

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

In the Matter of:)
)
Bill Chen, AKA Yueqiang Chen,)
Manager)
Data Physics China)
RM. 1509, Building 2, Xinquan Jiayan)
No. 5 Changchunqia Road)
Haidian District, Beijing, P.R. China, 100089)
)
And)
)
615 Blossom Hill Road, #17)
Los Gatos, California 95032)
)

Respondent.)

ORDER TEMPORARILY DENYING EXPORT PRIVILEGES

Pursuant to Section 766.24 of the Export Administration Regulations (“EAR”),¹ I hereby grant the Bureau of Industry and Security’s request for an Order Temporarily Denying the Export Privileges of Respondent, Bill Chen aka Yueqiang Chen, for 180 days as I find that the TDO is necessary in the public interest to prevent an imminent violation of the EAR.

I. Legal Standard

Pursuant to section 766.24(b) of the EAR, the Assistant Secretary may issue a TDO “upon a showing by BIS that the order is necessary in the public interest to prevent an imminent violation of

¹ 15 C.F.R. Parts 730-774 (2007). The EAR are issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“EAA”). Since August 21, 2001, the EAA 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. 44,551, (August 7, 2006)), has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

the ... EAR." "A violation may be 'imminent' either in time or in degree of likelihood." 15 C.F.R. 766.24(b)(3). This includes a violation that "is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations." *Id.* Significant, deliberate, and covert violations are more probative of imminence and the likelihood of future violations than lesser technical ones. *Id.* A "lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation." *Id.*

II. Findings

Respondent has been under a temporary denial order since May 12, 2006 for his role in selling and shipping items subject to the EAR to end-users in China who are engaged in the design, development, production and use of cruise missile systems without the required export licenses. On May 24, 2006, the Respondent was indicted by a federal grand in the Northern District of California for violating the EAR in connection with five unlicensed exports, occurring as early as January 22, 2003 and as recently as July 3, 2005, to end-users in China knowing that such items would be used in the design, development, production, and use of missiles. On April 6, 2007, Mr. Chen submitted a declaration that he would assert his Fifth Amendment privilege against self incrimination in connection with any questions that would be raised during his deposition in a related administrative proceeding. Then, on April 30, 2007, a U.S. Magistrate Judge granted Respondent's request to travel to China to visit ailing family members while the indictment is pending against him. Based upon this authorization, Mr. Chen has departed for China and is scheduled return in late May 2007. While Mr. Chen has been placed on administrative leave, he remains an employee of Data Physics. Additionally, BIS has submitted evidence to me that shows that Respondent has played a role in

selling items subject to the EAR to entities in China on BIS's Entity List without the required export licenses.¹

I find that the evidence presented by BIS demonstrates that the Respondent has violated the EAR, that such violations have been significant, deliberate and covert, and that there is a likelihood of future violations. Accordingly, I find that issuing a TDO against Bill Chen for 180 days is necessary in the public interest to prevent an imminent violation of the EAR.

III. ORDER

IT IS THEREFORE ORDERED:

FIRST, that the Respondent, BILL CHEN, AKA Yueqiang Chen, of Data Physics China, RM. 1509, Building 2, Xinquan Jiayan, No. 5 Changchunqia Road, Haidian District, Beijing, P.R. China, 100089 and of 615 Blossom Hill Road, #17, Los Gatos, California 95032 (the "Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Export Administration Regulations ("EAR"), or in any other activity subject to the EAR, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or
- C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

¹ 15 C.F.R. 744 Supplement No. 4.

SECOND, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the Denied Person any item subject to the EAR;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the EAR that has been exported from the United States;
- D. Obtain from the Denied Person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

THIRD, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to any of the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

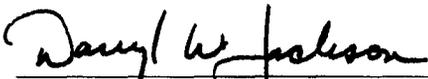
FOURTH, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Section 766.24(e) of the EAR, the Respondent may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. The Respondent may oppose a request to renew this Order by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on the Respondent and shall be published in the Federal Register.

This Order is effective immediately and shall remain in effect for 180 days.


DARRYL W. JACKSON
Assistant Secretary of Commerce
for Export Enforcement

Entered this 16th day of May, 2007.