

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

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In the Matter of:)
)
LTX CORPORATION)
)
LTX Park)
University Avenue)
Westwood, Massachusetts 02090-9998,)
)
Resuonden t)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified LTX Corporation (LTX) of its intention to initiate an administrative proceeding against it pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the "Act"),² and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the "Regulations"),² based on allegations that, on two separate occasions, on or

The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)), and August 10, 1999 (64 *Fed. Reg.* 44 101 (August 13, 1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).

² The violations at issue occurred in 1995 and 1996. The Regulations governing the violations at issue are found in the 1995 and 1996 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995) and 15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed. Reg.* 12714, March 25, 1996)) (hereinafter the "former Regulations"). The March 35, 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 35, 1996 *Federal Register* publication restructured and

about August 25, 1995 and on or about October 1, 1996. LTX exported U.S.-origin commodities, *to wit*, one set of trillium MM1 1 H 208 pins tester with one head, and a Universal BIMOS probe card interface assembly and probe card mounting rings, respectively, to Realtek Semiconductor Company, Ltd. in Taiwan, a person denied all U.S. export privileges by Order dated August 3, 1995, thereby committing one violation of Section 787.6 and one violation of Section 787A.6 of the former Regulations, by doing an act prohibited by the Act, or any regulation, order, or license issued thereunder: and,

BXA and LTX 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 \$15,000 is assessed against LTX, which shall be paid to the United States 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.A. §§ 3701-3720E (1983 and Supp. 1999)), 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, LTX will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

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; the Regulations establish the procedures that apply to this matter

THIRD, that, as authorized by Section 1 I(d) of the Act, 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 LTX. Accordingly, if LTX should fail to pay the civil penalty in a timely manner, the undersigned will enter an Order under the authority of Section 1 I(d) of the Act denying all of LTX'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 is effective immediately.


F. Amanda DeBusk
Assistant Secretary
for Export Enforcement

Entered this 6th day of March, 2000.

4-1003

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C 30230

In the Matter of:)
)
LTX CORPORATION)
LTX Park)
University Avenue)
Westwood, Massachusetts 02090-9998,)
)
Respondent _____)

SETTLEMENT AGREEMENT

This Agreement is made by and between LTX Corporation (LTX) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(a) of the Export Administration Regulations (15 C F R. Parts 730-774 (1999)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act).²

¹ The violations at issue occurred in 1995 and 1996. The Regulations governing the violations at issue are found in the 1995 and 1996 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995) and 15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed. Reg.* 12714, March 25, 1996)) (hereinafter the "former Regulations "). 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; the Regulations establish the procedures that apply to this matter

² The Act expired on August 20, 1994 Executive Order 12924 (3 C.F.R. , 1994 Comp. 9 17 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 1, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp 294 (1999)), and August 10, 1999 (64 *Fed. Reg.* 44 10 1 (August 13, 1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 170 1 - 1706 (1991 & Supp. 1999)).

WHEREAS, the Office of Export Enforcement, Bureau of Export Administration (BXA), has notified LTX of its intention to initiate an administrative proceeding against it pursuant to the Act and the Regulations, based on allegations that on or about August 25, 1995 and on or about October 1, 1996, LTX exported U.S.-origin commodities, *to wit*, one set of trillium MM 1 1 H 208 pins tester with one head, and a Universal BIMOS probe card interface assembly and probe card mounting rings, respectively, to Realtek Semiconductor Company, Ltd. in Taiwan, a person denied all U.S. export privileges by Order dated August 3, 1995, thereby committing one violation of section 787.6 and one violation of section 787A.6 of the former Regulations;

WHEREAS, LTX 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; it fully understands the terms of this Settlement Agreement and the appropriate Order; it enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and it states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, LTX neither admits nor denies the allegations contained in the proposed Charging Letter;

WHEREAS, LTX and BXA wish to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, LTX agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order),

NOW THEREFORE, LTX and BXA agree as follows:

1. BXA has jurisdiction over LTX, under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter

2. BXA and LTX agree that the following sanction shall be imposed against LTX in complete settlement of the alleged violations of the Act and the former Regulations set forth in the proposed Charging Letter:

- a. LTX shall be assessed a civil penalty in the amount of \$15,000, which shall be paid to the Department of Commerce within 30 days from the date of entry of the appropriate Order
- b. As authorized by Section 11(d) of the Act, the timely payment of the civil penalty agreed to in paragraph 2a. 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 LTX. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of LTX's export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.

3. LTX agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 7 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) to request a refund of any civil penalty paid pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek

judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against LTX in connection with any violation of the Act or the former Regulations arising out the transactions identified in the proposed Charging Letter

5. LTX understands that BXA will make the proposed Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public

6. BXA and LTX agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.1 S(a) of the Regulations, BXA and LTX agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that the parties shall not be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding

7. 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 appropriate Order, when entered, nor shall this Settlement 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.

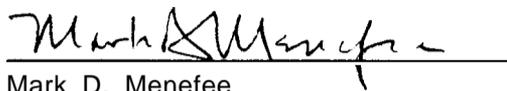
8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have

Settlement Agreement
LTX Corporation
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the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

LTX CORPORATION



Mark D. Menefee
Director
Office of Export Enforcement



Roger W. Blethen
President

Date: 2/14/00

Date: 1/30/00



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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

LTX Corporation
LTX Park
University Avenue
Westwood, Massachusetts 02090-9998

Attention: *Roger W. Blethen*
President

Dear Mr. Blethen:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described in detail below, LTX Corporation (LTX) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act).²

Facts constituting violations:

¹ The violations at issue occurred in 1995 and 1996. The Regulations governing the violations at issue are found in the 1995 and 1996 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995) and 15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed. Reg.* 127 14, March 25, 1996)) (hereinafter the "former Regulations"). 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; the Regulations establish the procedures that apply to this matter.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)) and August 10, 1999 (64 *Fed. Reg.* 44 101, August 13, 1999), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).



Charges 1 and 2

On or about August 26, 1995 and on or about October 1, 1996, LTX exported U.S. origin commodities, to wit, one set of trillium MM1 1H 208 pins tester with one head, and a Universal BIMOS probe card interface assembly and probe card mounting rings, respectively, to Realtek Semiconductor Company, Ltd. (Realtek) in Taiwan, a person denied all U.S. export privileges by Order dated August 3, 1995. See 60 Fed. Reg. 40565-40566, August 9, 1995. LTX's involvement in these transactions was contrary to the terms of the August 3, 1995 Order denying Realtek export privileges. BXA alleges that by exporting U.S. origin commodities from the United States to Realtek in violation of or contrary to any provision of the Act or any regulation, order or license issued thereunder, LTX committed one violation of Section 787.6 and one violation of Section 787A.6 of the former Regulations.

Accordingly, LTX 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 \$10,000 per violation (see Section 764.3(a)(1) of the Regulations);

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed

If LTX fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7 of the Regulations.

LTX is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a consent settlement.

Pursuant to an Interagency Agreement between BXA 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. Accordingly, LTX's answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 4C S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of LTX's answer should be served on BXA at the address set

LTX Corporation
Charging Letter
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forth in Section 766.5(b), adding "ATTENTION: Melissa B. Mannino, Esq." below the address.
Ms. Mannino may be contacted by telephone at (202) 482-5304.

Sincerely,

Mark D. Menefee
Director
Office of Export Enforcement

Enclosure