

DRAFT



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

PartMiner, Inc.
80 Ruland Road
Melville, New York 11747

Attn: Michael R. Manley
President and General Counsel

Dear Mr. Manley:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), has reason to believe that PartMiner, Inc., of Melville, New York (“PartMiner”) has committed 18 violations of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979 (the “Act”).² Specifically, BIS charges that PartMiner committed the following violations:

Charges 1-9 15 C.F.R. § 764.2(a) - Exporting Electronic Components to Organizations in India on the Entity List Without the Required Department of Commerce Licenses

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on nine occasions between on or about December 29, 1998 and on or about June 7, 1999, PartMiner engaged in conduct prohibited by the Regulations by exporting electronic

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2004). The charged violations occurred in 1998 and 1999. The Regulations governing the violations at issue are found in the 1998 and 1999 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998-1999)). The 2004 Regulations establish the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401- 2420 (2000). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 6, 2004 (69 Fed. Reg. 48763 (August 10, 2004)), continues the Regulations in effect under the IEEPA.



components, items subject to the Regulations (EAR99)(electronic components),³ from the United States to organizations in India on BIS' Entity List without the Department of Commerce licenses required by Section 744.11 of the Regulations. In so doing, PartMiner committed nine violations of Section 764.2(a) of the Regulations.

Charges 10-14 15 C.F.R. § 764.2(a) - Failing to File Shipper's Export Declarations

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on five occasions between on or about December 29, 1998 and on or about April 7, 1999, PartMiner engaged in conduct prohibited by the Regulations by exporting electronic components to organizations in India on the Entity List without filing a Shipper's Export Declaration as required by Part 758 of the Regulations. In so doing, PartMiner committed five violations of Section 764.2(a) of the Regulations.

Charges 15-16 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Authority to Export

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on two occasions, on or about March 25, 1999 and on or about June 7, 1999, PartMiner filed or caused to be filed Shipper's Export Declarations with the U.S. government for exports of electronic components to organizations in India on the Entity List that stated they qualified for export from the United States as NLR ("No License Required"). These statements were false because, as described in Charges One to Nine above, licenses were required to export these items. In doing so, PartMiner committed two violations of Section 764.2(g) of the Regulations.

Charges 17-18 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Identity of Ultimate Consignee

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on two occasions, on or about March 25, 1999 and on or about June 7, 1999, PartMiner filed or caused to be filed Shipper's Export Declarations with the U.S. government for exports of electronic components to organizations in India on the Entity List that falsely stated the true identity of the ultimate consignees. Specifically, PartMiner filed Shipper's Export Declarations for these shipments that stated the ultimate consignees were located in Denmark and

³ The term "EAR99" refers to items subject to the Regulations which are not listed on the Commerce Control List. *See* 15 C.F.R. § 734.3(c).

Singapore when in fact, the shipments were destined to organizations in India. In so doing, PartMiner committed two violations of Section 764.2(g) of the Regulations.

Accordingly, PartMiner 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;⁴

Denial of export privileges; and/or

Exclusion from practice before BIS.

If PartMiner 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. *See* 15 C.F.R. §§ 766.6 and 766.7. If PartMiner defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to PartMiner. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

PartMiner 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. *See* 15 C.F.R. § 766.6. PartMiner is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should PartMiner have a proposal to settle this case, PartMiner or its representative should transmit it to 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, PartMiner'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

⁴ *See* 15 C.F.R. § 6.4(a)(2).

PartMiner
Charging Letter
Page 4 of 4

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

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

David C. Recker is the attorney representing BIS in this case; any communications that PartMiner may wish to have concerning this matter should occur through him. Mr. Recker may be contacted by telephone at (202) 482-5301.

Sincerely,

Acting Director
Office of Export Enforcement

SCHEDULE A
PARTMINER, INC.

Charges	Date of Export (on or about)	Item	ECCN	Destination	Value
1, 10	12/29/1998	Electronic Components	EAR99	Bharat Electronics, Ltd. Bangalore, India	\$5,489.26
2, 11	1/22/1999	Electronic Components	EAR99	Bharat Electronics, Ltd. Bangalore, India	\$7,728.00
3, 12	3/02/1999	Electronic Components	EAR99	Bharat Electronics, Ltd. Bangalore, India	\$11,372.81
4, 13	3/17/1999	Electronic Components	EAR99	Bharat Electronics, Ltd. Bangalore, India	\$18,125.50
5	3/17/1999	Electronic Components	EAR99	Bharat Heavy Electricals, Ltd., Hyderabad, India	\$270.06
6, 15, 17	3/25/1999	Electronic Components	EAR99	Bharat Electronics, Ltd. Bangalore, India	\$31,875.00
7, 14	4/07/1999	Electronic Components	EAR99	Bharat Electronics, Ltd. Bangalore, India	\$3,476.63
8	4/08/1999	Electronic Components	EAR99	Bharat Electronics, Ltd. Bangalore, India	\$662.50
9, 16, 18	6/07/1999	Electronic Components	EAR99	Bharat Electronics, Ltd. Bangalore, India	\$4,874.52

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

In the Matter of:)
)
PartMiner, Inc.)
80 Ruland Road)
Melville, New York 11747,)
)
Respondent.)
)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, PartMiner, Inc. of Melville, New York (“PartMiner”), and the Bureau of Industry and Security, United States Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. App. §§ 2401-2420 (2000)) (“Act”),²

¹ The charged violations occurred in 1998 and 1999. The Regulations governing the violations at issue are found in the 1998 and 1999 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998-1999)). The 2004 Regulations establish the procedures that apply to this matter.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002), as extended by the Notice of August 6, 2004 (69 *Fed. Reg.* 48763 (August 10, 2004)), has continued the Regulations in effect under the IEEPA.

WHEREAS, PartMiner filed a voluntary self-disclosure with BIS' Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning the transactions at issue herein;

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

WHEREAS, BIS has issued a proposed charging letter to PartMiner that alleged that PartMiner committed 18 violations of the Regulations, specifically:

1. *Nine Violations of 15 C.F.R. § 764.2(a) - Exporting Electronic Components to Organizations in India on the Entity List Without the Required Department of Commerce Licenses:* On nine occasions between on or about December 29, 1998 and on or about June 7, 1999, PartMiner engaged in conduct prohibited by the Regulations by exporting electronic components, items subject to the Regulations ("EAR99")("electronic components"),³ from the United States to organizations in India on BIS' Entity List without the Department of Commerce licenses required by Section 744.11 of the Regulations.

³ The term "EAR99" refers to items subject to the Regulations which are not listed on the Commerce Control List. See 15 C.F.R. § 734.3(c).

2. *Five Violations of 15 C.F.R. § 764.2(a) - Failing to File Shipper's Export*

Declarations: On five occasions between on or about December 29, 1998 and on or about April 7, 1999, PartMiner engaged in conduct prohibited by the Regulations by exporting electronic components to organizations in India on the Entity List without filing a Shipper's Export Declaration as required by Part 758 of the Regulations.

3. *Two Violations of 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export*

Declarations Concerning Authority to Export: On two occasions, on or about March 25, 1999 and on or about June 7, 1999, PartMiner filed or caused to be filed Shipper's Export Declarations with the U.S. government for exports of electronic components to organizations in India on the Entity List that stated they qualified for export from the United States as NLR ("No License Required"). These statements were false because, as described in Paragraph One above, licenses were required to export these items.

4. *Two Violations of 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export*

Declarations Concerning Identity of Ultimate Consignee: On or about March 25, 1999 and on or about June 7, 1999, PartMiner filed or caused to be filed Shipper's Export Declarations with the U.S. government for exports of electronic components to organizations in India on the Entity List that falsely stated the true identity of the ultimate consignees. Specifically, PartMiner filed Shipper's Export

Declarations for these shipments that stated the ultimate consignees were located in Denmark and Singapore when in fact, the shipments were destined to organizations in India.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanction shall be imposed against PartMiner in complete settlement of the violations of the Regulations set forth in the proposed charging letter:

- a. PartMiner shall be assessed a civil penalty in the amount of \$50,000 which shall be paid to the U.S. Department of Commerce within 90 days from the date of entry of the Order;
- b. The timely payment of the civil penalty agreed to in paragraph 2.a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be granted, to PartMiner. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of PartMiner's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, PartMiner hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the proposed charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$50,000 civil penalty, BIS will not initiate any further administrative proceeding against PartMiner in connection with any violation

of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

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

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

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

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

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

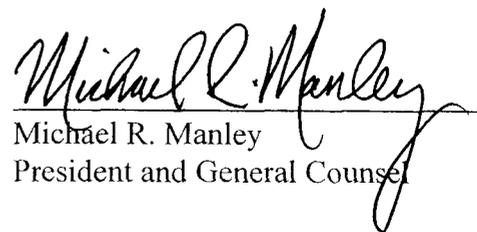
BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE



Acting Director
Office of Export Enforcement

Date: 11/03/04

PARTMINER, INC.



Michael R. Manley
President and General Counsel

Date: 11/2/04

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

In the Matter of:)
)
PartMiner, Inc.)
80 Ruland Road)
Melville, New York 11747,)
)
Respondent.)

ORDER RELATING TO PARTMINER, INC.

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) having notified PartMiner, Inc. (“PartMiner”) of its intention to initiate an administrative proceeding against PartMiner pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (“Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. App. §§ 2401-2420 (2000)) (“Act”),² based on the proposed charging letter issued to PartMiner that alleged that PartMiner committed 18 violations of the Regulations. Specifically, the charges are:

¹ The charged violations occurred in 1998 and 1999. The Regulations governing the violations at issue are found in the 1998 and 1999 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998-1999)). The 2004 Regulations establish the procedures that apply to this matter.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004 (69 *Fed. Reg.* 48763 (August 10, 2004)), has continued the Regulations in effect under the IEEPA.

1. *Nine Violations of 15 C.F.R. § 764.2(a) - Exporting Electronic Components to Organizations in India on the Entity List Without the Required Department of Commerce Licenses:* On nine occasions between on or about December 29, 1998 and on or about June 7, 1999, PartMiner engaged in conduct prohibited by the Regulations by exporting electronic components, items subject to the Regulations (“EAR99”) (“electronic components”),³ from the United States to organizations in India on BIS’ Entity List without the Department of Commerce licenses required by Section 744.11 of the Regulations.
2. *Five Violations of 15 C.F.R. § 764.2(a) - Failing to File Shipper’s Export Declarations:* On five occasions between on or about December 29, 1998 and on or about April 7, 1999, PartMiner engaged in conduct prohibited by the Regulations by exporting electronic components to organizations in India on the Entity List without filing a Shipper’s Export Declaration as required by Part 758 of the Regulations.
3. *Two Violations of 15 C.F.R. § 764.2(g) - False Statements on Shipper’s Export Declarations Concerning Authority to Export:* On two occasions, on or about March 25, 1999 and on or about June 7, 1999, PartMiner filed or caused to be filed Shipper’s Export Declarations with the U.S. government for exports of electronic components to organizations in India on the Entity List that stated they qualified for export from the United States as NLR (“No License Required”).

³ The term “EAR99” refers to items subject to the Regulations which are not listed on the Commerce Control List. See 15 C.F.R. § 734.3(c).

These statements were false because, as described in Paragraph One above, licenses were required to export these items.

4. *Two Violations of 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Identity of Ultimate Consignee:* On or about March 25, 1999 and on or about June 7, 1999, PartMiner filed or caused to be filed Shipper's Export Declarations with the U.S. government for exports of electronic components to organizations in India on the Entity List that falsely stated the true identity of the ultimate consignees. Specifically, PartMiner filed Shipper's Export Declarations for these shipments that stated the ultimate consignees were located in Denmark and Singapore when in fact, the shipments were destined to organizations in India.

BIS and PartMiner 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 \$50,000 is assessed against PartMiner which shall be paid to the U.S. Department of Commerce within 90 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

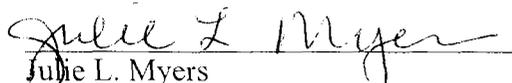
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein,

PartMiner will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be granted, to PartMiner. Accordingly, if PartMiner should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of PartMiner's export privileges for a period of one year from the date of entry of this Order.

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

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


Julie L. Myers
Assistant Secretary of Commerce
for Export Enforcement

Entered this 9th day of November 2004.