

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

Quicksilver Manufacturing, Inc.

8209 Market St #A173
Wilmington, NC 28411

Rapid Cut LLC

8209 Market St #A173
Wilmington, NC 28411

US Prototype, Inc.

8209 Market St #A173
Wilmington, NC 28411

ORDER TEMPORARILY DENYING EXPORT PRIVILEGES

Pursuant to Section 766.24 of the Export Administration Regulations (the “Regulations” or “EAR”),¹ the Bureau of Industry and Security (“BIS”), U.S. Department of Commerce, through its Office of Export Enforcement (“OEE”), has requested the issuance of an Order temporarily denying, for a period of 180 days, the export privileges under the Regulations of:

¹ On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. §§ 4801-4852 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. App. § 2401 et seq. (“EAA”), (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. § 1701 et seq. (“IEEPA”), and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, Section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. § 4820(a)(5).

Quicksilver Manufacturing, Inc. (“Quicksilver”), Rapid Cut LLC (“Rapid Cut”), and US Prototype, Inc. (US Prototype).

OEE’s request and related information indicates that these three parties use the same rental mailbox located in Wilmington, NC, which was opened by Quicksilver’s Vice President of Operations who was involved in some of the conduct described *infra*. Additionally, the investigation reveals that another Quicksilver officer is listed as the president and registered agent for US Prototype and the designated representative for Rapid Cut’s corporate banking account.

I. LEGAL STANDARD

Pursuant to Section 766.24, BIS may issue an order temporarily denying a respondent’s export privileges upon a showing that the order is necessary in the public interest to prevent an “imminent violation” of the Regulations. 15 C.F.R. §§ 766.24(b)(1) and 766.24(d). “A violation may be ‘imminent’ either in time or degree of likelihood.” 15 C.F.R. § 766.24(b)(3). BIS may show “either that a violation 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.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge “is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]” *Id.* A “[I]ack 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.*

Pursuant to Sections 766.23 and 766.24, a temporary denial order (“TDO”) may also be made applicable to other persons if BIS has reason to believe that they are related to a respondent

and that applying the order to them is necessary to prevent its evasion. 15 C.F.R. §§ 766.23(a)-(b) and 766.24(c). A “related person” is a person, either at the time the TDO’s issuance or thereafter, who is related to a respondent “by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business.” 15 C.F.R. §§ 766.23(a). Related persons may be added to a TDO on an *ex-parte* basis in accordance with Section 766.23(b) of the Regulations. 15 C.F.R. § 766.23(b).

II. OEE’S REQUEST FOR A TEMPORARY DENIAL ORDER

As further detailed below, OEE’s request is based upon facts indicating that Respondents engaged in conduct prohibited by the Regulations by exporting or causing the export from the United States of controlled technology to China for 3D printing without the required U.S. government authorization. “Export” is defined in the EAR as an “actual shipment or transmission out of the United States, including the sending or taking of an item out of the United States, in any manner.” 15 C.F.R. § 734.13(a)(1).²

A. Unlicensed Export of National Security Controlled Technology to China

In or about February 2020, OEE was alerted by a U.S. aerospace and global defense technology company, on behalf of its wholly-owned subsidiary, (collectively “US Company 1”), of an export-control violation committed by a third-party supplier involving the unauthorized export of controlled satellite technology to the People’s Republic of China (“China”). OEE’s investigation revealed that in or about July 2017, satellite parts were ordered from Quicksilver in Wilmington, North Carolina. Quicksilver markets itself as a company that specializes in

² “Item” means “commodities, software, and technology. 15 C.F.R. § 772.1. Further, “technology” may be in any tangible or intangible form, such as written or oral communications, blueprints, drawings, photographs, plans, diagrams, models, formulae, tables, engineering designs and specifications, computer-aided design files, manuals or documentation, electronic media or information revealed through visual inspection. *Id.*

fabrication and metalworking, including 3D-printing, injection molding, and laser-cut sheet metal prototypes, among other manufacturing services.

As part of the transaction, Quicksilver was provided approximately a dozen technical drawings and 3D graphic/computer aided drawing files, items subject to the Regulations, intended to be used by Quicksilver to manufacture the components to the identified specifications. The components would then be provided to U.S. Company 1 for use in a prototype space-satellite.

On or about July 6, 2017, a Quicksilver employee using an @quicksilver-mfg.com email address signed a Mutual Non-Disclosure Agreement (“NDA”). The NDA contains, in part, the following language related to United State export laws and regulations:

EXPORT CONTROL. The Parties acknowledge that the Proprietary Information and any related materials or information provided under this Agreement may be subject to United States export laws and regulations, including but not limited to the International Traffic in Arms Regulations and the Export Administration Regulations. The Parties agree that all activities under this Agreement will be conducted in strict compliance with the United States export laws and regulations. The Receiving Party shall not distribute, transfer, or transmit any Proprietary Information and related materials or information (even if incorporated into other products) except in compliance with the United States export laws and regulations. The Receiving Party shall first obtain the written consent of the Disclosing Party prior to submitting any request to any governmental entity for authority to export any Proprietary Information and related materials or information or conducting any export or reexport of information or services pursuant to the United States export laws and regulations.

On or about July 11, 2017, Quicksilver’s Vice President of Operations using an @quicksilver-mfg.com email address was asked to “please quote price and delivery” for several specified drawings. Technical drawings, item subject to the Regulations, classified under Export Control Classification Number 9E515, and controlled for National Security reasons were

attached to the e-mail.³ These items were subject to a presumption of denial licensing policy for China.⁴ Approximately three days later, Quicksilver was provided purchase orders containing the following language regarding export requirements:

The Seller shall comply with all applicable U.S. export control laws in receiving, utilizing and/or disposing of any articles, technical data and/or services provided by the Buyer in connection with this order, and in transferring or otherwise disposing of any articles, technical data and/or services developed or produced therefrom by the Seller. As provided in the Terms and Conditions for this order, no technical data or other items provided by the Buyer or developed or produced by the Seller may be exported, transferred, or disclosed outside the United States or to any foreign person, unless the Buyer provides written consent and the Seller obtains all required export licenses and/or other approvals from the United States Government.

Quicksilver fulfilled the order, which was received by U.S. Company 1 in or around August 2017. The shipping label and the pro forma invoice provided within the shipment identified Quicksilver as having an address in China and indicated that the products had been shipped from China. No export license had been sought or obtained for this transaction.

More recently, in or about July 2021, OEE discovered a violation by Rapid Cut which, as discussed above, is related to Quicksilver by location, ownership and operating personnel, also involving controlled technology exported to China without the required BIS export license. In particular, in or about May 2021, U.S. Company 2 hired Rapid Cut to manufacture specially designed parts intended for a rocket platform's ground support and test equipment. According to

³ ECCN 9E515 covers “[t]echnology required for the “development”, “production”, operation, installation, repair, overhaul, or refurbishing of spacecraft and related commodities.”

⁴ 15 C.F.R § 742.4.

U.S. Company 2, the technology provided to Rapid Cut is classified under ECCN 9E604.a,⁵ controlled for National Security and Missile Technology reason, and has a presumption of denial licensing policy for China. The technology was subsequently transferred on or about May 7, 2021, to China without requires export licenses. Moreover, the on-going investigation revealed that U.S. Company 2 provided Rapid Cut a copy of its standard terms and conditions, which included the need for compliance with all applicable international trade control laws, and that each page of drawings was marked with an Export Control Statement, which stated:

“THIS DOCUMENT CONTAINS U.S. EXPORT CONTROLLED INFORMATION (ITAR OR EAR). THE EXPORT, RE-EXPORT, TRANSFER OR RE-TRANSFER OF THIS DOCUMENT TO ANY OTHER COMPANY, ENTITY, PERONS OR DESTINATION, OR FOR ANY USE OR PURPOSE OTHER THAN FOR WHICH THE DOCUMENT WAS PROVIDED BY [U.S. Company 2] IS PROHIBITED WITHOUT APPROVAL FROM [U.S. Company 2] AND AUTHORIZATION UNDER APPLICABLE EXPORT CONTROL LAWS. THIS DOCUMENT IS CONFIDENTIAL AND PROPRIETARY TO [U.S. Company 2].”

B. Unlawful Export to China of Controlled Technical Data Subject to the International Traffic in Arms Regulations

OEE’s on-going investigation produced evidence that Respondents clear disregard for export controls extends beyond just items subject to the EAR but also encompasses the unlicensed export of defense articles, designated in the ITAR and listed on the U.S. Munitions List, to China.⁶ OEE’s investigation identified communications between Quicksilver and another one of its U.S. customers, an advanced science and engineering company with multiple U.S. government contracts including with various components of the Department of Defense

⁵ “Technology” “required” for the “development,” “production,” operation, installation, maintenance, repair, overhaul, or refurbishing of commodities controlled by ECCN 9A604 [commodities related to launch vehicles, missiles, and rockets] or 9B604, or “software” controlled by ECCN 9D604.

⁶ 22 C.F.R. §120.6.

(“U.S. Company 3), which followed the same general factual pattern described above. For example, Quicksilver signed a confidentiality agreement dated February 12, 2019, with U.S. Company 3 agreeing that, among other things, it would not export or reexport any confidential information “to any country prohibited from obtaining such Confidential Information, either directly or indirectly...which may be in violation of United States and/or foreign export control laws.”

In addition, on or about March 17, 2020, in connection with a different project, U.S. Company 3 sent Quicksilver technical drawings and computer aided design files for 3D manufacture. Some of the drawing and files contained the following export control markings:

EXPORT CONTROLLED – ITAR RESTRICTED: THIS DOCUMENT CONTAINS TECHNICAL DATA WHOSE EXPORT IS RESTRICTED BY THE ARMS EXPORT CONTROL ACT (TITLE 22, U.S.C., SEC 2751, ET SEQ.) OR THE EXPORT ADMINISTRATION ACT OF 1979, AS AMENDED, TITLE 50 U.S.C., APP. 240 ET SEQ. VIOLATIONS OF THESE EXPORT LAWS ARE SUBJECT TO SEVERE CRIMINAL PENALTIES. DISSEMINATE IN ACCORDANCE WITH PROVISIONS OF DOD DIRECTIVE 5230.25.

A subsequent purchase order sent from U.S. Company 3 to Quicksilver for its signature further stated in part:

I reviewed the General Terms and Conditions on [U.S. Company 3’s] website and noted a section pertaining to compliance with all applicable U.S. export control laws and regulations, specifically including but not limited to the Arms Export Control Act, ITAR, and the EAR.

On or about April 16, 2020, U.S. Company 3 received an invoice for the controlled items from Quicksilver which identified the shipper/exporter as Quicksilver MFG in Zhongshan, China.

The investigation determined that technical drawings sent to China were defense articles controlled under USML Category XX (Submersible Vessels and Related Articles), section (d),

and therefore, U.S. Government authorization was required to export the technical drawings to China. No such authorization was sought or received.

C. US Prototype as a Related Person to Both Quicksilver and Rapid Cut

OEE's investigation has established that US Prototype uses the same Wilmington, NC mailbox address as both Quicksilver and Rapid Cut. Additionally, publicly available documents with the North Carolina Secretary of State's office show that US Prototype's president and registered agent is a Quicksilver officer who was involved in the transactions described above and whose wife is also listed as US Prototype's vice president. Moreover, that same Quicksilver officer is listed as the designated representative for Rapid Cut's corporate bank account. US Prototype's corporate banking account also identifies itself as US Prototype, Inc., DBA [doing business as] Rapid Cut.

III. FINDINGS

I find that the evidence presented by BIS demonstrates that a violation of the Regulations by the above-captioned parties is imminent in degree of likelihood. As such, a TDO is needed to give notice to persons and companies in the United States and abroad that they should cease dealing with Quicksilver, Rapid Cut, and US Prototype in export or reexport transactions involving items, including technology or software, subject to the EAR. Such a TDO is consistent with the public interest to preclude future violations of the Regulations given the serious national security concerns impacted by the misconduct and the clear disregard for complying with U.S. export control laws.

This Order is being issued on an *ex parte* basis without a hearing based upon BIS's showing of an imminent violation in accordance with Section 766.24 of the Regulations.

IT IS THEREFORE ORDERED:

FIRST, that **Quicksilver Manufacturing, Inc.**, with an address at 8209 Market St #A173, Wilmington, NC 28411; **Rapid Cut LLC**, with an address at 8209 Market St #A173, Wilmington, NC 28411; and **US Prototype, Inc.**, with an address at 8209 Market St #A173, Wilmington, NC 28411, and when acting for or on their behalf, any successors or assigns, agents, or employees (each a “Denied Person” and collectively the “Denied Persons”) 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 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. Benefitting 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.

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

A. Export, reexport, or transfer (in-country) to or on behalf of a Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a 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 a 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 a Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from a 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 a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a 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 response as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to Quicksilver Manufacturing or Rapid Cut, 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.

Quicksilver Manufacturing, Inc., et al
Temporary Denial Order

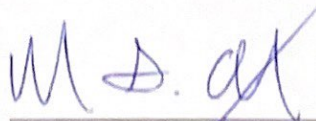
In accordance with the provisions of Section 766.24(e) of the EAR, Quicksilver Manufacturing or Rapid Cut, may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay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

In accordance with the provisions of Sections 766.23(c)(2) and 766.24(e)(3) of the EAR, US Prototype may, at any time, appeal its inclusion as a related person 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. Respondents Quicksilver Manufacturing, Rapid Cut, or US Prototype, Inc., may oppose a request to renew this Order by filing a written submission with the Assistant Secretary 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 each denied person and shall be published in the *Federal Register*.

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



Matthew S. Axelrod
Assistant Secretary for Export Enforcement

Dated: June 7, 2022.