



DEPARTMENT OF COMMERCE
Bureau of Industry and Security

Quicksilver Manufacturing, Inc.

8209 Market St #A173
Wilmington, NC 28411

Rapid Cut LLC

8209 Market St #A173
Wilmington, NC 28411

US Prototype, Inc.

8209 Market St #A173
Wilmington, NC 28411

Order Renewing Temporary Denial of Export Privileges

Pursuant to section 766.24 of the Export Administration Regulations, 15 CFR parts 730-774 (2021) (“EAR” or “the Regulations”),¹ I hereby grant the request of the Office of Export Enforcement (“OEE”) to renew the temporary denial order (“TDO”) issued in this matter on December 5, 2022. I find that renewal of this order is necessary in the public interest to prevent an imminent violation of the Regulations.

I. Procedural History

On June 7, 2022, an order was issued denying the export privileges under the Regulations of Quicksilver Manufacturing, Inc. (“Quicksilver”), Rapid Cut LLC (“Rapid Cut”), and US Prototype, Inc. (“US Prototype”) (collectively Respondents) for a period of 180 days on the ground that issuance of the order was necessary in the public interest to prevent an imminent

¹ On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801-4852 (“ECRA”). While section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. app. 2401 *et seq.* (“EAA”), (except for three sections which are inapplicable here), section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (“IEEPA”), and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

violation of the Regulations. The order was issued *ex parte*, pursuant to section 766.24(a) of the Regulations and was effective upon issuance.² This temporary denial order was subsequently renewed on December 5, 2022, in accordance with section 766.24(d) of the Regulations.³

On May 10, 2023, BIS, through OEE, submitted a written request for renewal of the TDO that was issued on December 5, 2022. The written request was made more than 20 days before the TDO's scheduled expiration. A copy of the renewal request was sent to Respondents in accordance with sections 766.5 and 766.24(d) of the Regulations. On May 26, 2023, Respondents made a written submission for consideration by BIS.

II. Renewal of the TDO

A. Legal Standard

Pursuant to section 766.24, BIS may issue an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an "imminent violation" of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). "A violation may be 'imminent' either in time or degree of likelihood." 15 CFR 766.24(b)(3). BIS may show "either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations." *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge "is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]" *Id.* A "lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation." *Id.*

B. The TDO and BIS's Request for Renewal

² The TDO was published in the *Federal Register* on June 15, 2022 (87 FR 36104).

³ The TDO was published in the *Federal Register* on December 9, 2022 (87 FR 75587).

OEE's request for renewal is based upon the facts underlying the issuance of the initial TDO, as well as evidence developed over the continuing course of this investigation. The initial TDO, issued on June 7, 2022, was based on evidence that Respondents engaged in conduct prohibited by the Regulations by exporting or causing the export from the United States of technology controlled on national security and/or missile technology grounds to China for 3D printing without the required U.S. government authorization.⁴ "Export" is defined in the EAR as an "actual shipment or transmission out of the United States, including the sending or taking of an item out of the United States, in any manner." 15 CFR 734.13(a)(1).⁵

In its November 10, 2022 request for renewal of the TDO, BIS submitted evidence that Respondents' export compliance failures were broader in scope than the investigation initially revealed, as well as evidence related to new concerns raised by actions taken after the issuance of the June 7, 2022 TDO. Specifically, BIS's evidence and further investigation identified additional U.S. companies that engaged in business with Respondents involving the unlicensed export of technical specifications to China related to firearm components (ECCN 0E501.a) and space-rated items (ECCN 9E515.a), both of which are controlled on national security and regional stability grounds, as well as numerous additional suspected export control-related violations between 2017 and 2022. BIS's renewal request was also based upon concerns related to Respondents' initial attempts at compliance following the issuance of the June 7, 2022 TDO, including the provision of potentially inaccurate information to customers about the scope of items subject to the Regulations. In its November 10, 2022, BIS also submitted evidence that a China-based individual, known to operate an @rapidcut.com email address to facilitate Rapid Cut's business operations, may have violated the TDO shortly after its issuance by providing

⁴ The June 7, 2022 TDO also detailed the export of technical specifications to China controlled under United States Munitions List Category XX (Submersible Vessels and Related Articles), section (d), without the required U.S. Department of State authorization.

⁵ "Item" means "commodities, software, and technology. 15 CFR 772.1. Further, "technology" may be in any tangible or intangible form, such as written or oral communications, blueprints, drawings, photographs, plans, diagrams, models, formulae, tables, engineering designs and specifications, computer-aided design files, manuals or documentation, electronic media or information revealed through visual inspection. *Id.*

customer information on how to complete and fulfill pending orders, despite the issuance of the TDO. Such information included instructions to cancel existing Rapid Cut orders and reissue purchase orders to China Company No. 1, in an apparent attempt to avoid the restrictions of the TDO.⁶

The May 10, 2023 request for renewal of the December 5, 2022 TDO is also based on evidence related to the nature and scope of BIS's continuing investigation. This includes the circumstances surrounding the access by China-based employees to Respondents' email accounts, as detailed above, which remain under investigation. The renewal request is also based on evidence provided by additional U.S. companies that engaged in business with Respondents involving the unlicensed export of technical specifications to China, including information received as recently as April 2023. In sum, and as detailed in the renewal request, BIS's investigation is ongoing, the entirety of Respondents' misconduct remains unknown, and a final written disclosure of prior violations has not yet been submitted.⁷

Additionally, BIS's request for renewal also includes a request to modify the TDO to exclude EAR99 commodities and technology from its scope of coverage. As also noted in the request, such items generally do not require a license to China and were not the basis for the violations currently under investigation.

III. Findings

Under the applicable standard set forth in section 766.24 of the Regulations and my review of the entire record, including Respondents' May 26, 2023 submission, I find that the evidence presented by BIS demonstrates that Respondents have acted in violation of the Regulations; that such violations have been significant, deliberate and covert; and that given the foregoing and the nature of the matters under investigation, there remains a concern of imminent

⁶ Respondents' November 29, 2022 submission asserts that the individual who sent the above-described emails was not an employee of Rapid Cut but rather an employee of China Company No. 1, a separate legal entity. Rapid Cut markets and sells China Company No. 1's manufacturing capabilities in North America, and China Company No. 1 pays Rapid Cut commissions on these sales.

⁷ Respondents' May 26, 2023, submission to BIS provided updates on its efforts to review and submit a written disclosure to BIS detailing prior violations.

violations. Additionally, I have considered OEE's request to narrow the scope of the TDO going forward to only prohibit transactions involving items that are listed on the Commerce Control List. Based on the totality of circumstances, including Respondents' submissions regarding compliance remediation measures taken to date and a written disclosure to BIS that demonstrates a significant effort to provide a detailed account of past violations, I find OEE's recommendation to be both measured and appropriate. Accordingly, renewal of the TDO with modification is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with Respondents in connection with exports, reexports, and transfers (in-country) involving items listed on the Commerce Control List.

IV. Order

IT IS THEREFORE ORDERED:

FIRST, that **Quicksilver Manufacturing, Inc.**, with an address at 8209 Market St #A173, Wilmington, NC 28411; **Rapid Cut LLC**, with an address at 8209 Market St #A173, Wilmington, NC 28411; and **US Prototype, Inc.**, with an address at 8209 Market St #A173, Wilmington, NC 28411 (collectively Respondents), when acting for or on their behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is listed on the Commerce Control List as set forth in Supplement No. 1 to 15 CFR part 774 , or in any other activity involving an item listed on the Commerce Control List including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document involving an item listed on the Commerce Control List;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in

any way, any transaction involving any item exported or to be exported from the United States that is listed on the Commerce Control List; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is listed on the Commerce Control List.

SECOND, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of Respondents any item listed on the Commerce Control List;

B. Take any action that facilitates the acquisition or attempted acquisition by Respondents of the ownership, possession, or control of any item listed on the Commerce Control List that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby Respondents 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 Respondents of any item listed on the Commerce Control List that has been exported from the United States;

D. Obtain from Respondents in the United States any item listed on the Commerce Control List, with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item listed on the Commerce Control List, that has been or will be exported from the United States and which is owned, possessed or controlled by Respondents or service any item, of whatever origin, that is owned, possessed or controlled by Respondents if such service involves the use of any item listed on the Commerce Control List, that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

THIRD, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to Respondents by

ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of sections 766.24(e) of the EAR, Respondents may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Respondents as provided in section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Respondents and shall be published in the *Federal Register*.

This Order is effective immediately and shall remain in effect for 180 days.

Dated: June 1, 2023.

Matthew S. Axelrod,
Assistant Secretary of Commerce for Export Enforcement.