

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

In the Matter of:

Milwaukee Electric Tool Corporation  
13135 West Lisbon Road  
Brookfield, WI 53005

Respondent

ORDER RELATING TO  
MILWAUKEE ELECTRIC TOOL CORPORATION

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Milwaukee Electric Tool Corporation, of Brookfield, Wisconsin (“Milwaukee Electric”), of its intention to initiate an administrative proceeding against Milwaukee Electric pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),<sup>2</sup> through the issuance of a Proposed Charging Letter to Milwaukee Electric that alleges that Milwaukee Electric committed 25 violations of the Regulations. Specifically, the charges are:

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2016). The charged violations occurred in 2012-2014. The Regulations governing the violations at issue are found in the 2012-2014 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2016 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. §§ 4601-4623 (Supp. III 2015). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 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 4, 2016 (81 Fed. Reg. 52,587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq., (2006 & Supp. IV 2010)).

**Charges 1-25      15 C.F.R. § 764.2(a): Engaging in Prohibited Conduct**

On 25 occasions between April 2012 and May 2014, Milwaukee Electric engaged in conduct prohibited by the Regulations by exporting thermal imaging cameras, items subject to the Regulations, from the United States to various countries, including Hong Kong, Colombia, Ecuador, El Salvador, and Mexico, without the required Department of Commerce export licenses.<sup>3</sup> The items are classified under Export Control Classification Number ("ECCN") 6A003.b.4, controlled for National Security and Regional Stability reasons, and valued in total at approximately \$129,284. Pursuant to Sections 742.4 and 742.6 of the Regulations, a BIS export license is required before the items can be exported to each of the destinations at issue. By exporting these items without the required export licenses, Milwaukee Electric committed 25 violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and Milwaukee Electric 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, Milwaukee Electric shall be assessed a civil penalty in the amount of \$301,000. The payment of \$270,000 shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment of the remaining \$31,000 shall be suspended for a period of two years from the date of the Order, and thereafter shall be waived, provided that during this two-year payment probationary period under the Order, Milwaukee Electric has committed no violation of the Act, or any regulation, order, license or authorization issued thereunder and has made full and timely payment of \$270,000 as set forth above.

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<sup>3</sup> A post-shipment verification conducted by BIS determined that at least one of the thermal imaging cameras shipped to a Milwaukee Electric affiliate was subsequently shipped to the People's Republic of China.

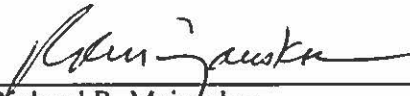
SECOND, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if payment is not made by the due date specified herein, Milwaukee Electric will be assessed, 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 full and timely payment of the civil penalty as 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 Milwaukee Electric. Accordingly, if Milwaukee Electric should fail to pay the civil penalty in a full and timely manner, the undersigned may issue an order denying all of Milwaukee Electric's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

FOURTH, Milwaukee Electric shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Milwaukee Electric's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

FIFTH, 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.

  
Richard R. Majauskas  
Acting Assistant Secretary of Commerce  
for Export Enforcement

Issued this 19<sup>th</sup> day of January, 2017.

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

In the Matter of:

Milwaukee Electric Tool Corporation  
13135 West Lisbon Street  
Brookfield, WI 53005

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Milwaukee Electric Tool Corporation, of Brookfield, Wisconsin ("Milwaukee Electric"), 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"),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (the "Act").<sup>2</sup>

WHEREAS, BIS has notified Milwaukee Electric of its intentions to initiate an administrative proceeding against Milwaukee Electric pursuant to the Act and the Regulations;

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2016). The charged violations occurred in 2012-2014. The Regulations governing the violations at issue are found in the 2012-2014 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2016 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. §§ 4601-4623 (Supp. III 2015). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 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 4, 2016 (81 Fed. Reg. 52,587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq., (2006 & Supp. IV 2010)).

WHEREAS, BIS has issued a Proposed Charging Letter to Milwaukee Electric that alleges that Milwaukee Electric committed 25 violations of the Regulations, specifically:

**Charges 1-25      15 C.F.R. § 764.2(a): Engaging in Prohibited Conduct**

On 25 occasions between April 2012 and May 2014, Milwaukee Electric engaged in conduct prohibited by the Regulations by exporting thermal imaging cameras, items subject to the Regulations, from the United States to various countries, including Hong Kong, Colombia, Ecuador, El Salvador, and Mexico, without the required Department of Commerce export licenses.<sup>3</sup> The items are classified under Export Control Classification Number ("ECCN") 6A003.b.4, controlled for National Security and Regional Stability reasons, and valued in total at approximately \$129,284. Pursuant to Sections 742.4 and 742.6 of the Regulations, a BIS export license is required before the items can be exported to each of the destinations at issue. By exporting these items without the required export licenses, Milwaukee Electric committed 25 violations of Section 764.2(a) of the Regulations.

WHEREAS, Milwaukee Electric has reviewed the Proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

WHEREAS, Milwaukee Electric 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, Milwaukee Electric enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

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

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<sup>3</sup> A post-shipment verification conducted by BIS determined that at least one of the thermal imaging cameras shipped to a Milwaukee Electric affiliate was subsequently shipped to the People's Republic of China.

WHEREAS, Milwaukee Electric neither admits nor denies the allegations contained in the Proposed Charging Letter; and

WHEREAS, Milwaukee Electric 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 Milwaukee Electric, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanctions shall be imposed against Milwaukee Electric in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:

a. Milwaukee Electric shall be assessed a civil penalty in the amount of \$301,000. The payment of \$270,000 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. Payment of the remaining \$31,000 shall be suspended for a period of two years from the date of the Order, and thereafter shall be waived, provided that during this two-year payment probationary period under the Order, Milwaukee Electric has committed no violation of the Act, or any regulation, order, license or authorization issued thereunder and has made full and timely payment of \$270,000 as set forth above.

b. The full and 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 Milwaukee Electric. Failure to make full

and timely payment of the civil penalty may result in the denial of all of Milwaukee Electric's export privileges under the Regulations for one year from the date of the failure to make such payment.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Milwaukee Electric 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) receive 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. Milwaukee Electric also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order until Milwaukee Electric pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement.

4. Milwaukee Electric shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Milwaukee Electric's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.



5. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a, BIS will not initiate any further administrative proceeding against Milwaukee Electric in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

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.

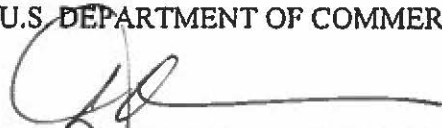
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department 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. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

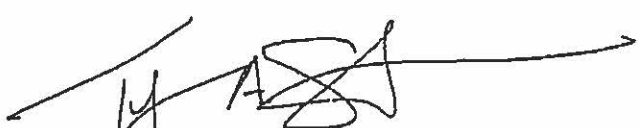
10. Each signatory affirms that he/she has authority to enter into this Settlement Agreement and to bind his/her respective party to the terms and conditions set forth herein.

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

  
\_\_\_\_\_  
Douglas R. Hassebrock  
Director of Export Enforcement

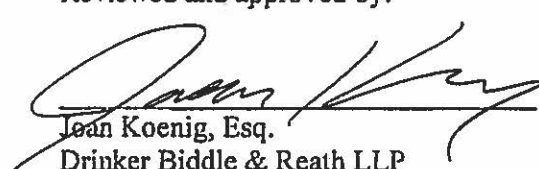
Date: 19 Jan 17

MILWAUKEE ELECTRIC TOOL  
CORPORATION

  
\_\_\_\_\_  
Ty A. Stawiski  
Senior Vice President  
and Chief Financial Officer  
Milwaukee Electric Tool Corporation

Date: 1/18/17

Reviewed and approved by:

  
\_\_\_\_\_  
Jean Koenig, Esq.  
Drinker Biddle & Reath LLP  
Counsel for  
Milwaukee Electric Tool Corporation

Date: 1/18/17

**PROPOSED CHARGING LETTER**  
**BY U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Steven P. Richman  
President  
Milwaukee Electric Tool Corporation  
13135 West Lisbon Road  
Brookfield, WI 53005

Dear Mr. Richman,

The Bureau of Industry and Security, U.S. Department of Commerce, has reason to believe that Milwaukee Electric Tool Corporation ("Milwaukee Electric"), of Brookfield, Wisconsin, has committed twenty-six (25) violations of the Export Administration Regulations (the "Regulations"),<sup>1</sup> which issued under the authority of the Export Administration Act of 1979, as amended (the "Act").<sup>2</sup> Specifically, BIS alleges that Milwaukee Electric committed the following violations:

**Charges 1-25 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein, on 25 occasions between April 2012 and May 2014, Milwaukee Electric engaged in conduct prohibited by the Regulations by exporting thermal imaging cameras, items subject to the Regulations, from the United States to various countries, including Hong Kong, Colombia, Ecuador, El Salvador, and Mexico, without the required Department of Commerce export licenses.<sup>3</sup> The items are classified under Export Control Classification Number ("ECCN") 6A003.b.4, controlled for National Security and Regional Stability reasons, and valued in total at approximately \$129,284. Pursuant to Sections 742.4 and 742.6 of the Regulations, a BIS export license is required before the items can be exported to each of the destinations at issue.

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2016). The violations alleged occurred between 2012 and 2014. The Regulations governing the violations at issue are found in the 2012-2014 version of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2012-2014). The 2016 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)), which has been extended by successive Presidential Notices, the most recent being that of August 4, 2016 (81 Fed. Reg. 52,587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*, (2006 & Supp. IV 2010)).

<sup>3</sup> A post-shipment verification conducted by BIS determined that at least one of the thermal imaging cameras shipped to a Milwaukee Electric affiliate was subsequently shipped to the People's Republic of China.

By exporting these items without the required export licenses, Milwaukee Electric committed 25 violations of Section 764.2(a) of the Regulations.

\* \* \* \* \*

Accordingly, Milwaukee Electric is hereby notified that an administrative proceeding is instituted against them 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 \$284,582 per violation<sup>4</sup> or twice the value of the transaction that is the basis of the violation;<sup>5</sup>
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

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

Milwaukee Electric is further notified that they are entitled to an agency hearing on the record if it files a written demand for one with its answer. See C.F.R. § 766.6(c). Milwaukee Electric is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent them. 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 Milwaukee Electric have a proposal to settle this case, Milwaukee Electric's representative should transmit it to the attorney representing BIS named below.

Milwaukee Electric is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Milwaukee Electric 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 U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Milwaukee Electric's answer must be filed in

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<sup>4</sup> See 15 C.F.R. § 6.4(b)(4). This amount is subject to annual increases pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701 of Public Law 114-74, enacted on November 2, 2015.

<sup>5</sup> See International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

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 Milwaukee Electric's answer must be served on BIS at the following address:

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

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

Sincerely,

Douglas R. Hassebrock  
Director  
Office of Export Enforcement

**Milwaukee Electric Tool Corporation  
Schedule of Violations**

Charge	Export Date	Commodity	ECCN	Value/Item	Destination	Violation
1	4/18/2012	Thermal Imaging Equipment	6A003.b.4	\$10,000	Costa Rica	15 CFR 764.2(a)
2	4/18/2012	Thermal Imaging Equipment	6A003.b.4	\$4,000	Panama	15 CFR 764.2(a)
3	4/24/2012	Thermal Imaging Equipment	6A003.b.4	\$4,000	El Salvador	15 CFR 764.2(a)
4	5/21/2012	Thermal Imaging Equipment	6A003.b.4	\$2,000	El Salvador	15 CFR 764.2(a)
5	5/23/2012	Thermal Imaging Equipment	6A003.b.4	\$5,520	Trinidad & Tobago	15 CFR 764.2(a)
6	7/10/2012	Thermal Imaging Equipment	6A003.b.4	\$2,075	Colombia	15 CFR 764.2(a)
7	9/14/2012	Thermal Imaging Equipment	6A003.b.4	\$4,000	Nicaragua	15 CFR 764.2(a)
8	9/14/2012	Thermal Imaging Equipment	6A003.b.4	\$2,000	Guatemala	15 CFR 764.2(a)
9	10/22/2012	Thermal Imaging Equipment	6A003.b.4	\$500	Hong Kong	15 CFR 764.2(a)
10	10/24/2012	Thermal Imaging Equipment	6A003.b.4	\$1,269	Hong Kong	15 CFR 764.2(a)
11	2/6/2013	Thermal Imaging Equipment	6A003.b.4	\$2,000	Panama	15 CFR 764.2(a)
12	3/12/2013	Thermal Imaging Equipment	6A003.b.4	\$3,680	Dominican Republic	15 CFR 764.2(a)
13	3/27/2013	Thermal Imaging Equipment	6A003.b.4	\$5,520	Ecuador	15 CFR 764.2(a)
14	7/9/2013	Thermal Imaging Equipment	6A003.b.4	\$4,000	Honduras	15 CFR 764.2(a)
15	7/25/2013	Thermal Imaging Equipment	6A003.b.4	\$1,840	Trinidad & Tobago	15 CFR 764.2(a)
16	8/29/2013	Thermal Imaging Equipment	6A003.b.4	\$2,000	Guatemala	15 CFR 764.2(a)
17	10/23/2013	Thermal Imaging Equipment	6A003.b.4	\$18,400	Ecuador	15 CFR 764.2(a)
18	11/11/2013	Thermal Imaging Equipment	6A003.b.4	\$2,000	Colombia	15 CFR 764.2(a)
19	11/20/2013	Thermal Imaging Equipment	6A003.b.4	\$1,492	Hong Kong	15 CFR 764.2(a)
20	11/25/2013	Thermal Imaging Equipment	6A003.b.4	\$5,968	Hong Kong	15 CFR 764.2(a)
21	12/16/2013	Thermal Imaging Equipment	6A003.b.4	\$2,000	Panama	15 CFR 764.2(a)
22	1/9/2014	Thermal Imaging Equipment	6A003.b.4	\$9,550	Mexico	15 CFR 764.2(a)
23	2/11/2014	Thermal Imaging Equipment	6A003.b.4	\$6,821	Mexico	15 CFR 764.2(a)
24	5/12/2014	Thermal Imaging Equipment	6A003.b.4	\$15,007	Mexico	15 CFR 764.2(a)
25	5/12/2014	Thermal Imaging Equipment	6A003.b.4	\$13,643	Mexico	15 CFR 764.2(a)
				\$129,284		