

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

In the Matter of:

Mattson Technology, Inc.
47131 Bayside Parkway
Fremont, California 94538

Respondent

ORDER RELATING TO
MATTSON TECHNOLOGY, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Mattson Technology, Inc., of Fremont, California (“Mattson”), of its intention to initiate an administrative proceeding against Mattson pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to Mattson that alleges that Mattson committed 47 violations of the Regulations. Specifically, the charges are:

Charge 1- 47 15 C.F.R. § 764.2(e): Acting with Knowledge of a Violation

On 47 occasions between on or about June 7, 2006 and on or about April 24, 2008, Mattson sold, transferred or otherwise serviced, in whole or in part, items exported from the United States with knowledge that violations of the Regulations were about to occur or were intended to occur in connection with the items. Specifically, Mattson sold, transferred or otherwise serviced pressure transducers, items subject to the Regulations, classified under Export Control Classification Number (ECCN) 2B230, controlled for

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred in 2006-2008. The Regulations governing the violations at issue are found in the 2006-2008 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2011 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 August 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

nuclear non-proliferation reasons, and with a total value of approximately \$78,000, to customers in Israel, Malaysia, the People's Republic of China (PRC), Singapore and Taiwan without the Department of Commerce license required by Section 742.3 of the Regulations. Mattson had knowledge that violations of the Regulations were about to occur or were intended to occur because in or about May 2006, one of Mattson's supply chain partners informed it that pressure transducers that Mattson incorporated into equipment used in the production of semiconductor wafers required export licenses when shipped to Mattson customers in certain foreign countries. Nevertheless, Mattson exported such pressure transducers without export licenses from the Department of Commerce. Mattson knew that no U.S. Government authorization for these transactions had been obtained. In so doing, Mattson committed 47 violations of Section 764.2(e) of the Regulations.

WHEREAS, BIS and Mattson 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, Mattson shall be assessed a civil penalty in the amount of \$850,000. The payment of \$250,000 shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$600,000 shall be suspended for a period of one year from the date of the Order, and thereafter shall be waived, provided that during this one-year payment probationary period under the Order, Mattson has committed no violation of the Act, or any regulation, order, license or authorization issued thereunder and has made full and timely payment of \$250,000 as set forth above.

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, Mattson 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 full and timely payment of the civil penalty in accordance with the payment schedule 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 Mattson. Accordingly, if Mattson should fail to pay the civil penalty in a full and timely manner, the undersigned may issue an Order denying all of Mattson's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

FOURTH, that 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.

FIFTH, 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.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 30 day of April, 2012.

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

In the Matter of:

Mattson Technology, Inc.
47131 Bayside Parkway
Fremont, California 94538

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Mattson Technology, Inc., of Fremont, California ("Mattson"), and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively, the "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (the "Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (the "Act").²

WHEREAS, Mattson filed a voluntary self-disclosure with BIS's Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning the transactions at issue herein;

WHEREAS, BIS has notified Mattson of its intentions to initiate an administrative proceeding against Mattson, pursuant to the Act and the Regulations;

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred in 2006-2008. The Regulations governing the violations at issue are found in the 2006-2008 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2011 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 August 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

WHEREAS, BIS has issued a Proposed Charging Letter to Mattson that alleges that Mattson committed 47 violations of the Regulations, specifically:

Charge 1- 47 15 C.F.R. § 764.2(e): Acting with Knowledge of a Violation

On 47 occasions between on or about June 7, 2006 and on or about April 24, 2008, Mattson sold, transferred or otherwise serviced, in whole or in part, items exported from the United States with knowledge that violations of the Regulations were about to occur or were intended to occur in connection with the items. Specifically, Mattson sold, transferred or otherwise serviced pressure transducers, items subject to the Regulations, classified under Export Control Classification Number (ECCN) 2B230, controlled for nuclear non-proliferation reasons, and with a total value of approximately \$78,000, to customers in Israel, Malaysia, the People's Republic of China (PRC), Singapore and Taiwan without the Department of Commerce license required by Section 742.3 of the Regulations. Mattson had knowledge that violations of the Regulations were about to occur or were intended to occur because in or about May 2006, one of Mattson's supply chain partners informed it that pressure transducers that Mattson incorporated into equipment used in the production of semiconductor wafers required export licenses when shipped to Mattson customers in certain foreign countries. Nevertheless, Mattson exported such pressure transducers without export licenses from the Department of Commerce. Mattson knew that no U.S. Government authorization for these transactions had been obtained. In so doing, Mattson committed 47 violations of Section 764.2(e) of the Regulations.

WHEREAS, Mattson has reviewed the Proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

WHEREAS, Mattson 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, Mattson enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

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

WHEREAS, Mattson neither admits nor denies the allegations contained in the Proposed Charging Letter;

WHEREAS, Mattson wishes to settle and dispose of all matters alleged in the Proposed Charging Letter by entering into this Agreement; and

WHEREAS, Mattson agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Mattson, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanctions shall be imposed against Mattson in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:
 - a. Mattson shall be assessed a civil penalty in the amount of \$850,000. The payment of \$250,000 shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$600,000 shall be suspended for a period of one year from the date of the Order, and thereafter shall be waived, provided that during this one-year payment probationary period under the Order, Mattson has committed no violation of the Act, or any regulation, order, license or authorization issued thereunder and has made full and timely payment of \$250,000 as set forth above.
 - b. The full and 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, license exception, permission, or privilege granted, or to be granted, to Mattson. Failure to make full and timely payment of the civil penalty may result in the

denial of all of Mattson's export privileges under the Regulations for one year from the date of the failure to make such payment.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Mattson 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 issued), 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 issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. Mattson also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order until Mattson pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement.

4. Mattson shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Mattson's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

5. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a above, BIS will not initiate any further administrative proceeding against Mattson in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

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.

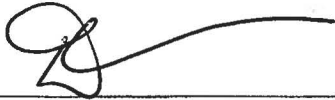
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. 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 issuing 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. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

10. 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



Douglas R. Hassebrock
Director of Export Enforcement

Date: 4/26/12

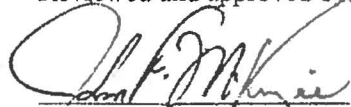
MATTSON TECHNOLOGY, INC.



J. Michael Dodson
Chief Financial Officer, Executive Vice
President, Secretary

Date: April 23, 2012

Reviewed and approved by:



John F. McKenzie, Esq.
Baker & McKenzie LLP Counsel for Mattson

Date: 4/23/2012

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mattson Technology, Inc.
47131 Bayside Parkway
Fremont, California 94538

Attention: Michael Dodson, Chief Financial Officer

Dear Mr. Dodson:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Mattson Technology, Inc. of Fremont, CA (“Mattson”), has committed 47 violations of the Export Administration Regulations (the Regulations),¹ which issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that Mattson committed the following violations:

Charge 1- 47 15 C.F.R. § 764.2(e): Acting with Knowledge of a Violation

As described in further detail in the attached Schedule of Violations, which is incorporated herein by reference, on 47 occasions between on or about June 7, 2006 and on or about April 24, 2008, Mattson sold, transferred or otherwise serviced, in whole or in part, items exported from the United States with knowledge that violations of the Regulations were about to occur or were intended to occur in connection with the items. Specifically, Mattson sold, transferred or otherwise serviced pressure transducers, items subject to the Regulations, classified under Export Control Classification Number (ECCN) 2B230, controlled for nuclear non-proliferation reasons, and with a total value of approximately \$78,000, to customers in Israel, Malaysia, the People’s Republic of China (PRC), Singapore and Taiwan without the Department of Commerce license required by Section 742.3 of the Regulations. Mattson had knowledge that violations of the Regulations were about to occur or were intended to occur because in or about May 2006, one of Mattson’s supply chain partners informed it that pressure transducers that Mattson incorporated into equipment used in the production of semiconductor wafers required export licenses when shipped to Mattson customers in certain foreign countries. Nevertheless, Mattson exported such

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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 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended most recently by the Notice of August 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 *et seq.*).

pressure transducers without export licenses from the Department of Commerce. Mattson knew that no U.S. Government authorization for these transactions had been obtained. In so doing, Mattson committed 47 violations of Section 764.2(e) of the Regulations.

* * * * *

Accordingly, Mattson 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 up to the greater of \$250,000 per violation or twice the value of the transaction that is the basis of the violation;³
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Mattson 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 (2011). If Mattson defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Mattson. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Mattson 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 (2011). Mattson 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 (2011).

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2011). Should Mattson have a proposal to settle this case, Mattson or its representative should transmit it to the attorney representing BIS named below.

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

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Mattson's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

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

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

In addition, a copy of Mattson's answer must be served on BIS at the following address:

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

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

Sincerely,

Douglas Hassebrock
Director
Office of Export Enforcement

**Schedule of Violations
Mattson Technology, Inc.**

1	6/10/2006	Manometer	916-10010-00	1	\$2,262.96	2B230	Malaysia	§764.2(e)
2	7/12/2006	Manometer	575-16710-00	1	\$2,875.03	2B230	Singapore	§764.2(e)
3	7/21/2006	Manometer	575-03550-00	1	\$710.48	2B230	Singapore	§764.2(e)
4	8/2/2006	Manometer	575-16609-00	1	\$2,482.78	2B230	Malaysia	§764.2(e)
5	8/16/2006	Manometer	916-10005-00	1	\$2,371.58	2B230	Malaysia	§764.2(e)
6	8/23/2006	Manometer	575-16609-00	1	\$2,482.78	2B230	Malaysia	§764.2(e)
7	9/1/2006	Manometer	1003178	1	\$4,878.59	2B230	Taiwan	§764.2(e)
8	9/8/2006	Manometer	575-15541-00	1	\$710.48	2B230	PRC	§764.2(e)
9	9/9/2006	Manometer	429-16370-00	2	\$1,420.96	2B230	Taiwan	§764.2(e)
10	10/23/2006	Manometer	575-15541-00	1	\$710.48	2B230	Taiwan	§764.2(e)
11	11/14/2006	Manometer	429-16370-00	1	\$710.48	2B230	Taiwan	§764.2(e)
12	11/26/2006	Manometer	575-16609-00	1	\$2,146.20	2B230	Malaysia	§764.2(e)
13	12/1/2006	Manometer	1003178	1	\$0	2B230	Taiwan	§764.2(e)
14	12/12/2006	Manometer	575-15541-00	1	\$710.18	2B230	Taiwan	§764.2(e)
15	12/29/2006	Manometer	575-15541-00	2	\$1,420.96	2B230	Taiwan	§764.2(e)
16	1/26/2007	Manometer	575-15541-00	1	\$710.18	2B230	Taiwan	§764.2(e)
17	1/26/2007	Manometer	575-15541-00	1	\$710.48	2B230	Taiwan	§764.2(e)
18	1/30/2007	Manometer	1003178	1	\$4,878.89	2B230	Taiwan	§764.2(e)
19	2/9/2007	Manometer	100378	1	\$4,878.89	2B230	Taiwan	§764.2(e)
20	3/8/2007	Manometer	575-15541-00	1	\$710.48	2B230	Taiwan	§764.2(e)
21	4/12/2007	Manometer	1003178	1	\$3,368	2B230	Taiwan	§764.2(e)
22	4/13/2007	Manometer	916-10005-00	1	\$710.48	2B230	Singapore	§764.2(e)
23	5/1/2007	Manometer	575-15541-00	1	\$710.48	2B230	Taiwan	§764.2(e)
24	5/14/2007	Manometer	575-15541-00	1	\$710.48	2B230	Taiwan	§764.2(e)
25	5/16/2007	Manometer	575-15541-01	1	\$710.48	2B230	Taiwan	§764.2(e)
26	5/22/2007	Manometer	575-15541-02	1	\$710.48	2B230	Taiwan	§764.2(e)
27	5/23/2007	Manometer	575-15541-00	1	\$710.48	2B230	Taiwan	§764.2(e)
28	6/1/2007	Manometer	916-10005-00	1	\$710.48	2B230	Singapore	§764.2(e)
29	6/14/2007	Manometer	1001016	1	\$648.55	2B230	Taiwan	§764.2(e)
30	8/9/2007	Manometer	916-10005-00	1	\$2,446.82	2B230	Singapore	§764.2(e)

**Schedule of Violations
Mattson Technology, Inc.**

31	8/10/2007	Manometer	575-15541-00	1	\$710.48	2B230	Taiwan	\$764.2(e)
32	8/14/2007	Manometer	575-16609-00	1	\$2,482.78	2B230	Malaysia	\$764.2(e)
33	8/16/2007	Manometer	916-10005-00	1	\$480	2B230	Malaysia	\$764.2(e)
34	8/23/2007	Manometer	916-10005-01	1	\$710.48	2B230	Singapore	\$764.2(e)
35	8/31/2007	Manometer	1003178	1	\$4,878.89	2B230	Taiwan	\$764.2(e)
36	8/31/2007	Manometer	1003178	1	\$4,878.89	2B230	Taiwan	\$764.2(e)
37	9/13/2007	Manometer	916-10002-00	1	\$792.03	2B230	Taiwan	\$764.2(e)
38	10/18/2007	Manometer	575-15541-00	1	\$710.48	2B230	Taiwan	\$764.2(e)
39	10/19/2007	Manometer	575-15541-01	1	\$710.48	2B230	Taiwan	\$764.2(e)
40	10/30/2007	Manometer	916-10002-00	1	\$792.03	2B230	Taiwan	\$764.2(e)
41	11/8/2007	Manometer	1003178	1	\$710	2B230	Taiwan	\$764.2(e)
42	11/8/2007	Manometer	1003178	1	\$0	2B230	Taiwan	\$764.2(e)
43	11/30/2007	Manometer	575-15541-00	1	\$710.48	2B230	Taiwan	\$764.2(e)
44	1/23/2008	Manometer	575-15541-00	1	\$2,029.94	2B230	Israel	\$764.2(e)
45	1/25/2008	Manometer	575-15541-00	2	\$1,420.96	2B230	Taiwan	\$764.2(e)
46	1/31/2008	Manometer	575-15541-01	1	\$2,029.94	2B230	Israel	\$764.2(e)
47	4/23/2008	Manometer	575-16609-00	2	\$4,965.56	2B230	Taiwan	\$764.2(e)