

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

In the Matter of:)
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GE Homeland Protection, Inc.)
7151 Gateway Blvd)
Newark, CA 94560)
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)
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Respondent)

ORDER RELATING TO GE HOMELAND PROTECTION, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified GE Homeland Protection, Inc. (“GE-HP”), of its intention to initiate an administrative proceeding against GE-HP pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2009)) (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),² through issuance of a proposed charging letter to GE-HP that alleged that GE-HP, as successor to InVision Technologies, Inc.³ (“InVision”), is liable for four violations of the Regulations. Specifically, the charges are:

¹ The violations alleged to have been committed occurred in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2009 Regulations establish the procedures that apply to this matter.

² 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)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701-1707).

³ GE-HP acquired InVision Technologies, Inc. on or about December 4, 2004, after the alleged violations occurred.

Charge 1 15 C.F.R. § 764.2(a) - Export to South Korea Without the Required U.S. Government Authorization

On or about November 11, 2004, GE-HP engaged in conduct prohibited by the Regulations by exporting spare parts for explosive detection systems, items subject to the Regulations,⁴ and controlled for regional stability reasons from the United States to South Korea without the Department of Commerce license required by Section 742.6 of the Regulations. By engaging in this conduct, GE-HP committed one violation of Section 764.2(a) of the Regulations.

Charge 2 15 C.F.R. §764.2(e) – Acting with Knowledge of a Violation

On or about November 11, 2004, in connection with Charge 1 described above, GE-HP forwarded or transported items exported or to be exported from the United States with knowledge that a violation of the Regulations had occurred, was about to occur, or was intended to occur in connection with the items. Specifically, GE-HP forwarded or transported spare parts for explosive detections systems, items subject to the Regulations that were to be exported from the United States. GE-HP knew or had reason to know that the export of these items required authorization from the U.S. Government since, *inter alia*, the unlicensed export at issue took place after GE-HP filed an initial voluntary self-disclosure (“VSD”) dated June 28, 2004, with the Department of Commerce. This VSD disclosed violations of the Regulations involving the same types of items and destinations, and recognized that a license was required for their export. Additionally, GE-HP had received an export license prior to June 2004 for spare parts for use in its explosive detection systems. These items required a license for export pursuant to Section 742.6 of the Regulations. In so doing, GE-HP committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. § 764.2(a) - Reexport to South Africa Without the Required U.S. Government Authorization

On or about November 23, 2004, GE-HP engaged in conduct prohibited by the Regulations by reexporting spare parts for explosive detection systems, items subject to the Regulations⁵, and controlled for regional stability reasons from its distribution center in France to South Africa, without the Department of Commerce license required by Section 742.6 of the Regulations. In so doing, GE-HP committed one violation of Section 764.2(a) of the Regulations.

Charge 4 15 C.F.R. §764.2(e) – Acting with Knowledge of a Violation

On or about November 23, 2004, in connection with Charge 3 described above, GE-HP forwarded or transported items with knowledge that a violation of the Regulations had occurred, was about to occur, or was intended to occur in connection with the items. Specifically, GE-HP forwarded or transported spare parts for explosive detections systems, items subject to the Regulations from its distribution center in France to South Africa. GE-HP knew or had reason to know that the reexport of these items required authorization from the U.S. Government because, *inter alia*, the unlicensed reexport took place after GE-HP filed an initial voluntary self-

⁴ The items are classified under Export Control Classification Number (“ECCN”) 2A983.

⁵ The items are classified under ECCN 2A983.

disclosure (“VSD”) with the Department of Commerce on June 28, 2004. This VSD disclosed violations of the Regulations involving the same types of items and destinations, and recognized that a license was required for their reexport. Additionally, GE-HP had received an export license prior to June 2004 for spare parts for use in its explosive detection systems. These items required a license for reexport to South Africa pursuant to Section 742.6 of the Regulations. In so doing, GE-HP committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, BIS and GE-HP have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations, whereby they have 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, GE-HP shall be assessed a civil penalty in the amount of \$22,000, which shall be paid to the U.S. Department of Commerce within 30 days from the date of issuance of the 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, GE-HP 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 GE-HP. Accordingly, if GE-HP should fail to pay the civil penalty in a timely manner, the undersigned may issue an Order denying all of GE-HP’s export privileges for a period of one year from the date of issuance 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.



Kevin Delli-Colli
Acting Assistant Secretary of Commerce
for Export Enforcement

Issued this 25th day of September, 2009.

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

In the Matter of:)
)
)
GE Homeland Protection, Inc.)
7151 Gateway Blvd)
Newark, CA 94560)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between GE Homeland Protection, Inc. (“GE-HP”), as successor to InVision Technologies, Inc. (“InVision”)¹, 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 (the “Regulations”),² issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).³

WHEREAS, GE-HP filed a voluntary self-disclosure with BIS’s Office of Export Enforcement in accordance with Section 764.5 of the Regulations;

¹ GE-HP acquired InVision Technologies, Inc. on or about December 4, 2004, after the alleged violations occurred.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The charged violations occurred in 2004. The Regulation governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2009 Regulations set forth the procedures that apply to this matter.

³ 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)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701-1707).

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

WHEREAS, BIS has issued a Proposed Charging Letter to GE-HP that alleged that GE-HP is liable for four violations of the Regulations, specifically:

Charge 1 15 C.F.R. § 764.2(a) - Export to South Korea Without the Required U.S. Government Authorization

On or about November 11, 2004, GE-HP engaged in conduct prohibited by the Regulations by exporting spare parts for explosive detection systems, items subject to the Regulations,⁴ and controlled for regional stability reasons from the United States to South Korea without the Department of Commerce license required by Section 742.6 of the Regulations. By engaging in this conduct, GE-HP committed one violation of Section 764.2(a) of the Regulations.

Charge 2 15 C.F.R. §764.2(e) – Acting with Knowledge of a Violation

On or about November 11, 2004, in connection with Charge 1 described above, GE-HP forwarded or transported items exported or to be exported from the United States with knowledge that a violation of the Regulations had occurred, was about to occur, or was intended to occur in connection with the items. Specifically, GE-HP forwarded or transported spare parts for explosive detections systems, items subject to the Regulations that were to be exported from the United States. GE-HP knew or had reason to know that the export of these items required authorization from the U.S. Government since, *inter alia*, the unlicensed export at issue took place after GE-HP filed an initial voluntary self-disclosure (“VSD”) dated June 28, 2004, with the Department of Commerce. This VSD disclosed violations of the Regulations involving the same types of items and destinations, and recognized that a license was required for their export. Additionally, GE-HP had received an export license prior to June 2004 for spare parts for use in its explosive detection systems. These items required a license for export pursuant to Section 742.6 of the Regulations. In so doing, GE-HP committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. § 764.2(a) - Reexport to South Africa Without the Required U.S. Government Authorization

On or about November 23, 2004, GE-HP engaged in conduct prohibited by the Regulations by reexporting spare parts for explosive detection systems, items subject to the Regulations⁵, and controlled for regional stability reasons from its distribution center in France to South Africa, without the Department of Commerce license required by

⁴ The items are classified under Export Control Classification Number (“ECCN”) 2A983.

⁵ The items are classified under ECCN 2A983.

Section 742.6 of the Regulations. In so doing, GE-HP committed one violation of Section 764.2(a) of the Regulations.

Charge 4 15 C.F.R. §764.2(e) – Acting with Knowledge of a Violation

On or about November 23, 2004, in connection with Charge 3 described above, GE-HP forwarded or transported items with knowledge that a violation of the Regulations had occurred, was about to occur, or was intended to occur in connection with the items. Specifically, GE-HP forwarded or transported spare parts for explosive detections systems, items subject to the Regulations from its distribution center in France to South Africa. GE-HP knew or had reason to know that the reexport of these items required authorization from the U.S. Government because, *inter alia*, the unlicensed reexport took place after GE-HP filed an initial voluntary self-disclosure (“VSD”) with the Department of Commerce on June 28, 2004. This VSD disclosed violations of the Regulations involving the same types of items and destinations, and recognized that a license was required for their reexport. Additionally, GE-HP had received an export license prior to June 2004 for spare parts for use in its explosive detection systems. These items required a license for reexport to South Africa pursuant to Section 742.6 of the Regulations. In so doing, GE-HP committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, GE-HP 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, GE-HP 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, GE-HP enters into this Agreement voluntarily and with full knowledge of its rights;

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

WHEREAS, GE-HP neither admits nor denies the allegations contained in the Proposed Charging Letter;

WHEREAS, GE-HP wishes to settle and dispose of all matters alleged in the Proposed Charging Letter by entering into this Agreement; and

WHEREAS, GE-HP agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over GE-HP, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanction shall be imposed against GE-HP in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:
 - a. GE-HP shall be assessed a civil penalty in the amount of \$22,000, the payment of which shall which shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions.
 - 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 GE-HP. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of GE-HP'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, GE-HP 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 issued), 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 issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued.

4. Upon issuance of the Order and timely payment of the \$22,000 civil penalty, BIS agrees that it will not initiate any further administrative enforcement proceedings against GE-HP in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter and voluntary self-disclosure.

5. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, 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 issued; 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 issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

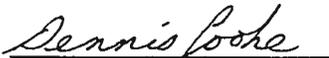
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind it respective party to the terms and conditions set forth herein.

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



Thomas Madigan
Director
Office of Export Enforcement

Date: 9/24, 2009



Dennis Cooke
President and CEO
GE Homeland Protection, Inc..

Date: September 8, 2009

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

GE Homeland Protection, Inc.
7151 Gateway Blvd
Newark, CA 94560

Attention: Mr. Dennis Cooke, President and CEO

Dear Mr. Cooke:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that GE Homeland Protection, Inc., of Newark, California (“GE-HP”) as the successor corporation to InVision Technologies, Inc. (“InVision”)¹, is liable for four violations of the Export Administration Regulations (the “Regulations”),² which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).³ Specifically, BIS charges that GE-HP is liable for the following violations:

Charge 1 15 C.F.R. § 764.2(a) - Export to South Korea Without the Required U.S. Government Authorization

On or about November 11, 2004, GE-HP engaged in conduct prohibited by the Regulations by exporting spare parts for explosive detection systems, items subject to the Regulations,⁴ and controlled for regional stability reasons from the United States to South Korea without the Department of Commerce license required by Section 742.6 of the Regulations. By engaging in this conduct, GE-HP committed one violation of Section 764.2(a) of the Regulations.

¹ GEHP acquired InVision Technologies, Inc. on or about December 4, 2004, after the alleged violations occurred.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The violations charged occurred in 2004. The Regulations governing the violation at issue are found in the 2004 version of the Code of Federal Regulations. See 15 C.F.R. Parts 730-774 (2004). The 2009 Regulations govern the procedural aspects of this case.

³ 50 U.S.C. app. §§ 2401- 2420 (2000). 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 August 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), has continued the Regulations in effect under International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707).

⁴ The items are classified under Export Control Classification Numbers (“ECCN”) 2A983.

Charge 2 15 C.F.R. §764.2(e) – Acting with Knowledge of a Violation

On or about November 11, 2004, in connection with Charge 1 described above, GE-HP forwarded or transported items exported or to be exported from the United States with knowledge that a violation of the Regulations had occurred, was about to occur, or was intended to occur in connection with the items. Specifically, GE-HP forwarded or transported spare parts for explosive detections systems, items subject to the Regulations that were to be exported from the United States. GE-HP knew or had reason to know that the export of these items required authorization from the U.S. Government since, *inter alia*, the unlicensed export at issue took place after GE-HP filed an initial voluntary self-disclosure (“VSD”) dated June 28, 2004, with the Department of Commerce. This VSD disclosed violations of the Regulations involving the same types of items and destinations, and recognized that a license was required for their export. Additionally, GE-HP had received an export license prior to June 2004 for spare parts for use in its explosive detection systems. These items required a license for export pursuant to Section 742.6 of the Regulations. In so doing, GE-HP committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. § 764.2(a) - Reexport to South Africa Without the Required U.S. Government Authorization

On or about November 23, 2004, GE-HP engaged in conduct prohibited by the Regulations by reexporting spare parts for explosive detection systems, items subject to the Regulations⁵, and controlled for regional stability reasons from its distribution center in France to South Africa, without the Department of Commerce license required by Section 742.6 of the Regulations. In so doing, GE-HP committed one violation of Section 764.2(a) of the Regulations.

Charge 4 15 C.F.R. §764.2(e) – Acting with Knowledge of a Violation

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⁵ The items are classified under ECCN 2A983.

Regulations. In so doing, GE-HP committed one violation of Section 764.2(e) of the Regulations.

* * * * *

Accordingly, GE-HP is hereby notified that an administrative proceeding is instituted against GE-HP 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;⁶
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If GE-HP 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 (2009). If GE-HP defaults, the Administrative Law Judge may find the charges alleged in this letter to be true without a hearing or further notice to GE-HP. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty based on the charge in this letter.

GE-HP is further notified that it is entitled to an agency hearing on the record if he files a written demand for one with its answer. *See* 15 C.F.R. § 766.6 (2009). GE-HP is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. 15 C.F.R. §§ 766.3(a) and 766.4 (2009).

GE-HP is additionally notified that under the Small Business Regulatory Enforcement Flexibility Act, it 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/>.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2009). Should GE-HP have a proposal to settle this case, GE-HP or its representative should transmit it through the attorney representing BIS, who is named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, GE-HP's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

⁶ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

GE Homeland Protection, Inc.
Proposed Charging Letter
Page 4

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

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

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

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

Sincerely,

Thomas Madigan
Director
Office of Export Enforcement