



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Worldwide Sports & Recreation Inc.
currently d/b/a Bushnell Corporation
9200 Cody
Overland Park
Shawnee Mission, KS 66214

DRAFT

Attn: *B. Joseph Messner*
President

Dear Mr. Messner:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) has reason to believe that Worldwide Sports & Recreation Inc., currently doing business as Bushnell Corporation, (“Bushnell”) violated the Export Administration Regulations (the “Regulations”),* which are issued under the authority of the Export Administration Act of 1979 (the “Act”),¹ on 21 occasions. Specifically, BIS charges that Bushnell committed the following violations:

¹ The Regulations are **currently** codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2002). The violations charged occurred from 1995 through 1997. The Regulations governing the violations at issue are found in the 1995 through 1997 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995), 15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed Reg.* 12714, March 25, 1996)) (“former Regulations”), and 15 C.F.R. Parts 730-774 (1997)). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 *Federal Register* publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the various violations that BXA alleges occurred on or before December 31, 1996. The Regulations define the various violations that BIS alleges occurred on or after January 1, 1997 and 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 (1994 & Supp. V 1999)) (“IEEPA”). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 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, which has been extended by a Presidential Notice of August 14, 2002 (67 *Fed Reg.* 159 (August 16, 2002)), 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/>.



Charge 1 (15 C.F.R. §764.2(d) - Conspiracy to Export Night Vision Scopes to Japan without the Required Licenses)

Beginning in 1995 and continuing into 1997, Bushnell conspired and acted in concert with others, known and unknown, to violate the former Regulations and Regulations. The goals of the conspiracy were to evade Department of Commerce export licensing requirements relating to night vision scopes, items covered by export control classification number ("ECCN") 6A02A.c of the former Regulations and ECCN 6A002.c of the Regulations, and to export night vision scopes from the United States to Japan without the required Department of Commerce licenses. As part of the conspiracy, Bushnell shipped the night vision scopes from Kansas to co-conspirators in Florida, who would disassemble the night vision scopes, divide them into small orders, and then export them to Japan without the required export licenses. These actions were taken to conceal the fact that the night vision scopes were being exported from the United States to Japan in violation of the Regulations. In doing so, Bushnell committed one violation of Section 764.2(d) of the Regulations.

Charge 2-11 (15 C.F.R § 787A.4 and §764.2(e) - Selling Night Vision Equipment with Knowledge that A Violation Was to Occur)

In connection with the conspiracy referenced in Charge 1 and as described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on 10 occasions, from on or about September 22, 1995 through, on or about September 15, 1997, Bushnell sold night vision scopes to an end-user in Japan with knowledge that violations of the former Regulations and Regulations would occur. Pursuant to Sections 770.3 and 785.4 of the former Regulations and Section 742.6 of the Regulations, a Department of Commerce export license was required to export the night vision scopes, which were covered by ECCN 6A02A.c of the former-Regulations and ECCN 6A002.c of the Regulations, from the United States to Japan. Bushnell sold the night vision scopes to an end-user in Japan knowing that the required export licenses would not be obtained from the Department of Commerce. In doing so, Bushnell committed four violations of Section 787A.4 of the former Regulations and six violations of Section 764.2(e) of the Regulations.

Charge 12-21 (15 C.F.R. §764.2(h) - Actions to Evade the Licensing Requirements of the Regulations)

In connection with exports referenced in Charges 2- 11, and as described in greater detail in, Schedule A, from on or about September 22, 1995 through on or about September 15, 1997, Bushnell took actions to evade the Regulations' licensing requirement for the export of night vision scopes from the United States to Japan. Specifically, Bushnell omitted the name of the Japanese company and its address from the invoices to conceal the identity of ultimate end-user and ultimate destination of the night vision scopes. In doing so, Bushnell committed four violations of Section 787A.5 of the former Regulations and six violations of Section 764.2(h) of the Regulations.

Accordingly, Bushnell 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 Bushnell 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 Bushnell defaults, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to Bushnell. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each charge in this letter.

Bushnell is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. (Regulations, Section 766.6). Bushnell 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 Bushnell have a proposal to settle this case, Bushnell 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, Bushnell'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

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

Chief Counsel for Industry and Security
Attention: Melissa B. Mannino
Room H-3839

³ The maximum civil penalty for violations committed between October 23, 1996 and November 1, 2000 is \$11,000. See 15 C.F.R. §6.4(a)(2)(2001).

Bushnell
Charging Letter
Page 4

United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Melissa B. Mannino is the attorney representing BIS in this case; any **communications** that you may wish to have concerning this matter should occur through her. She may be contacted by telephone at (202) 482-5301.

Sincerely,

Mark D. Menefee
Director
Office of Export Enforcement

Enclosure

WORLDWIDE SPORTS & RECREATION INC. CURRENTLY D/B/A BUSHNELL CORPORATION
SCHEDULE OF VIOLATIONS
ATTACHMENT A

<i>Date of Violation</i>	<i>Commodities</i>	<i>ECCN</i>	<i>Destination</i>	<i>Value</i>	<i>Violations</i>
Sept. 22, 1995	6 Model 150 Night Ranger Monoculars	6A02A.c	Japan	\$5,400	IS C.F.R. 9 787A.4 15 C.F.R. § 787A.5
Nov. 7, 1995	20 Model 150 Night Ranger Monoculars	6A02A.c	Japan	\$18,000	IS 9-X 9 787A.4 LS C.F.R. § 787A.5
March 20, 1996	50 Model 150 Night Ranger Monoculars	6A02A.c	Japan	\$40,000	IS C.F.R. § 787A.4 15 C.F.R. § 787A.5
July 25, 1996	50 Model 150 Night Ranger Monoculars	6A02A.c	Japan	\$35,000	15 C.F.R. § 787A.4 15 C.F.R. § 787A.5
January 17, 1997	30 Model 150 Night Ranger Monoculars	6A002.c	Japan	\$18,930	15 C.F.R. § 764.2(e) LS C.F.R. § 764.2(h)
Feb. 11, 1997	70 Model 150 Night Ranger Monoculars 3 Model 250 Night Rangers Binoculars	6A002.c	Japan	\$44,850	15 C.F.R. § 764.2(e) 15 C.F.R. § 764.2(h)
March 20, 1997	50 Model 150 Night Ranger Monoculars	6A002.c	Japan	\$30,000	15 C.F.R. § 764.2(e) 15 C.F.R. § 764.2(h)
June 24, 1997	50 Model 150 Night Ranger Monoculars	6A002.c	Japan	\$30,000	15 C.F.R. § 764.2(e) 15 C.F.R. § 764.2(h)
July 21, 1997	50 Model 150 Night Ranger Monoculars	6A002.c	Japan	\$30,000	15 C.F.R. § 764.2(e) LS C.F.R. § 764.2(h)
Sept. 15, 1997	62 Model 150 Night Ranger Monoculars	6A002.c	Japan	\$37,200	15 C.F.R. § 764.2(e) 15 C.F.R. § 764.2(h)

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

In the Matter of:)
)
Worldwide Sports & Recreation Inc.)
currently d/b/a Bushnell Corporation)
9200 Cody)
Overland Park)
Shawnee, Mission, KS 66214,)
)
Respondent.)
_____)

ADDENDUM TO SETTLEMENT AGREEMENT

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) and Respondent, Worldwide Sports & Recreation Inc., currently doing business as Bushnell Corporation (“Bushnell”) (collectively referred to as “Parties”), enter into this Addendum {“Addendum”) to the Settlement Agreement between the Parties dated April 16, 2003 (“Settlement Agreement”) in light of the repeated and unforeseen delays in Bushnell’s sentencing in the related criminal case, currently set for August 5, 2003, and due to BIS’s understanding that none of the delays have been the fault of Bushnell.

The Parties hereby agree as follows:

1. Paragraph 2.d. of the Settlement Agreement is struck in its entirety and replaced by the following:

As authorized by Section 766.18(c) of the Regulations, the one year denial period set forth in paragraph 2.c. shall be suspended in its entirety until April 15, 2004, and shall thereafter be waived, provided that from April 16, 2003 through April

15, 2004, Bushnell has committed no violation of the Act or any regulation, order or license issued thereunder, and, provided further, that Bushnell has made timely payment of the \$223,000 civil penalty assessed pursuant to this Agreement and the Order. If Bushnell commits or has committed any violation of the Act or any regulation, order or license issued thereunder between April 16, 2003 and April 15, 2004, BIS may modify or revoke the suspension of the denial of export privileges based upon that violation once BIS has provided Bushnell with notice and opportunity to respond in accordance with Section 766.17(c) of the Regulations.

2. Paragraph 7 is struck in its entirety and replaced by the following:

Nothing in this Agreement may be changed or otherwise modified other than in a written modification signed by both Parties. This Agreement and any written modification thereto do not 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.

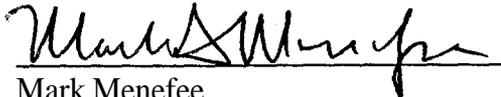
3. With the exception of Paragraphs 2.d. and 7 as revised above, the terms and conditions of the Settlement Agreement remain unchanged and in full force and effect.

4. This Addendum shall be made available to the public if and when the Order is signed by the Assistant Secretary of Commerce for Export Enforcement.

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

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

WORLDWIDE SPORTS & RECREATION INC.
currently d/b/a BUSHNELL CORPORATION


Mark Menefee
Director
Office of Export Enforcement


Joseph Messner
President

Date: 7/3/03

Date: 6-19-03



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

In the Matter of:)
)
Worldwide Sports & Recreation Inc.)
currently d/b/a Bushnell Corporation)
9200 Cody)
Overland Park)
Shawnee, Mission, KS 66214,)
)
Respondent.)
)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Worldwide Sports & Recreation Inc., currently doing business as Bushnell Corporation (“Bushnell”), 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 (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (“Act”).²

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2002). The violations charged occurred from 1995 through 1997. The Regulations governing the violations at issue are found in the 1995 through 1997 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995), 15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed. Reg.* 12714, March 25, 1996)) (“former Regulations”), and 15 C.F.R. Parts 730-774 (1997)). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 *Federal Register* publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the various violations that BXA alleges occurred on or before December 31, 1996. The Regulations define the various violations that BIS alleges occurred on or after January 1, 1997 and 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

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

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

1. *One Violation of 1.5 C.F.R. §764.2(d)- Conspiracy:* Beginning in 1995 and continuing into 1997, Bushnell conspired and acted in concert with others, known and unknown, to violate the former Regulations and Regulations. The goals of the conspiracy were to evade Department of Commerce export licensing requirements relating to night vision scopes, items covered by export control classification number ("ECCN") 6A02A.c of the former Regulations and ECCN 6A002.c of the Regulations, and to export night vision scopes from the United States to Japan without the required Department of Commerce licenses. As part of the conspiracy, Bushnell shipped the night vision scopes from Kansas to co-conspirators in Florida, who would disassemble the night vision scopes, divide them into small orders, and then export them to Japan without the required export licenses. These actions were taken to conceal the fact that the night vision scopes

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 - 1707 (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 14, 2002 (67 Fed. Reg. 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

were being exported from the United States to Japan in violation of the Regulations.

2. *Four Violations of 15 C.F.R. § 787A.4 and Six Violations of 15 C.F.R. § 764.2(e)*

- Selling Night Vision Equipment with Knowledge that a Violation Was to Occur:

In connection with the conspiracy referenced above, on 10 occasions, from on or about September 22, 1995 through on or about September 15, 1997, Bushnell sold night vision scopes to an end-user in Japan with knowledge that violations of the former Regulations and Regulations would occur. Pursuant to Sections 770.3 and 785.4 of the former Regulations and Section 742.6 of the Regulations, a Department of Commerce export license was required to export the night vision scopes, which were covered by ECCN 6A02A.c of the former Regulations and ECCN 6A002.c of the Regulations, from the United States to Japan. Bushnell sold the night vision scopes to an end-user in Japan knowing that the required export licenses would not be obtained from the Department of Commerce.

3. *Four Violations of 15 C.F.R. § 787A.5 and Six Violations of 15 C.F.R. § 764.2(h)*

- Actions to Evade the Licensing Requirements of the Regulations: In connection with exports referenced above, from on or about September 22, 1995 through on or about September 15, 1997, Bushnell took actions to evade the Regulations' licensing requirement for the export of night vision scopes from the United States to Japan. Bushnell omitted the name of the Japanese company and its address

from the invoices to conceal the identity of ultimate end-user and ultimate destination of the night vision scopes.

WHEREAS, Bushnell 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, Bushnell fully understands the terms of this Agreement and the Order of the Assistant Secretary of Commerce for Export Enforcement that will implement this Agreement (“Order”);

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

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

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

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

WHEREAS, Bushnell agrees to be bound by the Order, when entered;

NOW THEREFORE, the Parties hereby agree as follows:

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

2. BIS and Bushnell agree that the following sanctions shall be imposed against Bushnell in complete settlement of the violations of the Regulations set forth in the proposed charging letter:

- a. Bushnell shall be assessed a civil penalty in the amount of \$223,000 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, permission, or privilege granted, or to be granted, to Bushnell. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Bushnell's export privileges for a period of one year from the date of imposition of the penalty.
- c. For a period of one year from the date of the Order, Bushnell, its successors or assigns, and, when acting for or on behalf of Bushnell, its **officers**, representatives, agents or employees ("denied persons") may not, participate, directly or indirectly, 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 Regulations, or in any other activity subject to the Regulations, including, but not limited to:
 - i. Applying for, obtaining, or using any license, License Exception, or export control document;

- ii. **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 Regulations, or in any other activity subject to the Regulations; or
 - iii. **Benefitting** in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.
- d. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the one year denial period set forth in paragraph 2.c. shall be suspended for a period of one year from the entry of the appropriate Order, and shall thereafter be waived, provided that during the period of suspension, Bushnell has committed no violation of the Act or any regulation, order or license issued thereunder, and, provided further that Bushnell has made timely payment of the \$223,000 civil penalty assessed pursuant to this Settlement Agreement and the Order.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Bushnell hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this 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 any civil penalty paid pursuant to this Agreement and the Order, when entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, when entered.

4. Upon entry of the Order, BIS will not initiate any further administrative proceeding against Bushnell in connection with any violation of the Act or the Regulations arising out the transactions identified in the proposed charging letter.

5. Bushnell understands that BIS will make the proposed charging letter, this Agreement, and the Order, when 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, when 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 when 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.

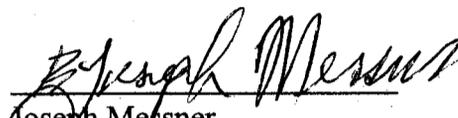
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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

WORLDWIDE SPORTS & RECREATION INC.
currently d/b/a BUSHNELL CORPORATION



Mark Menefee
Director
Office of Export Enforcement



Joseph Messner
President

Date: 4/17/03

Date: 3-7-03

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

In the Matter of:)
)
Worldwide Sports & Recreation Inc.)
currently d/b/a Bushnell Corporation)
9200 Cody)
Overland Park)
Shawnee, Mission, KS 66214,)
)
Respondent.)

ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) having notified Worldwide Sports & Recreation Inc., currently doing business as Bushnell Corporation (“Bushnell”), of its intention to initiate an administrative proceeding against Bushnell pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2003)) (“Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),* based on the proposed

¹ The violations charged occurred from 1995 through 1997. The Regulations governing the violations at issue are found in the 1995 through 1997 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995), 15 C.F.R. Parts 768-799 (1996), as amended (61 Fed. Reg. 12714, March 25, 1996)) (“former Regulations”), and 15 C.F.R. Parts 730-774 (1997)). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 *Federal Register* publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the various violations that BXA alleges occurred on or before December 31, 1996. The Regulations define the various violations that BIS alleges occurred on or after January 1, 1997 and 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

charging letter issued to Bushnell that alleged that Bushnell violated the former Regulations and Regulations on 21 occasions. Specifically, the charges are:

1. *One Violation of 15 C.F.R. §764.2(d)- Conspiracy:* Beginning in 1995 and continuing into 1997, Bushnell conspired and acted in concert with others, known and unknown, to violate the former Regulations and Regulations. The goals of the conspiracy were to evade Department of Commerce export licensing requirements relating to night vision scopes, items covered by export control classification number ("ECCN") 6A02A.c of the former Regulations and ECCN 6A002.c of the Regulations, and to export night vision scopes from the United States to Japan without the required Department of Commerce licenses. As part of the conspiracy, Bushnell shipped the night vision scopes from Kansas to co-conspirators in Florida, who would disassemble the night vision scopes, divide them into small orders, and then export them to Japan without the required export licenses. These actions were taken to conceal the fact that the night vision scopes were being exported from the United States to Japan in violation of the Regulations.
2. *Four Violations of 15 C.F.R. § 787A.4 and Six Violations of 15 C.F.R. § 764.2(e) - Selling Night Vision Equipment with Knowledge that a Violation Was to Occur:* In connection with the conspiracy referenced above, on 10 occasions, from on or about September 22, 1995 through on or about September 15, 1997, Bushnell sold night

- 1707 (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 14, 2002 (67 Fed. Reg. 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

vision scopes to an end-user in Japan with knowledge that violations of the former Regulations and Regulations would occur. Pursuant to Sections 770.3 and 785.4 of the former Regulations and Section 742.6 of the Regulations, a Department of Commerce export license was required to export the night vision scopes, which were covered by ECCN 6A02A.c of the former Regulations and ECCN 6A002.c of the Regulations, from the United States to Japan. Bushnell sold the night vision scopes to an end-user in Japan knowing that the required export licenses would not be obtained from the Department of Commerce.

3. *Four Violations of 15 C.F.R. § 787A.5 and Six Violations of 15 C.F.R. § 764.2(h) - Actions to Evade the Licensing Requirements of the Regulations:* In connection with exports referenced above, from on or about September 22, 1995 through on or about September 15, 1997, Bushnell took actions to evade the Regulations' licensing requirement for the export of night vision scopes from the United States to Japan. Specifically, Bushnell omitted the name of the Japanese company and its address from the invoices to conceal the identity of ultimate end-user and ultimate destination of the night vision scopes.

BIS and Bushnell having entered into a Settlement Agreement dated April 16, 2003 ("Settlement Agreement") pursuant to Section 766.18(a) of the Regulations and a written Addendum thereto dated July 3, 2003 ("Addendum"), whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement and Addendum having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$223,000 is assessed against Bushnell, 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, Bushnell 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 for a period of one year from the date of the Settlement Agreement, Worldwide Sports & Recreation Inc., currently doing business as Bushnell Corporation, 9200 Cody, Overland Park, Shawnee Mission, Kansas 66214, its successors or assigns, and when acting for or on behalf of Bushnell, its officers, representatives, agents or employees (“denied person”) 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 Regulations, or in any other activity subject to the Regulations, 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 Regulations, or in any other activity subject to the Regulations; or

- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

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

- A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;
- B. **Take** any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person 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 person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the denied person in the United States any item subject to the Regulations 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 Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is

owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

FIFTH, that after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Bushnell by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

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

SEVENTH, that, as authorized by Section 766.18(c) of the Regulations, the denial period set forth above shall be suspended in its entirety until April 15, 2004, and shall thereafter be waived, provided that Bushnell has not committed any violation of the Act or any regulation, order or license issued thereunder, between April 16, 2003 and April 15, 2004, and, provided further, that Bushnell has made timely payment of the civil penalty as provided herein.

EIGHTH, that the proposed charging letter, the Settlement Agreement, the Addendum, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.


for Lisa A. Prager
Acting Assistant Secretary of Commerce
for Export Enforcement

Entered this 6th day of August 2003.