

calendar days following publication of this notice. Please follow the procedures set forth in Section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: May 21, 2007.

**William P. Kittredge,**  
Program Officer for TAA.

[FR Doc. 07-2647 Filed 5-25-07; 8:45 am]

BILLING CODE 3510-24-M

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

**[Action Affecting Export Privileges; Data Physics Corporation; In the Matter of: Data Physics Corporation; 2025 Gateway Place, Suite 260, San Jose, CA 95110, Respondent.**

#### Order Relating to Data Physics Corporation

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has initiated an administrative proceeding against Data Physics Corporation (hereinafter referred to as "Data Physics"), case number 06-BIS-21, through the issuance of a charging letter, pursuant to Section 766.3 of the Export Administration Regulations (currently codified as 15 CFR parts 730-774 (2007)) ("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> BIS and Data Physics have agreed to settle case 06-BIS-21 based on the following five alleged violations of the Regulations. Specifically, the charges are:

#### Charge 1 15 CFR 764.2(a)—Unlicensed Export to Listed Entity in China

On or about December 20, 2001, Data Physics engaged in conduct prohibited by the Regulations when it exported a DP 550 Vibration Controller, an item subject to the Regulations, to the Chinese Academy of Launch Vehicle Technology ("CALT") in the

<sup>1</sup> The violations charged occurred in 2001-2002. The Regulations governing the violations at issue are found in the 2001-2002 versions of the Code of Federal Regulations (15 CFR Parts 730-774 (2001-2002)). The 2007 Regulations govern the procedural aspect of the case.

<sup>2</sup> Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706 (2000)) ("IEEPA").

People's Republic of China ("China"), an organization on BIS's Entity List,<sup>3</sup> without the license required by the Department of Commerce. A licensee was required for this export under Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Data Physics committed one violation of Section 764.2(a) of the Regulations.

#### Charge 2 15 CFR 764.2(e)—Acting With Knowledge of a Violation

On or about December 20, 2001, in connection with the transaction described in Charge 1 above, Data Physics sold and/or forwarded a DP 550 Vibration Controller with knowledge that a violation of the Regulations would occur in connection with the item. At all times relevant hereto, Data Physics knew or should have known that an export license was required to ship a DP 550 Vibration Controller, an item subject to the Regulation, from the United States to CALT, an entity on BIS's Entity List. Data Physics had reason to know that a license was required for this export since, *inter alia* Office of Export Enforcement ("OEE") special agents visited Data Physics in May 1999 where they informed Data Physics' Chief Technology Officer and the Director of Manufacturing and Quality Systems, on the rules and requirements regarding exports to organizations on the BIS Entity list. The Chief Technology Officer then sent an e-mail to Sri Welaratna, company president, explaining the rules and included a link to BIS's Entity List. In so doing, Data Physics committed one violation of Section 764.2(e) of the Regulations.

#### Charge 3 15 CFR 764.2(a)—Unlicensed Export to Listed Entity in China

On or about March 15, 2002, Data Physics engaged in conduct prohibited by the Regulations when it exported a Signalstar Vector (DP 560) vibration controller, an item subject to the Regulations, to the Beijing Automation Equipment Institute ("BACEI") in China, an organization on BIS's Entity List,<sup>4</sup> without the license required by the Department of Commerce. A license was required for this export under Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Data Physics committed one violation of Section 764.2(a) of the Regulations.

#### Charge 4 15 CFR 764.2(e)—Acting With Knowledge of a Violation

On or about March 15, 2002, in connection with the transaction described in Charge 3 above, Data Physics sold and/or forwarded a Signalstar Vector (DP 560) vibration controller with knowledge that a violation of the Regulations would occur in connection with the item. At all times relevant hereto, Data Physics knew or should have known hereto, Data Physics knew or should have known that an export license was required to ship a Signalstar Vector (DP 560) vibration controller, an item subject to the Regulations, from the United States to BACEI, an entity on BIS's Entity List. Data Physics had reason to know that a license was required for this

export since, *inter alia*, OEE special agents visited Data Physics in May 1999 where they informed Data Physics' Chief Technology Officer and the Director of Manufacturing and Quality Systems, on the rules and requirements regarding exports to organizations on the BIS Entity List. The Chief Technology Officer then sent an e-mail to Sri Welaratna, company president, explaining the rules and included a link to BIS's Entity List. In so doing, Data Physics committed one violation of Section 764.2(e) of the Regulations.

#### Charge 5 CFR 764.2(g)—False Statement on Shipper's Export Declaration

On or about March 15, 2002, in connection with the transaction described in Charges 3 and 4 above, Data Physics made a false statement to the U.S. Government in connection with the submission of an export control document. Specifically, Data Physics filed a Shipper's Export Declaration ("SED") with the U.S. Government stating that the items that were the subject of the SED qualified for export as "NLR," i.e., that no license was required. This representation was false, as a license was required for the Signalstar Vector (DP 560) vibration controller to be exported to the Beijing Automation Control Equipment Institute. In so doing, Data Physics committed one violation of Section 764.2(g) of the Regulations.

BIS and Data Physics 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 Data Physics shall pay a civil penalty of \$55,000 to the U.S. Department of Commerce to be paid within 30 days from the date of entry of the Order. Payment shall be made in the manner specified in the attached instructions. Additionally:

A. Pursuant to the Debt Collection Act of 1982, as amended 931 U.S.C. 3701-3720E (1983 and Supp. 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, Data Physics 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.

B. 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 Data Physics. Accordingly, if Data Physics should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order

<sup>3</sup> 15 CFR Supplemental No. 4 to Part 744.

<sup>4</sup> *Id.*

denying all of Data Physics' export privileges for a period of one year from the date of entry of this Order.

C. Data Physics shall perform an audit of its internal compliance program within 12 months from the date of entry of this Order. Said audit shall be in substantial compliance with the Export Management Systems audit module, which is available from the BIS Web site at <http://www.bis.doc.gov/complianceand/enforcement/ExportManagementSystems.htm>, which is incorporated by reference. A copy of said audit shall be transmitted to the Office of Export Enforcement, 96 North Third Street, Suite 250, San Jose, California 95112 no later than 13 months from the date of entry of the Order.

*Second*, that for a period of five years from the date of entry of the Temporary Denial Order against Data Physics on May 23, 2006, Data Physics Corporation, 2025 Gateway Place, Suite 260, San Jose, CA 95110, its subsidiaries, successors or assigns, and, when acting for or on behalf of Data Physics, its officers, representatives, agents or employees ("Denied Person(s)") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as "item") that is subject to the Regulations and that is exported or to be exported from the United States to the People's Republic of China ("China"), or in any other activity subject to the Regulations that involves China, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document that involves export to China;

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 that is subject to the Regulations and that is exported or to be exported from the United States to China, or in any other activity subject to the Regulations that involves China; or

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

*Third*, that no person may, directly or indirectly, do any of the actions described below with respect to an item that is subject to the Regulations and that has been, will be, or is intended to be exported or reexported to China:

A. Export or reexport to or on behalf of a Denied Person any item subject to the Regulations to China;

B. Take any action that facilitates the acquisition or attempted acquisition by a 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 to China, including financing or other support activities related to a transaction whereby a 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 a denied person of any item subject to the Regulations that has been exported from the United States to China;

D. Obtain from a 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 to China; 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 to China and that is owned, possessed or controlled by a Denied person, or service any item, of whatever origin, that is owned, possessed or controlled by a 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 to China. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

F. 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.

Fourth, 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 Data Physics 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

Fifth, that the charging letter, amended charging letter, the Settlement Agreement, and this Order, and the record of the cases as defined by Section 766.20 of the Regulations shall be made available to the public. BIS shall notify the administrative law judge that case 06-BIS-21 is withdrawn from adjudication.

Sixth, that this Order shall be served on the Denied Person and on BIS, and

shall be published in the **Federal Register**.

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

Entered this 15th day of May 2007.

**Darryl W. Jackson,**

*Assistant Secretary of Commerce for Export Enforcement.*

[FR Doc. 07-2629 Filed 5-25-07; 8:45 am]

**BILLING CODE 3510-DT-M**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and procedures Technical Advisory Committee (RPTAC) will meet June 12, 2007, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

#### Agenda

##### Public Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the Public.
3. Opening remarks by the Bureau of Industry and Security.
4. Published regulation update.
5. Automated Export System (AES) update.
6. Working group reports.

##### Closed Session

7. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Yvette Springer at [Yspringer@bis.doc.gov](mailto:Yspringer@bis.doc.gov).

The Assistant Secretary for Administration, with the concurrence of