

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

In the Matter of:)
)
Hittite Microwave Corporation)
20 Alpha Road)
Chelmsford, MA 01824)
)
Respondent.)
_____)

ORDER RELATING TO HITTITE MICROWAVE CORPORATION

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Hittite Microwave Corporation (“Hittite”) of its intention to initiate an administrative proceeding against Hittite pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (“Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),² by issuing a proposed charging letter to Hittite, alleging that Hittite committed seven violations of the Regulations. Specifically, the charges are:

¹ The charged violations occurred in 2000 and 2001. The Regulations governing the violations at issue are found in the 2000 and 2001 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000 – 2001)). The 2005 Regulations set forth the procedures that apply to this matter.

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 (2000)) (“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 2, 2005, (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under IEEPA.

1. *Six Violations of 15 C.F.R. § 764.2(a): Exporting Items without the Required Department of Commerce Licenses:* On six occasions between on or about July 20, 2000, and on or about January 15, 2001, Hittite engaged in conduct prohibited by the Regulations by exporting microwave solid state amplifiers and related equipment including downconverters, items subject to the Regulations (ECCN³ 3A001.b.2 and 3A001.b.4), from the United States to Russia, China, and Latvia without obtaining licenses from the Department of Commerce as required by Section 742.4 of the Regulations.

2. *One Violation of 15 C.F.R. § 764.2(g): False Statement on Shipper's Export Declaration Concerning Authority to Export:* On or about July 20, 2000, Hittite made a false statement to the U.S. Government in connection with effecting an export subject to the Regulations. Specifically, in connection with its export of downconverters (ECCN 3A001.b.2) on or about July 20, 2000, Hittite caused a Shipper's Export Declaration to be filed with the U.S. Government that stated that the export of the downconverters qualified for export from the United States to Latvia under the license exception "GBS" (*i.e.*, Country Group B). This statement was false because the items were exported to Latvia, a country not falling within Country Group B at that time.

WHEREAS, BIS and Hittite have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they have agreed to settle this matter in accordance with the terms and conditions set forth therein; and

³ The term "ECCN" refers to an Export Control Classification Number. *See* Section 772.1 of the Regulations.

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

IT IS THEREFORE ORDERED:

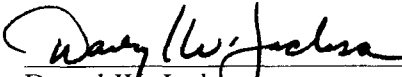
FIRST, that a civil penalty of \$221,250 is assessed against Hittite, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order shall accrue interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Hittite 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 Hittite. Accordingly, if Hittite should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Hittite's export privileges under the Regulations for a period of one year from the date of entry of this Order.

FOURTH, 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 2nd day of March 2006.

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

In the Matter of:)
)
Hittite Microwave Corporation)
20 Alpha Road)
Chelmsford, MA 01824)
)
Respondent.)
_____)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Hittite Microwave Corporation (“Hittite”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),²

WHEREAS, BIS has notified Hittite of its intention to initiate an administrative proceeding

¹ The charged violations occurred in 2000 and 2001. The Regulations governing the violations at issue are found in the 2000 and 2001 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000-2001)). The 2005 Regulations set forth the procedures that apply to this matter.

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 (2000)) (“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 2, 2005, (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under IEEPA.



against Hittite, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to Hittite that alleges that Hittite has committed seven violations of the Regulations, specifically:

1. *Six Violations of 15 C.F.R. § 764.2(a): Exporting Items without the Required Department of Commerce Licenses:* On six occasions between on or about July 20, 2000, and on or about January 15, 2001, Hittite engaged in conduct prohibited by the Regulations by exporting microwave solid state amplifiers and related equipment including downconverters, items subject to the Regulations (ECCN³ 3A001.b.2 and 3A001.b.4), from the United States to Russia, China, and Latvia without obtaining licenses from the Department of Commerce as required by Section 742.4 of the Regulations.
2. *One Violation of 15 C.F.R. § 764.2(g): False Statement on Shipper's Export Declaration Concerning Authority to Export:* On or about July 20, 2000, Hittite made a false statement to the U.S. Government in connection with effecting an export subject to the Regulations. Specifically, in connection with its export of downconverters (ECCN 3A001.b.2) on or about July 20, 2000, Hittite caused a Shipper's Export Declaration to be filed with the U.S. Government that stated that the export of the downconverters qualified for export from the United States to Latvia under the license exception "GBS" (*i.e.*, Country Group B). This statement

³ The term "ECCN" refers to an Export Control Classification Number. See Section 772.1 of the Regulations.



was false because the items were exported to Latvia, a country not falling within Country Group B at that time.

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

WHEREAS, Hittite neither admits nor denies the allegations contained in the proposed charging letter or set forth in paragraphs 1 and 2 above;

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanction shall be imposed against Hittite in complete settlement of the violations of the Regulations set forth in the proposed charging letter:



- a. Hittite shall be assessed a civil penalty in the amount of \$221,250 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
- b. The 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 Hittite. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Hittite's export privileges under the Regulations for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Hittite 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; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$221,250 civil penalty, BIS will not initiate any further administrative proceeding against Hittite in connection with any violation of the Act or the Regulations arising out of the transactions detailed 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.

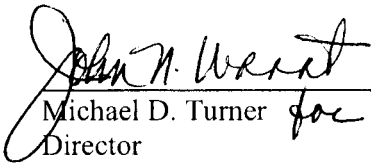
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department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

HITTITE MICROWAVE CORPORATION



Michael D. Turner *for*
Director
Office of Export Enforcement
Date: 2/27/06



Stephen Daly
President
Date: 2/22/2006

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Hittite Microwave Corporation
20 Alpha Road
Chelmsford, MA 01824

Attn: *Stephen Daly,*
President

Dear Mr. Daly:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Hittite Microwave Corporation (hereafter “Hittite”) of Chelmsford, Massachusetts, has committed seven 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 Hittite committed the following violations:

**Charges 1 – 6 15 C.F.R. § 764.2(a): Exporting Items Without the Required
Department of Commerce Licenses:**

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on six occasions between on or about July 20, 2000, and on or about January 15, 2001, Hittite engaged in conduct prohibited by the Regulations by exporting microwave solid state amplifiers and related equipment including downconverters, items subject to the

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2005). The charged violations occurred in 2000 and 2001. The Regulations governing the violations at issue are found in the 2000 and 2001 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000 – 2001)). The 2005 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). 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 (2000)) (“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 2, 2005, (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under IEEPA.

Regulations (ECCN³ 3A001.b.2 and 3A001.b.4) from the United States to Russia, China and Latvia, without obtaining licenses from the Department of Commerce as required by Section 742.4 of the Regulations. In so doing, Hittite committed six violations of Section 764.2(a) of the Regulations.

**Charge 7 15 C.F.R. § 764.2(g): False Statement on Shipper's Export
Declaration Concerning Authority to Export:**

On or about July 20, 2000, Hittite made a false statement to the U.S. Government in connection with effecting an export subject to the Regulations. Specifically, in connection with its export of downconverters (ECCN 3A001.b.2) on or about July 20, 2000, Hittite caused a Shipper's Export Declaration to be filed with the U.S. Government that stated that the export of the downconverters qualified for export from the United States under the license exception "GBS" (*i.e.*, Country Group B). This statement was false because the items were exported to Latvia, a country not falling within Country Group B at that time.⁴ In so doing, Hittite committed one violation of Section 764.2(g) of the Regulations.

* * * *

Accordingly, Hittite 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 \$11,000 per violation, except that, for violations involving national security controls occurring between November 13, 2000, and August 20, 2001, the maximum civil penalty allowed by law is \$120,000 for items controlled for National Security reasons.⁵

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Hittite 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. §§

³ The term "ECCN" refers to an Export Control Classification Number. *See* Section 772.1 of the Regulations.

⁴ At the time of the export, Latvia was a Country Group D destination, and did not qualify for this license exception. 15 C.F.R Part 740, Supp. 1 (2000).

⁵ 50 U.S.C. app. §§ 2410 (2000), Pub. L. No. 106-508 (2000); 15 C.F.R. § 6.4 (adjusting civil penalties for violations of national security controls to account for inflation).

766.6 and 766.7. If Hittite defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Hittite. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for each charge in this letter.

Hittite 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. Hittite 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 Hittite have a proposal to settle this case, Hittite or its representative should transmit it to the attorney 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, Hittite'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 Hittite's answer must be served on BIS at the following address:

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

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

Sincerely,

Michael D. Turner
Director
Office of Export Enforcement

Enclosure

SCHEDULE A

HITTITE CORPORATION

CHARGES	DATE OF EXPORT (ON OR ABOUT)	COMMODITY	ECCN	VALUE (U.S. DOLLARS)	DESTINATION	AIR WAYBILL NO.	SALES ORDER/ INVOICE NUMBER
1, 7	7/20/00	HMC265CB1: Downconverters, 20-30 GHz	3A001.b.2	7,100.00	Latvia	FedEX/79111502 3000	15850/18517
2	8/25/00	HMC283: 17-40 GHz Medium Power Amplifier Die	3A001.b.4.a	393.40	China	UPS/1ZE076860340275746	17458/19167
3	9/29/00	HMC268LM1: 26-32GHz LNA and HMC283LM1 SMT Medium Power Amplifier	3A001.b.4.a/ 3A001.b.4.a	1,050.27	Latvia	FedEx 79230745204104	17817/19726
4	10/23/00	HMC261: Medium Power Distributed Amplifier 20-40 GHz and HMC132: High Isolation SPDT Switch	3A001.b.4.a/ 3A001.b.2	772.20	China	UPS/1ZE076866640934997	18355/20167
5	11/14/00	HMC263 -25-32 GHz LNA Die	3A001.b.4	393.25	China	UPS/1ZE076866640271079	18731/20560
6	1/5/01	HMC259: Sub- Harmonically Pumped Mixer 28-40GHz Die and HMC292: Mixer	3A001.b.2/ 3A001.b.2	141.10	Russia	UPS/1ZE076860240893151	19526/21453