

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

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In the Matter of: )  
)  
Rigel Optics, Inc. )  
477 South 28<sup>th</sup> Street, Suite #3 )  
Washougal, WA 98607 )  
)  
Respondent )  
)  
Donald Wayne Hatch )  
2602 NW 35<sup>th</sup> Circle )  
Camas, WA 98607 )  
)  
\_\_\_\_\_  
Related Person )

ORDER DENYING EXPORT PRIVILEGES

A. Denial of Export Privileges of Rigel Optics, Inc.

On May 12, 2009, in the U.S. District Court for the Southern District of Iowa, Rigel Optics, Inc. (“Rigel Optics”) pled guilty to, and was convicted of, violating Section 38 of the Arms Export Control Act (22 U.S.C. § 2778 (2000)) (“AECA”). Specifically, Rigel Optics pled guilty to knowingly and willfully exporting and causing to be exported from the United States to Italy Rigel 3502 Gen 2+ Night Vision Goggles, which were designated as a defense article on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Rigel Optics was ordered to pay a \$90,000 criminal fine and a \$400.00 special assessment. Rigel Optics is also listed on the Department of State’s Debarred List.

Section 766.25 of the Export Administration Regulations (“EAR” or “Regulations”)<sup>1</sup> provides, in pertinent part, that “[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the [Export Administration Act (“EAA”)], the EAR, of any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).” 15 C.F.R. § 766.25(a); see also Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 C.F.R. § 766.25(d); see also 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security’s Office of Exporter Services may revoke any Bureau of Industry and Security (“BIS”) licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Rigel Optics’s conviction for violating the AECA, and have provided notice and an opportunity for Rigel Optics to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Rigel Optics. Based upon my review and consultations with BIS’s Office of Export Enforcement,

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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 (2010). The Regulations issued pursuant to the EAA (50 U.S.C. app. §§ 2401-2420 (2000)). 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)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2010 (75 Fed. Reg. 50681, August 16, 2010), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701 et seq. (2000)).

including its Director, and the facts available to BIS, I have decided to deny Rigel Optics's export privileges under the Regulations for a period of 10 years from the date of Rigel Optics's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Rigel Optics had an interest at the time of its conviction.

#### B. Denial of Export Privileges of Related Person

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. Donald Wayne Hatch ("Hatch") is the President and co-owner of Rigel Optics and primarily controlled the activities of the business from his residence in the State of Washington. Hatch pleaded guilty to, and was convicted of, making false statements on a Shipper's Export Declaration (18 U.S.C. § 1001 (2000)). He was ordered to serve a term of two years probation and pay a criminal fine of \$5,000.00 with a special assessment of \$100.00. Hatch is related to Rigel Optics by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business. BIS believes that naming Hatch as a related person to Rigel Optics is necessary to avoid evasion of the denial order against Rigel Optics.

As provided in Section 766.23 of the Regulations, I gave notice to Hatch that his export privileges under the Regulations could be denied for up to 10 years due to his relationship with Rigel Optics and that BIS believes naming him as a person related to Rigel Optics would be necessary to prevent evasion of a denial order imposed against Rigel Optics. In providing such notice, I gave Hatch an opportunity to oppose his addition to the Rigel Optics Denial Order as a

related party. Having received no submission, I have decided, following consultations with BIS's Office of Export Enforcement, including its Director, to name Hatch as a Related Person to the Rigel Optics Denial Order, thereby denying his export privileges for 10 years from the date of Rigel Optics's conviction.

I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which the Related Person had an interest at the time of Rigel Optics's conviction. The 10-year denial period will end on May 12, 2019.

Accordingly, it is hereby

ORDERED

I. Until May 12, 2019, Rigel Optics, Inc., with a last known address at: 477 South 28<sup>th</sup> Street, Suite #3, Washougal, WA 98607, and when acting for or on behalf of Rigel Optics, its successors or assigns, agents, or employees, ("the Denied Person") and the following person related to the Denied Person as defined by Section 766.23 of the Regulations: Donald Wayne Hatch, with a last known address at: 2602 NW 35<sup>th</sup> Circle, Camas, WA 98607, and when acting for or on his behalf, employees, agents or representatives, ("the Related Person") (together, the Denied Person and the Related Person 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 acquire or attempt 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 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 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 12, 2019.

- VI. In accordance with Part 756 of the Regulations, Rigel Optics 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 Person may also 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.
- VIII. A copy of this Order shall be delivered to the Denied Person and the Related Person. This Order shall be published in the Federal Register.

Issued this 7<sup>th</sup> day of September, 2010.



Bernard Kritzer  
Director  
Office of Exporter Services