1. An “End User Certificate” is a letter or other document that is issued by the intended person or agency (in this case in intelligence agency) certifying that they are the intended final user of the product, service, information, or other goods. This certification is required to obtain proper licenses to facilitate legal and lawful exportation as these goods are considered dual use arms, an under international treaty they must be license by the diplomatic authorities in a given country. In the case of the United States this license is issued by the PM/DDTC office within the U.S. State Department, and it can be issued by no other
element of the U.S. Government. The end user certificate initiates the
issuance of the “End User License” and this license number has to be
placed on all exportation documents. As the goods themselves are not
only controlled, but also the software, manuals, books, training,
consulting, and technical details then licenses but also be obtains for
these as well, when they are sought prior to the actual final transaction.
Additionally, each entity which brokers the transaction, or which
handles the goods must also be cleared by the PM/DDTC so it is
customary to drop ship these types of goods right from the factory,
directly to the ultimate end user. On a legitimate transaction, these end
user letters or certificates are vital to comply with international treaty.

2. Exports of this type of equipment require a great deal of effort to get
 approved, once the end user certificate of letter gets issued, and before
a legal and legitimate export may actually take place.

3. Further, as this equipment REQUIRES a formal license from the U.S.
 State Department the presentation of the End-User Letter initiated the
second stage of end-user licensing, which would normally take at least
a few weeks, but more often months for the State Department to
approve both the broker (in Switzerland), and the actual end user (in Uzbekistan).

4. A “SED” is a Shipper's Export Declaration (SED) filing is required by the U.S. Census Bureau for U.S. exports that contain a single commodity's value exceeding a certain dollar amount (currently $2500). All SED information is provided to the U.S. Census Bureau and is used for export compliance and governmental reporting.

5. The “Shipper's Export Declaration (SED)” contains a section in which the PM/DDTC license number that was issued by the U.S. State Department must be placed, and on the current “FORM 7525-V(7-18-2003)” used by the U.S. Census Bureau this section is labeled “27. LICENSE NO./LICENSE EXCEPTION SYMBOL/AUTHORIZATION” In the event of a fraudulent exportation of these goods the block or section will list “NLR” or “No License Required” when it should in fact contain the actual license number required by law.
6. An “ITAR License Number” refers to the actual license number issued by the Directorate of Defense Trade Controls (DDTC) of the U.S. State Department, in accordance with 22 U.S.C. 2778-2780 of the Arms Export Control Act (AECA) and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130). More specifically, these type of goods are tightly controlled by “Division IV - Electronic Systems (USML Commodity Category XI)” within the office of PM/DDTC of the U.S. State Department. TSCM equipment, goods, services, training, manuals, and technical data may not leave this country unless a license is first obtain from this division, each time. This permission in initiated by the aforementioned “End User Certificate” on application to the U.S. State Department.

7. An “ECCN” or “Export Control Classification Number” is an alphanumeric code, e.g., 3A001 that describes the item and indicates licensing requirements. All ECCNs are listed in the Commerce Control List (CCL) (Supplement No. 1 to Part 774 of the EAR). The CCL is divided into ten broad categories, and each category is further subdivided into five product groups. These ECCN’s are self-assigned by the manufacture of the goods, and not by the government. Thus, a
company who wishes to illegally export arms will assign to their products an ECCN that is fraudulent in an attempt to evade and subvert export controls.

8. The Department of Commerce’s Bureau of Industry and Security (BIS) is responsible for implementing and enforcing the Export Administration Regulations (EAR), which regulate the export and reexport of most commercial items. The U.S. Government often refer to the items that BIS regulates as “dual-use” – items that have both commercial and military or proliferation applications – but purely commercial items without an obvious military use are also subject to the EAR.

9. The EAR do not control all goods, services, and technologies. Other U.S. government agencies regulate more specialized exports. For example, the U.S. Department of State has sole authority over defense articles and defense services. A list of other agencies involved in export controls can be found at Resource Links or in Supplement No. 3 to Part 730 of the EAR.
10. Thus, an ECCN is published by the Department of Commerce’s Bureau of Industry and Security (BIS) with a description of what that ECCN means. Then the producers or manufactures of the goods match their products up with these descriptions (when it is legal for them to do so).

11. However, Export Administration Regulations (EAR) do not apply to commodities, goods, products, or services defined by international treaty as “dual use” items, and thus Department of Commerce has no authority over them, only the U.S. State Department.

12. Then under ITAR 121.1 XI(b), the use an ECCN code to then facilitate the exportation of a device, good, commodity, service, manual, or training that is used to “…electronic systems or equipment designed or modified to counteract electronic surveillance or monitoring” is unlawful as the goods sold by Research Electronics are sold for this purposes of “counteracting electronic surveillance or monitoring” as defined in their own textbooks, technical manuals, marketing materials, trade show presentations, and other documents.

The use of an ECCN to export TSCM goods such as those
manufactured and exported (illegally) by Research Electronics is a fraudulent tactic to facilitate unlawful exportation and smuggling of arms.

13. Further, under ITAR Section 120.21, technical data, technical manuals, users guides, white papers, and other documents and descriptions are further restricted and controlled, and merely to send a users manual to a prospective overseas purchaser requires formal U.S. State Department Approval and the form of an End User License. The shipping of a manual to an overseas location, absent this permission by the U.S. State Department would thus be an illegal export, and defacto arm smuggling.

14. Training services on this equipment, and on this subject matter is also controlled under ITAR Section 120.8, and also controlled exclusively by the U.S. State Department, and a the student and the course must both obtain a license for the student to attend training in the United States, or for the U.S. based instructor to travel overseas to teach. Any teaching of the subject of TSCM or related disciplines to non-U.S. citizens is a very serious criminal act, unless permission is obtained
for each student, each instructor, and each class. Research Electronics and the employees and agents of Research Electronics has been providing this unlawful training to non-U.S. Citizens.

15. Further, under “The Wassenaar Arrangement On Export Controls For Conventional Arms and Dual-Use Goods and Technologies” or merely “Wassenaar Arrangement” the United States is obligated though the PM/DDTC office within the U.S. State Department to administer a “dual use” licensing program. This office is thus responsible for the regulation, licensing, enforcement, and control of any such devices, equipment, good, information, or training related to these subject matters.

16. The Participating States of the Wassenaar Arrangement are: Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United
Kingdom and United States. Representatives of Participating States meet regularly in Vienna where the Wassenaar Arrangement's Secretariat is located.

17. The Wassenaar Arrangement has been established in order to contribute to regional and international security and stability, by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilising accumulations. Participating States seek, through their national policies, to ensure that transfers of these items do not contribute to the development or enhancement of military capabilities which undermine these goals, and are not diverted to support such capabilities.

18. The decision to transfer or deny transfer of any item is the sole responsibility of each Participating State. All measures with respect to the Arrangement are taken in accordance with national legislation and policies and are implemented on the basis of national discretion and laws.
19. In the case of the Wassenaar Arrangement, the U.S. Statute which enforces it is "Title 22--Foreign Relations, Chapter I - Department Of
State, Part 121 - The United States Munitions List." [CITE: 22 CFR
121.1] All other U.S. laws on the exportation of these dual-use items then derives from 22 CFR 121.1.

20. As part of the Wassenaar Arrangement, there is also a "List Of Dual-
Use Goods and Technologies and Munitions List" from which the United States Munitions List is thus derived. See Page 177 of WA 10
29 201 (http://www.wassenaar.org/controllists/2010/WA-
LIST%20%2810%29%20Corr/WA-
LIST%20%2810%29%20Corr.pdf)


ML11. Electronic equipment, not specified elsewhere on the Munitions List, as follows, and specially designed components therefor:

Electronic equipment specially designed for military use;

Note ML11.a. includes:

Electronic countermeasure and electronic counter-countermeasure equipment (i.e., equipment designed to introduce extraneous or erroneous signals into radar or radio communication receivers or otherwise hinder the reception, operation or effectiveness of adversary electronic receivers including their countermeasure equipment), including jamming and counter-jamming equipment;
Frequency agile tubes;

Electronic systems or equipment, designed either for surveillance and monitoring of the electro-magnetic spectrum for military intelligence or security purposes or for counteracting such surveillance and monitoring;

Underwater countermeasures, including acoustic and magnetic jamming and decoy, equipment designed to introduce extraneous or erroneous signals into sonar receivers;

Data processing security equipment, data security equipment and transmission and signalling line security equipment, using ciphering processes;

Identification, authentification and keyloader equipment and key management, manufacturing and distribution equipment;

Guidance and navigation equipment;

Digital troposcatter-radio communications transmission equipment;

Digital demodulators specially designed for signals intelligence;

"Automated Command and Control Systems".

N.B. For "software" associated with military "Software" Defined Radio (SDR), see ML21.


22. As a result, any improper exportation or importation of “Electronic systems or equipment, designed either for surveillance and monitoring of the electro-magnetic spectrum for military intelligence or security purposes or for counteracting such surveillance and monitoring;” is both a violation of U.S. Law, and a violation of International Treaty which makes a United States of America liable to sanctions for such violations. Essentially, an improper export of this type of equipment is
a grave diplomatic violation. Thus, there is an intricate protocol to facilitate such sales, services, goods, information, and training so as not to offend this international treaty.

23. In 1990, in the wake of the 1989 Tiananmen Square crackdown in China, Congress passed legislation to reinforce interim economic and diplomatic sanctions that President George H.W. Bush had implemented earlier to express U.S. disapproval of the Chinese government’s actions. The “Tiananmen Square sanctions”, as they are popularly called, included: a continuance of the suspension of export licensing for defense articles and defense services on the U.S. Munitions List, a suspension of export licenses for crime control and detection instruments and equipment; and related prohibitions. It is possible to export these items to China, but the PM/DDTC office at the U.S. State Department is not allowed to issue such a license on their own, such a license by only issue forth from the President of the United States, and form no less authority. The President thus issues the license, to the State Department, who then issues the End-user License to the exporter who will be sending these types of goods to China. It is a very serious criminal act to export TSCM or electronic
counter-measures equipment such as that made by Research Electronics, unless the President of the United States issues permission for the export. To date, Research Electronics International has ever applied for such a Presidential issued license, and yet they have repeatedly exported arms illegally to China, repeatedly. Yet, Research Electronics has repeatedly claimed that they possessed such a license, when in fact they did not.

24. Congress passed sanctions against the People Republic of China in response to Tiananmen, including the Foreign Relations Authorization Act for Fiscal Years 1990 and 1991, which, among other things, required a presidential "national interest" determination, or waiver, for the export of a TSCM or Electronics Counter Measures equipment. There have been only 13 such Presidential "national interest" determinations pursuant to the Tiananmen sanctions legislation.

25. The U.S. Government controls the export and import of "defense articles" and "defense services" pursuant to the Arms Export Control Act. Section 38 of the Arms Export Control Act authorizes the
President to control the export and import of defense articles and defense services.

26. The statutory authority of the President to promulgate regulations with respect to exports of defense articles and defense services was delegated to the Secretary of State by Executive Order 11958, as amended.

27. The Arms Export Control Act is implemented by the International Traffic in Arms Regulations (ITAR), which are administered by the State Department's Office of Defense Trade Controls within the Bureau of Political-Military Affairs. These regulations are found at 22 CFR parts 120-130.

28. The Arms Export Control Act provides that the President shall designate the articles and services that are deemed to be "defense articles" and "defense services." These items, as determined by the State Department with the concurrence of the Department of Defense, are included on the U.S. Munitions List.
29. No items may be removed from the U.S. Munitions List without the approval of the Secretary of Defense, and there must be 30 days advance notice to Congress.

30. The Department of Commerce or another department or agency may request a pre-license check to establish the identity and reliability of the recipient of the items requiring an export license.

31. The 1979 Act provides that the Secretary of Commerce and designees (U.S. State Department) may conduct overseas pre-license checks and post-shipment verifications of items licensed for export. A pre-license check is conducted during the normal licensing process. A post-shipment verification is an on-site visit to the location to which the controlled item has been shipped under an export license, in order to ascertain that the item is being used by the appropriate end user and for the appropriate purpose.

32. The Commerce Department's and U.S. State Department procedures for conducting pre-license checks and post-shipment verifications are similar.
33. A pre-license check or post-shipment verification is initiated by sending a cable with relevant information about the case to the appropriate U.S. Embassy overseas. Specific officials at the Embassy usually have been pre-designated to conduct these checks, although special teams from Washington, D.C. also periodically conduct end-use checks.

34. The Embassy official initially collects background information on the end user (listed in the end user certificate). Next, the Embassy official visits the end user and interviews senior employees there. Upon completing the visit, the Embassy official is required to cable the Commerce Department or the U.S. State Department PM/DDTC with the information collected and an evaluation as to whether the proposed end user is considered a reliable recipient of U.S. technology.

35. Based on the cabled information, the cognizant agency evaluates whether the result of the check is favorable or unfavorable, and the license is issued or declined.
36. Research Electronics kept claiming that they had a license to export these goods, and when Plaintiff shared his concerns with FBI/DHS about REI possibly smuggling arms and that he was concerned because they (REI) kept claiming that they had such a license, but that Plaintiff had obtained several REI completed SED forms by accident which contained no ITAR license number, but did include an ECCN (hence, it was unlikely a legitimate exports).

37. Research Electronics has subverted U.S. Arms Export Laws, and confected a suit in early 2011 for improper purposes, and merely to harass and annoy the Plaintiff, all the while REI was engaging in illegal arm smuggling, and actively trying to destroy the Plaintiff as a witness to the Arms Smuggling (which the Defendant REI discover had been reported to the authorities by the Plaintiff). Thus, the efforts to file so called “Materials Facts” in this matter by REI is nothing more than a smoke screen for arm smuggling, and an attempt to intimidate and manipulate a witness.

CONCLUSION
1. Defendant Research Electronics, et al. has engaged in a complex criminal enterprise in order to smuggle arms in contravention of U.S. and International treaty, and working with others did confect a conspiracy to deprive the Plaintiff of his civil rights.

2. The conduct of the Defendant utterly shocks the conscience, and endangers national security, and destabilized international security.

Respectfully submitted,

Dated: November 30, 2011

________________________

James M. Atkinson, pro se
31R Broadway
Rockport, MA 01966
(978) 546-3803

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF System will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) (by way of the clerks terminal) and paper copies by U.S. Mail will be sent to those indicated as non-registered participants this 30th day of November, 2011

________________________

James M. Atkinson, pro se