

[Products Liability Law Daily Wrap Up, TOP STORY—WEAPONS AND FIREARMS—TRO blocks online access to downloadable 3D-printed 'ghost guns', \(Aug. 1, 2018\)](#)

Products Liability Law Daily Wrap Up

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By Colleen Kave, J.D.

Responding to a motion filed Monday by eight states and the District of Columbia, the U.S. District Court for the Western District of Washington granted a temporary restraining order (TRO) enjoining the federal government from implementing or enforcing a modification of the United States Munitions List (USML) that would allow distribution of computer aided design (CAD) files for the automated production of untraceable, undetectable, plastic 3D-printed weapons. The court will hold a hearing on August 10, 2018, to determine whether the TRO should be converted to a preliminary injunction (*State of Washington v. U.S. Department of State*, July 31, 2018, Lasnik, R.).

In 2015, Defense Distributed, an organization dedicated to global distribution of open-source, downloadable 3D-printed guns, filed suit against the federal government after the State Department mandated removal of the organization's 3D-printed weapon instruction manuals from the Internet. The U.S. District Court for the Western District of Texas upheld the government's regulation of Defense Distributed's materials, finding that global access to firearms would undoubtedly increase the possibility of conflict. An appeal of that decision was rejected, and the U.S. Supreme Court declined to hear the case. Subsequently, in April 2018, the federal government moved to dismiss the lawsuit, arguing that if the dissemination of downloadable guns is not regulated, 3D-printed weapons could be used to threaten U.S. national security and U.S. foreign policy interests, as well as international peace and stability [see *Products Liability Law Daily's* July 31, 2018 [analysis](#)].

However, a few weeks later, Defense Distributed announced that the federal government had settled the case on June 29, 2018. Pursuant to the [settlement agreement](#), which was not made public until July 10, the federal government agreed to publish a notice of proposed rulemaking and final rule revising the USML to allow the distribution of CAD files for 3D-printed weapons, to announce a temporary modification of the USML to allow such distribution while the final rule was in development, and to issue a letter to Defense Distributed and other defendants instructing that the CAD files were approved for public release and unlimited distribution.

On Monday, Washington State Attorney General Bob Ferguson filed a [multistate lawsuit](#), joined by Massachusetts, Connecticut, New Jersey, Pennsylvania, Oregon, Maryland, New York, and the District of Columbia, seeking to prevent the imminent dissemination of the downloadable gun files. The court granted the states' [emergency motion for a TRO](#), determining that the states demonstrated a likelihood of success on the merits of their claim that the settlement agreement's provisions violated the Administrative Procedure Act. According to the court, there is no indication that the federal government followed the prescribed procedures for modifying the USML. Moreover, the court found that the states showed a likelihood of irreparable injury if the downloadable CAD files were posted online.

In a [news release](#) responding to the TRO, Attorney General Ferguson stated, "Once again, my office had to hold this Administration accountable to the rule of law. I am thankful and relieved Judge Lasnik put a nationwide stop to the Trump Administration's dangerous decision to allow downloadable, 3D-printed ghost guns to be distributed online. These ghost guns are untraceable, virtually undetectable and, without today's victory, available to any felon, domestic abuser or terrorist. I hope the President does the right thing and directs his administration to change course."

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