

**May 5, 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. Beginning on April 28, 2021, Defense Distributed published a large set of important computer files with digital firearms information regarding 3D-printed firearms on defcad.com for free download by the public at large ("the April 2021 Files").
  - a) The April 2021 Files amount to approximately 16,000 digital files.
  - b) Approximately 60,000 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.

5. 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.
6. On May 5, 2021, I was informed that the State Department had again 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. This threat was conveyed by the Directorate of Defense Trade Controls' April 30, 2021, website announcement, which stated in relevant part as follows:

DDTC is aware of press statements and media reports inaccurately suggesting that, as a result of a recent opinion of the United States Court of Appeals for the Ninth Circuit in case no. 20-35391, 3D-printed firearm files, and in particular, related Computer Aided Design (CAD) data files, may now be legally posted on the internet for unlimited distribution. That is incorrect. As explained below, the

. . .

Persons engaging in unauthorized exports of defense articles, including technical data, expose themselves to potential civil or criminal liability under the Arms Export Control Act (AECA) and International Traffic in Arms Regulations (ITAR).

7. But for the State Department's past acts of illegal censorship and imminent threats of future illegal censorship regarding the April 2021 files, Defense Distributed would exercise its constitutionally-protected right to continue publishing the April 2021 Files as it has been publishing them since April 27.
8. Because of the State Department's past acts of illegal censorship and imminent threats of future illegal censorship regarding the April 2021 files, Defense Distributed ceased exercising its constitutionally-protected right to continue publishing the April 2021 Files as it has been publishing them since April 27. On May 5, 2021, Defense Distributed removed the April 2021 Files from public access on defcad.com such that they are no longer available to the public at large for free download.
9. Notwithstanding Defense Distributed's May 5 removal of files from general public access, Defense Distributed has and will continue to maintain digital firearms information on a members-only area of defcad.com that complies—under protest, at great financial expense, and at the expense of its fundamental right to choose with whom and how to speak—with the International Traffic in Arms Regulations.
  - a) The members-only area is only accessible to registered defcad.com members, who pay a fee for membership.
  - b) Registered defcad.com members are pre-screened to ensure that they are U.S. persons, as defined by the State Department, who are inside the United States.

- c) Registered defcad.com members are further screened to ensure that they are not residents of and persons in the State of New Jersey who lack a federal firearms license.
  - d) Registered defcad.com members can securely download digital firearms information via electronic transmissions that utilize secure end-to-end encryption.
10. But for the State Department's past acts of illegal censorship and imminent threats of future illegal censorship regarding the April 2021 Files, Defense Distributed would immediately exercise its constitutionally-protected right to publish, in the same manner as it published the April 2021 Files on April 28, many more files that are like the April 2021 Files.
  11. Because of the State Department's past acts of illegal censorship and imminent threats of future illegal censorship regarding the April 2021 Files, Defense Distributed foregoes exercising its constitutionally-protected right to publish, in the same manner as it published the April 2021 Files on April 28, many more files that are like the April 2021 Files.
  12. 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. As soon as it is legal to do so and the State Department no longer threatens illegal censorship, Defense Distributed intends to both publish the April 2021 files on defcad.com for free download by the public at large and publish files like the April 2021 files on defcad.com for free download by the public at large.
  13. The State Department's past acts of illegal censorship and imminent threats of future illegal censorship regarding the April 2021 Files exert a substantial chilling effect on the speech of many American citizens in the United States who, wholly apart from and independently of Defense Distributed, would publish the April 2021 files and other files with digital firearms information to the public at large for free download. But because of the State Department's past acts of illegal censorship and imminent threats of future illegal censorship against Defense Distributed, these other publishers cease to publish both the April 2021 files and all manner of digital firearms information for fear of being illegally censored like Defense Distributed.
  14. I executed this declaration on May 5, 2021, six years to the day since I first asked this court to defend the First and Second Amendments.



Cody R. Wilson