



Intangible Technology Transfers

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Celestica™

VERONICA PALACIOS BIO



- 20 years experience in Global Trade Compliance
- Leadership in the interpretation, execution & application of international trade regulations
- Strength in process development, implementation, training, and trade compliance automation
- WorldECR Award - 2017 World Export Controls Compliance Team of the Year
- Supply & Demand Chain Executive - 2017 Top 100 Project Award
- Subject Matter Expert in Global Encryption Controls & SAP Global Trade Services (GTS)
- Trade Compliance consulting



TECHNOLOGY EXPORT CONTROLS

- U.S. Department of Commerce, Bureau of Industry & Security (BIS) oversees the Export Administration Regulations (EAR)
- Controls exports of dual-use goods, used for civil/ military purposes
- **Exporting controlled “technology” to any entity** (parent, subsidiary, affiliate, outsourcing business partner, customer, vendor, foreign national, etc.) through any **transfer method (tangible or intangible)** requires an **Export Authorization**

WHAT IS AN EXPORT?

Export

Shipment, transmission or release of items to a foreign country

Re-Export

Shipment, transmission or release of items from one foreign country to another

In-Country Transfers

Shipment, transmission or release of items to another entity within the same country

Items

- Commodities
- **Technology**
- Software

Deemed Export

Release of technology or source code to a foreign national in the US

- Visual Inspection
- Oral Exchanges of Information
- Applying Knowledge

Deemed Re-Export

Release of technology or source code to a foreign national abroad

- Visual Inspection
- Oral Exchanges of Information
- Applying Knowledge

WHAT IS TECHNOLOGY?

- **TECHNOLOGY** means information necessary for the “**development**”, “**production**”, “**use**”, operation, installation, maintenance, repair, overhaul, or refurbishing of an item
- **TECHNOLOGY** may be in any **tangible** or **intangible** form:
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

TECHNOLOGY

Development

All stages prior to serial production: design, design research, design analyses, design concepts, assembly/testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, layouts.

Production

All production stages: product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance.

Use

Operation, installation (including on-site installation), maintenance (checking), repair, overhaul and refurbishing.

TECHNOLOGY

- May take the form of “**technical data**” or “**technical assistance**”
- **TECHNICAL DATA** includes blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, and manuals and instructions whether in written form or on recorded media
- **TECHNICAL ASSISTANCE** may take the form of instruction, skills training, working knowledge, and consulting services

WHAT IS AN INTANGIBLE TECHNOLOGY TRANSFER?

- Intangible Technology Transfers (ITT) refer to the **release** or **transfer** of **TECHNOLOGY** from one entity to another through **intangible** means

INTANGIBLE TECHNOLOGY TRANSFER



MULTINATIONAL COMPANIES

- Collaborating with entities located abroad
- Outsourcing engineering function
- Sending technical data or product specs to sourcing team abroad
- Sending technical data to vendors or customers abroad
- Storing data in servers located abroad
- Authorizing file access to administrators or users abroad

LICENSE DETERMINATION

1. Is it an export?
2. Is it technology?
3. Is the technology controlled (ECCN)?
4. Do I need an export license?
5. Is a License Exception available?
6. Can I comply with the License Exception Conditions?
7. Can I comply with the License Exception Reporting Requirements?

TYPES OF AUTHORIZATIONS

Controlled Technology can be exported under one of the following authorizations:

1. No License Required

- Not Controlled/EAR99
- Controlled Items under the US CCL without a “Reason for Control” to the destination country

2. License Exception

- Controlled Items
- US License Exception
- General Authorization
- Must meet eligibility and conditions & reporting

3. License

- Controlled Items
- Controlled Destinations
- Restricted, Sanctioned, Embargoed Countries
- Controlled or Prohibited End Use
- Restricted Military End Use

EXPORT LICENSE APPLICATIONS

Government interagency group reviews license applications on a case-by-case basis, considering the following

1. ECCN
2. End User
3. End Use
4. Transfer Method

BEST PRACTICES

- Develop a Technology Transfer Process based on your company's needs
- Implement processes into early product cycle development stages
- Implement processes necessary for various functions (HR, Engineering, IT, Sales, Order Management, Procurement, Sourcing, Logistics, Security, Technical Support, etc.)

BEST PRACTICES

- Technology Transfer Process for Inter-company collaboration
- Technology Transfer Process for Business Partners
- Technical Documentation Process
- Foreign Visitor Control Process
- New Hire Employee Screening Process
- Employee Travel Technology Transfer Process
- IT Controls Process

CONTACT INFORMATION

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Thank You

