



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington, D.C. 20230

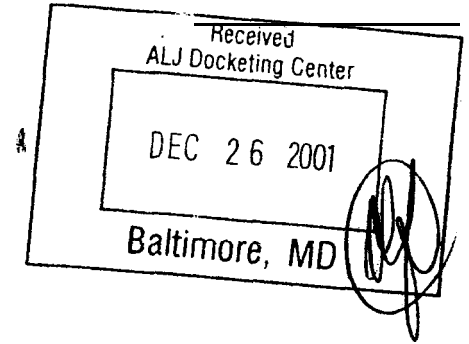
DEC 10 2001

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REGISTERED MAIL - RETURN RECEIPT REQUESTED

Realtek Semiconductors Co., Ltd.
No. 2 Industry East 9th Road
Science-Based Industrial Park,
Hsinchu 300, Taiwan

Attention: Dr. Po-Len Yeh-Chairman:



Dear Dr. Po-Len:

The Bureau of Export Administration, United States Department of Commerce ("BXA"), has reason to believe that Realtek Semiconductors Co., Ltd. ("Realtek") violated the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979 (the "Act"),² on four occasions. Specifically, BXA charges that Realtek committed the following violations:

Charge 1: Acting Contrary to the Terms of a Denial Order: EAR § 764.2 (k)

On or about December 10, 1996, Realtek violated the terms of an order denying all of its U.S. export privileges by participating in a transaction involving commodities that were subject to the Export Administration Regulations and that were exported from the United States. Realtek ordered commercial air-conditioning machinery from a U.S. supplier. As a consequence, the U.S. supplier exported the commercial air-conditioning machinery from the United States to Realtek, in Taiwan. At the time, Realtek was a person denied all U.S. export privileges by an order of the Bureau of Export Administration dated August 3, 1995, and published in the Federal Register on August 9, 1995 (60 Fed. Reg. 4056540566) that was effective for five years. BXA

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2001). The violations charged occurred in 1996 and 1999. The Regulations governing the violations are codified at 15 C.F.R. Parts 730-774 (1996 and 1999). They are substantially the same as the 2001 version of the Regulations which govern the procedural aspects of this case.

² 50 U.S.C. app. §§ 2401-2420 (1994 & Supp. IV 1998), as reauthorized by Act of November 13, 2000, Pub. L. No. 106-508, 114 Stat. 2360. The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1.994 Comp. 917 (1995)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (1994 & Supp. IV 1998)) until the Act was reauthorized on November 13, 2000. The Act and Regulations are available on the Government Printing Office website at: <http://w3.access.gpo.gov/bxa/>.



alleges that, by taking an action prohibited by a denial order, Realtek committed one violation of Section 764.2(k) of the Regulations.

Charge 2: Acting with Knowledge of a Violation: EAR §764.2 (e)

On or after December 11, 1996, Realtek received the items that had been exported from the United States and that are described in Charge 1 knowing that a violation of an order issued under the Regulations had occurred and was about to occur in connection with those items. On August 3, 1995, the Bureau of Export Administration issued an order denying all of Realtek's export privileges for five years. That order was published in the Federal Register on August 9, 1995 (60 Fed. Reg. 40565-40566). The order prohibited Realtek from participating in any transaction involving any commodity or technical data exported from the United States and subject to the Regulations. BXA alleges that, by receiving items that it knew were connected to a violation of the Regulations, Realtek committed one violation of Section 764.2(e) of the Regulations.

Charge 3: Acting Contrary to the Terms of a Denial Order: EAR § 764.2 (k)

On or about December 6, 1999, Realtek violated the terms of an order denying all of its U.S. export privileges by participating in a transaction involving commodities that were subject to the Export Administration Regulations and that were to be exported from the United States. Realtek ordered software developed in and which would have been exported from the United States from the Taiwan-based distributor of the software's developer. At the time, Realtek was a person denied all U.S. export privileges by an order of the Bureau of Export Administration dated August 3, 1995, and published in the Federal Register on August 9, 1995 (60 Fed. Reg. 40565-40566) that was effective for five years. BXA alleges that, by taking an action prohibited by a denial order Realtek committed one violation of Section 764.2(k) of the Regulations.

Charge 4: Acting with Knowledge of a Violation: EAR §764 (e)

On or after December 6, 1996, Realtek ordered the items that were to be exported from the United States and that are described in Charge 3 knowing that a violation of an order issued under the Regulations was about to occur in connection with the items. On August 3, 1995, the Bureau of Export Administration issued an order denying all of Realtek's export privileges for five years. That order was published in the Federal Register on August 9, 1995. (60 Fed. Reg. 40565-40566.) The order prohibited Realtek from participating in any transaction involving any commodity or technical data exported from the United States and subject to the Regulations, BXA alleges that, by ordering items that it knew were connected to a violation of the Regulations, Realtek committed one violation of Section 764.2(e) of the Regulations.

Accordingly, Realtek 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:

A civil penalty of up to \$11,000 for each violation³;

A denial of export privileges; and/or

Exclusion from practice before BXA.

If Realtek fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of the letter, that failure will be treated as a default. (Regulations, Section 766.6 and 766.7). If Realtek defaults, the Administrative Law Judge **may** find the charges alleged in this letter are true without hearing or further notice to Realtek. The Under Secretary for Export Administration may impose up to the maximum penalty on each of the charges in this letter.

Realtek is further notified that it is entitled to an agency hearing on the record if Realtek files a written demand for one with its answer. (Regulation, Section 766.6). Realtek is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should you have a proposal to settle this case, you or your representative should transmit it to me through the attorney representing BXA named below.

The U.S. Coast Guard provides administrative law judges service in connection with the matters set forth in this letter. Accordingly, Realtek's answer should be filed pursuant to 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

A copy of Realtek's answer must be served on BXA at:

Chief Counsel for Export Administration
Attention: Lairold M. Street, Esq.
Room H-3839
U.S. Department of Commerce
14th Street and Constitution Avenue, NW
Washington, D.C. 20230

³ The maximum civil penalty for any violation committed after October 23, 1996 is \$11,000 per violation. See 15 C.F.R. § 6.4(a)(3) (2001).

Laiold M. Street is the attorney representing the Bureau of Export Administration on this case.
He may be contacted by telephone at (202) 482-53 11.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Menefee". The signature is fluid and cursive, with the first and last names being the most prominent.

Mark D. Menefee
Director
Office of Export Enforcement

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

In the Matter of:)
)
Realtek Semiconductor Corporation)
previously known as Realtek Semiconductors Co. Ltd.)
No. 2 Industry East 9th Road) OI-BXA-20
Science-Based Industrial Park)
Hsinchu 300, Taiwan,)
)
)
)
Respondent. _____)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Realtek Semiconductor Corporation, previously known as Realtek Semiconductors Co., Ltd. (“Realtek”) and the Bureau of Industry and Security, United States Department of Commerce (“BIS”), pursuant to Section 766.1 S(a) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (2002)) (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1994 & Supp. V 1999)) (“Act”).²

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2002).

² 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 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 (3 C.F.R., 2001 Comp. 783 (2002)), 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, on December 10, 2001, BIS initiated an administrative proceeding against Realtek pursuant to the Act and the Regulations by issuing a Charging Letter alleging that Realtek violated the Export Administration Regulations on four occasions. Specifically, the charging letter charges that, on or about December 10, 1996, Realtek violated the terms of an order denying all of its U.S. export privileges by participating in a transaction involving commodities that were exported from the United States when it ordered commercial air-conditioning machinery from a U.S. supplier, and that, on or about December 6, 1999, Realtek ordered software developed in and which would have been exported from the United States from the Taiwan-based distributor of the software's developer. At each time, Realtek was a person denied all U.S. export privileges. Realtek is charged with two violations of Section 764.2(k) of the Regulations, taking action contrary to a denial order and two violations of Section 764.2(e) of the Regulations, acting with knowledge of a violation;

WHEREAS, Realtek has reviewed the 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, Realtek fully understands the terms of this Settlement Agreement and the order of the Assistant Secretary of Commerce for Export Enforcement implementing this Settlement Agreement ("Order");

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

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

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

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

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

NOW THEREFORE, Realtek and BIS agree as follows:

1. BIS has jurisdiction over Realtek, under the Regulations, in connection with the matters alleged in the Charging Letter.
2. BIS and Realtek agree that the following sanctions shall be imposed against Realtek in complete settlement of the alleged violations of the Regulations set forth in the Charging Letter:
 - a. Realtek shall be assessed a civil penalty in the amount of \$44,000 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
 - b. Realtek, its successors or assigns, and, when acting for or on behalf of Realtek, its officers, representatives, agents or employees (“denied persons”) may not, for a period of two years from the date of entry of the Order, 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. **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.
- c. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the two year denial period set forth in paragraph 2(b) shall be suspended for a period of two years from the entry of the appropriate Order, and shall thereafter be waived, provided that during the period of suspension, Realtek has committed no violation of the Act or any regulation, order or license issued thereunder, and, provided further that Realtek has made timely payment of the \$44,000 civil penalty assessed pursuant to this Settlement Agreement and the Order.

3. Realtek 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: (a) to an administrative hearing regarding the allegations in the Charging Letter; (b) to request a refund of any civil penalty paid pursuant to this Settlement Agreement and the Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the Order, when entered.

4. BIS agrees that, upon entry of the Order, it will not initiate any administrative proceeding against Realtek in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Charging Letter.

5. Realtek understands that BIS will make the Charging Letter, this Settlement Agreement, and the Order, when entered, available to the public.

6. BIS and Realtek agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(b) of the Regulations, BIS and Realtek agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

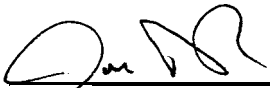
7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action 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 an Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

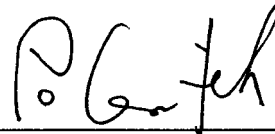
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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

REALTEK SEMICONDUCTOR



Jon A. Dyck
Chief Counsel
Office of Chief Counsel
for Industry and Security



Dr. Po-Len Yeh
Chairman

Date: 6/24/02

Date: Oct. 19, 2002

privileges by participating in a transaction involving commodities that were exported from the United States when it ordered commercial air-conditioning machinery from a U.S. supplier, and that on or about December 6, 1999, Realtek again violated the denial order by ordering software developed in and which would have been exported from the United States from the Taiwan-based distributor of the software's developer. At each time, Realtek was a person denied all U.S. export privileges. Realtek is charged with two violations of Section 764.2(k) of the Regulations, taking action contrary to a denial order and two violations of Section 764.2(e) of the Regulations, acting with knowledge of a violation;

BIS and Realtek having 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 the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$44,000 is assessed against Realtek, 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 (1983 and Supp. 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, Realtek 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 for a period of two years from the date of this Order, Realtek Semiconductors Co., Ltd. No. 2 Industry East 9th Road, Science-Based Industrial Park, Hsinchu 300, Taiwan, its successors or assigns, and when acting for or on behalf of Realtek, its officers, representatives, agents or employees (“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:

- 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.

FOURTH, 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.

FIFTH, 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 Realtek by

affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

SIXTH, 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.

SEVENTH, that, as authorized by Section 766.18(c) of the Regulations, the denial period set forth above shall be suspended in its entirety for two years **from** the date of this Order, and shall thereafter be waived, provided that during the period of suspension, Realtek has committed no violation of the Act or any regulation, order or license issued thereunder, and, provided further, that Realtek has made timely payment of the civil penalty as provided herein.

EIGHTH, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18 of the Regulations.

NINTH, that the 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.



Lisa A. Prager
Acting Assistant Secretary of Commerce
for Export Enforcement

Entered this 16th day of December 2002.