



Noteworthy EAR Enforcement Actions in 2021

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Torres Law, PLLC is an international trade and national security law firm that assists clients with the import and export of goods, technology, and services. The firm has extensive experience with the various regimes and agencies governing trade such as the Directorate of Defense Trade Controls, the Bureau of Industry and Security, the Office of Foreign Assets Control, the U.S. Customs and Border Protection, and others. Our group provides clients with full support for all trade law issues, including U.S. export control and sanctions laws, industrial security, the Foreign Corrupt Practices Act, anti-boycott laws, and customs laws.

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CUSTOMS

U.S. Customs and Border Protection, Border Compliance and EU Customs



EXPORTS

International Traffic in Arms Regulations, Export Administration Regulations, Foreign Trade Regulations Census, and EU Export Controls



ECONOMIC SANCTIONS

Office of Foreign Assets Control (OFAC) and EU Embargoes



FCPA

US and foreign country anti-corruption laws



INDUSTRIAL SECURITY

Committee on foreign investment the US (CFIUS) and Foreign Ownership, Control, or Influence (FOCI)

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TORRES LAW

INTERNATIONAL TRADE & NATIONAL SECURITY

Noteworthy EAR Enforcement Actions in 2021

BIS entered into twenty settlement agreements with firms ranging from \$20,000 to \$3,290,000 for violations of the EAR. These enforcement actions offer valuable insight as to the scale and scope of civil penalties imposed by BIS and underscore the importance of disciplined compliance programs for all companies that export controlled items.

Pursuant to the Export Control Reform Act of 2018 (“ECRA”),¹ the BIS Office of Export Enforcement (“OEE”) administers the Export Administration Regulations (“EAR”),² which regulates exports and re-exports of commercial and military “dual-use” articles, technology, and software included on the Commerce Control List (“CCL”). All items on the CCL have corresponding Export Control Classification Numbers (“ECCNs”) that categorize CCL items based on the nature of the product, including the type of commodity, software, or technology and its respective technical parameters. CCL items may require a BIS license before they can be exported.

SP Industries, Inc.

On November 4, 2021, BIS ordered that SP Industries, Inc. (“SP”) of Warminster, Pennsylvania, a designer and manufacturer of laboratory equipment, be assessed a civil penalty of \$80,000 per the terms of its settlement agreement with SP for four violations of section 764.2(a) of the EAR. Per the terms of settlement, SP is also required to complete two annual audits of its export controls compliance program, and to hire an unaffiliated third-party consultant with expertise in U.S. export control laws to conduct an external audit of SP’s compliance program.

Charge 1 — Engaging in Prohibited Conduct: Unlicensed Export: Violation of Section 764.2(a) of the EAR

On or about May 28, 2019, SP engaged in conduct prohibited by the EAR when it exported from the U.S. one ThermoJet-ES Precision Temperature Cycling System, classified EAR99 and valued at \$26,016, to Huawei Device Co., Ltd., in Shenzhen, China, without the required license. Huawei Device Co., Ltd. at all relevant times was (and remains) listed on the Entity List, and a BIS license was required to export that item to that entity.

Charge 2 — Engaging in Prohibited Conduct: Unlicensed Export: Violation of Section 764.2(a) of the EAR

On or about July 19, 2019, SP engaged in conduct prohibited by the EAR when it exported from the U.S. four ThermoJet-ES Precision Temperature Cycling Systems, classified EAR99 and valued collectively at \$104,067, to HiSilicon Technologies Co., Ltd., in Shenzhen, China, without the required license. HiSilicon Technologies Co., Ltd. at all relevant times was (and remains) listed on the Entity List, and a BIS license was required to export that item to that entity.

¹ Export Control Reform Act, 50 U.S.C. §§ 4801–4852.

² Export Administration Regulations, 15 C.F.R. §§ 730–774 (2021).

Charge 3 — Engaging in Prohibited Conduct: Unlicensed Export: Violation of Section 764.2(a) of the EAR

On or about August 2, 2019, SP engaged in conduct prohibited by the EAR when it exported from the U.S. one ThermoJet-ES Precision Temperature Cycling System, classified EAR99 and valued at \$26,016, to Huawei Technologies Co., Ltd., in Shenzhen, China, without the required license. Huawei Technologies Co., Ltd. at all relevant times was (and remains) listed on the Entity List, and a BIS license was required to export that item to that entity.

Charge 4 — Engaging in Prohibited Conduct: Unlicensed Export: Violation of Section 764.2(a) of the EAR

On or about August 2, 2019, SP engaged in conduct prohibited by the EAR when it exported from the U.S. one ThermoJet-ES Precision Temperature Cycling System, classified EAR99 and valued at \$26,016, to HiSilicon Technologies Co., Ltd., in Shenzhen, China, without the required license. HiSilicon Technologies Co., Ltd. at all relevant times was (and remains) listed on the Entity List, and a BIS license was required to export that item to that entity.

VTA Telecom Corporation

On October 12, 2021, BIS ordered that VTA Telecom Corporation (“VTA”) of Milpitas, California, a subsidiary of a state-owned telecommunications company based in Hanoi, Vietnam, be assessed a civil penalty of \$1,869,372 per the terms of its settlement agreement with VTA for six violations of the EAR, including sections 764.2(e), 764.2(g), and 764.2(a) of the EAR. Per the terms of settlement, VTA is also required to retain a Director of Trade Compliance to oversee VTA’s export activities, and to expend \$25,000 on additional/ongoing export control compliance efforts.

Charge 1 — Evasion: Violation of Section 764.2(e) of the EAR

From July 2015 to October 2016, VTA evaded the provisions of the EAR in furtherance of acts that constitute violations of the EAR, namely the unlawful exportation of items subject to the EAR from the United States, and provision of false information to BIS and officials of other United States agencies for the purpose of effecting an export subject to the EAR.

Around 2015, VTA began procuring and exporting items from the United States to its parent company and was aware that some of its exports were intended to support a defense program in Vietnam. On several occasions, VTA provided plausible false civil end-uses for its products, which were in fact intended for defense-related end-uses, to disguise and conceal from the U.S. government the true purpose of its exports.

Charges 2–4 — False Statements to BIS and/or another USG Agency and on Export Control Documentation: Violations of Section 764.2(g) of the EAR

Between April 21, 2016, and August 22, 2016, VTA, on at least two occasions, made false statements to BIS and other agencies, including on its export license application and other export control documentation, in relation to the export of certain power amplifiers worth \$59,100, controlled under ECCN 3A001.b.3.b and requiring a license to export to Vietnam.

Between May 24, 2016, and September 7, 2016, VTA, on at least two occasions, made false statements to BIS and other agencies in relation to the attempted export of certain actuators (ECCN 9A610.x) valued at \$235,000.

Between August 18, 2016, and October 20, 2016, VTA on at least three occasions, made false statements to BIS and other agencies in relation to the attempted export of a mass properties instrument and related equipment valued at \$624,373, controlled under ECCN 9B604.c and requiring a license to export to Vietnam.

Charge 5 — Acting with Knowledge of a Violation: Unlicensed Export: Violation of Section 764.2(e) of the EAR

On September 16, 2016, VTA knowingly exported transistors and development tools to Vietnam for a defense end-use without a license to export such items for that purpose.

Charge 6 — Engaging in Prohibited Conduct: Unlicensed Export: Violation of Section 764.2(a) of the EAR

On or about July 2015, VTA exported 20 computer processor chips, collectively valued at \$3,930, classified as ECCN 5A002.a.1, to its parent company in Vietnam without the required export license. VTA's stated end-use for the products was a civil telecommunications project in Vietnam.

This settlement agreement between BIS and VTA resolves allegations that VTA on several occasions provided false information to BIS officials and other U.S. government officials in connection with export license applications and other export activities to conceal the defense purposes of some of its exports.

Silicon Space Technology Corporation

On September 28, 2021, BIS ordered that Silicon Space Technology Corporation ("SST") d/b/a Vorago Technologies, Inc. ("Vorago"), of Austin, Texas be assessed a civil penalty of \$497,000 per the terms of its settlement agreement for one violation of section 764.2(d) (conspiracy) of the EAR. As a result of the violation, SST d/b/a Vorago was denied export privileges of EAR-controlled items for a two-year period; however, BIS suspended the denial order for the two-year probationary period.

Between approximately May 2014 and March 2019, Vorago, known as SST for part of this time period, conspired and acted in concert with multiple officers of the Russian engineering firm Cosmos Complect ("Cosmos") to export without a license, radiation-hardened 16Mb Static Random-Access Memory ("SRAM") wafers from Vorago to Russia, through a Bulgarian front company, Multi Technology Integration Group ("MTIG").

SST, which was founded in 2004, began doing business as Vorago in August 2015, designing and manufacturing radiation- and extreme temperature-hardened integrated circuit components for use in satellite, military, medical, automotive, oil and gas, mining, and other industrial applications. The 16Mb SRAM wafers produced by Vorago, valued starting at \$125,000, were classified as ECCN 9A515.e.1 (Category: Spacecraft and related components) and controlled for Regional Stability ("RS") reasons. A license was required to export the wafers to Russia, but no

license was required for export to Bulgaria. Vorago never obtained nor applied for a license. On January 30, 2015, Vorago shipped one 16Mb SRAM wafer to MTIG. Two additional 16Mb SRAM wafers were shipped on December 18, 2015, and three more wafers were shipped on September 23, 2016. On or about May 20, 2015, MTIG shipped the first wafer it received from Vorago to Russia. According to the MTIG invoice documenting this transaction, the wafer was shipped to an address inhabited by Cosmos. Vorago's CEO continued to communicate with the managing director of Cosmos regarding the sale of additional wafers to MTIG until at least March 20, 2019.

On multiple occasions, Vorago was informed by outside export counsel of the need to obtain an export license to ship its components to Russia, even if routed first through Bulgaria. Internal email correspondence between Vorago officers indicated that the quote request for the 16Mb SRAM wafers and other products was initiated by Cosmos via MTIG.

Dynatex International

On August 16, 2021, BIS ordered that Dynatex International of Santa Rosa, California ("Dynatex") be assessed a civil penalty in the amount of \$469,060 per the terms of the settlement agreement with Dynatex for one violation of section 764.2(d) (conspiracy) of the EAR.

Between December 14, 2015, and January 17, 2020, Dynatex conspired with others known and unknown to export semiconductor manufacturing equipment and associated consumables and accessories, items subject to the EAR and designated EAR99, to Chengdu GaStone Technology Company ("CGTC") and China Electronics Technology Group Corporation 55th Research Institute ("CETC 55"), without the required license from Commerce. CGTC and CETC 55 were at all relevant times listed on the Entity List, and a BIS license was required to export the items subject to EAR to those entities. The total value of the commodities exported to the entities was \$234,530.

Before engaging in these transactions, Dynatex was informed that CGTC was on a "black list" (referring to BIS's Entity List) and that CGTC's name should not appear on shipping documents and Dynatex erroneously responded that the transaction could continue without a problem because CGTC was not their customer, but rather a customer of their distributor. Even after being made aware that CGTC and CETC 55 were on the Entity List, Dynatex improperly continued to ship items to CGTC and CETC 55 without the required authorization, stating that Dynatex did not believe the license requirement applied to consumables and accessories.

Alfa Laval Inc. and Alfa Laval Middle East Ltd.

On July 12, 2021, BIS ordered that Pennsylvania-based AL US and U.A.E.-based AL Middle East be assessed a civil penalty in the amount of \$215,000 per the terms of the settlement agreement with the two companies for one violation of section 764.2(e) (acting with knowledge of a violation) of the EAR. Notably, the two companies also settled with OFAC for violations of the ITSR that resulted from the same activity that led to the violation of the EAR.

Specifically, AL US, through its subsidiary AL Tank, and AL Middle East exported two Gamajet brand automated tank cleaning machines, valued at \$18,585 and classified as EAR99, to Iran without the licenses required by BIS and in violation of the ISTR.

Patriot 3, Inc.

On June 28, 2021, BIS ordered that Virginia-based Patriot 3, Inc. (“Patriot 3”) be assessed a civil penalty in the amount of \$200,000 per the terms of the settlement agreement with Patriot 3 for one violation of section 764.2(e) (acting with knowledge of a violation) of the EAR.

In October 2014, Patriot 3 sold and exported maritime jet boots with underwater propulsion systems (“JetBoots”) without the licenses required, to military end-users in Russia with knowledge that an EAR violation would occur. The JetBoots were classified under ECCN 8A992 and were valued at approximately \$329,760.

Specifically, before exporting the JetBoots to Russia, Patriot 3 had received email notifications putting the company on notice of the section 744.21 license requirements. Patriot 3 also knew that the JetBoots were destined for Russian Government’s Federal Guard Service (“FSO”), a military end-user under section 744.21.

Skyline USA, Inc.

On June 23, 2021, BIS ordered that U.S.-based Skyline USA, Inc. (“Skyline USA”) be assessed a civil penalty in the amount of \$140,000 per the terms of the settlement agreement with Skyline USA for sixteen total violations of the EAR, including sections 764.2(a) and 764.2(i) of the EAR.

Charges 1–15 — Engaging in Prohibited Conduct: Violations of Section 764.2(a) of the EAR

On at least fifteen occasions between April 2014 and August 2016, Skyline USA exported police batons (ECCN 0A978), handcuffs (ECCN 0A982), stun guns (ECCN 0A985), and pepper spray (ECCN 1A984), to Colombia, Guatemala, Mexico, Nigeria, Pakistan, Panama, Trinidad and Tobago, or Uruguay without obtaining the required licenses. The items were valued in total at approximately \$50,644. Skyline USA was operating without an export compliance program when it completed the fifteen unlicensed exports.

Charge 16 — Failure to Comply with Recordkeeping Requirements: Violation of Section 764.2(i) of the EAR

Between April 2014 and August 2016, Skyline USA failed to comply with recordkeeping requirements set forth in section 762 of the EAR. These violations related to the failure to maintain bills of lading and other export control documents as defined in section 762.2.

USGoBuy, LLC

On June 17, 2021, BIS ordered that USGoBuy, LLC (“USGoBuy”), a US-based package forwarding company, be assessed a civil penalty in the amount of \$20,000 per the terms of the settlement agreement with USGoBuy for two violations of section 764.2(a) (engaging in prohibited conduct) of the EAR. As a result of the violations, USGoBuy was denied export privileges of EAR-controlled items for a three-year period; however, BIS suspended the denial order for the three-year probationary period. Pursuant to the settlement agreement, USGoBuy must also complete an external audit of its export controls compliance program using an unaffiliated third-party consultant with expertise in U.S. export control laws and submit the results of the audit to BIS.

On two occasions in 2015, USGoBuy, on behalf of an Iran-based customer, exported five U.S.-origin rifle scopes to the U.A.E. and China without obtaining the required licenses. The rifle scopes were classified under ECCN 0A987.a, and controlled for Crime Control (“CC”) reasons and were collectively valued at approximately \$1,229.

BIS OEE Special Agents visited USGoBuy to discuss export compliance matters and the related unauthorized shipments in April 2015 and later in June 2015.

Photonics Industries International, Inc.

On May 28, 2021, BIS ordered that U.S.-based Photonics Industries International, Inc. (“Photonics”) be assessed a civil penalty in the amount of \$350,000 per the terms of the settlement agreement with Photonics for five total violations of the EAR, including sections 764.2(a) and 764.2(c) of the EAR.

Charges 1–3 — Engaging in Prohibited Conduct: Violations of Section 764.2(a) of the EAR

On three occasions in December 2014, Photonics violated EAR § 764.2(a), when it exported 25 picosecond laser systems (RGH-1064-30), classified under ECCN 6A005.b.6.b and controlled for National Security (“NS”) and Anti-Terrorism (“AT”) reasons, to China without the required BIS licenses. Photonics did not seek a commodity classification for the laser systems from BIS. Instead, Photonics erroneously self-classified the laser systems as EAR99 and, thus, incorrectly indicated on export transaction documents that no BIS license was required for the export of the laser systems. Knowing that China was the ultimate destination for the laser systems and that the ultimate consignee was based in China, Photonics also directed a freight forwarder to misrepresent in the Electronic Export Information (“EEI”) filing that Hong Kong was the ultimate destination and that a Hong Kong freight forwarder was the ultimate consignee.

Charge 4 — Attempt: Violation of Section 764.2(c) of the EAR

On or about December 30, 2014, Photonics violated EAR § 764.2(c), when it attempted to export, without the required BIS licenses, eight picosecond laser systems (RGH-1064-30), classified as ECCN 6A005.b.6.b, and controlled for NS and AT reasons, to China. In transaction documentation for this attempted unlicensed export to China, Photonics again erroneously misclassified the laser systems as EAR99. Photonics knew that China was the ultimate destination for the laser systems and once again directed a freight forwarder to note in the EEI filing that Hong Kong was the ultimate destination and that a Hong Kong freight forwarder was the ultimate consignee.

Charge 5 — Engaging in Prohibited Conduct: Violation of Section 764.2(a) of the EAR

In May 2016, Photonics violated section 764.2(a) of the EAR, when it exported a DCH-355-3 laser system, designated as EAR99, to Sichuan University in China without the required BIS license. At the time of the export, Sichuan University was (and remains) listed on the BIS Entity List.

Alsima Middle East General Trading LLC

On May 28, 2021, BIS ordered that Alsima Middle East General Trading LLC (“Alsima”), a U.A.E.-based importer, be assessed a civil penalty in the amount of \$25,000 for two total violations of the EAR, including sections 764.2(a) and 764.2(g) of the EAR.

Charge 1 — Misrepresentation and Concealment of Facts: Violation of Section 764.2(g) of the EAR

In October 2015, Alsima violated section 764.2(g) of the EAR when it falsely and misleadingly represented on a BIS-711 form (Statement by Ultimate Consignee and Purchaser) that the nickel powder it intended to import from a U.S. company was to be used to manufacture self-lubricating seal rings in the U.A.E. for distribution in the U.A.E. Alsima also falsely and misleadingly certified on its end-user statement that it would not re-export or resell the nickel powder without prior authorization by the U.S. Government. Both the BIS-711 form and the Alsima end-user statement were submitted to BIS as part of the license application.

In April 2016, BIS learned that Alsima had intended in February 2015, months prior to its submission of the BIS-711 and its end-user statement, to use the nickel powder to manufacture specialized compressor rings and then export the rings to an Azerbaijani company. BIS also learned that the director of Alsima had contacted companies in South Africa and India about manufacturing the rings for the Azerbaijani company if Alsima provided the nickel powder.

Alsima never disclosed to the U.S. company that it intended to either use the nickel powder to produce rings in the U.A.E. for export to an Azerbaijani company or to send the nickel powder to a company in South Africa or India to produce the rings for export.

Charge 2 — Engaging in Prohibited Conduct: Violation of Section 764.2(a) of the EAR

In November 2015 and February 2016, Alsima violated EAR § 764.2(a) when it facilitated the export of U.S.-origin powder grade nickel, classified under ECCN 1C240 and controlled for Nuclear Nonproliferation (“NP”) and AT reasons, to the U.A.E. without a valid BIS license. Although BIS had granted a license for the export of the nickel, the license was later void when BIS learned that Alsima made false and misleading representations concerning how it intended to use the nickel and whether it would resell the nickel in compliance with the EAR.

Mahan Airways et al.

On May 21, 2021, BIS ordered the renewal of the temporary denial order issued in November 2020 against Mahan Airways and several other entities and individuals. BIS has renewed temporary denial orders against Mahan Airways since 2009.

TeleDynamics LLC

On May 17, 2021, BIS ordered that U.S.-based TeleDynamics LLP (“TeleDynamics”) be assessed a civil penalty in the amount of \$55,000 for ten violations of section 764.2(b) (causing, aiding or abetting a violation) of the EAR.

On ten occasions in 2014, TeleDynamics forwarded rifle scopes (ECCN 0A987) valued at approximately \$1,047 for export from the U.S. to Russia and the Ukraine without the required BIS licenses. Prior to TeleDynamic’s 2014 forwarding activity, U.S. Customs and Border Protection (“CBP”) had detained rifle scope shipments forwarded by TeleDynamics several

times because they lacked the required export license. Therefore, TeleDynamics was aware of the export licensing requirements for the rifle scopes.

Kleiss & Co. BV

On May 3, 2021, BIS ordered Netherlands-based Kleiss & Co. BV (“Kleiss”) be assessed a civil penalty in the amount of \$60,000 for two violations of section 764.2(e) (acting with knowledge of a violation) of the EAR. As a result of the violations, Kleiss was also denied export privileges of EAR-controlled items for a two-year period; however, BIS suspended the denial order for a two-year probationary period.

On two occasions in June 2016 and March 2017, Kleiss ordered, bought, and later concealed details of the export of extruded butyl sealants from the U.S. on behalf of an Iranian customer with knowledge or reason to know that a violation of the EAR had occurred in connection with the sealants designated as EAR99 and valued at approximately \$20,951.

Kleiss had reason to know about the prohibitions on exporting U.S.-origin items to Iran without the required USG authorization. In June 2016, Kleiss ordered and bought extruded butyl sealants from its U.S. supplier for a customer in Iran, but the U.S. freight forwarder returned the shipment to the U.S. supplier, explaining the shipment was not permitted under the ITSR administered by OFAC. Despite the warning from the freight forwarder, in September 2016, Kleiss provided its U.S. supplier with new invoices for the order of extruded butyl sealants that listed a new consignee and address in the U.A.E. to conceal the ultimate destination (Iran) of the items from the freight forwarder and the USG. The order was consequently exported from the U.S. on or around September 2, 2016.

In March 2017, Kleiss again ordered and bought extruded butyl sealants from its U.S. supplier intending to export the sealants to Iran via the U.A.E. In an email to the U.S. supplier, Kleiss disclosed that the sealants were destined for Iran and asked that the U.S. supplier misrepresent to U.S. Customs that Kleiss was their customer, and that Dubai was the ultimate destination. The March 2017 attempted export was stopped by BIS before the sealants left the U.S.

MDA Precision LLC

On April 30, 2021, BIS ordered that MDA Precision LLC (“MDA Precision”) be assessed a civil penalty in the amount of \$60,000 for one violation of section 764.2(e) (acting with knowledge of a violation) of the EAR. Pursuant to the settlement agreement, MDA Precision must also complete an export compliance training on the EAR within 12 months.

In April 2015, MDA Precision sold and transferred a five-axis benchtop milling machine from the U.S. to the U.A.E. without the required license. The machine was valued at approximately \$34,000 and was classified under ECCN 2B201 and controlled on NP and AT grounds. MDA Precision sold and transferred the item with knowledge that a violation of the EAR had occurred.

MDA knew or had reason to know about the export licensing requirements applicable to the machine, because it previously in 2013-2014 had applied for and received BIS licenses to export five-axis milling machines to Israel, Chile, and China. But it failed to obtain an export license for the April 2015 shipment. Although MDA Precision had previously classified its milling machine

under ECCN 2B201, MDA Precision erroneously classified the milling machine it exported in April 2015 as EAR99.

MDA Precision also failed to obtain end-user information for the April 2015 export to the U.A.E. despite: (1) having done so for earlier export transactions; (2) the milling machine was paid for by a U.A.E.-based third party; (3) the U.A.E.'s status as a known transshipment point to Iran; and (4) MDA Precision received an email from its U.A.E. customer from an IP address in Iran.

FLIR Systems Inc.

On April 29, 2021, BIS ordered that Oregon-based FLIR Systems, Inc. ("FLIR") be assessed a civil penalty in the amount of \$307,922 for two violations of section 764.2(g) (misrepresentation and concealment of facts) of the EAR. Pursuant to the settlement agreement, FLIR must also complete two internal audits of its export compliance program.

Between November 2012 and December 2013, FLIR made incomplete or inaccurate representations to BIS and other USG agencies regarding an anti-tamper protection mechanism for a FLIR Uncooled Focal Plane Array ("UFPA") while seeking and obtaining an official classification identifying the UFPA on EAR's CCL for export control purposes.

Specifically, FLIR made incomplete or inaccurate representations/statements regarding the end-uses of the UFPA and the UFPA anti-tamper protection mechanism in preparation for, and in support of, an April 2013 commodity jurisdiction ("CJ") request, through which FLIR sought a determination that the UFPA was subject to the EAR and not the ITAR.

FLIR represented to the USG that: (1) its UFPA had been developed solely to satisfy demand from the commercial smartphone market for a thermal imager like the UFPA; and (2) the UFPA's "technical characteristics and performance reflect its commercial-only focus, commercial heritage, and applications that are non-threatening to national security." Contrary to FLIR's representations to the BIS and other USG agencies, FLIR's business and manufacturing strategy was designed to incorporate the UFPA into products other than smartphones, including military nano reconnaissance drones.

FLIR also represented that it developed the UFPA anti-tamper protection mechanism because the UFPA would be "effectively useless" without the mechanism. Contrary to FLIR's representation, the anti-tamper protection mechanism was never successfully developed by FLIR nor added as a feature of the UFPA. After the April 2013 CJ was issued, FLIR produced cameras incorporating the UFPA without incorporating the mechanism.

SAP SE

On April 29, 2021, BIS ordered that Germany-based SAP SE ("SAP") be assessed a civil penalty in the amount of \$3,290,000, per the terms of the settlement agreement with SAP for one violation of section 764.2(a) (engaging in prohibited conduct) of the EAR. OFAC also settled with SAP for the same transactions in the amount of \$2,132,174 (see details of the case in *Noteworthy OFAC Sanctions Enforcement Actions in 2021*). Pursuant to the BIS settlement agreement, SAP must also complete three internal audits of its export controls program.

Between December 2009 and September 2019, SAP engaged in continuing conduct that caused the unauthorized export and re-export of SAP software to Iran in violation of the EAR and the ITSR. The SAP software was U.S. origin and classified under ECCN 5D002.c.1 and EAR99.

Specifically, SAP and SAP's independent third-party resellers ("SAP Partners") located in Turkey, the U.A.E., Germany, and Malaysia, sold licenses for SAP software products and related maintenance services to 14 pass-through entities that were directly affiliated with Iranian companies and conducted business in Iran. End-users in Iran used the pass-through entities to make over 24,500 downloads of SAP software products and maintenance services.

Harsimran Singh and Panther Trading Company, Inc

On March 15, 2021, BIS ordered that Maryland-based company Panther Trading Company, Inc. ("PTC") and its owner, Harsimran Singh, be jointly assessed a civil penalty in the amount of \$42,000 per the terms of the settlement agreement for four total violations of the EAR, including sections 764.2(a) and 764.2(b) of the EAR.

Charges 1–2 — Engaging in Prohibited Conduct: Violations of Section 764.2(a) of the EAR

In May 2014 and again in July 2014, Singh and PTC engaged in conduct prohibited by the EAR by exporting, without the required BIS license, EAR-controlled items (controlled for CC reasons) to a security equipment distributor in Mexico. Specifically, Singh and PTC forwarded or caused to be forwarded handcuffs (ECCN 0A982), collapsible batons (ECCN 0A978), and stun guns (ECCN 0A985), collectively valued at \$11,000, to a freight forwarder in Laredo, Texas. Singh and PTC knew that the items were for export because the order documents identified the "consignee" as located in Mexico, and the items were being shipped to freight forwarder in Texas on behalf of the Mexican company.

Charge 3 — Causing, Aiding or Abetting a Violation: Violation of Section 764.2(b) of the EAR

In October 2014, Singh and PTC caused, aided, or abetted unlicensed exports to Nigeria of handcuffs and leg cuffs controlled for CC reasons under ECCN 0A982 and valued at approximately \$12,343. Specifically, Singh and PTC sold and forwarded a shipment of handcuffs and leg cuffs to a foreign buyer at an address in New York, knowing or having reason to know that the items were for export based on discussions with the representative of the buyer. Singh and PTC also offered to introduce the representative to freight forwarders in Baltimore to assist with the exports.

Charge 4 — Engaging in Prohibited Conduct: Violation of Section 764.2(a) of the EAR

In December 2014, Singh and PTC engaged in conduct prohibited by the EAR by exporting to the Dominican Republic items controlled for CC reasons without the required BIS licenses. Specifically, Singh and PTC fulfilled an order from a company located in the Dominican Republic for collapsible batons classified under ECCN 0A978, knowing that the items were for export because PTC's invoice documents stated that the "bill to" party was located in the Dominican Republic. Singh and PTC forwarded the items to a freight forwarder in Florida on behalf of the same Dominican Republic company. The items were ultimately exported to the Dominican Republic.

In July 2014, CBP notified Singh that handcuffs were controlled on the CCL and subject to license requirements under the EAR, when it seized an attempted unlicensed export of handcuffs shipped under the name of another entity owned/controlled by Singh.

Comtech Xicom Technology, Inc

On March 18, 2021, BIS ordered that California-based Comtech Xicom Technology, Inc. (“Comtech Xicom”) be assessed a \$122,000 civil penalty for three violations of section 764.2(a) (engaging in prohibited conduct) of the EAR.

On three occasions between December 2015 and March 2017, Comtech Xicom engaged in conduct prohibited by the EAR when it exported traveling wave tubes (“TWTs”), controlled for NS reasons under ECCN 3A001.b and collectively valued at \$153,945, from the U.S. to Russia, the U.A.E., and Brazil without the required BIS licenses and authorization.

The unlicensed shipments of TWTs to Russia, the U.A.E., and Brazil were made in part due to an incorrect statement by compliance officials with the company that the TWT could be shipped without a license.

MSI Aircraft Maintenance Services International GmbH & Co.

On March 5, 2021, BIS ordered that Germany-based, MSI Aircraft Maintenance Services GmbH & Co. (“MSI”) be assessed a \$51,921 civil penalty for one violation of section 764.2(d) (conspiracy) of the EAR. As a result of the violation, MSI was denied export privileges of EAR-controlled items for a three-year period; however, BIS suspended the denial order for a three-year probationary period on the condition that MSI fully cooperates with BIS and OFAC for the period of the suspended denial order.

Between September 2011 and July 2012, MSI conspired and acted in concert with others, including an affiliated German company and Mahan Airways (“Mahan”) to procure, for or on Mahan’s behalf, U.S.-origin aircraft parts and components, including reservoir and valve assemblies subject to the EAR (valued at \$51,921) to Iran via transshipment through Germany. The items were also subject to Iranian Transaction Regulations (“ITR”) administered by OFAC.

Specifically, in September 2011, MSI took steps to purchase or order the reservoir and valve assemblies on behalf of Mahan, citing Thai and Afghan airlines as the end-users. The reservoir and valve assemblies were then exported from the U.S. to MSI in Germany in three shipments between October 2011 and April 2012. In July 2012, the affiliated German company sent its customer, the Iran-based Mahan, copies of three delivery notices with serial numbers matching the reservoir and valve assemblies exported from the U.S. to MSI. An airway bill issued in Frankfurt, Germany, listing the affiliated German company as the shipper, shows that around July 2012, the reservoir and valve assemblies were shipped from Germany to Iran for delivery to Mahan in Iran.

Princeton University

On February 1, 2021, BIS ordered that New Jersey-based Princeton University (“Princeton”) be assessed a \$54,000 civil penalty for thirty-seven violations of section 764.2(a) (engaging in prohibited conduct) of the EAR. Pursuant to the settlement agreement, Princeton must complete

one external audit and one internal audit of its export controls compliance program, and complete two reports describing its enhancements to its compliance with the EAR.

On 37 occasions between November 2013 and March 2018, Princeton engaged in conduct prohibited by the EAR when it exported various strains and recombinations of animal pathogens, controlled for Chemical and Biological Weapons ("CB") reasons under ECCNs 1C351, 1C352, or 1C353 and valued at approximately \$27,000, from the U.S. to various overseas research institutions without the required BIS licenses. Princeton exported the items to 15 countries, including Belgium, the U.K., Singapore, Canada, France, China, Israel, Japan, Denmark, Switzerland, Portugal, Australia, Hungary, South Korea, and India.

Avnet Asia Pte., Ltd.

On January 29, 2021, BIS ordered that the Singapore-based Avnet Asia Pte., Ltd. ("Avnet Asia") be assessed a civil penalty in the amount of \$3,229,000 for fifty-three violations of the EAR, including sections 764.2(a) and 764.2(e) of the EAR. As a result of the violations, Avnet Asia was denied export privileges of EAR-controlled items for a two-year period; however, BIS suspended the denial order for a two-year probationary period.

Charges 1–19 — Acting with Knowledge of a Violation: Violation of Section 764.2(e) of the EAR

On 19 occasions between October 2007 and May 2009, Avnet Asia ordered, sold, forwarded, or transferred electronic components, valued at approximately \$173,054, classified under ECCN 3A001 and designated EAR99, knowing or with reason to know that the items were ultimately destined to Iran and that a violation of EAR and the ITR was intended or about to occur. Specifically, a now-former Avnet Asia Account Manager acted in concert with Electronic Components Palace ("ECP"), an Iranian trading company, to obtain items from the U.S. for Iranian end-users. In furtherance of this scheme, fraudulent documents were created and provided to falsely indicate that a Singapore-based company was the intended customer, disguising the fact that items were ordered for ECP and ultimately destined to Iran. Two now-former lower-level employees knowingly engaged in the scheme. Avnet Asia had reason to know that ECP was not the end-user for the products it acquired via Avnet Asia.

Charges 20–28 — Acting with Knowledge of a Violation: Violation of Section 764.2(e) of the EAR

Further, on nine occasions between January 2009 and April 2009, Avnet Asia ordered, sold, forwarded, or transferred electronic components, controlled for NS and AT reasons under ECCN 3A001 and valued at approximately \$180,366, that were ultimately exported or re-exported to China and Iran without the required BIS licenses. Specifically, the same Avnet Asia account manager prepared fraudulent documents falsely indicating that another Singapore-based company was the end-user when the actual end-user was a trading company that would send the items to restricted locations including China and Iran. The same two now-former Avnet Asia employees also knowingly engaged in the scheme.

Charges 29–46 — Acting with Knowledge of a Violation: Violation of Section 764.2(e) of the EAR

On 18 occasions between February 2013 and January 2015, Avnet Asia ordered, sold, forwarded, or transferred electronic components, controlled for NS and AT reasons under ECCN 3A001 and

valued at approximately \$814,332, that were ultimately exported or re-exported to China via Hong Kong without the required BIS licenses. Specifically, a second now-former Avnet Asia Account Manager managed an account for a Hong Kong company purporting to be an end-user of the products it was purchasing from Avnet Asia. This second Account Manager had an ownership interest in the Hong Kong company that was not disclosed to Avnet Asia employees. The Account Manager used the Hong Kong company to ship goods from Hong Kong to China and to conceal the involvement of Chinese interests in the purchase of goods.

Charges 47–51 — Acting with Knowledge of a Violation: Violation of Section 764.2(e) of the EAR

On five occasions in December 2009, Avnet Asia ordered, sold, forwarded, or transferred electronic components designated EAR99 and valued at approximately \$2,094 to Wing Shing Computer Components Company (H.K.) Ltd (“Wing Shing”), a company listed on the Entity List, without the required license. Avnet Asia knew or had reason to know that Wing Shing was added to the Entity List, and consequently that export licenses were required to export the items to Wing Shing, and that no such export licenses had been obtained. After Wing Shing was added to the Entity List, a potential sale to Wing Shing was flagged by Avnet Asia’s compliance software as involving a denied or restricted party. Avnet Asia personnel ran the potential sale through the software a second time to confirm the hit, but the software did not flag the sale during the second check. A third-now former Avnet Asia manager directed lower-level employees to abide by the results of the second check and process the transaction, even though Avnet Asia personnel confirmed that Wing Shing was on the Entity List.

Charges 52–53 — Engaging in Prohibited Conduct: Violation of Section 764.2(a) of the EAR

On two occasions in February 2012 and January 2014, Avnet Asia ordered, sold, forwarded, or transferred electronic components, controlled for NS and AT reasons and valued at approximately \$52,160, that were ultimately exported or re-exported to China via Hong Kong without the required BIS licenses.



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