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UK blocks first deal under NSIA regime; new guidance published

In its first major action since unveiling the National Security and Investment Act 2021, the UK government has blocked a Chinese company from licensing vision-sensing technology developed at the University of Manchester.

The government also published additional market guidance, providing help for companies so they avoid "common errors" when filing notifications.

Here are all the details:

WHAT HAPPENED

On July 20, the UK government published a notice of final order that prevented Beijing Infinite Vision Technology Company from licensing certain vision-sensing technology from The University of Manchester.

UK Secretary of State for Business, Energy and Industrial Strategy Kwasi Kwarteng announced the final order via Twitter.

According to the final order, "there is a potential that the technology could be used to build defence (sic) or technological capabilities which may present national security risk to the United Kingdom." Those risks would be realized should the IP be transferred to Beijing Infinite Vision.

According to the UK government, the risk could not be mitigated without halting the IP transfer entirely. "The Secretary of State considers that the final order is necessary and proportionate to mitigate the risk to national security."

We explain the technology in greater detail below, but Sven De Knop, a partner in the Brussels office of Sidley, says the technology mentioned in the final order has "various touchpoints to the sectors that the NSI Act and relevant implementing regulations identify as sensitive and are more likely to attract the UK government's attention." According do De Knop, the sectors for notifiable acquisitions include, among others, military and dual-use technologies, technologies —and especially AI — for tracking people or objects, and certain advanced robotics.

De Knop says the proximity of the technology in question to these sectors, "and especially their capability of being used in a military context," likely explain the cautious approach adopted by the UK government. "In blocking the investment," says De Knop, "the UK government likely wished to prevent giving third parties access to a technology and know-how that could then be used in a manner hostile to UK defense or technological capabilities."

It's worth noting that some U.S. experts were surprised that the first action under the UK's NSIA was a licensing agreement, and not an investment or acquisition. "I think we were all anticipating the first trigger event to be equity-based," said one former official at the U.S. Department of Treasury.

Mike Casey (below, right), a London-based partner at the law firm of Wilson Sonsini, felt the same way. "It is somewhat unexpected that the UK government blocked a trigger event under the NSI Act for the first time in connection with a licensing arrangement," he says.

"As a general matter," adds Casey, "the trigger events most likely to be scrutinized are equity investments in entities operating in high-risk sectors, which are subject to mandatory notification requirements pursuant to the NSI Act."

THE PARTIES

The vision-sensing technology in question (see details below) was developed at the University of Manchester, a research university located in Manchester, England. The institution, with roots dating back to 1824, has hosted some of the most well-known scientists of the 20th century. Among them was Alan Turing, who is considered a founder of the modern computer science and AI fields, and who famously led the cryptanalysis team that cracked the Enigma machine, enabling Allied powers to decode German messages during World War II.

The school's commercialization group, called "The Innovation Factory," is responsible for licensing IP developed at the University of Manchester. The program is run by Andrew Wilkinson, and is chaired by Luke Hakes (pictured at top), who is a partner at a VC firm in the UK.

Reached by Foreign Investment Watch after the final order was posted, Hakes said that it was the University of Manchester itself that reported the licensing deal to the UK government. "We have thorough internal processes in place to look at proposed international agreements," he said. "These were followed in this case and, in line with the legislation, we voluntarily referred this agreement to the UK government."

The university will not contest the government's decision. "We will, of course, abide by the decision that has been made," added Hakes.

The licensee of the university's technology was to be Beijing Infinite Vision Technology, which develops 3D rendering technologies. The firm specializes in architectural visualization, and claims to work with global engineering firms like Dallas-based AECOM.

TECHNOLOGY IN QUESTION

The IP that is being blocked in the acquisition is know-how related to "SCAMP-5" and "SCAMP-7" vision sensing. The technology is used to process large numbers of images very quickly, including the rendering of 3D images, and can be used in products such as nanny cams, drones, and other surveillance equipment.

According to project details published by Gareth Jones, a project manager at the University of Manchester's Innovation Factory, "SCAMP" is a low-power, high-speed machine vision system that uses "cutting edge image sensors." [For the nerds among us: "SCAMP" stands for SIMD Current-mode Analog Matrix Processor; it's basically a programmable vision chip. "SIMD" stands for Single Instruction Multiple Data.]

Jones notes that in conventional machine vision systems, images are transmitted "pixel by pixel" from sensors, processors and memory storage. Jones calls this approach "inefficient," due to the amount of data being exchanged. Using a SCAMP approach, the computation takes place on the sensor itself; according to Jones, these "on-sensor computations" yield higher processing speeds with lower power consumption.

De Knop of Sidley adds that the SCAMP vision sensors are considered a sensitive technology "because of both their inherent technical features and of their applications and potential uses." According to De Knop, the sensors "provide details of what the sensor is 'seeing' (e.g., optic flow map or address-events describing locations of pixels of interest), and can be used in advanced applications such as in robotics,

virtual reality, surveillance, as well as for military uses."

Others agree that SCAMP's abilities to improve surveillance were likely the source of concern for the UK government, especially if utilized by the Chinese military. "The proposed licensing arrangement was commercial in nature," says Casey at Wilson Sonsini, "but the vision-sensing technology at issue has defense-related applications as well, including use in advanced robotics and virtual reality systems." That, says Casey, is the crux of the matter. "The UK government was concerned that the transfer to a China licensee could result in the technology being used for military purposes in a manner that undermines UK national security."

If you have thoughts or insights on this case, please email editor@foreigninvestmentwatch.com.

NEW GUIDANCE

In other news out of the UK, earlier this week the British government had published additional guidance on the NSIA, which we have covered extensively. The new guidance provides filing tips for avoiding common errors, and explains how to handle specific situations such as internal reorganizations, the appointment of liquidators, and other scenarios.

More importantly the latest guidance provides some insight into the level of detail and specificity expected by the UK government in filings. For example, the guidance states that it is not sufficient to simply say that a company falls into a sector covered by the Act, such as the AI or "Critical Suppliers to the Government" sectors.

"This is not a sufficient answer," says the guidance, "as it does not allow the Secretary of State to verify quickly which of the entity's activities fall within the specified descriptions and why."

The guidance goes on to give specific examples of preferred detail.

The latest insights are added to prior guidance published by the UK Department for Business, Energy and Industrial Strategy.

MORE INFORMATION

A copy of the UK government's decision is available. Details on the University of Manchester's SCAMP-5 and SCAMP-7 innovations are also available.

The UK is also looking into the sale of a British semiconductor facility to a Chinese-owned company; we reported on the U.S. reaction to the transaction back in April.

Michael Casey of Wilson Sonsini, quoted above, can be reached at mcasey@wsgr.com.

Sven De Knop, also quoted above, can be reached at sdeknop@sidley.com.

The latest UK guidance, referenced above, is available as well.

Sven De Knop of Sidley's Global Arbitration, Trade and Advocacy group.