

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

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In the Matter of: )  
 )  
Lam Research Corporation )  
4650 Cushing Parkway )  
Fremont, CA 94538 ) Docket No.: 07-BIS-0024  
 )  
Respondent \_\_\_\_\_ )

ORDER RELATING TO LAM RESEARCH CORPORATION.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Lam Research Corporation (“LAM”), of its intention to initiate an administrative proceeding against LAM pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (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 LAM that alleged that LAM committed 5 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 (2007). The violations alleged occurred between 2003 and 2004. The Regulations governing the allegations at issue are found in the 2003-2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2004)). The 2007 Regulations govern the procedural aspects of the case.

<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 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)) (“IEEPA”).

**Charge 1 (15 C.F.R. § 764.2(a) - Exporting Technology to Russia without the Required License)**

As described in greater detail in the attached Schedule A, which is incorporated herein by reference, between on or about May 19, 2003, and on or about January 8, 2004, Lam engaged in conduct prohibited by the Regulations by exporting or causing to be exported technology for the development and/or production of anisotropic plasma dry etching equipment, technology subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 3E001<sup>3</sup>, to an employee who was a national of Russia, without the Department of Commerce license required by Section 742.4 of the Regulations. The technology was released in the United States. Pursuant to Section 734.2(b)(ii) of the Regulations, the release of technology in the United States to a national of Russia is deemed to be the export of the technology to Russia. In so doing, Lam committed one violation of Section 764.2(a) of the Regulations.

**Charge 2 (15 C.F.R. § 764.2(a) - Exporting Technology to China without the Required License)**

As described in greater detail in the attached Schedule A, which is incorporated herein by reference, between or about July 15, 2003, and on or about January 8, 2004, Lam engaged in conduct prohibited by the Regulations by exporting or causing to be exported technology for the development and/or production of anisotropic plasma dry etching equipment, technology subject to the Regulations and classified under ECCN 3E001, to an employee who was a national of the People’s Republic of China (“China”) without the Department of Commerce license required by Section 742.4 of the Regulations. The technology was released in the United States. Pursuant to Section 734.2(b)(ii) of the Regulations, the release of technology in the United States to a national of China is deemed to be the export of the technology to China. In so doing, Lam committed one violation of Section 764.2(a) of the Regulations.

**Charges 3-5 (15 C.F.R. § 764.2(a) - Exporting Manometers to Various Destinations without the Required License)**

As described in greater detail in the attached Schedule B, which is incorporated herein by reference, on three occasions between on or about January 2, 2003, and on or about August 4, 2004, Lam engaged in conduct prohibited by the Regulations by exporting manometers, items classified under ECCN 2B230, to Israel, China and Singapore without the Department of Commerce license required by Section 742.3 of the Regulations. In so doing, Lam committed three violations of Section 764.2(a) of the Regulations.

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<sup>3</sup> The term “ECCN” refers to an Export Control Classification Number. *See* 15 C.F.R. § 772.1 (2007).

WHEREAS, BIS and LAM 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:

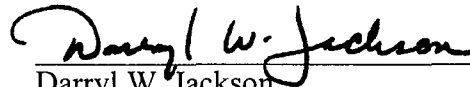
FIRST, LAM shall be assessed a civil penalty in the amount of \$27,500, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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



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Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 21<sup>ST</sup> day of November, 2007.

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

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4650 Cushing Parkway )  
Fremont, CA 94538 ) Docket No.: 07-BIS-0024  
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Respondent )  
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SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Lam Research Corporation (“LAM”), 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”),<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 2003 and 2004. The Regulations governing the violations at issue are found in the 2003 and 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2004)). The 2007 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. p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701-1706 (2000)).

WHEREAS, LAM filed two voluntary self-disclosures with BIS's Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning certain transactions at issue herein;

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

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

**Charge 1 (15 C.F.R. § 764.2(a) - Exporting Technology to Russia without the Required License)**

Between on or about May 19, 2003 and on or about January 8, 2004, LAM engaged in conduct prohibited by the Regulations by exporting or causing to be exported technology for the development and/or production of anisotropic plasma dry etching equipment, technology subject to the Regulations and classified under Export Control Classification Number ("ECCN") 3E001<sup>3</sup>, to an employee who was a national of Russia, without the Department of Commerce license required by Section 742.4 of the Regulations. The technology was released in the United States. Pursuant to Section 734.2(b)(ii) of the Regulations, the release of technology in the United States to a national of Russia is deemed to be the export of the technology to Russia. In so doing, LAM committed one violation of Section 764.2(a) of the Regulations.

**Charge 2 (15 C.F.R. § 764.2(a) - Exporting Technology to China without the Required License)**

Between or about July 15, 2003 and on or about January 8, 2004, LAM engaged in conduct prohibited by the Regulations by exporting or causing to be exported technology for the development and/or production of anisotropic plasma dry etching equipment, technology subject to the Regulations and classified under ECCN 3E001, to an employee who was a national of the People's Republic of China ("China") without the Department of Commerce license required by Section 742.4 of the Regulations. The technology was released in the United States. Pursuant to Section 734.2(b)(ii) of the Regulations, the release of technology in the United States to a national of China is deemed to be the export of the technology to China. In so doing, LAM committed one violation of Section 764.2(a) of the Regulations.

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<sup>3</sup> The term "ECCN" refers to an Export Control Classification Number. See 15 C.F.R. § 772.1 (2007).

**Charges 3-5 (15 C.F.R. § 764.2(a) - Exporting Manometers to Various Destinations without the Required License)**

On three occasions between on or about January 2, 2003 and on or about August 4, 2004, LAM engaged in conduct prohibited by the Regulations by exporting manometers, items classified under ECCN 2B230, to Israel, China and Singapore without the Department of Commerce license required by Section 742.3 of the Regulations. In so doing, LAM committed three violations of Section 764.2(a) of the Regulations.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

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

a. LAM shall be assessed a civil penalty in the amount of \$27,500 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.

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 LAM. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of LAM'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, LAM 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 \$27,500 civil penalty, BIS will not initiate any further administrative proceeding against LAM 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.

|                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>BUREAU OF INDUSTRY AND SECURITY<br/>U.S. DEPARTMENT OF COMMERCE</p> <p><br/>Thomas Madigan<br/>Acting Director<br/>Office of Export Enforcement</p> <p>Date: <u>November 20, 2007</u></p> | <p>LAM RESEARCH CORPORATION</p> <p><br/>George Schisler<br/>General Counsel</p> <p>Date: <u>NOVEMBER 19, 2007</u></p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Lam Research Corporation  
4650 Cushing Parkway  
Fremont, CA 94538

Attention: *George Schisler*  
*General Counsel*

Dear Mr. Schisler:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Lam Research Corporation (“Lam”), of Fremont, California, has committed 5 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 Lam committed the following violations:

**Charge 1 (15 C.F.R. § 764.2(a) - Exporting Technology to Russia without the Required License)**

Between on or about May 19, 2003 and on or about January 8, 2004, Lam engaged in conduct prohibited by the Regulations by exporting or causing to be exported technology for the development and/or production of anisotropic plasma dry etching equipment, technology subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 3E001<sup>3</sup>, to an employee who was a national of Russia, without the

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The violations charged occurred from 2003 through 2004. The Regulations governing the violations at issue are found in the 2003-2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2004)). The 2007 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., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under IEEPA.

<sup>3</sup> The term “ECCN” refers to an Export Control Classification Number. *See* 15 C.F.R. § 772.1 (2007).

Department of Commerce license required by Section 742.4 of the Regulations. The technology was released in the United States. Pursuant to Section 734.2(b)(ii) of the Regulations, the release of technology in the United States to a national of Russia is deemed to be the export of the technology to Russia. In so doing, Lam committed one violation of Section 764.2(a) of the Regulations.

**Charge 2 (15 C.F.R. § 764.2(a) - Exporting Technology to China without the Required License)**

Between or about July 15, 2003 and on or about January 8, 2004, Lam engaged in conduct prohibited by the Regulations by exporting or causing to be exported technology for the development and/or production of anisotropic plasma dry etching equipment, technology subject to the Regulations and classified under ECCN 3E001, to an employee who was a national of the People's Republic of China ("China") without the Department of Commerce license required by Section 742.4 of the Regulations. The technology was released in the United States. Pursuant to Section 734.2(b)(ii) of the Regulations, the release of technology in the United States to a national of China is deemed to be the export of the technology to China. In so doing, Lam committed one violation of Section 764.2(a) of the Regulations.

**Charges 3-5 (15 C.F.R. § 764.2(a) - Exporting Manometers to Various Destinations without the Required License)**

On three occasions between on or about January 2, 2003 and on or about August 4, 2004, Lam engaged in conduct prohibited by the Regulations by exporting manometers, items classified under ECCN 2B230, to Israel, China and Singapore without the Department of Commerce license required by Section 742.3 of the Regulations. In so doing, Lam committed three violations of Section 764.2(a) of the Regulations.

\* \* \*

Accordingly, Lam 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 \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;<sup>4</sup>

Denial of export privileges; and/or

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<sup>4</sup> See International Emergency Economic Powers Enhancement Act, Pub. L. No. 110-96 (2007).

Exclusion from practice before BIS.

If Lam 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. 15 C.F.R. §§ 766.6 and 766.7 (2007). If Lam defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Lam. 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.

Lam is further notified that it is entitled to an agency hearing on the record if Lam files a written demand for one with its answer. (Regulations, Section 766.6). Lam 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).

Lam is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Lam 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 Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Lam have a proposal to settle this case, Lam or its representative should transmit it through 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, Lam'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 Lam's answer must be served on BIS at the following address:

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

Elias Wolfberg is the attorney representing BIS in this case; any communications that Lam may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-3849.

Lam Research Corporation  
Charging Letter  
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Sincerely,

Thomas Madigan  
Acting Director  
Office of Export Enforcement