

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Fujitsu Network Communications, Inc.
2801 Telecom Parkway
Richardson, TX 75082-3515

Attention: Melanie Scofield, Esq.
 Senior Vice President and General Counsel

Dear Ms. Scofield:

The Bureau of Industry and Security, United States Department of Commerce ("BIS") has reason to believe that Fujitsu Network Communications, Inc. of Richardson, Texas ("Fujitsu") has committed 21 violations 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 Fujitsu committed the following violations:

Charges 1-21 (15 C.F.R. § 764.2(a) - Engaging in Deemed Exports of Controlled Technology without a License)

On 21 occasions, at various times beginning in 1996, through a date on or about January 5, 2000, Fujitsu engaged in conduct prohibited by or contrary to the Regulations by employing foreign nationals from the People's Republic of China and the Ukraine to conduct research in the development and manufacturing of commercial digital fiber-optic transmission and broadband switching equipment, software and technology without the required BIS license. The technology

¹ All of the violations charged occurred in 1999 and 2000. The Regulations governing the violations at issue are found in the 1999 and 2000 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1999 - 2000)). The 2004 Regulations establish 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 by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) 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 7, 2003 (68 *Fed. Reg.* 47833, August 11, 2003), has continued the Regulations in effect under IEEPA.

in question was released in the United States to these foreign nationals, and such actions are deemed to be exports under Section 742.4 of the Regulations. BIS requires a license for export of the preceding technology, which is subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 5E001. Through the preceding actions, Fujitsu committed 21 violations of Section 764.2(a) of the Regulations. Further detail regarding these violations appears in the attached Schedule of Violations, which is incorporated by reference herein.

Accordingly, Fujitsu 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;³

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

Fujitsu is further notified that it is entitled to an agency hearing on the record if Fujitsu files a written demand for one with its answer. (Regulations, Section 766.6). Fujitsu 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 Fujitsu have a proposal to settle this case, Fujitsu or its representative should transmit the offer to me 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, Fujitsu’s answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

³ See 15 C.F.R. § 6.4(a)(3) (2004).

Fujitsu Network Communications, Inc.
Proposed Charging Letter
Page 3

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

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

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

Camille Caesar is the lawyer representing BIS in this case. Any communications that you may wish to have concerning this matter should be made to Ms. Caesar. She may be contacted by telephone at (202) 482-5301.

Sincerely,

Wendy Hauser
Acting Director
Office of Export Enforcement

Attachment

SCHEDULE OF VIOLATIONS

Dates of Violation	Individual	ECCN	Destination
06/24/96-11/04/99	Peng	5E001	PRC
10/28/96-11/02/99	Huang	5E001	PRC
04/07/97-08/31/99	Sobodash	5E001	Ukraine
01/06/97-01/05/00	You	5E001	PRC
05/19/97-11/02/99	Hu	5E001	PRC
07/14/97-09/14/99	Feng	5E001	PRC
08/27/97-10/14/99	Liu	5E001	PRC
01/12/98-10/08/99	Zhuang	5E001	PRC
02/11/98-09/17/99	Zhang	5E001	PRC
02/12/98-10/08/99	Xu	5E001	PRC
02/16/98-09/21/99	Lei	5E001	PRC
03/16/98-10/25/99	Fan	5E001	PRC
05/18/98-10/08/99	Xin	5E001	PRC
06/15/98-10/25/99	Zhu	5E001	PRC
06/22/98-09/21/99	Zhong	5E001	PRC
07/20/98-09/10/99	Wang	5E001	PRC
08/31/98-12/08/99	He	5E001	PRC
09/09/98-09/14/99	Li	5E001	PRC
10/20/98-10/08/99	Yu	5E001	PRC
12/21/98-09/10/99	Wang	5E001	PRC
02/22/99-09/17/99	Zhu	5E001	PRC

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

In the Matter of:)
)
Fujitsu Network Communications, Inc.)
2801 Telecom Parkway)
Richardson, TX 75082-3515)
)
Respondent.)
)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Fujitsu Network Communications, Inc. (“Fujitsu”) and the Bureau of Industry and Security, United States 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 (2004)) (“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 violations charged occurred in 1999 and 2000. The Regulations governing the violations at issue are found in the 1999 and 2000 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1999 - 2000)). The 2004 Regulations establish 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 6, 2004 (69 *Fed. Reg.* 48763 (August 10, 2004)), has continued the Regulations in effect under the IEEPA.

WHEREAS, Fujitsu 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 Fujitsu of its intention to initiate an administrative proceeding against Fujitsu, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to Fujitsu that alleged that Fujitsu committed 21 violations of the Regulations, specifically:

1. *21 Violations of 15 C.F.R. § 764.2(a) - Engaging in Deemed Exports of Controlled Technology without a License:* On 21 occasions, at various times beginning in 1996, through a date on or about January 5, 2000, Fujitsu engaged in conduct prohibited by or contrary to the Regulations by employing foreign nationals from the People's Republic of China and the Ukraine to conduct research in the development and manufacturing of commercial digital fiber-optic transmission and broadband switching equipment, software and technology without the required BIS license. The technology in question was released in the United States to these foreign nationals, and such actions are deemed to be exports under Section 742.4 of the Regulations. BIS requires a license for export of the preceding technology, which is subject to the Regulations and classified under Export Control Classification Number ("ECCN") 5E001.

WHEREAS, Fujitsu has reviewed the proposed charging letter and is aware of the

allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

WHEREAS, Fujitsu fully understand the terms of this Agreement and the Order (“Order”) that the Assistant Secretary of Commerce for Export Enforcement will issue if she approves this Agreement as the final resolution of this matter;

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

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

- a. Fujitsu shall be assessed a civil penalty in the amount of \$125,000 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 Fujitsu. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Fujitsu's export 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, Fujitsu 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 \$125,000 civil penalty, BIS will not initiate any further administrative proceeding against Fujitsu in connection with violations of the Act or the Regulations relating to the transactions specifically detailed in the voluntary self-disclosure and proposed charging letter.

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

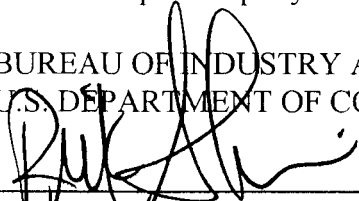
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial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

8. This Agreement shall become binding on BIS 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 his 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

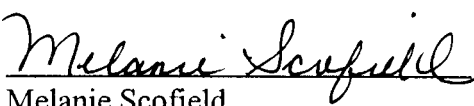


Rick Shimon
Acting Director
Office of Export Enforcement

NOV 03 2004

Date: _____

FUJITSU NETWORK COMMUNICATIONS, INC.



Melanie Scofield
Senior Vice President and General Counsel

Date: 10/29/04

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

In the Matter of:)
)
Fujitsu Network Communications, Inc.)
2801 Telecom Parkway)
Richardson, TX 75082-3515)
)
Respondent.)
_____)

ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) has notified Fujitsu Network Communications, Inc. (“Fujitsu”) of its intention to initiate an administrative proceeding against Fujitsu pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (“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 based on the proposed charging letter issued to Fujitsu that alleged that Fujitsu committed 21 violations of the Regulations. Specifically, the charges are:

¹ The violations charged occurred in 1999 and 2000. The Regulations governing the violations at issue are found in the 1999 and 2000 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1999 - 2000)). The 2004 Regulations establish 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 6, 2004 (69 *Fed. Reg.* 48763 (August 10, 2004)), has continued the Regulations in effect under the IEEPA.

1. *21 Violations of 15 C.F.R. § 764.2(a) - Engaging in Deemed Exports of Controlled Technology without a License:* On 21 occasions, at various times beginning in 1996, through a date on or about January 5, 2000, Fujitsu engaged in conduct prohibited by or contrary to the Regulations by employing foreign nationals from the People's Republic of China and the Ukraine to conduct research in the development and manufacturing of commercial digital fiber-optic transmission and broadband switching equipment, software and technology without the required BIS license. The technology in question was released in the United States to these foreign nationals, and such actions are deemed to be exports under Section 742.4 of the Regulations. BIS requires a license for export of the preceding technology, which is subject to the Regulations and classified under Export Control Classification Number ("ECCN") 5E001.

BIS and Fujitsu having 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 the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$125,000 is assessed against Fujitsu, 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.

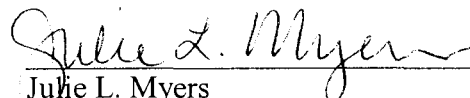
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein,

Fujitsu 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 Fujitsu. Accordingly, if Fujitsu should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Fujitsu'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.



Julie L. Myers
Assistant Secretary of Commerce
for Export Enforcement

Entered this 10th day of November 2004.