

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

In the Matter of:

Xu Weibo, a/k/a "Kevin Xu"
21 Wood View Drive
Mt. Laurel, NJ 08504

Respondent:

and

Hao Li Chen, a/k/a "Ali Chan"

currently incarcerated at:

40922-050
FCI Fairton
Federal Correctional Institution
P.O. Box 420
Fairton, NJ 08320

and with an address at:

11 Long Bridge Avenue
Mount Laurel, NJ 08504

and

Xiu Ling Chen, a/k/a "Linda Chen"
21 Wood View Drive
Mount Laurel, NJ 08504

and

Kwan Chun Chan, a/k/a "Jenny Chan"
11 Long Bridge Avenue
Mount Laurel, NJ 08504

Related Persons

ORDER DENYING EXPORT PRIVILEGES

A. Denial of Export Privileges of Xu Weibo, a/k/a Kevin Xu

On May 4, 2006, in the District Court for the District of New Jersey, Xu Weibo, a/k/a “Kevin Xu” (“Xu”) pled guilty to knowingly and willfully ordering, buying, removing, concealing, storing, using, selling, loaning, disposing of, transferring, transporting, financing, forwarding and otherwise servicing, in whole or in part, items exported and to be exported from the U.S., specifically, certain Gallium Arsenide Monolithic Microwave Integrated Circuits to the People’s Republic of China, with knowledge that a violation of the Act, the Regulations and any order, license and authorization issued thereunder, had occurred, was about to occur or was intended to occur in connection with the items, in violation of the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). The involved Commerce controlled items were classified under Export Control Classification Number 3A001 on the Commerce Control List and controlled for National Security (NS) and Anti-Terrorism (AT) reasons. Xu also pled guilty to knowingly and willfully exporting to the People’s Republic of China defense articles, designated as “military electronics” on the United States Munitions list, namely, U.S. military-grade Monolithic Microwave Integrated Circuits, without first obtaining the required license for such export, in violation of Section 38 of the Arms Export Control Act (22 U.S.C. § 2778 (2000)) (“AECA”). In addition, Xu also pled guilty to conspiring to violate the export control laws, in violation of 18 U.S.C. 371. Xu was sentenced to 44 months of imprisonment for each of the three counts, to run concurrently, followed by two years of supervised release for each of three counts, to run concurrently.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C. app. §§ 2401-2420 (2000)) (the "Act")¹ and Section 766.25 of the Export Administration Regulations ("Regulations")² provide, in pertinent part, that "[t]he Director of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny export privileges of any person who has been convicted of a violation of . . . IEEPA and AECA," for a period not to exceed 10 years from the date of conviction. 15 C.F.R. §§ 766.25(a) and (d). In addition, Section 750.8 of the Regulations states that BIS's Office of Exporter Services may revoke any BIS licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Xu's conviction for violating the IEEPA and AECA , and have provided notice and an opportunity for Xu to make a written submission to the Bureau of Industry and Security as provided in Section 766.25 of the Regulations. Having received no submission from Xu, I, following consultations with the Office of Export Enforcement, including its Director, have decided to deny Xu's export privileges under the Regulations for a period of 10 years from the date of Xu's conviction. I have also decided to revoke all licenses issued pursuant to the Act of Regulations in which the Related Persons had an interest at the time of Xu's conviction.

¹ 50 U.S.C. app. §§ 2401-2420. 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 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)) ("IEEPA").

² The Regulations are currently codified at 15 C.F.R. Parts 730-774 (2007).

B. Denial of Export Privileges of Related Persons

Pursuant to Sections 766.25(h) and 766.23 of the Regulations, the Director of BIS's Office of Exporter Services, in consultation with the Director of BIS's Office of Export Enforcement, may take action to name persons related to a Respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business in order to prevent evasion of a denial order. I gave notice to Hao Li Chen (a/k/a "Ali Chan"), Kwan Chun Chan, (a/k/a "Jenny Chan") and Xiu Ling Chen (a/k/a ("Linda Chen"), notifying them that their export privileges under the Regulations could be denied for up to 10 years as BIS believes that they are related to Xu and that naming them as persons related to Xu would be necessary to prevent evasion of a denial order imposed against Xu. These individuals all pled guilty to conspiring to violate the export control laws in connection with the export of Commerce and State controlled electronic components to the Peoples Republic of China without the required license, in violation of 18 U.S.C. 371. Based on this conspiracy, Hao Li Chen was sentenced to 30 months imprisonment, followed by two years of supervised release. Kwan Chun Chan was sentenced to two years of probation. Xiu Ling Chen was sentenced to 18 months of imprisonment, followed by two years of supervised release. Hao Li Chen, Kwan Chun Chan and Xiu Ling Chen are related to Xu by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business because they all hold positions of responsibility in the same corporation as Xu, which is the corporation through which Xu's criminal violations took place.

Having received no submission from the Related Persons, I have decided, following consultations with the Office of Export Enforcement, including its Director, to name them as

related persons to the Xu Denial Order, thereby denying their export privileges for 10 years from the date of Xu's conviction.

I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which the Related Persons had an interest at the time of Xu's conviction. The 10-year denial period ends on May 4, 2016.

Accordingly, it is hereby

ORDERED

I. Until May 4, 2016, Xu Weibo, a/k/a "Kevin Xu", 21 Wood View Drive, Mt. Laurel, NJ 08504, and when acting for or on his behalf, his employees, agents or representatives, ("the Denied Person") and the following persons related to the Denied Person as defined by Section 766.23 of the Regulations: Hao Li Chen, a/k/a "Ali Chan", currently incarcerated at: 40922-050, FCI Fairton, Federal Correctional Institution, P.O. Box 420, Fairton, NJ 08320, and with an address at 11 Long Bridge Avenue, Mount Laurel, NJ 08504; Xiu Ling Chen, a/k/a "Linda Chen", 21 Wood View Drive, Mount Laurel, NJ 08504; and Kwan Chun Chan, a/k/a "Jenny Chan", 11 Long Bridge Avenue, Mount Laurel, NJ 08504, and when acting for or on their behalf, their employees, agents or representatives, ("the Related Persons") (together, the Denied Person and the Related Persons are "Persons Subject To This Order") 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 Regulations, or in any other activity subject to the Regulations, 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 Regulations, or in any other activity subject to the Regulations; or
 - C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.
- II. No person may, directly or indirectly, do any of the following:
- A. Export or reexport to or on behalf of the Persons Subject To This Order any item subject to the Regulations;
 - B. Take any action that facilitates the acquisition or attempted acquisition by the Persons Subject To This Order of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Persons Subject To This Order 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 Persons Subject To This Order of any item subject to the Regulations that has been exported from the United States;

- D. Obtain from the Persons Subject To This Order in the United States any item subject to the Regulations 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 Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Persons Subject To This Order, or service any item, of whatever origin, that is owned, possessed or controlled by the Persons Subject To This Order if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. In addition to the Related Person named above, after notice and opportunity for comment as provided in section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Xu 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 if necessary to prevent evasion of the Order.

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

V. This Order is effective immediately and shall remain in effect until May 4, 2016.

VI. In accordance with Part 756 of the Regulations, Xu may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be

filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. In accordance with Part 756 of the Regulations, the Related Persons may also file an appeal of this Order with the Under Secretary of Commerce for Industry and Security.

VIII. A copy of this Order shall be delivered to Xu and the Related Persons. This Order shall be published in the Federal Register.

Date: 11/27/2007



Eileen M. Albanese
Director
Office of Exporter Services