
United States District Court
District of New Jersey

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| UNITED STATES OF AMERICA | : | |
| | : | CRIMINAL COMPLAINT |
| v. | : | |
| | : | Magistrate No. |
| TERRY TENGFANG LI | : | 04-2076 (Terry Tengfang Li) |
| ZHONGHE JI | : | 04-2077 (Zhonghe Ji) |
| a/k/a “James Ji” | : | 04-2078 (Ronghe Tong) |
| a/k/a “Zhonghe Ji” | : | |
| RONGE TONG | : | |
| a/k/a “Robin Tong” | : | |

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

SEE ATTACHMENT A.

I further state that I am a Special Agent of the Department of Commerce and that this complaint is based on the following facts:

SEE ATTACHMENT B.

THOMAS E. WILLIAMS
Special Agent
Department of Commerce

Sworn to before me and subscribed in my presence,

June 30th, 2004 at Camden, New Jersey

HONORABLE JOEL B. ROSEN
United States Magistrate Judge

Signature of Judicial Officer

ATTACHMENT A

COUNT ONE – CONSPIRACY

1. Beginning in or about December 1999, and continuing to the present, in Burlington County, in the District of New Jersey and elsewhere, defendants:

TERRY TENGFANG LI;
ZHONGHE JI, a/k/a “James Ji”; and
RONGE TONG, a/k/a “Robin Tong”

did knowingly and willfully conspire and agree with each other and with others to commit offenses against the United States, namely:

- (a) to devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and to transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce writings, signs, signals and sounds for the purpose of executing such scheme and artifice to defraud, contrary to Title 18, United States Code, Section 1343; and
- (b) to make a materially false and misleading representation, statement and certification to the Department of Commerce, for the purpose of and in connection with effecting an export, reexport and other activity subject to the Export Administration Regulations, specifically by falsely stating in a Shipper’s Export Declaration that the contents of its shipment were limited to “electronic components” for which no export license was required, when in fact defendants knew that the shipment contained military-grade technology (monolithic dual eight-bit digital-to-analog converters), covered by Export Control Classification Number (“ECCN”) 3A001 on the Commerce Control List, contrary to Title 50, United States

Code, Section 1705(b) and Title 15, Code of Federal Regulations, Section 764.2(g)(1) (iii).

2. It was a principal object of the conspiracy that defendants sought to obtain export restricted items in the United States and ship them to the People's Republic of China ("PRC").

3. It was part of the conspiracy that defendants established a company, Universal Technology, Incorporated, for the purpose of facilitating the acquisition and illegal export of export-restricted items to the PRC.

4. It was part of the conspiracy that importers located in the PRC and government-controlled entities in the PRC requested that defendants obtain and ship various export restricted items to the PRC.

5. It was further part of the conspiracy that defendants located and obtained various export restricted items from distributors in the United States. Among the restricted items obtained were monolithic dual eight-bit digital-to-analog converters, static random access memory chips, and digital signal processors, all of which had military as well as civilian applications, and all of which are prohibited from export to the PRC without an export license from the Department of Commerce.

6. It was further part of the conspiracy that defendants shipped these items, or caused them to be shipped, to the PRC.

7. It was further part of the conspiracy that defendants did not apply for or obtain the requisite licenses from the Department of Commerce to ship these items to the PRC. It was further part of the conspiracy that defendants actually concealed their illegal exports by making false statements in Shipper's Export Declarations to disguise the nature of the items being shipped.

8. It was further part of the conspiracy that defendants set up various bank accounts in the United States to receive payments for these shipments.

9. It was further part of the conspiracy that defendants received payment from entities within the PRC for these shipments.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the following overt acts were committed in Burlington County, in the District of New Jersey and elsewhere:

1. On or about October 10, 2003, defendant ZHONGHE JI, a/k/a “James Ji” sent electronic mail to an individual in the PRC, discussing the price of an item that defendants were attempting to purchase and illegally export to the PRC without the requisite license from the Bureau of Industry and Security, Department of Commerce.

2. On or about April 3, 2003, defendant RONGE TONG, a/k/a “Robin Tong” sent a facsimile to an individual in the PRC, confirming the delivery of an illegal export from UTI and requesting payment for that export.

3. On or about February 12, 2004, defendant TERRY TENGFANG LI sent a facsimile to an individual in the PRC, confirming that the individual had received an illegal export from UTI and requesting payment for that export.

In violation of Title 18, United States Code, Section 371.

COUNT TWO – EXPORT ADMINISTRATION ACT VIOLATION

1. Paragraphs two through nine of Count One are realleged and incorporated herein.
2. On or about January 16, 2003, in Burlington County, in the District of New Jersey

and elsewhere, defendants:

TERRY TENGFANG LI;
ZHONGHE JI, a/k/a “James Ji”; and
RONGE TONG, a/k/a “Robin Tong”

did knowingly and willfully make a materially false and misleading representation, statement and certification to the Department of Commerce for the purpose of and in connection with effecting an export, reexport and other activity subject to the Export Administration Regulations, specifically by falsely stating in a Shipper’s Export Declaration that the contents of a shipment were limited to “electronic components” for which no export license was required, when in fact defendants knew that the shipment contained a military-grade technology (monolithic dual eight-bit digital-to-analog converters), covered by ECCN 3A001 on the Commerce Control List.

In violation of Title 50, United States Code, Section 1705(b) and Title 15, Code of Federal Regulations, Section 764.2(g)(1)(iii), and Title 18, United States Code, Section 2.

COUNT THREE – WIRE FRAUD

1. Paragraphs two through nine of Count One are realleged and incorporated herein.

2. Beginning in or about December 1999, and continuing to the present, in

Burlington County, in the District of New Jersey and elsewhere, defendants:

TERRY TENGFANG LI;
ZHONGHE JI, a/k/a “James Ji”; and
RONGE TONG, a/k/a “Robin Tong”

did knowingly and willfully devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, which scheme is set forth in substance and in part in paragraphs two through nine of Count One.

3. On or about April 27, 2004, in the District of New Jersey and elsewhere,

defendants:

TERRY TENGFANG LI;
ZHONGHE JI, a/k/a “James Ji”; and
RONGE TONG, a/k/a “Robin Tong”

did knowingly and willfully transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce writings, signs, signals and sounds, namely a wire transfer in the amount of approximately \$243,040, from the PRC into a bank account in the name of UTI at Bank of China in the United States, for the purpose of executing such scheme and artifice to defraud.

In violation of Title 18, United States Code, Sections 1343 and 2.

ATTACHMENT B

I, Thomas E. Williams, a Special Agent with the Department of Commerce, having conducted an investigation, am aware of the following facts:

I. BACKGROUND

1. At all times relevant to this complaint, the Ministry of Information Industry (“MII’s”) 14th Research Institute and 20th Research Institute in the People’s Republic of China (“PRC”) was involved in the research, development and production of a wide variety of electronics and communications technology for both civilian and military use. Specialties of the 14th Research Institute include military radar technology and satellite systems, military command-control communications, military computers and intelligence systems, and basic research in stealth technology. Specialties of the 20th Research Institute include military radio-navigation technology, aircraft landing systems, military communications equipment and global positioning systems.

2. On or about May 14, 2001, the U.S. Department of Commerce, Bureau of Industry Security, identified the 20th Research Institute (also known as the Xian Research Institute of Navigation Technology (“XRINT”)) as an entity which poses an unacceptable risk in the development of weapons of mass destruction or the missiles used to deliver weapons of mass destruction. Consequently, exports to the 20th Research Institute are subject to even greater licensing restrictions than other exports to the PRC.

3. Universal Technology, Incorporated (“UTI”), in Mount Laurel, New Jersey, was established for the purpose of acquiring national-security controlled technology for the PRC’s MII and its military factories, in violation of United States export laws. An undated document, written on UTI letterhead, states in substance and in part:

UTI is a company that [was] founded overseas in 1986 by the Radar Bureau of the former Ministry of Electronics [the predecessor of the MII] and its main customers are Institute of Fully Assembled Equipment of the Ministry of Electronics and its military factories.

4. At all times relevant to this complaint:

- (a) defendant TERRY TENGFANG LI (“Terry Li”) was president of UTI. In this capacity, TERRY LI directed all UTI’s business and approved all shipments, purchases and sales; and
- (b) defendant RONGE TONG, a/k/a “Robin Tong” (“Robin Tong”) was an employee of UTI, handling shipping, price quotations and correspondence with customers in the PRC.

5. Beginning sometime prior to December 1999, and continuing to on or about January 1, 2004, defendant ZHONGHE JI, a/k/a “James Ji” (“James Ji”) was Vice President of UTI. In this capacity, JAMES JI handled purchase orders, price quotations and technological aspects of UTI’s business (including analyzing technical requirements for orders), as well as correspondence with customers in the PRC. JAMES JI left UTI’s employ on or about January 1, 2004, to operate another export company.

**II. EXPORT ADMINISTRATION ACT/
EXPORT ADMINISTRATION REGULATIONS**

6. The Export Administration Act of 1979, as amended, 50 U.S.C. §§ 2401-2420, (the “EAA”) authorizes the Secretary of Commerce to prohibit or curtail the export of certain goods, technology, and software (identified therein as “items”) to protect the national security, foreign policy, nonproliferation, and short-supply interests of the United States. The Secretary

of Commerce implements the authority provided by the EAA through the promulgation of the Export Administration Regulations (“EAR”).

7. The EAA is temporary legislation and lapses from time to time. Although the EAA lapsed on August 21, 2001, the President, through Executive Order 13222 of August 17, 2001, (3 C.F.R., 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2003 (68 Fed. Reg. 47833, August 11, 2003), invoked his authority under the International Emergency Economic Powers Act (“IEEPA”) to continue the EAR in effect during the period of EAA lapse. Both the EAA and IEEPA authorize investigations into violations of regulations issued to implement the authority of the relevant statute.

8. Part 734 of the EAR identifies the items that are subject to the EAR. Section 734.3(c) of the EAR (15 C.F.R. § 734.3(c)) provides “items subject to the EAR consist of the items on the Commerce Control List (the “CCL”) in part 774 of the EAR and all other items which meet the definition of that term.” On the CCL, individual items are identified by an Export Control Classification Number (“ECCN”). Certain items (including the microwave amplifiers, integrated circuits, digital signal processors, static random access memory and other items discussed herein) are covered by ECCN 3A001.

9. The Bureau of Industry and Security (“BIS”), Department of Commerce (“DOC”) has determined that items under ECCN 3A001 are controlled for national security reasons, and a BIS license is required to export these items from the United States to most destinations worldwide, including the PRC. The export of these items from the United States to the PRC without an export license is a violation of the EAR.

10. Section 764.2 of the EAR sets out violations of the EAR which can lead to criminal and administrative (civil) penalties. Section 764.2(a) of the EAR prohibits any person from engaging in any conduct contrary to the EAR or from refraining from engaging in activity required by the EAR. Section 764.2(b) of the EAR prohibits any person from causing, aiding, abetting, counseling, commanding, inducing, procuring, or permitting the doing of any act prohibited by the EAR, or the omission of any act required by the EAR. Section 764.2(c) of the EAR prohibits any person from soliciting or attempting a violation of the EAR. Section 764.2(d) of the EAR prohibits any person from conspiring or acting in concert with another in any manner for any purpose to bring about or do any act that constitutes a violation of the EAR. Section 764.2(e) of the EAR prohibits any person from proceeding with an export transaction with knowledge that a violation of the EAR has occurred or is about to occur. Section 764.2(g)(1) of the EAR, prohibits any person from making any false or misleading representations, statements, or certifications, or falsifying or concealing any material fact, either directly to the BIS or an official of any other United States agency in the course of an investigation or in connection with the submission of any export control document. All representations, statements, and certifications made by any person are deemed to be continuing in effect. Section 764.2(h) of the EAR prohibits any person from engaging in any transaction or taking any action with the intent to evade the provisions of the EAR. Section 764.2(i) of the EAR prohibits any person from failing or refusing to comply with any reporting or record keeping requirement of the EAR.

III. EXAMPLES OF UTI'S ILLEGAL EXPORTS

11. Sometime prior to December 1999, defendants agreed to export certain items which, for national security reasons, cannot be exported to the PRC without the requisite licensing required by United States export laws (referred to herein as “Restricted Items”).

12. Defendants – including TERRY LI, ROBIN TONG and JAMES JI – have sent approximately twenty-two illegal shipments of Restricted Items to the PRC, for a total value of more than \$500,000 since 1999. For most of these transactions, one or more of the defendants: obtained the Restricted Items from a United States manufacturer or distributor; falsified shipping documents (stating that a license was not required for the shipments when in fact one was required); and then shipped the product to the PRC without receiving, or even applying for, the requisite export license. In at least one instance, defendants disguised the illegal export by having it shipped to the PRC via Hong Kong, a process called “diversion” or “trans-shipping,” which is prohibited by United States export laws.

13. A review of UTI’s bank documents has revealed that UTI generally would receive payment for its illegal exports, via wire transfer from the PRC, into a bank account in the name of UTI at the Bank of China (“UTI Bank Account 1”), and then move those funds through three other UTI bank accounts at the Bank of China and Fleet Bank. Defendants TERRY LI is a signatory on all four of these UTI bank accounts.

***A. The Defendants’ Illegal Export of DACs:
an Example of Defendants’ False Shipper’s Export Declarations***

14. Defendants completed, or caused to be completed, a false “Shipper’s Export Declaration” (“SED”) for many of UTI’s shipments to the PRC. The SED required UTI to describe the items it was shipping and state whether or not an export license was required for the shipment. On numerous occasions, defendants shipped Restricted Items to the PRC, providing a

generic description of the items being shipped, and consistently stating that no license was required for the items, when in fact a license was required.

15. An example of defendants' illegal export activities and fraudulent SEDs pertains to Restricted Items manufactured by "A.D.," a company located in Norwood, Massachusetts. This technology, part number AD7528SQ, is a military-grade, monolithic dual eight-bit digital-to-analog converter (referred to herein as the "DAC") designed to perform at extreme temperatures and high speeds.

16. The U.S. military uses these DACs in a video display linked to a radar system, such as the type of system used in the Nighthawk Stealth Fighter military aircraft. Pursuant to EAR, these DACs cannot be exported to the PRC without a license from the Department of Commerce.

17. A UTI spreadsheet reveals that on or about November 15, 2002, UTI received 18 DACs from a distributor based in Massachusetts. The top of the spreadsheet lists the customer for whom defendants ordered the DACs as follows: "End User: XA20." The investigation has revealed that "XA20" is the 20th Research Institute in the PRC.

18. A UTI invoice dated January 14, 2003, reveals that defendants sent these DACs (along with other items) to the China Xinshidai Company, an importer of military and other technology, in Beijing, PRC. (The invoice lists the DAC specifically by part number.) Defendants shipped, or caused to be shipped, these Restricted Items via China Interocean Transport, a freight forwarder based in Linden, New Jersey, which is a subsidiary of the Chinese government.

19. On or about January 16, 2003, defendants filed, or caused to be filed, with the Department of Commerce, a Shipper's Export Declaration ("SED") for the export of these DACs which contains material, false and misleading representations and certifications. In this SED, defendants generically described the DACs as "electronic components" and falsely stated that no license is required for these goods to be exported to the PRC.

20. Also, although the SED required the defendants to designate the Export Control Classification Number ("ECCN") for the Restricted Items – which would reveal that the DACs are on the Commerce Control List and cannot be exported without a license from the Department of Commerce – the defendants ignored this requirement.

21. Defendants also provided a false end-user for the Restricted Item. (The end-user, or ultimate consignee, of exports must be included on the SED pursuant to the EAR's record-keeping and reporting requirements.) On the SED, the defendants falsely listed the "ultimate consignee" of the goods as "Xian Airport (CN)" in Xian, PRC. A facsimile dated on or about April 3, 2003, however, from ROBIN TONG of UTI to a Section Chief of the 20th Research Institute confirms that defendants' ultimate recipient of these Restricted Items was the 20th Research Institute.

22. An analysis of bank records shows that UTI received payment for the DACs, totaling \$475.20, on or about November 17, 2003. This payment was part of a larger wire transfer (for the DACs and additional exported technology) into UTI Bank Account 1.

**B. The Defendants' Illegal Export of DSPs:
an Example of Defendants' International Wire Communications**

23. Defendants used facsimile and email correspondence from UTI's office in Mount Laurel, New Jersey, to entities in the PRC, to obtain, process and fill orders for Restricted Items and to collect payment for the illegal exports.

24. For example, defendants used facsimile communications between UTI offices in New Jersey and the PRC to negotiate, confirm and collect payment for an order of Restricted Items that defendants provided to the MII's 14th Research Institute in the PRC, without obtaining the requisite license. This order was for 280 pieces of a particular military-grade, floating-point digital signal processors ("DSPs"), with a total value of approximately \$243,040.

25. The U.S. military uses these DSPs in certain radar systems placed in U.S. fighter aircraft, such as F-15 Eagles, F-16 Falcons and F-14 Tomcats. These DSPs allow such aircraft to fly at low altitudes, at night and in inclement weather, and to detect and recognize ground targets. Pursuant to EAR, these particular DSPs cannot be exported to the PRC without a license from the Department of Commerce.

26. In processing the order for the DSPs defendants sent or caused to be sent the following facsimiles from UTI's offices in Mount Laurel, New Jersey to the PRC:

- (a) On or about August 20, 2003, ROBIN TONG sent a facsimile from UTI's office in Mount Laurel, New Jersey, to the 14th Research Institute in the PRC. In this facsimile, ROBIN TONG discussed pricing of the 14th Research Institute's order for DSPs, and indicated that both TERRY LI and JAMES JI also were involved in negotiating price and discussing technological specifications for the transaction.

- (b) Also on or about August 20, 2003, JAMES JI sent to the 14th Research Institute a facsimile, providing a price quotation for the DSPs.
- (c) On or about September 3, 2003, one of the defendants sent an unsigned facsimile from UTI's offices to the 14th Research Institute confirming an order of 280 DSPs, at a price of \$243,040. This order confirmation includes the "military product serial number" for this part.
- (d) On or about February 12, 2004, defendant TERRY LI sent a facsimile to the MII's 14th Research Institute in the PRC, confirming that the 14th Research Institute had received the DSPs, and requesting payment for these Restricted Items.

27. An analysis of bank documents shows that UTI ultimately received \$243,040 for this transaction, by wire transfer into UTI Bank Account 1, on or about April 27, 2004.