

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

\_\_\_\_\_  
In the Matter of: )  
)  
Ingersoll Machine Tools, Inc. )  
707 Fulton Avenue )  
Rockford, IL 61103 )  
)  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO INGERSOLL MACHINE TOOLS, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Ingersoll Machine Tools, Inc. (“IMT”), of its intention to initiate an administrative proceeding against IMT pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2008)) (the “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)) (the “Act”),<sup>2</sup> through issuance of a proposed charging letter to IMT that alleged that IMT committed seven violations of the Regulations. Specifically, these charges are:

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2008). The violations charged occurred during 2003-2007. The Regulations governing the violations at issue are found in the 2003-2007 versions of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2003-2007). The 2008 Regulations govern the procedural aspects of this case.

<sup>2</sup> Since August 21, 2001 the Act has been in lapse. However, the President, through 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 July 23, 2008 (73 Fed. Reg. 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707 (2000)).

**Charge 1                    15 C.F.R. § 764.2(a) - Exporting Technology Without the  
Required License**

Between on or about November 2003 and on or about January 29, 2007, IMT engaged in conduct prohibited by the Regulations by exporting or causing to be exported development technology for vertical fiber placement machines, technology subject to the Regulations and classified under ECCN 1E001,<sup>3</sup> to an Italian national without the Department of Commerce license required by Sections 742.4 and 742.5 of the Regulations. The technology was released in the United States to one Italian national who was working for IMT at the time the technology release occurred. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. In so doing, IMT committed one violation of Section 764.2(a) of the Regulations.

**Charges 2-4                15 C.F.R. § 764.2(a) - Exporting Technology Without the  
Required License**

Between on or about January 2006 and on or about January 29, 2007, IMT engaged in conduct prohibited by the Regulations by exporting or causing to be exported production technology for vertical fiber placement machines, technology subject to the Regulations and classified under ECCN 1E001, to Italian nationals without the Department of Commerce license required by Sections 742.4 and 742.5 of the Regulations. The technology was released in the United States to three Italian nationals who were working for IMT at the time the technology release occurred. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. In so doing, IMT committed four violations of Section 764.2(a) of the Regulations.

**Charges 5-6                15 C.F.R. § 764.2(a) - Exporting Technology Without the  
Required License**

Between on or about April 2005 and on or about October 11, 2006, IMT engaged in conduct prohibited by the Regulations by exporting or causing to be exported production technology for 5-axis power mills, technology subject to the Regulations and classified under ECCN 2E002, to Indian nationals without the Department of Commerce license required by Sections 742.3 and 742.4 of the Regulations. The technology was released in the United States to two Indian nationals who were working for IMT at the time the technology release occurred. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. In so doing, IMT committed two violations of Section 764.2(a) of the Regulations.

---

<sup>3</sup> "ECCN" refers to "Export Control Classification Number." See 15 C.F.R. § 772.1.

**Charge 7**

**15 C.F.R. § 764.2(a) - Exporting Technology Without the Required License**

Between on or about February 2005 and on or about October 11, 2006, IMT engaged in conduct prohibited by the Regulations by exporting or causing to be exported production technology for vertical fiber placement machines, technology subject to the Regulations and classified under ECCN 1E001, to an Indian national without the Department of Commerce license required by Sections 742.3, 742.4, and 742.5 of the Regulations. The technology was released in the United States to one Indian national who was working for IMT at the time the technology release occurred. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. In so doing, IMT committed one violation of Section 764.2(a) of the Regulations.

WHEREAS, BIS and IMT have 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

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$126,000 is assessed against IMT, \$21,000 of which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. IMT shall pay the remaining \$105,000 to the Department of Commerce as follows: \$21,000 not later than October 7, 2008; \$21,000 not later than November 7, 2008; \$21,000 not later than December 7, 2008; \$21,000 not later than January 7, 2009; and \$21,000 not later than February 7, 2009. Payment shall be made in the manner specified in the attached instructions.

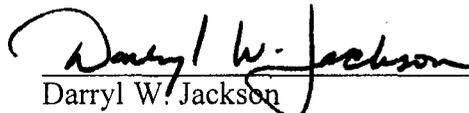
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due dates specified herein, IMT will be assessed, in addition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

AMD 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 AMD. Accordingly, if AMD should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of AMD's export privileges under the Regulations 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.

  
Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 11<sup>th</sup> day of August, 2008.

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

\_\_\_\_\_  
In the Matter of: )  
 )  
Ingersoll Machine Tools, Inc. )  
707 Fulton Avenue )  
Rockford, IL 61103 )  
 )  
Respondent )  
\_\_\_\_\_

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Ingersoll Machine Tools, Inc. (“IMT”) and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2008)) (the “Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),<sup>2</sup>

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

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

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2008). The violations charged occurred during 2003-2007. The Regulations governing the violations at issue are found in the 2003-2007 versions of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2003-2007). The 2008 Regulations govern the procedural aspects of this case.

<sup>2</sup> Since August 21, 2001 the Act has been in lapse. However, the President, through 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 July 23, 2008 (73 Fed. Reg. 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707 (2000)).

**Charge 1                    15 C.F.R. § 764.2(a) - Exporting Technology Without the  
Required License**

Between on or about November 2003 and on or about January 29, 2007, IMT engaged in conduct prohibited by the Regulations by exporting or causing to be exported development technology for vertical fiber placement machines, technology subject to the Regulations and classified under ECCN 1E001,<sup>3</sup> to an Italian national without the Department of Commerce license required by Sections 742.4 and 742.5 of the Regulations. The technology was released in the United States to one Italian national who was working for IMT at the time the technology release occurred. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. In so doing, IMT committed one violation of Section 764.2(a) of the Regulations.

**Charges 2-4                15 C.F.R. § 764.2(a) - Exporting Technology Without the  
Required License**

Between on or about January 2006 and on or about January 29, 2007, IMT engaged in conduct prohibited by the Regulations by exporting or causing to be exported production technology for vertical fiber placement machines, technology subject to the Regulations and classified under ECCN 1E001, to Italian nationals without the Department of Commerce license required by Sections 742.4 and 742.5 of the Regulations. The technology was released in the United States to three Italian nationals who were working for IMT at the time the technology release occurred. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. In so doing, IMT committed four violations of Section 764.2(a) of the Regulations.

**Charges 5-6                15 C.F.R. § 764.2(a) - Exporting Technology Without the  
Required License**

Between on or about April 2005 and on or about October 11, 2006, IMT engaged in conduct prohibited by the Regulations by exporting or causing to be exported production technology for 5-axis power mills, technology subject to the Regulations and classified under ECCN 2E002, to Indian nationals without the Department of Commerce license required by Sections 742.3 and 742.4 of the Regulations. The technology was released in the United States to two Indian nationals who were working for IMT at the time the technology release occurred. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. In so doing, IMT committed two violations of Section 764.2(a) of the Regulations.

---

<sup>3</sup> "ECCN" refers to "Export Control Classification Number." See 15 C.F.R. § 772.1.

**Charge 7                    15 C.F.R. § 764.2(a) - Exporting Technology Without the  
Required License**

Between on or about February 2005 and on or about October 11, 2006, IMT engaged in conduct prohibited by the Regulations by exporting or causing to be exported production technology for vertical fiber placement machines, technology subject to the Regulations and classified under ECCN 1E001, to an Indian national without the Department of Commerce license required by Sections 742.3, 742.4, and 742.5 of the Regulations. The technology was released in the United States to one Indian national who was working for IMT at the time the technology release occurred. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. In so doing, IMT committed one violation of Section 764.2(a) of the Regulations.

WHEREAS, IMT 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, IMT fully understands the terms of this Agreement and the Order (“Order”) that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanction shall be imposed against IMT in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:

a. IMT shall be assessed a civil penalty in the amount of \$126,000.

IMT shall pay \$21,000 to the U.S. Department of Commerce within 30 days from the date of entry of the Order. IMT shall pay the remaining \$105,000 to the Department of Commerce as follows: \$21,000 not later than October 7, 2008; \$21,000 not later than November 7, 2008; \$21,000 not later than December 7, 2008; \$21,000 not later than January 7, 2009; and \$21,000 not later than February 7, 2009.

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, permission, or privilege granted, or to be granted, to IMT. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of IMT'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, IMT 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 any charging letter; (b) request a refund of any civil penalty paid pursuant to this

Agreement and the Order, if entered; and (c) 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 \$126,000 civil penalty, BIS will not initiate any further administrative proceeding against IMT 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.

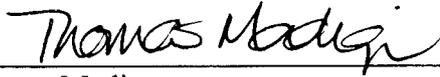
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial 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 U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties 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.

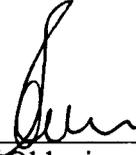
BUREAU OF INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE



Thomas Madigan  
Director  
Office of Export Enforcement

Date: 8/5/8

INGERSOLL MACHINE TOOLS, INC.



Tom Oldani  
President

Date: Aug. 4 - 2008

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ingersoll Machine Tools, Inc.  
707 Fulton Avenue  
Rockford, IL 61103

*Attention:* Tom Oldani, President and CEO

Dear Mr. Oldani:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Ingersoll Machine Tools, Inc. (“IMT”), of Rockford, Illinois, has committed seven violations of the Export Administration Regulations (the “Regulations”),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).<sup>2</sup> Specifically, BIS charges that IMT committed the following violations:

**Charge 1                    15 C.F.R. § 764.2(a) - Exporting Technology Without the Required License**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein by reference, between on or about November 2003 and on or about January 29, 2007, IMT engaged in conduct prohibited by the Regulations by exporting or causing to be exported development technology for vertical fiber placement machines, technology subject to the Regulations and classified under ECCN 1E001,<sup>3</sup> to an Italian national without the Department of Commerce license required by Sections 742.4 and 742.5 of the Regulations. The technology was released in the United States to one Italian national who was working for IMT at the time the technology release occurred. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the

---

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The violations charged occurred during 2003-2007. The Regulations governing the violations at issue are found in the 2003-2007 versions of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2003-2007). The 2007 Regulations govern the procedural aspects of this case.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). 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 most recently by the Notice of August 15, 2007 (72 Fed. Reg. 46,137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707 (2000)).

<sup>3</sup> “ECCN” refers to “Export Control Classification Number.” See 15 C.F.R. § 772.1.

release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. In so doing, IMT committed one violation of Section 764.2(a) of the Regulations.

**Charges 2-4            15 C.F.R. § 764.2(a) - Exporting Technology Without the Required License**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein by reference, between on or about January 2006 and on or about January 29, 2007, IMT engaged in conduct prohibited by the Regulations by exporting or causing to be exported production technology for vertical fiber placement machines, technology subject to the Regulations and classified under ECCN 1E001, to Italian nationals without the Department of Commerce license required by Sections 742.4 and 742.5 of the Regulations. The technology was released in the United States to three Italian nationals who were working for IMT at the time the technology release occurred. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. In so doing, IMT committed four violations of Section 764.2(a) of the Regulations.

**Charges 5-6            15 C.F.R. § 764.2(a) - Exporting Technology Without the Required License**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein by reference, between on or about April 2005 and on or about October 11, 2006, IMT engaged in conduct prohibited by the Regulations by exporting or causing to be exported production technology for 5-axis power mills, technology subject to the Regulations and classified under ECCN 2E002, to Indian nationals without the Department of Commerce license required by Sections 742.3 and 742.4 of the Regulations. The technology was released in the United States to two Indian nationals who were working for IMT at the time the technology release occurred. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. In so doing, IMT committed two violations of Section 764.2(a) of the Regulations.

**Charge 7                15 C.F.R. § 764.2(a) - Exporting Technology Without the Required License**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein by reference, between on or about February 2005 and on or about October 11, 2006, IMT engaged in conduct prohibited by the Regulations by exporting or causing to be exported production technology for vertical fiber placement machines, technology subject to the Regulations and classified under ECCN 1E001, to an Indian national without the Department of Commerce license required by Sections 742.3, 742.4, and 742.5 of the Regulations. The

technology was released in the United States to one Indian national who was working for IMT at the time the technology release occurred. Pursuant to Section 734.2(b)(2)(ii) of the Regulations, the release of technology to a foreign national is deemed to be the export of the technology to the home country of the foreign national. In so doing, IMT committed one violation of Section 764.2(a) of the Regulations.

\* \* \* \* \*

Accordingly, IMT 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 up to the greater of \$250,000 per violation or twice the value of the transaction that is the basis of the violation;<sup>4</sup>
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If IMT 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 IMT defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to IMT. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

IMT 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. IMT 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 IMT have a proposal to settle this case, IMT should transmit it to the attorney representing BIS named below.

IMT is further notified that under the Small Business Regulatory Enforcement Flexibility Act, IMT may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

---

<sup>4</sup> 50 U.S.C. § 1705(b) (2007).

Ingersoll Machine Tools, Inc.  
Proposed Charging Letter  
Page 4 of 4

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, IMT'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

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

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

Thea D. R. Kendler is the attorney representing BIS in this case; any communications that IMT may wish to have concerning this matter should occur through her. Ms. Kendler may be contacted by telephone at (202) 482-5301.

Sincerely,

Thomas L. Madigan  
Acting Director  
Office of Export Enforcement