

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

In the Matter of:)
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)
3DSP Corporation)
16271 Laguna Canyon Road, Suite 200)
Irvine, CA 92618)
)
)
)

Respondent)

ORDER RELATING TO 3DSP CORPORATION

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified 3DSP Corporation (“3DSP”), of its intention to initiate an administrative proceeding against 3DSP pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),² through issuance of a proposed charging letter to 3DSP that alleged that 3DSP committed six violations of the Regulations. Specifically, the charges are:

¹ The violations alleged to have been committed occurred in 2002-2004. The Regulations governing the violations at issue are found in the 2002-2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2004)). The 2007 Regulations establish the procedures that apply to this matter.

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 15, 2007 (72 Fed. Reg. 46,137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

Charge 1 15 C.F.R. § 764.2(a) - Exporting Technology Without the Required License

Between on or about March 16, 2002 and on or about October 2, 2004, 3DSP engaged in conduct prohibited by the Regulations by exporting or causing to be exported physical layer (“PHY”) technology, as implemented by 3DSP, for use in commercial 802.11 wireless LAN integrated circuits, technology subject to the Regulations and classified under ECCN 5E991,³ to the Beijing University of Aeronautics and Astronautics (“BUAA”) without the Department of Commerce license required by Section 744.3 and Supplement No. 4 to part 744 of the Regulations. The technology was released in the United States to a BUAA professor who was working on behalf of BUAA at the time of the technology release pursuant to a contract between the professor and 3DSP under which compensation was paid to BUAA. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. As the professor was acting for BUAA at the time of the technology release, the release of technology to her was a release of technology to BUAA. In so doing, 3DSP committed one violation of Section 764.2(a) of the Regulations.

Charges 2-6 15 C.F.R. § 764.2(a) - Exporting Technology Without the Required License

On five occasions between on or about February 23, 2002 and on or about July 7, 2004, 3DSP engaged in conduct prohibited by the Regulations by exporting or causing to be exported PHY technology, as implemented by 3DSP, for use in commercial 802.11 wireless LAN integrated circuits, as implemented by 3DSP, technology subject to the Regulations and classified under ECCN 5E991, to BUAA without the Department of Commerce license required by Section 744.3 and Supplement No. 4 to part 744 of the Regulations. The technology was released in the United States to five BUAA students who were working on behalf of BUAA at the time of the technology release pursuant to a contract between 3DSP and BUAA. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. As the students were acting for BUAA at the time of the technology release, the release of technology to them was a release of technology to BUAA. In so doing, 3DSP committed five violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and 3DSP 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;

³ “ECCN” refers to “Export Control Classification Number.” See 15 C.F.R. § 772.1.

IT IS THEREFORE ORDERED:

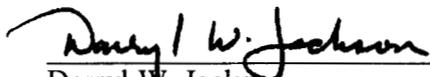
FIRST, that a civil penalty of \$36,000 is assessed against 3DSP, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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, 3DSP 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 3DSP. Accordingly, if 3DSP should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of 3DSP'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 December, 2007.

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

In the Matter of:)
)
3DSP Corporation)
16271 Laguna Canyon Road, Suite 200)
Irvine, CA 92618)
)

Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between 3DSP Corporation ("3DSP"), and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively, the "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the "Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the "Act"),²

WHEREAS, BIS has notified 3DSP of its intention to initiate an administrative proceeding against 3DSP, pursuant to the Act and the Regulations;

¹ The violations alleged to have been committed occurred between 2002 and 2004. The Regulations governing the violations at issue are found in the 2002-2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2004)). The 2007 Regulations establish the procedures that apply to this matter.

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 15, 2007 (72 Fed. Reg. 46,137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) ("IEEPA").

WHEREAS, BIS has issued a proposed charging letter to 3DSP that alleged that 3DSP committed six violations of the Regulations, specifically:

Charge 1 15 C.F.R. § 764.2(a) - Exporting Technology Without the Required License

Between on or about March 16, 2002 and on or about October 2, 2004, 3DSP engaged in conduct prohibited by the Regulations by exporting or causing to be exported physical layer ("PHY") technology, as implemented by 3DSP, for use in commercial 802.11 wireless LAN integrated circuits, technology subject to the Regulations and classified under ECCN 5E991,³ to the Beijing University of Aeronautics and Astronautics ("BUAA") without the Department of Commerce license required by Section 744.3 and Supplement No. 4 to part 744 of the Regulations. The technology was released in the United States to a BUAA professor who was working on behalf of BUAA at the time of the technology release pursuant to a contract between the professor and 3DSP under which compensation was paid to BUAA. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. As the professor was acting for BUAA at the time of the technology release, the release of technology to her was a release of technology to BUAA. In so doing, 3DSP committed one violation of Section 764.2(a) of the Regulations.

Charges 2-6 15 C.F.R. § 764.2(a) - Exporting Technology Without the Required License

On five occasions between on or about February 23, 2002 and on or about July 7, 2004, 3DSP engaged in conduct prohibited by the Regulations by exporting or causing to be exported PHY technology, as implemented by 3DSP, for use in commercial 802.11 wireless LAN integrated circuits, as implemented by 3DSP, technology subject to the Regulations and classified under ECCN 5E991, to BUAA without the Department of Commerce license required by Section 744.3 and Supplement No. 4 to part 744 of the Regulations. The technology was released in the United States to five BUAA students who were working on behalf of BUAA at the time of the technology release pursuant to a contract between 3DSP and BUAA. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. As the students were acting for BUAA at the time of the technology release, the release of technology to them was a release of technology to BUAA. In so doing, 3DSP committed five violations of Section 764.2(a) of the Regulations.

³ "ECCN" refers to "Export Control Classification Number." See 15 C.F.R. § 772.1.

WHEREAS, 3DSP 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;

WHEREAS, 3DSP 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, 3DSP enters into this Agreement voluntarily and with full knowledge of its rights;

WHEREAS, 3DSP states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, 3DSP neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, 3DSP wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, 3DSP agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over 3DSP, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against 3DSP in complete settlement of the alleged violations of the Regulations relating to the transactions detailed in the proposed charging letter:

a. 3DSP shall be assessed a civil penalty in the amount of \$36,000, 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 3DSP. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of 3DSP'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, 3DSP 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; and (c) 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 \$36,000 civil penalty, BIS will not initiate any further administrative proceeding against 3DSP in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

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

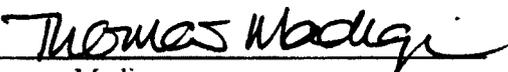
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial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


Thomas Madigan
Acting Director
Office of Export Enforcement

3DSP CORPORATION



Kan Lu
CEO

Date: December 6, 2007

Date: 2/03/07

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

3DSP Corporation
16271 Laguna Canyon Road, Suite 200
Irvine, CA 92618

Attention: Kan Lu, CEO

Dear Mr. Lu:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that 3DSP Corporation (“3DSP”), of Irvine, 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 3DSP committed the following violations:

Charge 1 15 C.F.R. § 764.2(a) - Exporting Technology Without the Required License

As described in greater detail in the attached Schedule of Violations, which is incorporated herein by reference, between on or about March 16, 2002 and on or about October 2, 2004, 3DSP engaged in conduct prohibited by the Regulations by exporting or causing to be exported physical layer (“PHY”) technology, as implemented by 3DSP, for use in commercial 802.11 wireless LAN integrated circuits, technology subject to the Regulations and classified under ECCN 5E991,³ to the Beijing University of Aeronautics and Astronautics (“BUAA”) without the Department of Commerce license required by Section 744.3 and Supplement No. 4 to part 744 of the Regulations. The technology was released in the United States to a BUAA professor

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The violations charged occurred during 2002-2004. The Regulations governing the violations at issue are found in the 2002-2004 versions of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2002-2004). The 2007 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)), as extended most recently by the Notice of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)).

³ “ECCN” refers to “Export Control Classification Number.” See 15 C.F.R. § 772.1.

who was working on behalf of BUAA at the time of the technology release pursuant to a contract between the professor and 3DSP under which compensation was paid to BUAA. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. As the professor was acting for BUAA at the time of the technology release, the release of technology to her was a release of technology to BUAA. In so doing, 3DSP committed one violation of Section 764.2(a) of the Regulations.

Charges 2-6 15 C.F.R. § 764.2(a) - Exporting Technology Without the Required License

As described in greater detail in the attached Schedule of Violations, which is incorporated herein by reference, between on or about February 23, 2002 and on or about July 7, 2004, 3DSP engaged in conduct prohibited by the Regulations by exporting or causing to be exported PHY technology, as implemented by 3DSP, for use in commercial 802.11 wireless LAN integrated circuits, as implemented by 3DSP, technology subject to the Regulations and classified under ECCN 5E991, to BUAA without the Department of Commerce license required by Section 744.3 and Supplement No. 4 to part 744 of the Regulations. The technology was released in the United States to five BUAA students who were working on behalf of BUAA at the time of the technology release pursuant to a contract between 3DSP and BUAA. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. As the students were acting for BUAA at the time of the technology release, the release of technology to them was a release of technology to BUAA. In so doing, 3DSP committed five violations of Section 764.2(a) of the Regulations.

* * * * *

Accordingly, 3DSP 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 the greater of \$250,000 per violation or twice the value of the transaction that is the basis of the violation;⁴
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If 3DSP 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. *See* 15 C.F.R. §§

⁴*See* International Emergency Economic Powers Enhancement Act, Pub. L. No. 110-96 (2007).

766.6 and 766.7. If 3DSP defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to 3DSP. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

3DSP is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. 3DSP is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should 3DSP have a proposal to settle this case, 3DSP should transmit it to the attorney representing BIS named below.

3DSP is further notified that under the Small Business Regulatory Enforcement Flexibility Act, 3DSP may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, 3DSP'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 3DSP's answer must be served on BIS at the following address:

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

3DSP Corporation
Proposed Charging Letter
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Thea D. R. Kendler is the attorney representing BIS in this case; any communications that 3DSP may wish to have concerning this matter should occur through her. Ms. Kendler may be contacted by telephone at (202) 482-5301.

Sincerely,

Thomas Madigan
Acting Director
Office of Export Enforcement