

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

In the Matter of:)
)
Electronics For Imaging, Inc.)
303 Velocity Way)
Foster City, CA 94404)
)
Respondent)

ORDER RELATING TO ELECTRONICS FOR IMAGING, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Electronics For Imaging (“EFI”), as successor to VUTEk, Inc., of its intention to initiate an administrative proceeding against EFI pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2008)) (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),² through the issuance of a proposed charging letter to EFI that alleged that EFI committed four violations of the Regulations. Specifically, the charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2008). The violations alleged occurred in 2004. The Regulations governing the allegations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2008 Regulations govern the procedural aspects of the case.

² 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 July 23, 2008 (73 FR 43603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

**Charges 1-4 15 C.F.R. § 764.2(a): Exports of Printer Parts/Components to Syria
Without Licenses**

Between on or about July 16, 2004 and on or about November 30, 2004, EFI engaged in conduct prohibited by the Regulations by exporting printer parts and components, items subject to the Regulations and designated EAR99, to Syria without the required Department of Commerce license. The export of these items required a license from the Department of Commerce pursuant to General Order No. 2, set forth in Supplement No. 1 to Part 736 of the Regulations, which implements the Syria Accountability and Lebanese Sovereignty Act of 2003 (Pub. L. No. 108-175). In so doing, EFI committed four violations of section 764.2(a) of the Regulations.

WHEREAS, BIS and EFI 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:

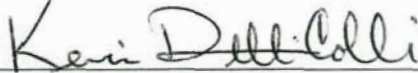
FIRST, that a civil penalty of \$32,000 is assessed against EFI, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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, Sirchie 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 EFI.

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.



Kevin Delli-Colli
Deputy Assistant Secretary of Commerce
for Export Enforcement

Entered this 18th day of December, 2008.

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

In the Matter of:)
)
Electronics For Imaging, Inc.)
303 Velocity Way)
Foster City, CA 94404)
)
Respondent)
)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Electronics For Imaging, Inc. (“EFI”), as successor to VUTEk, Inc., and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2008)) (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”).²

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

WHEREAS, BIS has issued a proposed charging letter to EFI that alleged that

¹ The charged violations occurred in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2008 Regulations establish the procedures that apply to this matter.

² 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 July 23, 2008 (73 FR 43603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

EFI committed four violations of the Regulations, specifically:

Charges 1-4 15 C.F.R. § 764.2(a): Exports of Printer Parts/Components to Syria Without Licenses

Between on or about July 16, 2004 and on or about November 30, 2004, EFI engaged in conduct prohibited by the Regulations by exporting printer parts and components, items subject to the Regulations and designated EAR99, to Syria without the required Department of Commerce license. The export of these items required a license from the Department of Commerce pursuant to General Order No. 2, set forth in Supplement No. 1 to Part 736 of the Regulations, which implements the Syria Accountability and Lebanese Sovereignty Act of 2003 (Pub. L. No. 108-175). In so doing, EFI committed four violations of section 764.2(a) of the Regulations.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over EFI, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against EFI in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:
 - a. EFI shall be assessed a civil penalty in the amount of \$32,000, all of which shall be paid to the U.S. Department of Commerce within 30 days from the date of the Order.
 - 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 EFI.
3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, EFI 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, BIS will not initiate any further administrative proceeding against EFI 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 United States 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.

BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE



Thomas Madigan
Director
Office of Export Enforcement

Date: December 16, 2008

ELECTRONICS FOR
IMAGING, INC. 



John Ritchie
Chief Financial Officer

Date: 12/9/08

PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Electronics For Imaging, Inc.
303 Velocity Way
Foster City, CA 94404

Attn: *Jim Etheridge*
General Counsel

Dear Mr. Etheridge:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Electronics For Imaging, Inc. ("EFI"), of Foster City, California, as successor to VUTEk, Inc., has committed four violations of the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").² Specifically, BIS charges that EFI committed the following violations:

Charges 1-4 15 C.F.R. § 764.2(a): Exports of Printer Parts/Components to Syria Without Licenses

As described in further detail in the attached Schedule of Violations, which is incorporated herein by reference, between on or about July 16, 2004 and on or about November 30, 2004, EFI engaged in conduct prohibited by the Regulations by exporting printer parts and components, items subject to the Regulations and designated EAR99, to Syria without the required Department of Commerce license. The export of these items required a license from the

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2008). The charged violations occurred in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2008 Regulations set forth the procedures that apply to this matter.

² 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. 783 (2002)), which has been extended by successive presidential notices, the most recent being that of July 23, 2008 (73 FR 43603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1707 (2000)) ("IEEPA").

Department of Commerce pursuant to General Order No. 2, set forth in Supplement No. 1 to Part 736 of the Regulations, which implements the Syria Accountability and Lebanese Sovereignty Act of 2003 (Pub. L. No. 108-175). In so doing, EFI committed four violations of section 764.2(a) of the Regulations.

* * * *

Accordingly, EFI 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 \$250,000 per violation;³

Denial of export privileges; and/or

Exclusion from practice before BIS.

If EFI 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. *See* 15 C.F.R. §§ 766.6 and 766.7. If EFI defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to EFI. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

EFI is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. EFI is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should EFI have a proposal to settle this case, EFI or its representative should transmit it to the attorney representing BIS named below.

EFI is further notified that under the Small Business Regulatory Enforcement Flexibility Act, EFI 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/>.

³ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, EFI'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 EFI's answer must be served on BIS at the following address:

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

Peter R. Klason is the attorney representing BIS in this case; any communications that EFI may wish to have concerning this matter should occur through him. Mr. Klason may be contacted by telephone at (202) 482-5301.

Sincerely,

Thomas Madigan
Director
Office of Export Enforcement

**ELECTRONICS FOR IMAGING, INC.
SCHEDULE OF VIOLATIONS**

Charge	Date	Destination	Value	Item
1	7/16/2004	Syria	\$225	Printer Parts
2	7/22/2004	Syria	\$424	Printer Parts
3	9/17/2004	Syria	\$360	Printer Parts
4	11/30/2004	Syria	\$8657	Printer Parts