



**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

April 8, 2005

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Fogdog, Inc.
Attn: Michael G. Rubin, President
935 First Avenue
King of Prussia, Pennsylvania 19406

Re: File No. EB-05-SE-064

Dear Mr. Rubin:

This is an official **CITATION**, issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Communications Act"), 47 U.S.C. § 503(b)(5), for marketing an unauthorized radio frequency device in the United States in violation of Section 302(b) of the Communications Act, 47 U.S.C. § 302a(b), and Section 2.803(a) of the Commission's Rules ("Rules"), 47 C.F.R. § 2.803(a). As explained below, future violations of the Commission's rules in this regard may subject your company to monetary forfeitures.

It has come to our attention that Fogdog, Inc. ("Fogdog") has been marketing the GPS Outfitters Vortech Re-Radiator GPS Antenna in the United States. Specifically, on February 14, 2005 and March 18, 2005, staff of the FCC Enforcement Bureau's Spectrum Enforcement Division observed that Fogdog was offering the Vortech Re-Radiator GPS Antenna (Item no: 848546) for sale on its website, www.fogdog.com

Section 302(b) of the Act provides that "[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section." Section 2.803(a)(1) of the Commission's implementing regulations provides that:

no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless ... [i]n the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labelled as required by § 2.925 and other relevant sections in this chapter.

Pursuant to Section 15.201(b) of the Rules, 47 C.F.R. § 15.201(b), intentional radiators, such as the Vortech Re-Radiator GPS Antenna, must be authorized in accordance with the FCC's certification procedures prior to the initiation of marketing in the United States. Moreover, the Vortech Re-Radiator GPS Antenna operates in frequency bands used for GPS, which are within the restricted frequency bands listed in Section 15.205(a) of the Rules, 47 C.F.R. § 15.205(a).

Section 15.205(a) allows intentional radiators to transmit only spurious emissions¹ in the restricted frequency bands. Thus, the Vortech Re-Radiator GPS Antenna apparently cannot comply with the FCC's technical standards and therefore would not be capable of receiving a grant of equipment certification. Accordingly, it appears that Fogdog has violated Section 302(b) of the Act and Section 2.803(a) of the Rules by marketing in the United States unauthorized radio frequency devices.

If, after receipt of this citation, you violate the Communications Act or the Commission's rules in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation.²

You may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission's Field Office nearest to your place of business, or (2) a written statement. Your response should specify the actions that you are taking to ensure that you do not violate the Commission's rules governing the marketing of radio frequency equipment in the future.

The nearest Commission field office appears to be the Philadelphia Office in Philadelphia, Pennsylvania. Please call Neal McNeil at 202-418-1160 if you wish to schedule a personal interview. You should schedule any interview to take place within 30 days of the date of this letter. You should send any written statement within 30 days of the date of this letter to:

Kathryn Berthot
Deputy Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission
445-12th Street, S.W., Rm. 7-C802
Washington, D.C. 20554

Under the Privacy Act of 1974, 5 U.S.C. § 552(a)(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's rules.

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

Thank you in advance for your anticipated cooperation.

Sincerely,

Kathryn Berthot
Deputy Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission

¹ 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."

² See 47 C.F.R. § 1.80(b)(3).