

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

---

In the Matter of: )  
 )  
NEC TECHNOLOGIES, INC. )  
1250 North Arlington Heights Road )  
Itasca, Illinois 60143, )  
 )  
 )  
 )  
Respondent )

---

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified NEC Technologies, Inc. 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),<sup>1</sup> and the Export Administration Regulations (15 C.F.R. Parts 730-774 (1999)) (the Regulations),<sup>2</sup> based on allegations that:

---

<sup>1</sup> 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. 44101 (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)).

<sup>2</sup> The alleged violations occurred in 1996. The Regulations governing the violations at issue are found in the 1996 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1996)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been

1. On five separate occasions between on or about February 10, 1996 and on or about February 17, 1996, NEC Technologies, Inc., through its Automated Fingerprint Identification Systems Unit, exported U.S.-origin Powermate P133 Automated Fingerprint Identification Systems from the United States to Argentina, Peru, Singapore, South Africa and Taiwan without the validated licenses that were required by Section 772.1(b) of the former Regulations, in violation of Section 787.6 of the former Regulations; and

2. In connection with the exports described above, on five separate occasions between on or about February 10, 1996 and on or about February 17, 1996, NEC Technologies, Inc., through its Automated Fingerprint Identification Systems Unit, made false or misleading representations of material fact to a United States agency on an export control document, in violation of Section 787.5(a) of the former Regulations;

BXA and NEC Technologies, Inc. having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby BXA and NEC Technologies, Inc. have 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;

---

reorganized and restructured; the restructured Regulations establish the procedures that apply to this matter.

IT IS THEREFORE ORDERED,

FIRST, that a civil penalty of \$25,000 is assessed against NEC Technologies, Inc., \$15,000 of which shall be paid to the U.S. Department of Commerce within 30 days of the date of this Order. Payment of the remaining \$10,000 shall be suspended for a period of one year from the date of entry of this Order and shall thereafter be waived, provided that, during the period of suspension, NEC Technologies, Inc. has committed no violation of the Act, or any regulation, order, or license issued thereunder. 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. 1998)), 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, NEC Technologies, Inc. will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that, as authorized by Section 11(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 NEC Technologies, Inc.

Accordingly, if NEC Technologies, Inc. should fail to pay the civil penalty in a timely manner, the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of NEC Technologies, Inc.'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 10<sup>th</sup> day of May, 2000.

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

\_\_\_\_\_  
In the Matter of: )  
 )  
NEC TECHNOLOGIES, INC. )  
1250 North Arlington Heights Road )  
Itasca, Illinois 60143, )  
 )  
Respondent )  
\_\_\_\_\_

SETTLEMENT AGREEMENT

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

<sup>1</sup> The alleged violations occurred in 1996. The Regulations governing the violations at issue are found in the 1996 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1996)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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. 44101 (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)).

WHEREAS, the Office of Export Enforcement, Bureau of Export Administration (BXA), has notified NEC Technologies, Inc. of its intention to initiate an administrative proceeding against it pursuant to the Act and the Regulations, based on allegations that:

1. On five separate occasions between on or about February 10, 1996 and on or about February 17, 1996, NEC Technologies, Inc., through its Automated Fingerprint Identification Systems Unit, exported U.S.-origin Powermate P133 Automated Fingerprint Identification Systems from the United States to Argentina, Peru, Singapore, South Africa and Taiwan without the validated licenses that were required by Section 772.1(b) of the former Regulations, in violations of Section 787.6 of the former Regulations; and

2. In connection with the exports described above, on five separate occasions between on or about February 10, 1996 and on or about February 17, 1996, NEC Technologies, Inc., through its Automated Fingerprint Identification Systems Unit, made false or misleading representations of material fact to a United States agency on an export control document, in violation of Section 787.5(a) of the former Regulations;

WHEREAS, NEC Technologies, Inc. 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; it fully understands the

terms of this Settlement Agreement and the proposed 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, NEC Technologies, Inc. neither admits nor denies the allegations contained in the proposed Charging Letter;

WHEREAS, NEC Technologies, Inc. and BXA wishes to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, NEC Technologies, Inc. agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

NOW THEREFORE, NEC Technologies, Inc. and BXA agree as follows:

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

2. BXA and NEC Technologies, Inc. agree that the following sanction shall be imposed against NEC Technologies, Inc. in complete settlement of all alleged violations of the Act and former Regulations arising out of the transactions set forth in the proposed Charging Letter:

- a. NEC Technologies, Inc. shall be assessed a civil

penalty of \$25,000, \$15,000 of which shall be paid to the U.S. Department of Commerce within 30 days of the date of entry of an appropriate Order. Payment of the remaining \$10,000 shall be suspended for a period of one year from the date of entry of the appropriate Order and shall thereafter be waived, provided that, during the period of suspension, NEC Technologies, Inc. has committed no violation of the Act, or any regulation, order, or license issued thereunder.

- 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, License Exception, permission, or privilege granted, or to be granted, to NEC Technologies, Inc. Failure to make timely payment of the civil penalty shall result in the denial of all of NEC Technologies, Inc.'s export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.

3. NEC Technologies, Inc. agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 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 the civil penalty imposed 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 NEC Technologies, Inc. in connection with any violation of the Act, or the former Regulations arising out of the transactions identified in the proposed Charging Letter.

5. NEC Technologies, Inc. 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 NEC Technologies, Inc. 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 766.18(a) of the Regulations, BXA and NEC Technologies, Inc. agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall 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 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

NEC TECHNOLOGIES, INC.

  
\_\_\_\_\_  
Mark D. Menefee  
Director  
Office of Export Enforcement

  
\_\_\_\_\_  
Mark Lazuk  
Vice President, Business  
Operations

Date: 4/10/00

Date: 4-6-00



UNITED STATES DEPARTMENT OF COMMERCE  
Bureau of Export Administration  
Washington, D.C. 20230

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

NEC Technologies, Inc.  
1250 North Arlington Heights Road  
Itasca, Illinois 60143

Attention: Mark Lazuck  
Vice President of Business Operations

Dear Mr. Lazuck:

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

Facts constituting violations:

---

<sup>1</sup> The alleged violations occurred in 1996. The Regulations governing the violations at issue are found in the 1996 version of the Code of Federal Regulations (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 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 violations that BXA alleges occurred; the Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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. 44101 (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 1-5

As described in greater detail in the Schedule of Violations, which is enclosed herewith and incorporated herein by reference, on five separate occasions between on or about February 10, 1996 and on or about February 17, 1996, NEC, through its Automated Fingerprint Identification Systems Unit, exported U.S.-origin Powermate P133 Automated Fingerprint Identification Systems from the United States to Argentina, Peru, Singapore, South Africa and Taiwan without the validated licenses that were required by Section 772.1(b) of the former Regulations. BXA alleges that, by exporting U.S.-origin Powermate P133 Automated Fingerprint Identification Systems to any person or destination or for any use in violation of or contrary to the terms of the Act, or any regulation, order, or license issued thereunder, NEC violated Section 787.6 of the former Regulations.

Charges 6-10

In connection with the exports described above, NEC, through its Automated Fingerprint Identification Systems Unit, prepared Shipper's Export Declarations, defined as export control documents in Section 770.2 of the former Regulations, representing that Powermate P133 Automated Fingerprint Identification Systems were eligible for export to Argentina, Peru, Singapore, South Africa and Taiwan under general license G-DEST. In fact, Powermate P133 Automated Fingerprint Identification Systems required a validated license for export to Argentina, Peru, Singapore, South Africa and Taiwan. BXA alleges that, by making false or misleading statements of material facts directly or indirectly to a United States agency in connection with the preparation of export control documents that were used to effect exports from the United States, NEC violated Section 787.5(a) of the former Regulations.

BXA alleges that NEC committed five violations each of Sections 787.5(a) and 787.6 of the former Regulations, for a total of ten violations of the former Regulations.

Accordingly, NEC 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 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 (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If NEC 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. NEC 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 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, NEC's answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 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 NEC's answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Lairoid M. Street, Esq." below the address. Mr. Street may be contacted by telephone at (202) 482-5311.

Sincerely,

Mark D. Menefee  
Director  
Office of Export Enforcement

Enclosures

**NEC TECHNOLOGIES, INC.  
SCHEDULE OF VIOLATIONS**

<b>CHARGE NUMBER</b>	<b>DATE OF EXPORT</b>	<b>COMMODITY</b>	<b>INVOICE</b>	<b>AIR WAYBILL</b>	<b>DESTINATION</b>
1,6	02/10/96	Automated Fingerprint Identification System	BX-96-PE0205C	#001-15311284	Peru
2,7	02/11/96	Automated Fingerprint Identification System	BX-96-ZA0205A	#125-64396102	South Africa
3,8	02/16/96	Automated Fingerprint Identification System	BX-96-AR0213B	#001-15311306	Argentina
4,9	02/17/96	Automated Fingerprint Identification System	BX-96-TW0213C	#131-76522946	Taiwan
5,10	02/17/96	Automated Fingerprint Identification System	BX-96-SG0213A	#205-85208454	Singapore