

April 30, 2021
Declaration of Cody Wilson

I, Cody R. Wilson, declare under penalty of perjury that the following statements are true and correct:

1. I co-founded Defense Distributed and have led its operations since 2012.
2. Defense Distributed is a non-profit corporation organized under the laws of the State of Texas. Defense Distributed is organized to publish and distribute to the Internet, at no cost and in the promotion of the public interest, information and knowledge regarding the fabrication of firearms.
3. Defense Distributed maintains defcad.com, an online repository of digital files for the design and production of commercially available firearms.
4. On April 27, 2021, the Ninth Circuit issued its decision in *State of Washington et al. v. United States Department of State et al.*, No 20-35391 (9th Cir. Apr. 27, 2021). A true and correct copy of that decision is attached hereto as Exhibit A, and a true and correct copy of that appeal's docket is attached hereto as Exhibit B. At page one of that decision the Ninth Circuit does "vacate the injunction":

8 STATE OF WASHINGTON V. U.S. DEP'T OF STATE

OPINION

R. NELSON, Circuit Judge:

The U.S. Department of State ("DOS") and Department of Commerce appeal the district court's order granting the motion of 22 states and the District of Columbia to enjoin DOS's final rule removing 3D-printed guns and their associated files from the U.S. Munitions List. Because Congress expressly precluded review of the relevant agency actions here, we vacate the injunction and remand with instructions to dismiss.

Ex. A at 1.

At page twenty five of that decision the Ninth Circuit decreed that the injunction at issue is "VACATED":

VACATED and REMANDED with instructions to dismiss.

Ex. A at 25.


Entry of this appeal's judgment is indicated by the "FILED AND ENTERED JUDGMENT" indication on docket entry 61:

04/27/2021 01
40 pg, 376 KB FILED OPINION (JAY S. BYBEE, RYAN D. NELSON and ROBERT H. WHALEY) VACATED and REMANDED with instructions to dismiss Judge: RDN Authoring, Judge: RHW Dissenting FILED AND ENTERED JUDGMENT. [12097805] (AKM) [Entered: 04/27/2021 08:56 AM]

Ex. B. at 13.

5. In light of the Ninth Circuit's actions, counsel for Defense Distributed conducted a reasonable inquiry and advised Defense Distributed that there is colorable and persuasive legal support for the position that (1) the Ninth Circuit's vacatur of the injunction at issue takes effect immediately, and (2) Defense Distributed's right to freely publish the files at issue is protected by federal free speech law including but not limited to the First Amendment of the Constitution of the United States, the Second Amendment of the Constitution of the United States, the Due Process Clause of the Fifth Amendment of the Constitution of the United States, the Administrative Procedure Act, and the law of contracts.
6. On April 28, 2021, and April 29, 2021, Defense Distributed published a large set of important computer files with digital firearms information regarding 3D-printed firearms to defcad.com for free download by the public ("the April 2021 Files").
 - a) The April 2021 Files amount to approximately 16,000 digital files.
 - b) Approximately 40,000 downloads of the April 2021 Files have occurred as of this date.
 - c) All of the April 2021 Files have been downloaded at least once.
 - d) All of the April 2021 Files have been irrevocably committed to the public domain. Regardless of whether or not defcad.com continues to publish the April 2021 Files, independent re-publishers with no relationship whatsoever to Defense Distributed will freely re-publish the April 2021 Files on the internet for anyone to download forever.
 - e) None of the April 2021 Files constitute what the regulations refer to as "Computer Aided Manufacturing files" or "CAM files" in Control of Firearms, Guns, Ammunition and Related Articles the President Determines No Longer Warrant Control Under the United States Munitions List (USML), 85 Fed. Reg. 4136, 4140-42, 4172 (Jan. 23, 2020).

- f) The April 2021 Files include (but are not limited to) digital firearms information that Defense Distributed previously published on defcad.com and committed to the public domain in 2013 and again in 2018. The April 2021 Files include many files that were available elsewhere on the Internet at the time they were published by Defense Distributed.
- g) Defense Distributed made the April 2021 Files unavailable to residents of and persons in the State of New Jersey who do not possess a federal firearms license.
7. On the afternoon of April 29, 2021, I was informed that attorneys representing the State Department had on that date credibly and imminently threatened Defense Distributed with adverse legal action by deeming Defense Distributed's publication of the April 2021 Files a violation of the International Traffic in Arms Regulations, 22 C.F.R. Parts 120-130, and demanding that Defense Distributed immediately cease publication of the April 2021 Files.
8. Defense Distributed has in the past and will continue in the immediate future to create, obtain, edit, and possess digital firearms information like the April 2021 Files, which Defense Distributed intends to publish on defcad.com for free download by the public as soon as it is legal to do so and the State Department no longer threatens illegal censorship.
9. But for the State Department's imminent threat of adverse legal action, Defense Distributed would both maintain its ongoing publication of the April 2021 Files on defcad.com indefinitely *and* publish many more files that are like the April 2021 Files in the same manner as it is publishing April 2021 Files.
10. Because of the State Department's imminent threat of adverse legal action, Defense Distributed will no longer both maintain its ongoing publication of the April 2021 Files on defcad.com indefinitely *and* publish many more files that are like the April 2021 Files in the same manner as it is publishing April 2021 Files. As of April 30, 2021, the State Department's imminent threat of adverse legal action has caused Defense Distributed to cease publishing more files that are like the April 2021 Files in the same manner as it is publishing April 2021 Files.
11. I executed this declaration on April 30, 2020.



Cody R. Wilson