

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

In the Matter of:)
)
)
WaveLab Inc.)
12007 Sunrise Valley Drive)
Suite 350)
Reston, VA 20191)
)
)
Respondent)

ORDER RELATING TO WAVELAB INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified WaveLab Inc. (“WaveLab”), of its intention to initiate an administrative proceeding against WaveLab pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (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 issuance of a proposed charging letter to WaveLab that alleged that WaveLab committed 11 violations of the Regulations. Specifically, the charges are:

¹ The violations alleged to have been committed occurred in 2006. The Regulations governing the violations at issue are found in the 2006 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2006)). The 2007 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 August 15, 2007 (72 Fed. Reg. 46,137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

Charges 1-11 15 C.F.R. § 764.2(a): Acting with Knowledge of a Violation

On 11 occasions between on or about February 22, 2006 and on or about October 20, 2006, WaveLab bought and/or forwarded microwave amplifiers with knowledge that a violation of the Regulations would occur or was intended to occur in connection with the items. At all times relevant hereto, WaveLab knew or had reason to know that an export license was required to export microwave amplifiers, items subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 3A001.b.2, from the United States to the People’s Republic of China (“China”). WaveLab knew or had reason to know that exports of microwave amplifiers required authorization from the U.S. Government since, *inter alia*, WaveLab was informed by the U.S. manufacturer of the licensing requirement for these items. In so doing, WaveLab committed 11 violations of Section 764.2(e) of the Regulations.

WHEREAS, BIS and WaveLab 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, for a period five years from the date of entry of the Order, WaveLab Inc., 12007 Sunrise Valley Drive, Suite 350, Reston, VA 20191, (“WaveLab”), its successors or assigns, and when acting for or on behalf of WaveLab, its representatives, agents, officers or employees (hereinafter collectively referred to as “Denied Person”) may not participate, directly or indirectly, 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:

- 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 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 in any other activity subject to the Regulations.

SECOND, that 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.

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

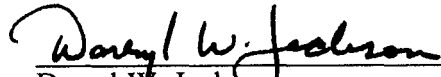
FOURTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

FIFTH, that, as authorized by Section 766.18(c) of the Regulations, the denial period set forth above shall be suspended in its entirety, and shall thereafter be waived, provided that during the period of suspension, WaveLab has committed no violation of the Act or any regulation, order or license issued thereunder.

SIXTH, that WaveLab shall perform an audit of its internal compliance program within 12 months from the date of entry of this Order. Said audit shall be in substantial compliance with the Export Management Systems audit module, which is available from the BIS website at <http://www.bis.doc.gov/complianceandenforcement/ExportManagementSystems.htm>, which is incorporated by reference. A copy of said audit report shall be transmitted to the Office of Export Enforcement, High Point Plaza, 4415 West Harrison Street, Suite 530, Hillside, IL 60162, no later than 13 months from the date of entry of the Order.

SEVENTH, 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.



Darryl W. Jackson
Assistant Secretary of Commerce
for Export Enforcement

Entered this 12th day of March, 2008.

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

In the Matter of:)
)
)
WaveLab Inc.)
12007 Sunrise Valley Drive)
Suite 350)
Reston, VA 20191)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between WaveLab Inc. (“WaveLab”), 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 (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),²

¹ The violations alleged to have been committed occurred in 2006. The Regulations governing the violations at issue are found in the 2006 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2006)). The 2007 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 August 15, 2007 (72 Fed. Reg. 46,137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

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

WHEREAS, BIS has issued a proposed charging letter to WaveLab that alleged that WaveLab committed 11 violations of the Regulations, specifically:

Charges 1-11 15 C.F.R. § 764.2(a): Acting with Knowledge of a Violation

On 11 occasions between on or about February 22, 2006 and on or about October 20, 2006, WaveLab bought and/or forwarded microwave amplifiers with knowledge that a violation of the Regulations would occur or was intended to occur in connection with the items. At all times relevant hereto, WaveLab knew or had reason to know that an export license was required to export microwave amplifiers, items subject to the Regulations and classified under Export Control Classification Number ("ECCN") 3A001.b.2, from the United States to the People's Republic of China ("China"). WaveLab knew or had reason to know that exports of microwave amplifiers required authorization from the U.S. Government since, *inter alia*, WaveLab was informed by the U.S. manufacturer of the licensing requirement for these items. In so doing, WaveLab committed 11 violations of Section 764.2(e) of the Regulations.

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

WHEREAS, the parties enter into this Agreement having taken into consideration a plea agreement that WaveLab has agreed to enter into with the U.S. Attorney for the Eastern District of Virginia;

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over WaveLab, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanction shall be imposed against WaveLab in complete settlement of the alleged violations of the Regulations relating to the transactions detailed in the proposed charging letter:

a. For a period of five years from the date of entry of the Order, WaveLab, its successors or assigns, and, when acting for or on behalf of WaveLab, its officers, representatives, agents, or employees ("Denied Person") may not participate, directly or indirectly, 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 in any other activity subject to the Regulations; or
- iii. Benefiting 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 in any other activity subject to the Regulations.

b. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the five year denial period set forth in paragraph 2.a shall be suspended in its entirety, and shall thereafter be waived, provided that during the period of suspension, WaveLab has committed no violation of the Act or any regulation, order or license issued thereunder.

c. WaveLab shall perform an audit of its internal compliance program within 12 months of the date of entry of the Order. Said audit shall be in substantial compliance with the Export Management System audit module, which is available from the BIS website at <http://www.bis.doc.gov/complianceandenforcement/ExportManagementSystems.htm>, which is incorporated by reference. A copy of said audit report shall be transmitted to the Office of Export Enforcement, 381 Elden Street, Suite 1125, Herndon, VA 20170, no later than 13 months from the date of entry of the Order.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, WaveLab 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 WaveLab 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.

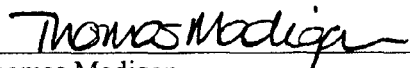
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the 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 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.

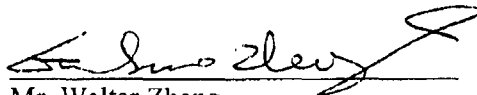
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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

WAVELAB INC.



Thomas Madigan
Acting Director
Office of Export Enforcement



Mr. Walter Zheng
Chief Executive Officer

Date: 5 MAR 2008

Date: March 5th, 2008

PROPOSED CHARGING LETTER
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

WaveLab Inc.
12007 Sunrise Valley Drive
Suite 350
Reston, VA 20191

Attention: *Mr. Walter Zheng*
CEO

Dear Mr. Zheng:

The Bureau of Industry and Security, U. S. Department of Commerce (“BIS”), has reason to believe that WaveLab Inc. (“WaveLab”), of Reston, Virginia, has committed 11 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 WaveLab committed the following violations:

Charges 1-11 15 C.F.R. § 764.2(a): Acting with Knowledge of a Violation

On 11 occasions between on or about February 22, 2006 and on or about October 20, 2006, WaveLab bought and/or forwarded microwave amplifiers with knowledge that a violation of the Regulations would occur or was intended to occur in connection with the items. At all times relevant hereto, WaveLab knew or had reason to know that an export license was required to export microwave amplifiers, items subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 3A001.b.2, from the United States to the People’s Republic of China (“China”). WaveLab knew or had reason to know that exports of microwave amplifiers required authorization from the U.S. Government since, *inter alia*, WaveLab was informed by the U.S. manufacturer of the licensing requirement for these items. In so doing, WaveLab committed 11 violations of Section 764.2(e) of the Regulations.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The violations charged occurred in 2006. The Regulations governing the violations at issue are found in the 2007 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2006)). The 2007 Regulations govern the procedural aspects of this case.

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)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

* * * * *

Accordingly, WaveLab 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 WaveLab 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 (2007). If WaveLab defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to WaveLab. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

WaveLab 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 (2007). WaveLab is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. 15 C.F.R. §§ 766.3(a) and 766.4 (2007).

WaveLab is additionally notified that under the Small Business Regulatory Enforcement Flexibility Act, it 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 Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2007). Should WaveLab have a proposal to settle this case, WaveLab's representative should transmit it through the attorney representing BIS, who is named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, WaveLab'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

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

WaveLab, Inc.
Proposed Charging Letter
Page 3

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

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

Gregory Michelsen is the attorney representing BIS in this case. Any communications that WaveLab may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

Thomas Madigan
Acting Director
Office of Export Enforcement

Enclosure