

Prison Time and Export Controls: University Professor's Case Illustrates Dangers of Ignoring Export Compliance

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On Monday, October 3, the U.S. Supreme Court declined to hear the appeal of retired University of Tennessee professor John Reece Roth. In July 2009, Roth received a four year prison sentence for illegally exporting military technology, in large part due to his work with graduate students from Iran and China. Professor Roth's conviction and prison sentence forcefully remind the research community, commercial as well as academic, of the potentially severe consequences that may arise from ignoring technology export controls.

During the relevant time period, Professor Roth worked with Atmospheric Glow Technologies, Inc., a plasma technology company, on plasma actuators in development for use in U.S. Air Force drones. The plasma actuators are controlled under the [Arms Export Control Act](#), which regulates the import and export of defense articles listed on the United States Munitions List, which is codified in [Section 121](#) of the International Trafficking in Arms Regulations ("ITAR"). Under the ITAR, technology related to the plasma actuators is controlled as technical data, and providing instructions on the use of plasma actuators is controlled as a defense service. With only limited exceptions, transfers of ITAR-controlled items, technical data, or defense services to a foreign national or a foreign country without a license from the U.S. government are prohibited. The prohibition includes sharing controlled technical data with or providing defense services to foreign nationals in the United States.

Professor Roth was convicted on the eighteen counts, including charges that he provided controlled defense technology and defense services to University of

Tennessee graduate students who were nationals of the People's Republic of China and the Republic of Iran. Prosecutors asserted that Roth gave the two graduate students access to controlled information while they researched a plasma-guidance system for an unmanned drone aircraft. Although Roth claimed he was ignorant of the law regulating the technology, the prosecution pointed out that he was warned on a number of occasions, including by university counsel, that the technology may have been controlled.

Although the Roth case is now several years old, it is worth reiterating the important implications of the case for any entity engaged in technology and development. First, the U.S. government is aggressively enforcing its laws to prevent unlicensed exports, particularly to nationals of countries such as China and Iran. Additionally, while the primary focus for enforcement may fall on commercial research, the academic community is not immune, particularly where its research may have defense applications.

Finally, when a company or university undertakes a project related to defense, it is critical that the entity as a whole, as well as the individuals working on the project, take steps to ensure compliance with all applicable export controls and document their compliance thoroughly. While this compliance effort can be challenging, it is manageable with the proper allocation of resources. For example, the University of Tennessee was not subject to enforcement action because it demonstrated through its conduct—and memorialized that conduct in writing and in its compliance files—that it was complying with U.S. export controls. By contrast, Professor Roth knowingly disregarded U.S. regulations prohibiting the unlicensed export of controlled technology, and as a result, he's going to jail.

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