

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
TUNG SHIH TECHNOLOGY CO., LTD.)	EB Docket No. 05-30
)	EB-02-TS-606
Grantee of Equipment Authorization for)	
Learned Mode Remote Control Transmitter)	
Devices, FCC ID Nos. MMORC0196N and)	
MMORMC575)	

ORDER OF REVOCATION

Adopted: April 15, 2005**Released: April 18, 2005**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. By this *Order of Revocation*, acting pursuant to authority delegated to the Enforcement Bureau under section 0.111(a)(17) of the Commission's rules,¹ we revoke the above-captioned equipment authorizations held by Tung Shih Technology Co., Ltd. ("Tung Shih") for its learned mode remote control devices ("learned mode transmitters"). We conclude, based upon the evidence described herein, that the learned mode transmitters manufactured by Tung Shih have the capability to transmit impermissibly on restricted frequencies specified in section 15.205(a) of the Commission's rules.² We further conclude that Tung Shih's learned mode transmitters also have the capability to transmit impermissibly on frequencies that are not authorized by their equipment authorizations.

II. BACKGROUND

2. On January 31, 2005, the Commission released an *Order to Show Cause* designating this case for hearing.³ The *OSC* specified the following issues:

- (a) To determine whether the LRT-1 learned mode transmitter manufactured by Tung Shih under FCC ID No. MMORC0196M conforms to the technical requirements specified by section 15.205(a) of the rules;
- (b) To determine whether the LRT-1 learned mode transmitter manufactured by Tung Shih under FCC ID No. MMORC0196M conforms to the technical requirements specified by its equipment authorization;
- (c) To determine, in light of the evidence adduced pursuant to issues (a) and (b), whether the equipment authorization FCC ID No. MMORC0196M held by Tung Shih should be revoked;

¹ 47 C.F.R. § 0.111(a)(17).

² 47 C.F.R. § 15.205(a).

³ *Order to Show Cause*, 20 FCC Rcd 1668 (2005) ("OSC").

- (d) To determine whether the RMC-535 learned mode transmitter manufactured by Tung Shih under FCC ID No. MMORMC575 conforms to the technical requirements specified by section 15.205(a) of the rules;
- (e) To determine whether the RMC-535 learned mode transmitter manufactured by Tung Shih under FCC ID No. MMORMC575 conforms to the technical requirements specified by its equipment authorization; and
- (f) To determine, in light of the evidence adduced pursuant to issues (d) and (e), whether equipment authorization FCC ID No. MMORMC575 held by Tung Shih should be revoked.

3. The *OSC* ordered Tung Shih, pursuant to section 2.939(b) of the Commission's rules,⁴ within thirty days of the release of the *OSC* (*i.e.*, by March 2, 2005), in person or by its attorney, to file a written notice of appearance in order to avail itself of the opportunity to be heard.⁵ The *OSC* directed that the notice of appearance state that Tung Shih would appear on the date fixed for the hearing and present evidence on the specified issues. The *OSC* warned Tung Shih that, if it failed to so file a written notice of appearance, its right to a hearing on the matter of its equipment authorizations would be deemed waived, and the Chief Administrative Law Judge (or the presiding officer if one had been designated) would, at the earliest practicable date, issue an order reciting the events or circumstances constituting a waiver of hearing, terminating the hearing proceeding, and certifying the case to the Commission.⁶

4. The Presiding Judge determined that Tung Shih had received a copy of the *OSC* but had failed to file a written notice of appearance seeking to avail itself of the opportunity to be heard.⁷ Accordingly, he concluded that Tung Shih had waived its right to a hearing, and terminated the proceeding and certified the case to the Commission for disposition in accordance with 47 C.F.R. § 1.92(c). The Commission has delegated authority to the Enforcement Bureau for such revocation proceedings, terminated on the basis of waiver, pursuant to 47 C.F.R. § 0.111(a)(17).

III. DISCUSSION

A. Facts

5. Learned mode transmitters are typically sold as universal replacements or duplicates for garage door openers, keyless entry systems, security alarms, remote switches and similar types of radio controlled devices. These transmitters are designed to recognize and replicate the operating frequency,

⁴ 47 C.F.R. § 2.939(b) states: "Revocation of an equipment authorization shall be made in the same manner as revocation of radio station licenses." Revocation of radio station licenses is governed by sections 1.91 and 1.92 of the Commission's rules. 47 C.F.R. §§ 1.91, 1.92. Consequently, we will refer to those rules herein.

⁵ See 47 C.F.R. § 1.91(c).

⁶ See also 47 C.F.R. § 1.92(c). This rule provides that, whenever a hearing is waived, the Presiding Administrative Law Judge shall, at the earliest practicable date, issue an order reciting the events or circumstances constituting a waiver of hearing, terminating the hearing proceeding, and certifying the case to the Commission. See also 47 C.F.R. § 1.92(a).

⁷ *Memorandum Opinion and Order*, FCC 05M-15 (rel. Mar. 23, 2005). Therein, the Presiding Judge determined that the Commission had sent the *OSC* to Tung Shih, both by registered mail and by facsimile, and that Tung Shih had received the *OSC*. Nonetheless, Tung Shih did not file a written notice of appearance by March 2, 2005, nor did it appear in person or by attorney at the Prehearing Conference held on March 17, 2005.

duty cycle and coding scheme of the targeted radio system.⁸ As intentional radiators,⁹ learned mode transmitters must be certified by the Commission prior to marketing according to procedures specified in Part 2, subpart J of the rules.¹⁰

6. On October 30, 1996, and October 2, 2002, respectively, the Commission's Office of Engineering and Technology ("OET") granted Tung Shih equipment certifications, FCC ID Nos. MMORC0196M and MMORMC575, for learned mode transmitters. The first certification authorized emissions only within the 286-320 MHz frequency band, while the second certification authorized emissions only within the 313.95-314.95 MHz frequency band. At all relevant times, section 15.205(a) of the rules allowed intentional radiators, such as learned mode transmitters, to transmit only spurious emissions¹¹ in the restricted frequency bands, which include 240-285 MHz, 322-335.4 MHz and 399.9-410 MHz.

7. After receiving complaints, OET tested the Remocon LRT-1 ("LRT-1"), which is manufactured by Tung Shih under FCC ID No. MMORC0196M. OET determined that the LRT-1 is capable of being tuned to and operated on a range of frequencies that are not authorized, including, but not limited to, 437.004 MHz. The instructions for the LRT-1 included with the sample device also indicate that it is designed to acquire and operate on all frequencies within the 255-500 MHz band, which includes frequencies that are within the restricted bands specified by section 15.205(a) of the rules. OET's examination of the LRT-1 confirmed that the device can be readily tuned to operate on restricted band frequencies.

8. OET also tested the RMC-535, a device manufactured by Tung Shih under FCC ID No. MMORMC575, a sample of which had been provided by Tung Shih. OET determined that the RMC-535 is capable of being tuned to and operated on a range of unauthorized frequencies, including 310.9 MHz. OET's examination of the RMC-535 also established that the device can be readily tuned to operate on frequencies that are within the restricted bands specified by section 15.205(a) of the rules.

B. Discussion

9. As noted above, section 15.205(a) of the rules allows learned mode transmitters to transmit only spurious emissions in the restricted bands, including 240-285 MHz, 322-335.4 MHz and 399.9-410 MHz. In addition, Tung Shih's equipment certification (FCC ID No. MMORC0196M) covering the LRT-1 authorizes operation only in the frequency band 286-320 MHz. However, OET found that the LRT-1 can be readily tuned to restricted band frequencies, while the instructions for the device indicate that the LRT-1 can operate on any frequency in the band between 255 and 500 MHz. Thus, the LRT-1 does not conform to either the requirements of section 15.205(a) or its equipment authorization. Likewise, OET found that the RMC-535 can be readily tuned to frequencies that are within the restricted bands specified by section 15.205(a) of the Commission's rules and that it was capable of acquiring and transmitting on a range of frequencies, including 310.9 MHz, which is outside the range of frequencies specified by its authorization. Thus, the RMC-535 also does not conform to either the

⁸ Public Notice, *FCC Clarifies Equipment Certification Procedures for "Learned Mode" or "Trainable" Transmitters*, 17 FCC Rcd 21423 (OET 2002).

⁹ Section 15.3(o) of the rules, 47 C.F.R. § 15.3(o), defines an intentional radiator as "A device that intentionally generates and emits radio frequency energy by radiation or induction."

¹⁰ 47 C.F.R. Part 2, Subpart J.

¹¹ 47 C.F.R. § 2.1 defines spurious emissions as "Emission on a frequency or frequencies which are outside the necessary bandwidth and the level of which may be reduced without affecting the corresponding transmission of information. Spurious emissions include harmonic emissions, parasitic emissions, intermodulation products and frequency conversion products, but exclude out-of-band emissions."

requirements of section 15.205(a) or its equipment authorization.

C. License Revocation

10. Section 2.939(a)(2) of the rules provides that the Commission may revoke any equipment authorization “if upon subsequent inspection or operation it is determined that the equipment does not conform to the pertinent technical requirements or to the representations made in the original application.”¹² Furthermore, section 2.939(a)(4) of the rules states that the Commission may revoke any equipment authorization because of conditions coming to its attention “which would warrant it in refusing to grant an original application.”¹³ In light of the above, we conclude that both the LRT-1 learned mode transmitter manufactured by Tung Shih under FCC ID No. MMORC0196M and the RMC-535 learned mode transmitter manufactured by Tung Shih under FCC ID No. MMORMC575 do not conform to the applicable technical requirements for learned mode transmitters. We further conclude that, had the Commission been aware of the technical capability of these devices, it could have refused to grant Tung Shih’s original applications for equipment authorization for each such device. Based on the foregoing, we conclude that the equipment authorizations held by Tung Shih for its learned mode transmitters, FCC ID Nos. MMORC0196M and MMORMC575, should be revoked.

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED that, pursuant to 47 C.F.R. § 2.939(b), the equipment authorizations, FCC ID Nos. MMORC0196M and MMORMC575, held by Tung Shih ARE REVOKED, effective the fortieth (40th) day after release of this *Order of Revocation*, unless Tung Shih files a petition for reconsideration or application for review within thirty (30) days of the release of this *Order of Revocation*, in which case the effective date will be suspended, pending further Order of the Commission.

12. IT IS FURTHER ORDERED that a copy of this *Order of Revocation* shall be sent by Registered Mail, Return Receipt Requested, and by Federal Express, to Tung Shih Technology Co., Ltd., 7F-10, No. 130, Ssu Wei Road, Hsin Chu City, 300 Taiwan.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

¹² 47 C.F.R. § 2.939(a)(2).

¹³ 47 C.F.R. § 2.939(a)(4).