

EDWARD J. MARKEY
MASSACHUSETTS

COMMITTEES:

ENVIRONMENT AND PUBLIC WORKS

FOREIGN RELATIONS

RANKING MEMBER:

SUBCOMMITTEE ON EAST ASIA, THE PACIFIC,
AND INTERNATIONAL CYBERSECURITY POLICY
COMMERCE, SCIENCE, AND TRANSPORTATION

RANKING MEMBER:

SUBCOMMITTEE ON
SPACE, SCIENCE, AND COMPETITIVENESS

SMALL BUSINESS AND ENTREPRENEURSHIP

CHAIRMAN:

U.S. SENATE CLIMATE CHANGE TASK FORCE

United States Senate

SUITE SD-255
DIRKSEN BUILDING
WASHINGTON, DC 20510-2107
202-224-2742

975 JFK FEDERAL BUILDING
15 NEW SUDBURY STREET
BOSTON, MA 02203
617-565-8519

222 MILLIKEN BOULEVARD, SUITE 312
FALL RIVER, MA 02721
508-677-0523

1550 MAIN STREET, 4TH FLOOR
SPRINGFIELD, MA 01103
413-785-4610

September 26, 2018

The Honorable Andrea L. Thompson
Under Secretary for Arms Control and International Security
U.S. Department of State
2201 C Street, N.W.
Washington, DC 20520

Dear Under Secretary Thompson:

On September 25, 2018, Defense Distributed, an advocate for the widespread availability of undetectable three-dimensional (“3D”) printed firearms, announced that its Chief Executive Officer Cody Wilson had resigned in the wake of sexual assault charges against him. I write to urge the State Department to take the opportunity presented by the leadership change at Defense Distributed to revisit the terms of the June 29, 2018 settlement agreement it reached in litigation with Defense Distributed, which would allow Defense Distributed or anyone else to publish online blueprints for the 3D printing of these deadly weapons.

On August 27, 2018, Judge Robert S. Lasnik of the U.S. District Court for the Western District of Washington issued a preliminary injunction that halted implementation of the settlement agreement. In the injunction, the court recognized that the State Department itself had once argued in the litigation against Defense Distributed that “‘export of Defense Distributed’s [computer-aided design] files could cause serious harm to U.S. national security and foreign policy interests.’”¹ The State Department had the right position when it urged the court to dismiss Defense Distributed’s lawsuit on these and other grounds.

As the injunction reflects, it has become increasingly apparent that the settlement was ill-advised, dangerous, and inimical to U.S. interests around the globe. The departure of Cody Wilson from Defense Distributed may give the State Department a chance to reengage with the company. Renewed settlement talks would give the State Department a forum in which to fix the mistake it made by inexplicably reversing its position in the litigation, entering into the settlement agreement in the first place, and agreeing to pay \$40,000 of Defense Distributed’s attorneys’ fees.

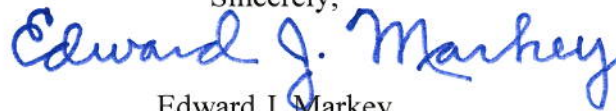
¹ *State of Washington v. U.S. Dep’t of State*, No. 2:18-cv-01115-RSL, Prelim. Inj. at 4, (W.D. Wash. Aug. 27, 2018), quoting *Defense Distributed v. U.S. Dep’t of State*, No. 1:15-cv-00372-RP, Def’s Opp. Pls.’ Mot. Prelim. Inj. at 10 (W.D. Tex. June 10, 2015).

The Honorable Andrea L. Thompson
September 26, 2018
Page 2

Finally, a renegotiated settlement agreement that prevents Defense Distributed or anyone else from posting blueprints online could satisfy my concerns that led me to place a hold on the nomination of R. Clarke Cooper to be an Assistant Secretary of State for Political-Military Affairs. I understood from our recent meeting that the confirmation of Mr. Cooper — who oversees the Directorate of Defense Trade Controls, which is at the center of the 3D printable gun controversy — is important to you.

Absent a renegotiation of the settlement agreement, Mr. Cooper's confirmation will have to await the resolution of the litigation between the State Department and Defense Distributed. If the issuance of the preliminary injunction is any indication of where that case will end up, it would behoove the State Department to use this opportunity to short-circuit the litigation, renegotiate with new leadership at Defense Distributed, and solve the problem it created with a settlement agreement that allows for the online publication of blueprints for dangerous and deadly 3D-printed firearms.

Sincerely,



Edward J. Markey
United States Senator

cc: Chad A. Readler