

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

\_\_\_\_\_  
In the Matter of: )  
 )  
YAMADA AMERICA, INC. )  
955 East Algonquin Road )  
Arlington Heights, IL 60005 )  
 )  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO YAMADA AMERICA INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Yamada America, Inc. (“YA”) of its intention to initiate an administrative proceeding against YA pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (the “Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),<sup>2</sup> through the issuance of a proposed charging letter to YA that alleged that YA committed 26 violations of the Regulations. Specifically, the charges are:

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2006). The alleged violations occurred between 2001 and 2005. The Regulations governing the violations at issue are found in the 2001 through 2005 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2005)). The 2006 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

**Charges 1-10            15 C.F.R. § 764.2(a) - Export of Diaphragm Pumps Without the Required U.S. Government Authorization**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on 10 occasions between on or about March 23, 2001 and on or about July 12, 2005, Yamada engaged in conduct prohibited by the Regulations by exporting diaphragm pumps, items subject to the Regulations and classified under Export Control Classification Number ("ECCN") 2B350, without the Department of Commerce licenses required by Section 742.2 of the Regulations.

**Charges 11-20            15 C.F.R. § 764.2(g) - False Statement on Shipper's Export Declarations**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on 10 occasions between on or about March 23, 2001 and on or about July 12, 2005, in connection with the transactions described in Charges 1-10 above, Yamada made false statements to the U.S. Government in connection with the submission of export control documents. Specifically, Yamada filed Shipper's Export Declarations (SEDs) with the U.S. Government stating that the items that were the subject of the SEDs qualified for export as "NLR," i.e., that no license was required. These representations were false, as licenses were required for diaphragm pumps being exported to Taiwan, Singapore, Brazil and Ecuador.

**Charges 21-26            15 C.F.R. § 764.2(e) - Acting With Knowledge of a Violation**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on six occasions between on or about October 25, 2004 and on or about July 12, 2005, in connection with the transactions described in Charges 1-6 above, Yamada sold and forwarded diaphragm pumps with knowledge that a violation of the Regulations would occur in connection with the items. At all times relevant hereto, Yamada knew that a export license was required to ship diaphragm pumps, items subject to the Regulations, from the United States to Taiwan and Singapore. Specifically, Office of Export Enforcement ("OEE") special agents conducted outreach visits to Yamada in September 2004 and June 2005 where they informed Yamada employees that several models of their pumps would require an export license and to seek a commodity classification from BIS.

WHEREAS, BIS and YA 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:

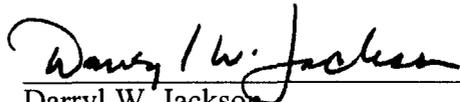
FIRST, that a civil penalty of \$220,000 is assessed against YA, which shall be paid to the U.S. Department of Commerce within 60 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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, YA 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 YA. Accordingly, if YA should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of YA's export privileges under the Regulations 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 4th day of May, 2007.

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

\_\_\_\_\_  
In the Matter of: )  
 )  
YAMADA AMERICA, INC. )  
955 East Algonquin Road )  
Arlington Heights, IL 60005 )  
 )  
Respondent )  
\_\_\_\_\_

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Yamada America, Inc. (“YA”), 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 (2006)) (the “Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”).<sup>2</sup>

---

<sup>1</sup> The violations alleged to have been committed occurred between 2001 and 2005. The Regulations governing the violations at issue are found in the 2001 through 2005 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2005)). The 2006 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

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

WHEREAS, BIS has issued a proposed charging letter to YA that alleged that YA committed 26 violations of the Regulations, specifically:

**Charges 1-10            15 C.F.R. § 764.2(a) - Export of Diaphragm Pumps Without the Required U.S. Government Authorization**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on 10 occasions between on or about March 23, 2001 and on or about July 12, 2005, Yamada engaged in conduct prohibited by the Regulations by exporting diaphragm pumps, items subject to the Regulations and classified under Export Control Classification Number ("ECCN") 2B350, without the Department of Commerce licenses required by Section 742.2 of the Regulations.

**Charges 11-20        15 C.F.R. § 764.2(g) - False Statement on Shipper's Export Declarations**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on 10 occasions between on or about March 23, 2001 and on or about July 12, 2005, in connection with the transactions described in Charges 1-10 above, Yamada made false statements to the U.S. Government in connection with the submission of export control documents. Specifically, Yamada filed Shipper's Export Declarations (SEDs) with the U.S. Government stating that the items that were the subject of the SEDs qualified for export as "NLR," i.e., that no license was required. These representations were false, as licenses were required for diaphragm pumps being exported to Taiwan, Singapore, Brazil and Ecuador.

**Charges 21-26        15 C.F.R. § 764.2(e) - Acting With Knowledge of a Violation**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on six occasions between on or about October 25, 2004 and on or about July 12, 2005, in connection with the transactions described in Charges 1-6 above, Yamada sold and forwarded diaphragm pumps with knowledge that a violation of the Regulations would occur in connection with the items. At all times relevant hereto, Yamada knew that a export license was required to ship diaphragm pumps, items subject to the Regulations, from the United States to Taiwan and Singapore. Specifically, Office of Export Enforcement ("OEE") special agents conducted outreach visits to Yamada in September 2004 and June 2005 where they informed Yamada employees that several models of their pumps would require an export license and to seek a commodity classification from BIS.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

a. YA shall be assessed a civil penalty in the amount of \$220,000.00, all of which shall be paid to the U.S. Department of Commerce within 60 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 \$220,000.00. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of YA'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, YA 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 \$220,000.00 civil penalty, BIS will not initiate any further administrative proceeding against YA 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.

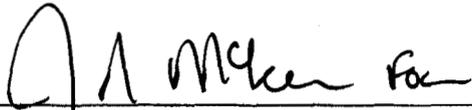
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial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



Michael D. Turner  
Director  
Office of Export Enforcement

Date:

4/17/07

YAMADA AMERICA, INC.



Steve Kamayama  
President

Date:

4-13-2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Yamada America, Inc.  
1200 Nuclear Drive  
West Chicago, IL 60185

Attention: *Mr. Steve Kameyama*  
*President*

Dear Mr. Kameyama:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Yamada America, Inc. ("Yamada"), of West Chicago, Illinois, has committed 26 violations of the Export Administration Regulations (the "Regulations"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").<sup>2</sup> Specifically, BIS charges that Yamada committed the following violations:

**Charges 1-10      15 C.F.R. § 764.2(a) - Export of Diaphragm Pumps Without the Required U.S. Government Authorization**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on 10 occasions between on or about March 23, 2001 and on or about July 12, 2005, Yamada engaged in conduct prohibited by the Regulations by exporting diaphragm pumps, items subject to the Regulations and classified under Export Control Classification Number ("ECCN") 2B350, without the Department of Commerce licenses required by Section 742.2 of the Regulations. In so doing, Yamada committed 10 violations of Section 764.2(a) of the Regulations.

---

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2006). The violations charged occurred from 2001 through 2005. The Regulations governing the violations at issue are found in the 2001 - 2005 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2005)). The 2006 Regulations govern the procedural aspects of this case.

<sup>2</sup> 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 3, 2006, (71 Fed. Reg. 44551 (August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA").

**Charges 11-20      15 C.F.R. § 764.2(g) - False Statement on Shipper's Export  
Declarations**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on 10 occasions between on or about March 23, 2001 and on or about July 12, 2005, in connection with the transactions described in Charges 1-10 above, Yamada made false statements to the U.S. Government in connection with the submission of export control documents. Specifically, Yamada filed Shipper's Export Declarations (SEDs) with the U.S. Government stating that the items that were the subject of the SEDs qualified for export as "NLR," i.e., that no license was required. These representations were false, as licenses were required for diaphragm pumps being exported to Taiwan, Singapore, Brazil and Ecuador. In so doing, Yamada committed 10 violations of Section 764.2(g) of the Regulations.

**Charges 21-26      15 C.F.R. § 764.2(e) - Acting With Knowledge of a Violation**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on six occasions between on or about October 25, 2004 and on or about July 12, 2005, in connection with the transactions described in Charges 1-6 above, Yamada sold and forwarded diaphragm pumps with knowledge that a violation of the Regulations would occur in connection with the items. At all times relevant hereto, Yamada knew that an export license was required to ship diaphragm pumps, items subject to the Regulations, from the United States to Taiwan and Singapore. Specifically, Office of Export Enforcement ("OEE") special agents conducted outreach visits to Yamada in September 2004 and June 2005 where they informed Yamada employees that several models of their pumps would require an export license and to seek a commodity classification from BIS. In so doing, Yamada committed six violations of Section 764.2(e) of the Regulations.

\* \* \* \* \*

Accordingly, Yamada 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;<sup>3</sup>

Denial of export privileges; and/or

---

<sup>3</sup> See 15 C.F.R. § 6.4(a)(2).

Exclusion from practice before BIS.

If Yamada 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 Yamada defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Yamada. 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.

Yamada is further notified that it is entitled to an agency hearing on the record if Yamada files a written demand for one with its answer. (Regulations, Section 766.6). Yamada is also entitled to be represented by counsel or other authorized representative 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 Yamada have a proposal to settle this case, Yamada 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, Yamada'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 Yamada's answer must be served on BIS at the following address:

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

Gregory Michelsen is the attorney representing BIS in this case; any communications that Yamada may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Yamada America, Inc.  
Proposed Charging Letter  
Page 4

Sincerely,

Michael Turner  
Director  
Office of Export Enforcement

Enclosure

**SCHEDULE OF VIOLATIONS**  
**YAMADA AMERICA, INC.**

Charge No.	Invoice Date	Invoice No.	ECCN	Country	Violations Charged 15 CFR
1, 11	3/23/2001	0066616-IN	2B350	Taiwan	§ 764.2(a)(g)
2, 12	3/29 /2001	0066 817-IN	2B350	Taiwan	§ 764.2(a)(g)
3, 13	4/20/2001	0067495-IN	2B350	Taiwan	§ 764.2(a)(g)
4, 14	8/23/2004	0106202-IN	2B350	Israel	§ 764.2(a)(g)
5, 15, 21	10/25/2004	0108489-IN	2B350	Taiwan	§ 764.2(a)(c)(g)
6, 16, 22	10/27/2004	0108620-IN	2B350	Taiwan	§ 764.2(a)(c)(g)
7, 17, 23	5/6/2005	0115583-IN	2B350	Singapore	§ 764.2(a)(c)(g)
8, 18, 24	5/31/2005	0116456-IN	2B350	Singapore	§ 764.2(a)(c)(g)
9, 19, 25	7/6/2005	0118041-IN	2B350	Brazil	§ 764.2(a)(c)(g)
10, 20, 26	7/12/2005	0118252-IN	2B350	Ecuador	§ 764.2(a)(c)(g)

Attachment A