

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Compaq Computer Corporation  
(Digital Equipment Asia Pacific Pte. Ltd.)  
P.O. Box 69200  
Houston, TX 77269-2000

Attention: Michael R. Dennis, Corporate Manager, Trade Compliance

Dear Mr. Dennis:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), has reason to believe that Digital Equipment Asia Pacific Pte. Ltd. (“Digital Singapore”), has violated the Export Administration Regulations (the “Regulations”),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979 (the “Act”).<sup>2</sup> Specifically, BIS charges that Digital Singapore committed the following violation:

**Charge 1 (15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Failure to Obtain Proper Reexport Authorization)**

On or about July 8, 2000, Digital Singapore reexported nine U.S.-origin 700 MHz dual CPU modules from Singapore to India without obtaining the proper authorization from BIS, as required by § 742.12 of the Regulations. The dual CPU modules were classified as ECCN 4A003(b) at the time of the reexport. By exporting in violation of the Regulations, Digital Singapore violated Section 764.2(a) of the Regulations by engaging in prohibited conduct.

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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 (2002). The Regulations are also available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis/>.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (1994 & Supp. V 1999). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period of lapse, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations then in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (1994 & Supp. V 1999)) (IEEPA). From November 13, 2000 through August 20, 2001, the Act was in effect. From August 21, 2001 to present, the Act is in lapse. During this period of lapse, the President, through Executive Order 13222 of August 17, 2001 (66 Fed. Reg. 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA. The Act and other legal authority for the Regulations is also available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis/>.

Accordingly, Digital Singapore 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 \$11,000 for each violation; and/or

A denial of export privileges; and/or

Exclusion from practice before BIS.

If Digital Singapore fails to answer the charges contained in this letter within thirty 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 & 766.7. If Digital Singapore defaults, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to Digital Singapore. The Under Secretary for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

Digital Singapore is further notified that it is entitled to an agency hearing on the record if Digital Singapore files a written demand for one with its answer. See 15 C.F.R. §766.6. Digital Singapore 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 & 766.4.

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

The U.S. Coast Guard provides administrative law judge services in connection with the matters set forth in this letter. Accordingly, Digital Singapore's answer should be tiled pursuant to the instructions set forth in §766.5(a) of the Regulations with:

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

A copy of Digital Singapore's answer must be served on BIS at:

Chief Counsel for Industry and Security  
Attention: Glenn H. Kaminsky  
Room H-3839  
U.S. Department of Commerce  
14<sup>th</sup> & Constitution Avenue, N.W.  
Washington, DC 20230

**DRAFT**

Glenn Kaminsky is the attorney representing BIS in this matter. He may be contacted by telephone at (202) 482-5301.

Sincerely,

Mark D. Menefee  
Director  
Office of Export Enforcement

CC: Eric L. Hirschhorn, Esq.  
Winston & Strawn  
1400 L Street, N.W.  
Washington, DC 20095-3502

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

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In the Matter of: )  
)  
COMPAQ COMPUTER CORPORATION )  
(Digital Equipment Asia Pacific Pte. Ltd.) )  
P.O. Box 69200 )  
Houston, TX 77269-2000 )  
)  
Respondent \_\_\_\_\_)

SETTLEMENT AGREEMENT

This Settlement Agreement is made by and between Compaq Computer Corporation (“Compaq”), and the Bureau of Industry and Security, United States Department of Commerce (“BIS”), pursuant to Section 766.18(a) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (2002)) (the “Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1994 & Supp. V 1999)) (the “Act”).<sup>2</sup>

WHEREAS, BIS has notified Compaq of its intention to initiate administrative proceedings against Compaq pursuant to the Act and the Regulations;

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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 (2002). The Regulations are also available on the Government Printing Office website at <http://w3.access.gpo.gov/bis/>.

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1706 (1994 & Supp. V 1999)) (IEEPA). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 Fed. Reg. 44025 (August 22, 2001)), as extended by the Notice of August 14, 2002 (67 Fed. Reg. 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

WHEREAS, BIS has issued a proposed charging letter to Compaq pursuant to the Regulations, based on the allegation that Digital Equipment Asia Pacific Pte. Ltd. (“Digital Singapore”), now merged with and into Compaq, committed the following violation of the Regulations:

(1) On or about July 8, 2000, Digital Singapore reexported nine U.S.-origin 700 MHz dual CPU modules to India without obtaining the proper authorization from BIS, as required by §742.12 of the Regulations.

WHEREAS, Compaq has reviewed the proposed charging letter and is aware of the allegation made against it and the administrative sanctions which could be imposed against it if the allegation were found to be true;

WHEREAS, Compaq fully understands the terms of this Settlement Agreement and understands that an Order consistent herewith will be issued to give effect to this Settlement Agreement (the “Order”);

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

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

WHEREAS, Compaq neither admits nor denies the allegation contained in the proposed charging letter;

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

WHEREAS, Compaq agrees to be bound by the Order, when entered;

NOW THEREFORE, Compaq and BIS agree as follows:

1. BIS has jurisdiction over Compaq under the Regulations in connection with the matter alleged in the proposed charging letter.

2. BIS and Compaq agree that the following sanction shall be imposed against Compaq in complete settlement of the alleged violation set forth in the proposed charging letter:

- a. Compaq shall be assessed a civil penalty in the amount of \$6,000. Compaq shall pay this civil penalty to the U.S. Department of Commerce no later than 30 days after the date of execution of the Order.
- b. The timely payment of the civil penalty agreed to in paragraph 2a. 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 Compaq. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Compaq's export privileges for a period of one year from the date of imposition of the civil penalty.

3. Compaq agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the Order, when entered). including, without limitation, any right to: (a) administrative hearings regarding the allegation in the proposed charging letter; (b) request a refund of any civil penalty paid pursuant to this

Settlement Agreement and the Order, when entered; and (c) seek judicial review or otherwise contest the validity of this Settlement Agreement or the Order, when entered.

4. BIS agrees that, once the order has been issued, it will not initiate any administrative proceeding against Compaq in connection with any violation of the Regulations arising out the transactions identified in the proposed charging letter.

5. Compaq understands that BIS will make the proposed charging letter, this Settlement Agreement, and the Order, when entered, available to the public.

6. BIS and Compaq agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement 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, BIS and Compaq agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that the parties shall not be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

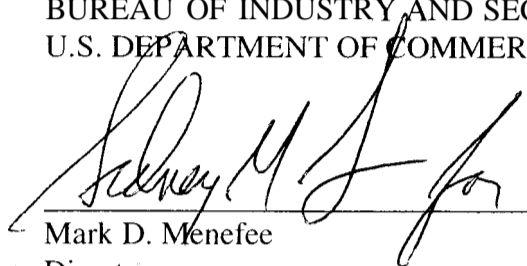
7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BIS only when 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.

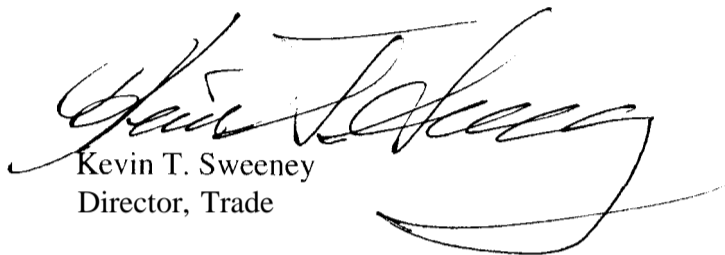
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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



Mark D. Menefee  
Director  
Office of Export Enforcement

COMPAQ COMPUTER CORPORATION



Kevin T. Sweeney  
Director, Trade

Date: 10/3/02

Date: 9-30-02



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

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In the Matter of: )  
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COMPAQ COMPUTER CORPORATION )  
(Digital Equipment Asia Pacific Pte. Ltd.) )  
P.O. Box 69200 )  
Houston, TX 77269-2000 )  
)  
Respondent

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ORDER RELATING TO ALLEGATIONS UNDER 15 C.F.R. PART 764

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), has notified Compaq Computer Corporation (“Compaq”) of its intention to initiate an administrative proceeding against it pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1994 & Supp. V 1999)) (the “Act”),] and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2002)) (the “Regulations”),<sup>2</sup> based on allegations in the proposed charging letter issued to Compaq that Digital Equipment Asia Pacific Pte. Ltd. (“Digital Singapore”), now merged with and into

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<sup>1</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations then in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (1994 & Supp. V 1999)) (IEEPA). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 *Fed. Reg.* 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA.

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2002). The Regulations are also available on the Government Printing Office website at <http://w3.access.gpo.gov/bis/>.

Compaq, committed the following violation of the Regulations:

(1) On or about July 8, 2000, Digital Singapore reexported nine U.S.-origin 700 MHz dual CPU modules from Singapore to India without obtaining the proper authorization from BIS, as required by §742.12 of the Regulations.

BIS and Compaq, having entered into a Settlement Agreement pursuant to Section 766.1 S(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, the terms of the Settlement Agreement having been approved by me;

IT IS HEREBY ORDERED:

FIRST, that a civil penalty of \$6,000 is assessed against Compaq, which shall be paid to the U.S. Department of Commerce no later than 30 days after the date of execution 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 (1983 and Supp. V 1999)), 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 dates specified herein, Compaq 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 Compaq. Accordingly, if

Order

Compaq Computer Corporation (Digital Equipment Asia Pacific Pte. Ltd.)

Page 3 of 3

Compaq should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Compaq's export privileges for a period of one year from the date of entry of this Order. Prior to entry of such Order Compaq shall be provided with notice and opportunity to cure.

FOURTH, that the proposed charging Petter, 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.



Michael J. Garcia  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 29 day of October, 2002.