



**United States Department of Justice
United States Attorney's Office
District of Minnesota**

**Frank J. Magill,
Acting United States Attorney**

David Anderson, Public Affairs Specialist
(612) 664-5684; cell: (612) 730-2251

News Release

FOR IMMEDIATE RELEASE
Thursday, March 13, 2008

Eden Prairie company fined \$400,000 for export violations

A Minnesota company pleaded guilty and was sentenced yesterday in federal court in connection with submitting false export license applications to the United States Department of Commerce involving proposed shipments to India.

U.S. Magistrate Franklin Noel sentenced MTS Systems Corp., of Eden Prairie, to two years probation and a \$400,000 fine. The company pleaded guilty March 12 to two misdemeanor counts of false certification or writing. MTS manufactures and sells test systems throughout the world, including some determined to be involved in unregulated nuclear activities in India. The company was charged with the two counts on March 11.

Pursuant to the plea agreement, the court also ordered MTS to implement and maintain a model export compliance program and to sponsor an export compliance conference to be held at a future date.

In 1998, the United States imposed economic sanctions on India after it conducted a series of nuclear weapons tests. The sanctions prohibit American companies from exporting certain goods and services to various Indian entities without first obtaining an export license.

“Omitting material information to a licensing official about the intended end-use of a controlled technology item is a serious offense,” said Assistant Secretary of Commerce for Export Enforcement Darryl W. Jackson. “In this case, the omission clearly was an attempt to disguise the end-use of testing structural components of nuclear-power plants.”

On Nov. 21, 2002, MTS received an inquiry to purchase its equipment from the Electrical Research and Development Association (ERDA), located in India. MTS evaluated the inquiry and determined that it might be destined for an inappropriate user or destination, according to Commerce Department guidelines. A MTS representative in India then confirmed to MTS employees that ERDA would be using the MTS equipment for testing nuclear power plant components. MTS, therefore, was required to obtain an export license from the Commerce Department.

MTS did not initially apply for a license because the MTS employee in charge of export compliance stated that it was “extremely unlikely” that it would gain approval for the export unless the customer could make a “strong and convincing” argument that this test system would not and could not make a significant contribution to India’s nuclear energy programs. Neither the customer nor MTS ever attempted to make this argument to the Commerce Department.

On Jan. 13, 2003, MTS received a follow-up inquiry from its representative in India, which included an end-use statement provided by ERDA that did not reflect MTS’s corporate knowledge of a nuclear end-use. On March 20, 2003, MTS electronically filed a license application with the Commerce Department stating the end-use was “for seismic vibration testing facility to test motors and other electronic equipment under earthquake conditions.” The license application did not reflect the corporate knowledge of nuclear end-use, the omission of which made the application false.

The plea agreement also highlights a separate second offense. Prior to Nov. 14, 2003, MTS was aware that the Structural Engineering Research Center (SERC) in India was seeking to purchase approximately \$3 million of seismic testing equipment from MTS, and that at least some of SERC’s funding was being provided by India’s Department of Atomic Energy (DAE), which is an entity prohibited by the U.S. government from receiving U.S. exports without an export license. At least one MTS representative believed that SERC might use the MTS equipment to test nuclear power plant systems in India.

On Nov. 14, 2003, MTS electronically filed a license application for the sale with the Commerce Department noting that support documents would follow. MTS provided an end-use statement, based on a letter provided by SERC, that said the system would be used only for testing prototype components and other non-nuclear uses. The license application did not state that SERC was receiving funding from India’s DAE or the possibility of a nuclear end-use.

The omission in the license application of any collective corporate knowledge of the DAE funding of a possible nuclear end-use made the application false. After acquiring corporate knowledge of a possible nuclear power plant end-use for the seismic testing equipment, MTS had opportunities to disclose that information to the Commerce Department, but failed to do so.

One such opportunity allegedly occurred on Aug. 9, 2004, when MTS received a letter from the Commerce Department indicating its intent to deny the application for SERC because it “would pose a risk of diversion to a prohibited nuclear end use.” On Aug. 20, 2004, MTS submitted a rebuttal letter to the Commerce Department seeking reconsideration and that letter did not disclose any of the company’s knowledge of nuclear end-use.

This case was the result of an investigation by the U.S. Department of Commerce-Bureau of Industry and Security, and U.S. Immigration and Customs Enforcement. The case was prosecuted by Special Assistant U.S. Attorney Hank Shea.