
UNITED STATES DEPARTMENT OF
COMMERCE
NEWS

WASHINGTON, D.C. 20230

BUREAU OF
INDUSTRY
AND
SECURITY

FOR IMMEDIATE RELEASE
April 14, 2004
www.bis.doc.gov

CONTACT: Scott Kamins
Eugene Cottilli
(202) 482-2721

MARYLAND COMPANY SETTLES CHARGES OF ANTIBOYCOTT VIOLATIONS

The U.S. Department of Commerce today announced that Invitrogen Corporation of Rockville, Maryland, agreed to a \$2,000 civil penalty to settle allegations that its subsidiary, Invitrogen Limited of Scotland (Invitrogen), violated the antiboycott provisions of the Export Administration Regulations (EAR).

The Commerce Department's Bureau of Industry and Security (BIS) charged that Invitrogen furnished information about its business relationship with Israel when it certified to the end-user that the United States-origin goods the company sold to Syria were "not of Israeli origin and did not contain any Israeli materials."

The antiboycott provisions of the EAR prohibit U.S. persons from complying with certain requirements of unsanctioned foreign boycotts, including providing information about business relationships with Israel and refusing to do business with persons on boycott lists. In addition, the EAR requires that persons report their receipt of certain boycott requests to the Department of Commerce. Under the antiboycott provisions of the EAR, a controlled-in-fact foreign subsidiary of a domestic U.S. concern is considered a U.S. person.

Assistant Secretary for Export Enforcement Julie L. Myers commended Compliance Officer Joyce Shepard of BIS's Office of Antiboycott Compliance for her work on this case.

The Department and Invitrogen Corporation having entered into a Settlement Agreement, incorporated herein by this reference, whereby the parties have agreed to settle this matter; and

I, the Assistant Secretary for Export Enforcement, having approved the terms of the Settlement Agreement:

IT IS ORDERED THAT,

FIRST, a civil penalty of \$2,000 is assessed against Invitrogen Corporation;

SECOND, Invitrogen Corporation shall pay to the Department in complete settlement of this matter the sum of \$2,000 within thirty days of service upon it of this Order, as specified in the attached instructions.

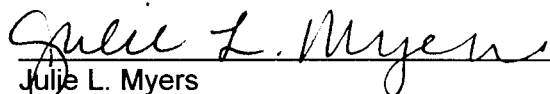
THIRD, pursuant to the Debt Collections Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 2001)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Invitrogen Corporation will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

FOURTH, as authorized by Section 11(d) of the Act, the timely payment of the sum of \$2,000 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 Invitrogen Corporation. Accordingly, if Invitrogen Corporation should fail to pay the sum of \$2,000 in the manner

prescribed by this Order, I will enter an Order under the authority of Section 11(d) of the Act denying all of Invitrogen Corporation's export privileges for a period of one year from the date of the entry of this Order; and

FIFTH, the Proposed Charging Letter, the Settlement Agreement and this Order shall be made available to the public, and a copy of this Order shall be served upon Invitrogen Corporation.

This Order is effective immediately.



Julie L. Myers
Assistant Secretary for Export Enforcement
Bureau of Industry and Security

Entered this 13th day of April, 2004

Attachments

INSTRUCTIONS FOR PAYMENT OF SETTLEMENT AMOUNT

1. The check should be made payable to:

U.S. DEPARTMENT OF COMMERCE

2. The check should be mailed to:

**U.S. Department of Commerce
Bureau of Industry and Security
Room 6881
14th Street & Constitution Avenue, NW
Washington, DC 20230**

Attention: Sharon Gardner

NOTICE

The Order to which this Notice is attached describes the reasons for the assessment of the civil monetary penalty. It also specifies the amount owed and the date by which payment of the civil penalty is due and payable.

Under the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§3701-3720E (1983 and Supp. 2001)), and the Federal Claims Collection Standards (65 Fed. Reg. 70390-70406, November 22, 2000, to be codified at 31 C.F.R. Parts 900-904), interest accrues on any and all civil monetary penalties owed and unpaid under the Order, from the date of the Order until paid in full. The rate of interest assessed respondent is the rate of the current value of funds to the U.S. Treasury on the date that the Order was entered. However, interest is waived on any portion paid within 30 days of the date of the Order. See 31 U.S.C.A. §3717 and 31 C.F.R. §901.9.

The civil monetary penalty will be delinquent if not paid by the due date specified in the Order. If the penalty becomes delinquent, interest will continue to accrue on the balance remaining due and unpaid, and respondent will also be assessed both an administrative charge to cover the cost of processing and handling the delinquent claim and a penalty charge of six percent per year. However, although the penalty charge will be computed from the date that the civil penalty becomes delinquent, it will be assessed only on sums due and unpaid for over 90 days after that date. See 31 U.S.C.A. §3717 and 31 C.F.R. §901.9.

The foregoing constitutes the initial written notice and demand to respondent in accordance with Section 901.2(b) of the Federal Claims Collection Standards (31 C.F.R. §901.2(b)).

WHEREAS, the Department has notified Invitrogen Corporation of its intention to initiate an administrative proceeding against Invitrogen Limited pursuant to Section 11(c) of the Act by issuing the Proposed Charging Letter, dated May 29, 2003, a copy of which is attached hereto and incorporated herein by this reference; and

WHEREAS, Invitrogen Corporation has reviewed the Proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; Invitrogen Corporation fully understands the terms of this Settlement Agreement, and enters into this Settlement Agreement voluntarily and with full knowledge of its rights; and Invitrogen Corporation states that no promises or representations have been made to it other than the agreements and considerations herein expressed; and

WHEREAS, Invitrogen Corporation and Invitrogen Limited neither admit nor deny the truth of the allegations, but wish to settle and dispose of the allegations made in the Proposed Charging Letter by Invitrogen Corporation entering into this Settlement Agreement; and

WHEREAS, Invitrogen Corporation agrees to be bound by the appropriate Order ("Order") when entered;

NOW, THEREFORE, Invitrogen Corporation and the Department agree as follows:

1. Under the Act and the Regulations, the Department has jurisdiction over Invitrogen Limited with respect to the matters alleged in the Proposed Charging Letter.
2. The Department will impose a civil penalty in the amount of \$2,000. Invitrogen Corporation will pay to the Department, within 30 days of service upon receipt of the Order, when entered, the amount of \$2,000 in complete settlement of all matters set forth in the Proposed Charging Letter.
3. As authorized by Section 11(d) of the Act, timely payment of the amount agreed to in paragraph 2 is hereby made a condition of the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Invitrogen Corporation. Failure to make payment of this amount shall result in the denial of all of Invitrogen Corporation's export privileges for a period of one year from the date of entry of the Order.
4. Subject to the approval of this Settlement Agreement, pursuant to paragraph 9 hereof, Invitrogen Corporation hereby waives all rights to further

procedural steps in this matter (except with respect to any alleged violation of the Settlement Agreement or the Order when entered) including, without limitation, any right to:

- a. An administrative hearing regarding the allegations in the Proposed Charging Letter;
 - b. Request a refund of the funds paid by Invitrogen Corporation pursuant to the Settlement Agreement and the Order, when entered; or
 - c. Seek judicial review or otherwise contest the validity of this Settlement Agreement or the Order, when entered.
5. The Department, upon entry of the Order, will not initiate any administrative or judicial proceeding, or make a referral to the Department of Justice for criminal proceedings against Invitrogen Corporation or Invitrogen Limited, with respect to any violation of Section 8 of the Act or Part 760 of the Regulations arising out of the transactions set forth in the Proposed Charging Letter or any other transaction that was disclosed to or reviewed by the Department in the course of its investigation.
6. Invitrogen Corporation understands that the Department will disclose publicly the Proposed Charging Letter, this Settlement Agreement, and the Order, when entered.

7. This Settlement Agreement is for settlement purposes only, and does not constitute an admission by Invitrogen Corporation that it has violated the Regulations, or that Invitrogen Limited has violated the Regulations, or an admission of the truth of any allegation contained in the Proposed Charging Letter or referred to in this Settlement Agreement. Therefore, if this Settlement Agreement is not accepted and the Order not entered by the Assistant Secretary for Export Enforcement, the Department may not use this Settlement Agreement against Invitrogen Corporation or Invitrogen Limited in any administrative or judicial proceeding.

8. 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, 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 herein addressed. This paragraph shall not limit Invitrogen Corporation's rights to challenge any action brought by any other agency based on a referral by the Department or any employee thereof, in contravention of paragraph 5 of this Settlement Agreement.

9. This Settlement Agreement will become binding on the Department only when approved by the Assistant Secretary for Export Enforcement by entering the Order.

Invitrogen Corporation



DATE: 24 FEB 2004

U.S. Department of Commerce



Dexter M. Price
Director
Office of Antiboycott Compliance

DATE: March 5, 2004



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

PROPOSED CHARGING LETTER

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

May 29, 2003

Invitrogen Limited
Formerly known as Life Technologies (Europe) Limited
3 Fountain Drive, Inchinnan Business Park
Paisley PA4 9RF
Scotland

Case No. 99-1

Gentlemen/Ladies:

We, the Office of Antiboycott Compliance, Bureau of Industry and Security, United States Department of Commerce ("BIS"), have reason to believe that you, Invitrogen Limited ("Invitrogen"), formerly known as Life Technologies, Limited ("LTL"), a U.K. based subsidiary of, formerly Life Technologies, Inc. ("LTI") and currently Invitrogen Corporation, 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

We charge that, with intent to comply with, further or support an unsanctioned foreign boycott, you committed one violation of Section 760.2(d) of the Regulations, in that, on one occasion, you furnished information about your business relationships with or in a boycotted country.

¹The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2003). The violation charged occurred in 1998. The Regulations governing the violation at issue are found in the 1998 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998)). They are substantially the same as the 2003 version of the Regulations which govern the procedural aspects of this case.

²50 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 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), and successive Presidential Notices, the most recent of which was August 7, 2003 (68 Fed. Reg. 47833, August 11, 2003), has continued the Regulations in effect under IEEPA. The Act and Regulations are available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis>.



We allege that:

Invitrogen Corporation, a resident of the State of California, is a domestic concern as described in Section 760.1(b) of the Regulations.

You, Invitrogen Limited, are a resident of Glasgow, Scotland and are a controlled-in-fact subsidiary of Invitrogen Corporation, a domestic concern. As a controlled-in-fact foreign subsidiary of a domestic concern, you are a United States person as defined in Section 760.1(c) of the Regulations.

In June 1998, you engaged in activities involving the sale and transfer of U.S. goods from the United States to Syria. Those activities were in the interstate and foreign commerce of the United States, as defined in Section 760.1(d) of the Regulations.

Charge (Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted persons in Violation of Section 760.2(d) of the Regulations)

On or about June 8, 1998, you furnished the following information on a commercial invoice to a foreign buyer located in Syria:

WE HEREBY CERTIFY THAT THE GOODS ENUMERATED IN THIS INVOICE ARE NOT OF ISRAELI ORIGIN AND DO NOT CONTAIN ANY ISRAELI MATERIALS.

Section 760.2(d) of the Regulations prohibits U.S. persons from furnishing information about business relationships with or in a boycotted country. By providing the information described above, with intent to comply with, further or support an unsanctioned foreign boycott, you violated Section 760.2(d) on one occasion. Therefore, we charge you with one violation of 760.2(d).

Accordingly, administrative proceedings are instituted against you pursuant to Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions.³

You are entitled to a hearing on the record as provided in Section 766.6 of the Regulations. If you wish to have a hearing on the record, you must file a written demand for it with your answer. You are entitled to be represented by counsel, and under Section 766.18 of the Regulations, to seek a settlement agreement.

If you fail to answer the allegations contained in this letter within thirty (30) days after service as provided in Section 766.6, such failure will be treated as a default under Section 766.7.

³Administrative sanctions may include any or all of the following:

- a. A civil penalty of \$11,000 per violation (see 15 C.F.R. §6.4(a)(2), 2003);
- b. Denial of export privileges; and/or
- c. Exclusion from practice before BIS.

As provided in Section 766.3 of the Regulations, I am referring this matter to the Administrative Law Judge. Pursuant to an Interagency Agreement between BIS and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Therefore, in accordance with the instructions in Section 766.5(a) of the Regulations, your answer should be filed with:

Attention: Administrative Law Judge
U.S. Coast Guard ALJ Docketing Center
40 South Gay Street
Baltimore, Maryland 21202-4022

Also, in accordance with the instruction in Section 766.5(b) of the Regulations, a copy of your answer also should be served on BIS at:

Office of Chief Counsel For Industry and Security
Room H-3839
Bureau of Industry and Security
U.S. Department of Commerce
14th Street & Constitution Avenue, N.W.
Washington, D.C. 20230

Sincerely,

Dexter M. Price
Director
Office of Antiboycott Compliance