

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

In the Matter of:)
)
Data Physics Corporation)
2025 Gateway Place, Suite 260)
San Jose, California, 95110)
)
Data Physics China)
1605B Westgate Tower,)
1038 Nanjing Road West)
Shanghai, P.R. China, 200041)
)
Data Physics China)
RM. 1509, Building 2, Xinquduan Jiayan,)
No. 5 Changchunquia Road,)
Haidian District, Beijing, P.R. China, 100089)
)
Sri Welranta, President, Data Physics Corporation)
2025 Gateway Place, Suite 260)
San Jose, California, 95110)
)
Bill Chen, Manager, AKA: Yuequan Chen,)
Data Physics China)
RM. 1509, Building 2, Xinquduan Jiayan)
No. 5 Changchunquia Road)
Haidian District, Beijing, P.R. China, 100089)
)

Respondents.)

ORDER TEMPORARILY DENYING EXPORT PRIVILEGES

Pursuant to Section 766.24 of the Export Administration Regulations (“EAR”),¹ the Bureau of Industry and Security (“BIS”), U.S. Department of Commerce, through its Office of Export

¹ 15 C.F.R. Parts 730-774 (2006). The EAR are issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“EAA”). Since August 21, 2001, the EAA 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. 45,273, (August 5, 2005)), has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

Enforcement (“OEE”), has requested that I issue an Order temporarily denying the export privileges under the EAR of:

- 1) Data Physics Corporation, 2025 Gateway Place, Suite 260, San Jose, California, 95110
- 2) Data Physics China (Shanghai Office), 1605B Westgate Tower, 1038 Nanjing Road West, Shanghai, P.R. China, 200041
- 3) Data Physics China (Beijing Office), RM. 1509, Building 2, Xinquan Jiayan, No. 5 Changchunqia Road, Haidian District, Beijing, P.R. China, 100089
- 4) Sri Welranta, President, Data Physics Corporation, 2025 Gateway Place, Suite 260, San Jose, California, 95110
- 5) Bill Chen, Manager, AKA: Yuequan Chen, Data Physics China, RM. 1509, Building 2, Xinquan Jiayan, No. 5 Changchunqia Road, Haidian District, Beijing, P.R. China, 100089

(hereinafter collectively referred to as the “Respondents”) for 180 days.

In its request, BIS has presented evidence that shows that Data Physics Corporation (“Data Physics”) and its Beijing and Shanghai offices, with the knowledge of company president Sri Welranta (“Welranta”) and manager Bill Chen (“Chen”), engaged in conduct prohibited by the EAR. Specifically, Data Physics sold and shipped items subject to the EAR to an end-user in China, who is engaged in the design, development, production and use of cruise missile systems without an export license as required by Section 744.3 of the EAR.

Specifically, the evidence shows that, on or about June 12, 2002, Respondents sold and later shipped spherical couplings, items subject to the EAR, from the United States to China HaiYang Electro Mechanical Technology Academy (“3rd Academy”) in China, an end-user involved in the development of cruise missiles. The evidence shows that Data Physics attempted to conceal the identity of the end-user by using a false customer name “27th Locomotive

Factory.” Data Physics would also attempt to evade the licensing requirements by breaking down the items into smaller components and separate shipments in order to avoid raising suspicion. Installation reports seized from Data Physics show that after the items would arrive at the 3rd Academy, employees from the Chinese offices of Data Physics would go reassemble and install the equipment.

There is also evidence that on or about June 23, 2005, Data Physics exported a Test Shaker to the 3rd Academy again using the false customer name “27th Locomotive Factory.” Specifically, Data Physics filed a Shipper’s Export Declaration (“SED”) for the item stating it was being shipped to China National Instruments in Beijing, China. Further investigation reveals that the Data Physics’ contract summary for the Test Shaker lists the “27th Locomotive Factory” as the end-user. China National Instruments acted as the trading company.

The evidence also demonstrates that the Respondents were aware of restrictions on the shipment of U.S. commodities that can be used for the design, development, production or use of rocket systems or unmanned aerial vehicles to end-users in Country Group D¹. Specifically, copies of EAR Section 744.3 were found during a search of Data Physics with the applicable portions highlighted. Additionally, numerous Data Physics employees including Welranta attended BIS training involving exports to China and end-use restrictions.

I find that the evidence presented by BIS demonstrates that the Respondents have violated the EAR, that such violations have been deliberate and covert, and that there is a likelihood of future violations, particularly given the nature of the transactions. As such, a Temporary Denial Order (“TDO”) is needed to give notice to persons and companies in the

¹ 15 C.F.R. Part 740, Supplement 1 for countries in Group D

United States and abroad that they should cease dealing with the Respondents in export transactions involving items subject to the EAR. Such a TDO is consistent with the public interest to preclude future violations of the EAR.

Accordingly, I find that a TDO naming Data Physics Corporation, its two offices in China, Sri Welranta and Bill Chen Respondents is necessary, in the public interest, to prevent an imminent violation of the EAR. This Order is issued on an ex parte basis without a hearing based upon BIS's showing of an imminent violation.

IT IS THEREFORE ORDERED:

FIRST, that the Respondents, DATA PHYSICS CORPORATION, 2025 Gateway Place, Suite 260, San Jose, California, 95110, and DATA PHYSICS CHINA, 1605B Westgate Tower, 1038 Nanjing Road West, Shanghai, P.R. China, 200041, and DATA PHYSICS CHINA, RM. 1509, Building 2, Xinquan Jiayan, No. 5 Changchunqia Road, Haidian District, Beijing, P.R. China, 100089, SRI WELRANTA, President, Data Physics Corporation, 2025 Gateway Place, Suite 260, San Jose, California, 95110, and BILL CHEN, Manager, AKA: Yuequan Chen, Data Physics China, RM. 1509, Building 2, Xinquan Jiayan, No. 5 Changchunqia Road, Haidian District, Beijing, P.R. China, 100089 (collectively the "Denied Persons"), 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 Export Administration Regulations ("EAR"), or in any other activity subject to the EAR, 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 EAR, or in any other activity subject to the EAR;
or
- C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

SECOND, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the Denied Persons any item subject to the EAR;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Persons of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Persons 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 Persons of any item subject to the EAR that has been exported from the United States;

D. Obtain from the Denied Persons in the United States any item subject to the EAR 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 EAR that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Persons, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Persons if such service involves the use of any item subject to the EAR 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 EAR, any other person, firm, corporation, or business organization related to any of the Denied Persons 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 this Order.

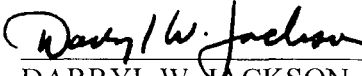
FOURTH, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Section 766.24(e) of the EAR, the Respondents may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. The Respondents may oppose a request to renew this Order by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on the Respondents and shall be published in the Federal Register.

This Order is effective upon date of publication in the Federal Register and shall remain in effect for 180 days.


DARRYL W. JACKSON
Assistant Secretary of Commerce
for Export Enforcement

Entered this 12th day of May, 2006.