

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

In the Matter of:)
)
Nvidia Corporation)
2701 San Tomas Expressway)
Santa Clara, CA 95131)
)
Respondent.)
)

ORDER RELATING TO NVIDIA CORPORATION

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Nvidia Corporation of Santa Clara, California (“Nvidia”) of its intention to initiate an administrative proceeding against Nvidia 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 Nvidia alleging that Nvidia committed one violation of the Regulations. Specifically, the charge is:

¹ The violation charged occurred from 2002 through 2003. The Regulations governing the violation at issue are found in the 2002 - 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2003)). The 2005 Regulations govern the procedural aspects of this case.

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)), as extended by the Notice of August 2, 2005, (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under IEEPA.

One Violation of 15 C.F.R. §764.2(a) - Deemed Export of Technology to Iranian National in the United States Without the Required License: Between on or about March 18, 2002, and February 20, 2003 Nvidia engaged in conduct prohibited by the Regulations when it transferred to an Iranian national technology classified under Export Control Classification Number (“ECCN”) 4D994.g to use, develop or produce graphics accelerators, without the required Department of Commerce license. This action was deemed to be an export under Section 734.2 of the Regulations and required a license pursuant to Section 746.7 of the Regulations.

WHEREAS, BIS and Nvidia 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, that a civil penalty of \$4,500 is assessed against Nvidia, 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 accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Nvidia 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 Nvidia. Accordingly, if Nvidia should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Nvidia's export privileges 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 16th day of March 2006.

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

In the Matter of:)
)
Nvidia Corporation)
2701 San Tomas Expressway)
Santa Clara, CA 95131)
)
)
Respondent.)
_____)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Nvidia Corporation (“Nvidia”), 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

¹ The violation charged occurred from 2002 through 2003. The Regulations governing the violation at issue are found in the 2002 - 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2003)). The 2005 Regulations govern the procedural aspects of this case.

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)), as extended by the Notice of August 2, 2005, (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under IEEPA.

WHEREAS, Nvidia filed a voluntary self-disclosure with BIS's Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning the transactions at issue herein;

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

WHEREAS, BIS has issued a proposed charging letter to Nvidia that alleged that Nvidia committed one violation of the Regulations, specifically:

1. *One Violation of 15 C.F.R. §764.2(a) - Deemed Export of Technology to Iranian National in the United States Without the Required License: Between on or about March 18, 2002, and February 20, 2003 Nvidia engaged in conduct prohibited by the Regulations when it transferred to an Iranian national technology classified under Export Control Classification Number ("ECCN") 4D994.g to use, develop or produce graphics accelerators, without the required Department of Commerce license. This action was deemed to be an export under Section 734.2 of the Regulations and required a license pursuant to Section 746.7 of the Regulations.*

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanction shall be imposed against Nvidia in complete settlement of the violation of the Regulations relating to the transactions specifically detailed in the voluntary self-disclosure and the proposed charging letter:

- a. Nvidia shall be assessed a civil penalty in the amount of \$4,500, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of

the Order. Payment shall be made in the manner specified in the attached instructions.

- 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 Nvidia. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Nvidia's export or reexport privileges 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, Nvidia 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 the proposed 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 \$4,500 civil penalty, BIS will not initiate any further administrative proceeding against Nvidia in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the voluntary self-disclosure and the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

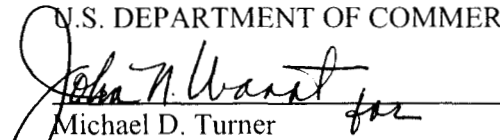
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial 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.

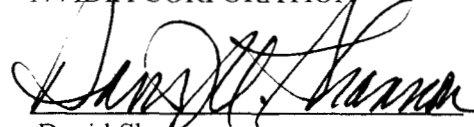
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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


Michael D. Turner
Director
Office of Export Enforcement

Date: March 10, 2006

NVIDIA CORPORATION


David Shannon
General Counsel
Nvidia Corporation

Date: March 6, 2006

DRAFT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Nvidia Corporation
2701 San Tomas Expressway
Santa Clara, CA 95131

Attention: Stephen Pettigrew, Esq.
Director of Litigation and Risk

Dear Mr. Pettigrew:

The Bureau of Industry and Security, U. S. Department of Commerce (“BIS”), has reason to believe that Nvidia Corporation (“Nvidia”), of Santa Clara, California, has committed one violation of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979 (the “Act”).² Specifically, BIS charges that Nvidia committed the following violation:

Charge 1 (15 C.F.R. §764.2(a) - Deemed Export of Technology to Iranian National in the United States Without the Required License)

Between on or about March 18, 2002, and February 20, 2003 Nvidia engaged in conduct prohibited by the Regulations when it transferred to an Iranian national technology classified under Export Control Classification Number (“ECCN”) 4D994.g to use, develop or produce graphics accelerators, without the required Department of Commerce license. This action was deemed to be an export under Section 734.2 of the Regulations and required a license pursuant to

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2005). The violations charged occurred from 2002 through 2003. The Regulations governing the violations at issue are found in the 2002 - 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2003)). The 2005 Regulations govern the procedural aspects of this case.

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 by Pub. L. No. 106-508 and it remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2005 (70 Fed. Reg. 45273 (August 5, 2005)), continues the Regulations in effect under IEEPA.

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Section 746.7 of the Regulations. In so doing, Nvidia committed one violation of Section 764.2(a) of the Regulations.

Accordingly, Nvidia 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 per violation;³

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Nvidia fails to answer the charge 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. (Regulations, Sections 766.6 and 766.7). If Nvidia defaults, the Administrative Law Judge may find the charge alleged in this letter is true without a hearing or further notice to Nvidia. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on the charge in this letter.

Nvidia is further notified that it is entitled to an agency hearing on the record if Nvidia files a written demand for one with its answer. (Regulations, Section 766.6). Nvidia 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 Nvidia have a proposal to settle this case, Nvidia or its representative should transmit it through 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, Nvidia'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 15 C.F.R. §6.4(a)(4) (2005).

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

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

Philip Ankel is the attorney representing BIS in this case; any communications that Nvidia may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner
Director
Office of Export Enforcement

Enclosure