

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

In the Matter of:

Thermotron Industries, Inc.  
291 Kollen Park Drive  
Holland, MI 49423

ORDER RELATING TO  
THERMOTRON INDUSTRIES, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Thermotron Industries, Inc., of Holland, Michigan (“Thermotron”), of its intention to initiate an administrative proceeding against Thermotron pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),<sup>1</sup> through the issuance of a Proposed Charging Letter to Thermotron that alleges that Thermotron committed one violation of the Regulations.<sup>2</sup> Specifically:

**Charge 1      15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct**

On or about August 31, 2012, Thermotron engaged in conduct prohibited by the Regulations by exporting an environmental test chamber, an item subject to the

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<sup>1</sup> The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“the EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq. (2012) (“IEEPA”). 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 EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2021). The charged violation occurred in 2012. The Regulations governing the violation at issue are found in the 2012 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2021 Regulations set forth the procedures that apply to this matter.

Regulations, from the United States to South Korea, without the required Department of Commerce export license. The item was classified under export control classification ("ECCN") 9B106 and controlled on Missile Technology grounds.<sup>3</sup> Pursuant to Section 742.5 of the Regulations, a Department of Commerce export license was required before the item could be exported to South Korea.

WHEREAS, BIS and Thermotron 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;

WHEREAS, Thermotron admits committing the alleged conduct described in the Proposed Charging Letter; and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, for a period of two (2) years from the date of the Order, Thermotron, with a last known address of 291 Kollen Park Drive, Holland, MI 49423, shall be made subject to a two-year denial of its export privileges under the Regulations ("denial"). As authorized by Section 766.18(c) of the Regulations, such denial shall be suspended for a two-year probationary period and shall thereafter be waived, provided that Thermotron has not committed another violation of ECRA, the Regulations, or any order, license or authorization issued under ECRA or the Regulations and has conducted export control compliance training as described below. If Thermotron commits another violation of ECRA, the Regulations, or any order, license or authorization issued under ECRA or the Regulations during the two-year suspension period under the Order, or fails to conduct export compliance training, the suspension of the denial may be modified or revoked by

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<sup>3</sup> On April 4, 2016, after the export at issue, the EAR entry for ECCN 9B106, including the subsection on operating temperature ranges, was revised. Based on those changes, the environmental test chamber at issue was no longer classified under ECCN 9B106 and would not have required an export license to South Korea after April 4, 2016. See 81 Fed.Reg. 19026.

BIS pursuant to Section 766.17(c) of the Regulations and a denial order (including a two-year denial period) activated against Thermotron. If the suspension of the denial is modified or revoked, the activation order may also revoke any BIS licenses in which Thermotron has an interest at the time of the activation order.<sup>4</sup>

SECOND, Thermotron shall conduct export control compliance training for its relevant personnel and management within the two-year probationary period described above. No later than one month after Thermotron completes the export compliance training, Thermotron shall submit a certification of such training to the Office of Export Enforcement, Chicago Field Office, One Oakbrook Terrace, Suite 804, Oakbrook Terrace, IL 60181.

THIRD, compliance with the terms of the Settlement Agreement and the Order, including the export compliance training, are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Thermotron.

FOURTH, should the suspension of the denial be modified or revoked pursuant to Section 766.17(c) of the Regulations, and a denial order (including a two-year denial period) be activated against Thermotron, for the duration of such denial order, Thermotron, and when acting for or on its behalf, its successors, assigns, directors, officers, employees, representatives, or agents (hereinafter collectively referred to as “Denied Person”), 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

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<sup>4</sup> Such a revocation would include licenses existing at the time of the activation order, whether the license had issued before or after ECRA’s enactment on August 13, 2018. *See* Note 1, *supra*.

the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, license exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

FIFTH, should the suspension of the denial be modified or revoked, and a denial order be activated against Thermotron, for the duration of the denial order, no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the 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 the Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

SIXTH, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

SEVENTH, 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.



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Matthew S. Axelrod  
Assistant Secretary of Commerce  
for Export Enforcement

Issued this 30<sup>th</sup> day of September, 2022.

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

In the Matter of:

Thermotron Industries, Inc.  
291 Kollen Park Drive  
Holland, MI 49423

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Thermotron Industries, Inc., of Holland, Michigan (“Thermotron”), 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”).<sup>1</sup>

WHEREAS, BIS has notified Thermotron of its intentions to initiate an administrative proceeding against Thermotron pursuant to the Regulations;<sup>2</sup>

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<sup>1</sup> The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“the EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq. (2012) (“IEEPA”). 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, Title XVII, Subtitle B of Pub. L. 115-232, 132 Stat. 2208 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2021). The charged violation occurred in 2012. The Regulations governing the violation at issue are found in the 2012 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2021 Regulations set forth the procedures that apply to this matter.

WHEREAS, BIS has issued a Proposed Charging Letter to Thermotron that alleges that Thermotron committed one violation of the Regulations, specifically:

**Charge 1                    15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct.**

On or about August 31, 2012, Thermotron engaged in conduct prohibited by the Regulations by exporting an environmental test chamber, an item subject to the Regulations, from the United States to South Korea, without the required Department of Commerce export license. The item was classified under export control classification ("ECCN") 9B106 and controlled on Missile Technology grounds.<sup>3</sup> Pursuant to Section 742.5 of the Regulations, a Department of Commerce export license was required before the item could be exported to South Korea.

WHEREAS, Thermotron 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, Thermotron has reviewed, with the assistance of counsel, the terms of this Agreement, 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, and the Proposed Charging Letter, and understands the terms of all three documents;

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

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

WHEREAS, Thermotron admits committing the alleged conduct described in the Proposed Charging Letter; and

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<sup>3</sup> On April 4, 2016, after the export at issue, the EAR entry for ECCN 9B106, including the subsection on operating temperature ranges, was revised. Based on those changes, the environmental test chamber at issue was no longer classified under ECCN 9B106 and would not have required an export license to South Korea after April 4, 2016. *See* 81 Fed.Reg. 19026.



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

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

1. BIS has jurisdiction over Thermotron, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanctions shall be imposed against Thermotron:
  - a. For a period of two (2) years from the date of the Order, Thermotron shall be made subject to a two-year denial of its export privileges under the Regulations (“denial”). As authorized by Section 766.18(c) of the Regulations, such denial shall be suspended during this two-year probationary period and shall thereafter be waived, provided that Thermotron has not committed another violation of ECRA, the Regulations, or any order, license or authorization issued under ECRA or the Regulations and has conducted export compliance training, as described below. If Thermotron commits another violation of ECRA, the Regulations, or any order, license or authorization issued under ECRA or the Regulations during the two-year suspension period under the Order, or fails to conduct export compliance training, the suspension of the denial may be modified or revoked by BIS pursuant to Section 766.17(c) of the Regulations and a denial order (including a two-year denial period) activated against Thermotron. If the suspension of the denial is modified or revoked, the activation order may also revoke any BIS licenses in which Thermotron has an interest at the time of the activation order.<sup>4</sup>

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<sup>4</sup> Such a revocation would include licenses existing at the time of the activation order, whether the license had issued before or after ECRA’s enactment on August 13, 2018. See Note 1, *supra*.

b. Should the suspension of the denial be modified or revoked pursuant to Section 766.17(c) of the Regulations, and a denial order (including a two-year denial period) be activated against Thermotron, for the duration of such denial order, Thermotron, and when acting for or on its behalf, its successors, assigns, directors, officers, employees, representatives, or agents (hereinafter collectively referred to as "Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

i. Applying for, obtaining, or using any license, license exception, or export control document;

ii. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

c. Thermotron shall conduct export control compliance training for its relevant personnel and management during the two-year probationary

period described in paragraph 2.a above. No later than one month after Thermotron completes the export compliance training, Thermotron shall submit a certification of such training to the Office of Export Enforcement, Chicago Field Office, One Oakbrook Terrace, Suite 804, Oakbrook Terrace, IL 60181.

- d. Compliance with the terms of this Agreement and the Order, including the export compliance training are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Thermotron.

3. Subject to the approval of this Agreement pursuant to Paragraph 7 hereof, Thermotron hereby waives all rights to further procedural steps in this matter including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; and (b) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. Thermotron 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 transaction identified in the Proposed Charging Letter or enforcement of this Agreement and the Order, if issued, from the date of the Order until the later of the date Thermotron has conducted export compliance training and submitted the certification of training in Paragraph 2.c, or the two-year suspension period under the Order has successfully run.

4. BIS agrees that upon successful compliance in full with the terms of this Agreement and the Order, if issued, BIS will not initiate any further administrative

proceeding against Thermotron in connection with any violation of the Regulations arising out of the transaction specifically detailed in the Proposed Charging Letter.

5. 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.

6. 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.

7. 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.

8. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

9. Each signatory affirms that he/she has authority to enter into this Agreement and to bind his/her respective party to the terms and conditions set forth herein.

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



John Sonderman  
Director of Export Enforcement

THERMOTRON INDUSTRIES, INC.

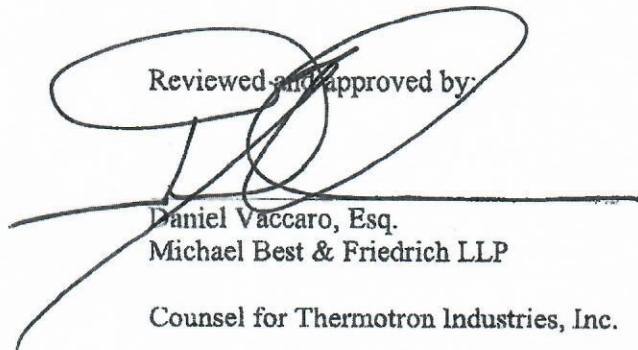


Clint Peterson  
President

Date: 9/30/2022

Date: 9/28/2022

Reviewed and approved by:



Daniel Vaccaro, Esq.  
Michael Best & Friedrich LLP

Counsel for Thermotron Industries, Inc.

Date: 9/28/2022



UNITED STATES DEPARTMENT OF COMMERCE  
Bureau of Industry and Security  
Office of Export Enforcement  
1401 Constitution Avenue, Suite 4508  
Washington, DC 20230

9/7/2022

PROPOSED CHARGING LETTER

Thermotron Industries, Inc.  
291 Kollen Park Drive  
Holland, MI 49423

*Attention: Clint Peterson, President*

Dear Mr. Peterson,

The Bureau of Industry and Security, U.S. Department of Commerce (BIS), has reason to believe that Thermotron Industries, Inc. ("Thermotron"), of Holland, Michigan, committed one violation of the Export Administration Regulations (the "EAR" or "Regulations").<sup>1</sup> Specifically, BIS alleges the following violation:

**Charge 1 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct.**

On or about August 31, 2012, Thermotron engaged in conduct prohibited by the Regulations by exporting an environmental test chamber, an item subject to the Regulations, from the United States to South Korea, without the required Department of Commerce export license. The item was classified under export control classification ("ECCN") 9B106 and controlled on Missile Technology grounds.<sup>2</sup> Pursuant to Section 742.5 of the Regulations, a Department of Commerce export license was required before the item could be exported to South Korea.

\* \* \* \* \*

Accordingly, Thermotron is hereby notified that an administrative proceeding is instituted against it pursuant to Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including, but not limited to, any or all of the following:

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2021). Those regulations govern the violations at issue and set forth the procedures that apply to this matter.

<sup>2</sup> On April 4, 2016, after the export at issue, the EAR entry for ECCN 9B106, including the subsection on operating temperature ranges, was revised. Based on those changes, the environmental test chamber at issue was no longer classified under ECCN 9B106 and would not have required an export license to South Korea after April 4, 2016. See 81 Fed.Reg. 19026.



- The maximum civil penalty of an amount not to exceed the greater of \$328,121 per violation or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed;<sup>3</sup>
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

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

Thermotron is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with any answer. *See* 15 C.F.R. § 766.6. Thermotron 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 Thermotron have a proposal to settle this case, it should transmit it to the attorneys representing BIS named below.

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

Chief Counsel for Industry and Security  
Attention: Gregory Michelsen  
Room H-3839  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

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<sup>3</sup> *See* 50 U.S.C. § 4819 (prescribing civil monetary penalty amount for ECRA violation); 15 C.F.R. §§ 6.3(c)(6), 6.4 (adjusting civil monetary penalty amount for inflation).

Gregory Michelsen is the attorney representing BIS in this case; any communications that Thermotron may wish to have concerning this matter should occur through him. Mr. Michelsen may be contacted by email at [gmichelsen@doc.gov](mailto:gmichelsen@doc.gov).

Sincerely,

John Sonderman  
Director  
Office of Export Enforcement