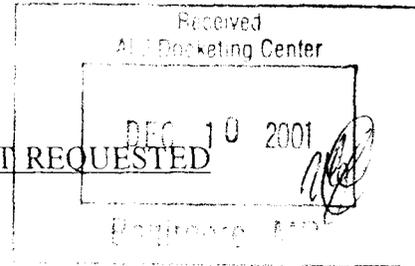




COPY  
UNITED STATES DEPARTMENT OF COMMERCE  
Bureau of Export Administration  
Washington, D.C. 20230

NOV 30 2001



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Suntek Microwave, Inc.  
8528 Thornton Avenue  
Newark, California 94560

Attention: Charlie Kuan  
President

Dear Mr. Kuan:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described below, Suntek Microwave Inc. (Suntek) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2001)) (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. 2001)) (the Act).<sup>2</sup>

---

<sup>1</sup> The Regulations governing the violations at issue are found in the 1996, 1997, 1998 and 1999 versions 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")), and 15 C.F.R. Parts 768-799 (1997, 1998 and 1999)). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. As an interim measure that was part of the transition to newly restructured and reorganized Regulations, the March 25, 1996 *Federal Register* publication also 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 and the Regulations define the various violations that BXA alleges occurred. The Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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 then in effect under the International Emergency Economic Powers Act (50 U.S.C. A. §§ 1701 - 1706 (1991 & Supp. 2001)) (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 (66 *Fed. Reg.* 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA.



Charge 1

On or about December 1, 1996, Suntek transferred detector log video amplifiers to Silicon Valley Scientific Instruments Corporation (SVSIC) knowing or having reason to know that SVSIC would export them to the Peoples Republic of China (PRC) without a validated as required by Section 771A.1 of the former Regulations. BXA alleges that, by transferring items to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, has occurred, was about to occur, or was intended to occur, Suntek committed one violation of Section 787A.2 of the former Regulations.

Charge 2

On or about January 27, 1997, Suntek transferred detector log video amplifiers to Silicon Valley Scientific Instruments Corporation (SVSIC) knowing or having reason to know that SVSIC would export them to the PRC without a license as required by Sections 742.4 and 742.5 of the Regulations. BXA alleges that, by transferring items to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, has occurred, was about to occur, or was intended to occur, Suntek committed one violation of Section 764.2(e) of the Regulations.

Charges 3 - 11

As is described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, from on or about November 1996 through on or about April 2000, Suntek released the U.S.-origin technology described in Schedule A to citizens of the PRC, not citizens or permanent resident aliens of the United States. Suntek's release of the technology within the United States to citizens of the PRC constituted exports under 734.2(b) of the Regulations and required licenses under Sections 742.4 and 742.5 of the Regulations from BXA which Suntek did not obtain. BXA alleges that, by engaging in conduct prohibited by or contrary to the Act, the Regulations, or any order, license or authorization issued thereunder, Suntek committed nine violations Section 764.2(a) of the Regulations.

Charges 12 - 15

On or about July 25, 1997, Suntek filed an application for a license with BXA to export detector log video amplifiers to the PRC. On the application, Suntek stated that the purchaser, intermediate consignee, ultimate consignee, and end-user were China Electronic Science & Technical University when, in fact, China Electronic Science & Technical University was not the purchaser, intermediate consignee, ultimate consignee, or end-user. BXA alleges that, by providing false or misleading statements of material fact in connection with the preparation of an export control document as defined in Section 772.1 of the Regulations, Suntek committed four violations of Section 764.2(g) of the Regulations.

Charges 16 - 20

As is described in greater detail in Schedule B, which is enclosed herewith and incorporated herein by reference, Suntek exported detector log video amplifiers from the United States to the PRC without obtaining the licenses required under Sections 742.4 and 742.5 of the Regulations. BXA alleges that, by engaging in conduct prohibited by or contrary to the Act, the Regulations, or any order, license or authorization issued thereunder, Suntek committed five violations Section 764.2(a) of the Regulations.

Charges 21 - 25

In connection with Charges 16 - 20 above, Suntek knew or had reason to know that the licenses were required for the exports. BXA alleges that, by selling or transferring items exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, has occurred, is about to occur, or is intended occur, Suntek committed five violations of Section 764.2(e) of the Regulations.

BXA alleges that Suntek committed one violation of Section 787A.2 of the former Regulations, and 14 violations of Section 764.2(a), six violations of Section 764.2(e) and four violations of Section 764.2(g) of the Regulations, for a total of 25 violations.

Accordingly, Suntek 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 (see Section 764.3(a)(1) of the Regulations and 15 C.F.R. § 6.4(a)(3)(2001));

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).

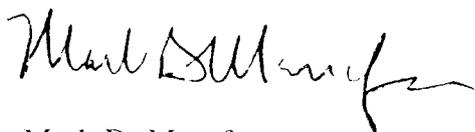
Copies of relevant Parts of the Regulations are enclosed.

If Suntek 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.

Suntek 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, Suntek'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 Suntek's answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Mi-Yong Kim, Esq." below the address and all communication with BXA concerning this matter should be directed to Ms. Kim. Ms. Kim may be contacted by telephone at (202) 482-5311.

Sincerely,



Mark D. Menefee  
Director  
Office of Export Enforcement

Enclosures

# **SCHEDULE A**

SCHEDULE OF VIOLATIONS  
SUNTEK MICROWAVE, INC.  
SCHEDULE A

| Charge No. | Date (On or about)         | Technology                               | ECCN  | Citizenship                | Name          |
|------------|----------------------------|--|-------|----------------------------|---------------|
| 3          | November 1996 - March 1997 | Detector Log Video Amplifiers Technology | 3E001 | People's Republic of China | Yong An WANG  |
| 4          | November 1996 - March 1997 | Detector Log Video Amplifiers Technology | 3E001 | People's Republic of China | An Lao WANG   |
| 5          | Mid-1997                   | Detector Log Video Amplifiers Technology | 3E001 | People's Republic of China | Jingui YAN    |
| 6          | August 1997 - October 1997 | Detector Log Video Amplifiers Technology | 3E001 | People's Republic of China | Changhong HU  |
| 7          | August 1997 - October 1997 | Detector Log Video Amplifiers Technology | 3E001 | People's Republic of China | Yijie QIU     |
| 8          | Early 1998                 | Detector Log Video Amplifiers Technology | 3E001 | People's Republic of China | Zhenya HU     |
| 9          | June 1998 - February 1999  | Detector Log Video Amplifiers Technology | 3E001 | People's Republic of China | Zhong SHI     |
| 10         | June 27, 1998              | Detector Log Video Amplifiers Technology | 3E001 | People's Republic of China | Taoyu ZHANG   |
| 11         | April 2000                 | Detector Log Video Amplifiers Technology | 3E001 | People's Republic of China | Jiadong HUANG |

# **SCHEDULE B**

**SCHEDULE OF VIOLATIONS  
SUNTEK MICROWAVE, INC.  
SCHEDULE B**

| <b>Charge Nos.</b> | <b>Date (On or about)</b> | <b>Commodity</b>                                    | <b>ECCN</b> | <b>Invoice No.</b> | <b>Air Waybill No.</b> |
|--------------------|---------------------------|---|-------------|--------------------|------------------------|
| 16, 21             | February 4, 1998          | Detector Log Video Amplifiers, Model SKA-1002, 1004 | 3A001       | 1117               | Fed Ex 800086485589    |
| 17, 22             | February 26, 1998         | Detector Log Video Amplifiers, Model SKA-1004       | 3A001       | 1132               | Fed Ex 800086485214    |
| 18, 23             | April 28, 1998            | Detector Log Video Amplifiers, Model SKA-1006       | 3A001       | 4798 CHJW          | Fed Ex 800086485350    |
| 19, 24             | May 7, 1998               | Detector Log Video Amplifiers, Model SKA-1002       | 3A001       | 5198 CHJW          | Fed Ex 800086485340    |
| 20, 25             | June 8, 1998              | Detector Log Video Amplifiers, Model SKA-1006       | 3A001       | 6198 CHJW          | None, Airmail          |

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

|                           |   |                      |
|---------------------------|---|----------------------|
| In the Matter of:         | ) |                      |
| Suntek Microwave, Inc.    | ) |                      |
| 8698 Thorton Avenue       | ) | Docket No. 01-BXA-19 |
| Newark, California 94560, | ) |                      |
|                           | ) |                      |
| Respondent                | ) |                      |

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Suntek Microwave, Inc., (“Suntek”) and the Bureau of Industry and Security, United States Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(b) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2003)) (“Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup>

---

<sup>1</sup> The Regulations governing the violations at issue are found in the 1996, 1997, 1998, 1999 and 2000 versions 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”), and 15 C.F.R. Parts 768-799 (1997, 1998, 1999 and 2000)). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. As an interim measure that was part of the transition to newly restructured and reorganized Regulations, the March 25, 1996 *Federal Register* publication also 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 and the Regulations define the various violations that BIS alleges occurred. The 2003 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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

WHEREAS, BIS has initiated an administrative proceeding against Suntek, pursuant to the Act and the Regulations by issuing a charging letter on November 30, 2001;

WHEREAS, BIS, in the charging letter, alleged that Suntek committed 25 violations of the former Regulations and the Regulations, specifically:

1. *One Violation of 15 C.F.R. § 787A.2 - Aiding and Abetting a Violation - Aiding and Abetting an Unlicensed Export:* On or about December 1, 1996, Suntek aided and abetted the unlicensed export of detector log video amplifiers, items subject to the Regulations, by selling them to Silicon Valley Scientific Instruments Corporation (SVSIC) who then exported them to the Peoples Republic of China (PRC) without a validated license as required by Section 771A.1 of the former Regulations.
2. *One Violation of 15 C.F.R. § 764.2(e) - Acting with Knowledge - Transfer of Controlled Commodity Knowing That It Will be Exported Without a License:* On or about January 27, 1997, Suntek transferred detector log video amplifiers to SVSIC knowing or having reason to know that SVSIC would export them to the PRC without a license as required by Sections 742.4 and 742.5 of the Regulations. SVSIC subsequently exported the detector log video amplifiers to the PRC.

---

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 7, 2003 (68 *Fed. Reg.* 47833, August 11, 2003), has continued the Regulations in effect under IEEPA.

3. *Nine Violations of 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Release of U.S.-Origin Technology to Foreign Nationals in the United States:*  
From on or about November 1996 through on or about April 2000, Suntek released U.S.-origin technology subject to the former Regulations and the Regulations to citizens of the PRC, not citizens or permanent resident aliens of the United States, without licenses from BIS. Suntek's release of the technology within the United States to citizens of the PRC constituted exports under 734.2(b) of the Regulations and required licenses under Sections 742.4 and 742.5 of the Regulations.
4. *Four Violations of 15 C.F.R. § 764.2(g) - Misrepresentation and Concealment of Facts - False Statements on License Application:* On or about July 25, 1997, Suntek filed an application for a license with BIS to export detector log video amplifiers to the PRC. On the application, Suntek stated that the purchaser, intermediate consignee, ultimate consignee, and end-user were China Electronic Science & Technical University when, in fact, China Electronic Science & Technical University was not the purchaser, intermediate consignee, ultimate consignee, or end-user.
5. *Five Violations of 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Export Without Licenses:* On or about February 4, 1998, February 26, 1998, April 28, 1998, May 7, 1998, and June 8, 1998, Suntek exported detector log video

amplifiers from the United States to the PRC without obtaining the BIS licenses required under Sections 742.4 and 742.5 of the Regulations.

6. *Five Violations of 15 C.F.R. § 764.2(e) - Acting with Knowledge - Exporting Without Licenses:* In connection with the five exports of detector log video amplifiers set forth in subparagraph 5. above, Suntek sold or transferred with knowledge that the licenses were required for the exports and that the required licenses were not obtained.

WHEREAS, Suntek has reviewed the 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, Suntek fully understands 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, Suntek enters into this Agreement voluntarily and with full knowledge of its rights;

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Suntek, under the Regulations, in connection with the matters alleged in the charging letter.
2. The following sanction shall be imposed against Suntek in complete settlement of the violations of the Regulations set forth in the charging letter:
  - a. Suntek shall be assessed a civil penalty in the amount of \$275,000 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order. The payment of \$275,000 shall be suspended for a period of one year from the date of entry of the Order and thereafter shall be waived, provided that during the period of suspension, Suntek has committed no violation of the Act, or any regulation, order, or license issued by thereunder.
  - b. For a period 20 years from the date of entry of the Order, Suntek, its successors or assigns, and when acting for or on behalf of Suntek, its representatives, agents, or employees (“denied person”) 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.

3. Subject to the approval of this Agreement pursuant to paragraph 7 hereof, Suntek 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 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. BIS will make the charging letter, this Agreement, and the Order, if entered, in addition to the record of the case, available to the public.

5. 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(b) 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.

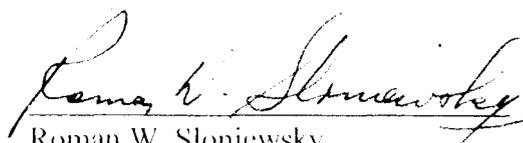
6. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

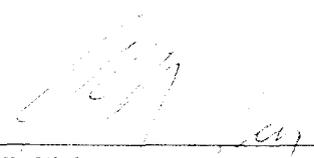
7. This Agreement shall become binding on BIS only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

8. 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.

OFFICE OF CHIEF COUNSEL FOR  
INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE

SUNTEK MICROWAVE, INC.

  
Roman W. Sloniewsky  
Acting Chief Counsel

  
George C. Fisher  
Receiver

Date: 4/13/04

Date: 3/30/2004

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

\_\_\_\_\_  
In the Matter of: )  
Suntek Microwave, Inc. )  
8698 Thorton Avenue )  
Newark, California 94560, )  
 )  
 )  
Respondent )  
\_\_\_\_\_

Docket No. 01-BXA-19

ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) having initiated an administrative proceeding against Suntek Microwave, Inc. (“Suntek”) pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2003)) (“Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup> based on the charging

---

<sup>1</sup> The Regulations governing the violations at issue are found in the 1996, 1997, 1998, 1999 and 2000 versions 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”)), and 15 C.F.R. Parts 768-799 (1997, 1998, 1999 and 2000)). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. As an interim measure that was part of the transition to newly restructured and reorganized Regulations, the March 25, 1996 *Federal Register* publication also 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 and the Regulations define the various violations that BIS alleges occurred. The 2003 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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 issued on 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 7, 2003 (68 *Fed. Reg.* 47833, August 11, 2003)), has continued the Regulations in effect under IEEPA.

letter issued to Suntek that alleged that Suntek committed 25 violations of the Regulations.

Specifically, the charges are:

1. *One Violation of 15 C.F.R. § 787A.2 - Aiding and Abetting a Violation - Aiding and Abetting an Unlicensed Export:* On or about December 1, 1996, Suntek aided and abetted the unlicensed export of detector log video amplifiers, items subject to the Regulations, by selling them to Silicon Valley Scientific Instruments Corporation (SVSIC) who then exported them to the Peoples Republic of China (PRC) without a validated license as required by Section 771A.1 of the former Regulations.
2. *One Violation of 15 C.F.R. § 764.2(e) - Acting with Knowledge - Transfer of Controlled Commodity Knowing That It Will be Exported Without a License:* On or about January 27, 1997, Suntek transferred detector log video amplifiers to SVSIC knowing or having reason to know that SVSIC would export them to the PRC without a license as required by Sections 742.4 and 742.5 of the Regulations. SVSIC subsequently exported the detector log video amplifiers to the PRC
3. *Nine Violations of 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Release of U.S.-Origin Technology to Foreign Nationals in the United States:* From on or about November 1996 through on or about April 2000, Suntek released U.S.-origin technology subject to the former Regulations and the Regulations to citizens of the PRC, not citizens or permanent resident aliens of the United States, without licenses from BIS. Suntek's release of the technology within the United States to citizens of the PRC constituted exports under 734.2(b)

of the Regulations and required licenses under Sections 742.4 and 742.5 of the Regulations.

4. *Four Violations of 15 C.F.R. § 764.2(g) - Misrepresentation and Concealment of Facts - False Statements on License Application:* On or about July 25, 1997, Suntek filed an application for a license with BIS to export detector log video amplifiers to the PRC. On the application, Suntek stated that the purchaser, intermediate consignee, ultimate consignee, and end-user were China Electronic Science & Technical University when, in fact, China Electronic Science & Technical University was not the purchaser, intermediate consignee, ultimate consignee, or end-user.
5. *Five Violations of 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Export Without Licenses:* On or about February 4, 1998, February 26, 1998, April 28, 1998, May 7, 1998, and June 8, 1998, Suntek exported detector log video amplifiers from the United States to the PRC without obtaining the BIS licenses required under Sections 742.4 and 742.5 of the Regulations.
6. *Five Violations of 15 C.F.R. § 764.2(e) - Acting with Knowledge - Exporting Without Licenses:* In connection with the five exports of detector log video amplifiers set forth in subparagraph 5. above, Suntek sold or transferred with knowledge that the licenses were required for the exports and that the required licenses were not obtained.

BIS and Suntek having entered into a Settlement Agreement pursuant to Section 766.18(b) 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 \$275,000 is assessed against Suntek, 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, Suntek 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, for a period 20 years from the date of entry of the Order, Suntek Microwave, Inc., 8698 Thorton Avenue, Newark, California 94560, its successors and assigns, and when acting for or on behalf of Suntek, its officers, representatives, agents, or employees (“Denied Person”) 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:

- 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.

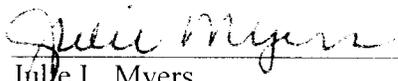
FIFTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to a Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the 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 civil penalty set forth above shall be suspended in its entirety for one year from the date of this Order, and shall thereafter be waived, provided that during the period of suspension, Suntek has committed no violation of the Act or any regulation, order or license issued thereunder.

EIGHTH, that the charging letter, the Settlement Agreement, and this Order, in addition to the record of the case, 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 6<sup>th</sup> day of May 2004.