organization on the Department of Commerce’s Entity List, Supplement No. 4 to Part 744 of the Regulations, without obtaining a license from the Department of Commerce as required by Section 744.1 of the Regulations.

2. *One Violation of 15 C.F.R. § 764.2(e) - Exporting Items to an Entity List*

Organization with Knowledge that a Violation of the Regulations Would Occur:

In exporting the Hardware described above, Extreme Networks transferred that Hardware with knowledge that a violation of the Regulations would occur in connection with the Hardware. Specifically, Extreme Networks had knowledge that a Department of Commerce license was required to export the Hardware to BUAA. Such knowledge is reflected, in part, by the fact that Extreme Networks had previously applied for a Department of Commerce license to export comparable items to BUAA and the fact that such license had been denied.

Nonetheless, Extreme Networks transferred the Hardware with knowledge that a Department of Commerce license would not be obtained.

3. *One Violation of 15 C.F.R. § 764.2(g) - False Statement Concerning Authority to Export:* In connection with violation described above Extreme Networks indirectly made a false statement to the United States Government in connection with effecting an export subject to the Regulations. In particular, Extreme Networks, through its distribution center, provided false information to a freight forwarder that the Hardware could be exported “No License Required” or “NLR.” The freight forwarder submitted the information to the United States Government through the Automated Export System.
4. *One Violation of 15 C.F.R. § 764.2(e) - False Statement Concerning Authority to Export with Knowledge that a Violation of the Regulations Would Occur:* In connection with the false statement described in Charge Three above, Extreme Networks transferred the Hardware with knowledge that a violation of the Regulations would occur in connection with the Hardware. Specifically, Extreme Networks knew that the statement that the export of the Hardware could occur “NLR” was false since, it had already applied for, and been denied, a license to export comparable items to BUAA.
5. *One Violation of 15 C.F.R. § 764.2(g) - False Statement Concerning Ultimate Consignee:* In connection with the export described above, Extreme Networks indirectly made a false statement to the United States Government in connection with effecting an export subject to the Regulations. In particular, Extreme

Networks, through its distribution center, provided false information to a freight forwarder concerning the ultimate consignee of the Hardware. Specifically, Extreme Networks informed its freight forwarder that the ultimate consignee was a company located in Hong Kong when, in fact, the ultimate consignee was BUAA. The freight forwarder submitted the information to the United States Government through the Automated Export System.

6. *One Violation of 15 C.F.R. § 764.2(e) - False Statement Concerning Ultimate Consignee with Knowledge that a Violation of the Regulations Would Occur:* In connection with the false statement described above, Extreme Networks transferred the Hardware with knowledge that a violation of the Regulations would occur in connection with the Hardware. Specifically, Extreme Networks knew that the freight forwarder's statement concerning the ultimate consignee provided to the United States Government on Extreme Networks's behalf was false.

WHEREAS, Extreme Networks fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, Extreme Networks enters into this Agreement voluntarily and with full knowledge of its rights;

WHEREAS, Extreme Networks states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Extreme Networks neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, Extreme Networks wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, Extreme Networks agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Extreme Networks, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanction shall be imposed against Extreme Networks in complete settlement of the violations of the Regulations relating to the transactions specifically detailed in voluntary self-disclosure and the proposed charging letter:

- a. Extreme Networks shall be assessed a civil penalty in the amount of \$35,000 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
- b. 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 Extreme Networks. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Extreme Networks's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Extreme Networks hereby waives all rights to further procedural steps in this matter (except with respect

to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$35,000 civil penalty, BIS will not initiate any further administrative proceeding against Extreme Networks in connection with any violation of the Act or the Regulations arising out of the transactions identified in the voluntary self-disclosure and the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

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

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

9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE



Michael D. Turner
Director
Office of Export Enforcement

Date: 5/9/06

EXTREME NETWORKS



Gordon Stitt
President and CEO

Date: May 9, 2006 

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

In the Matter of:)
)
Extreme Networks, Inc.)
3583 Monroe Street)
Santa Clara, CA 95051)
)
Respondent)

ORDER RELATING TO EXTREME NETWORKS.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Extreme Networks Inc. (“Extreme Networks”) of its intention to initiate an administrative proceeding against Extreme Networks pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (“Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),² by issuing a proposed charging letter to Extreme Networks that alleged that Extreme Networks committed six violations of the Regulations. Specifically, the charges are:

1. *One Violation of 15 C.F.R. § 764.2(a) - Unlicensed Export to a Listed Entity:*

On or about February 22, 2002, Extreme Networks engaged in conduct prohibited by the Regulations by exporting computer network switching hardware (the “Hardware”), items subject to the Regulations and classified under export control

¹ The violations charged occurred in 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002)). The 2006 Regulations govern the procedural aspects of this case.

² Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2005 (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

classification number 5A991, to the Beijing University of Aeronautics and Astronautics (BUAA), of Beijing China, an organization on the Department of Commerce's Entity List, Supplement No. 4 to Part 744 of the Regulations, without obtaining a license from the Department of Commerce as required by Section 744.1 of the Regulations.

2. *One Violation of 15 C.F.R. § 764.2(e) - Exporting Items to an Entity List*

Organization with Knowledge that a Violation of the Regulations Would Occur:

In exporting the Hardware described above, Extreme Networks transferred that Hardware with knowledge that a violation of the Regulations would occur in connection with the Hardware. Specifically, Extreme Networks had knowledge that a Department of Commerce license was required to export the Hardware to BUAA. Such knowledge is reflected, in part, by the fact that Extreme Networks had previously applied for a Department of Commerce license to export comparable items to BUAA and the fact that such license had been denied.

Nonetheless, Extreme Networks transferred the Hardware with knowledge that a Department of Commerce license would not be obtained.

3. *One Violation of 15 C.F.R. § 764.2(g) - False Statement Concerning Authority to Export:*

In connection with violation described above Extreme Networks indirectly made a false statement to the United States Government in connection with effecting an export subject to the Regulations. In particular, Extreme Networks, through its distribution center, provided false information to a freight forwarder that the Hardware could be exported "No License Required" or "NLR." The freight forwarder submitted the information to the United States Government through the Automated Export System.

4. *One Violation of 15 C.F.R. § 764.2(e) - False Statement Concerning Authority to Export with Knowledge that a Violation of the Regulations Would Occur:* In connection with the false statement described in Charge Three above, Extreme Networks transferred the Hardware with knowledge that a violation of the Regulations would occur in connection with the Hardware. Specifically, Extreme Networks knew that the statement that the export of the Hardware could occur “NLR” was false since it had already applied for, and been denied, a license to export comparable items to BUAA.
5. *One Violation of 15 C.F.R. § 764.2(g) - False Statement Concerning Ultimate Consignee:* In connection with the export described above, Extreme Networks indirectly made a false statement to the United States Government in connection with effecting an export subject to the Regulations. In particular, Extreme Networks, through its distribution center, provided false information to a freight forwarder concerning the ultimate consignee of the Hardware. Specifically, Extreme Networks informed its freight forwarder that the ultimate consignee was a company located in Hong Kong when, in fact, the ultimate consignee was BUAA. The freight forwarder submitted the information to the United States Government through the Automated Export System.
6. *One Violation of 15 C.F.R. § 764.2(e) - False Statement Concerning Ultimate Consignee with Knowledge that a Violation of the Regulations Would Occur:* In connection with the false statement described above, Extreme Networks transferred the Hardware with knowledge that a violation of the Regulations would occur in connection with the Hardware. Specifically, Extreme Networks knew that the freight forwarder’s statement concerning the ultimate consignee provided to the United States Government on Extreme Networks’s behalf was false.

WHEREAS, BIS and Extreme Networks have 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

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

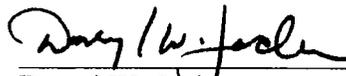
FIRST, that a civil penalty of \$35,000 is assessed against Extreme Networks, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), 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, Extreme Networks will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that 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, license exception, permission, or privilege granted, or to be granted, to Extreme Networks. Accordingly, if Extreme Networks should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Extreme Networks's export privileges for a period of one year from the date of entry of this Order.

FOURTH, that the proposed charging letter, the 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.



Darryl W. Jackson
Assistant Secretary of Commerce
for Export Enforcement

Entered this 12th day of May 2006.