

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

In the Matter of)	
)	File No. EB-04-SE-244
Ramsey Electronics, Inc.)	NAL/Acct. No. 200632100004
Victor, New York)	FRN # 0004271193

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: January 23, 2006

Released: January 25, 2006

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find Ramsey Electronics, Inc. (“Ramsey”), apparently liable for a forfeiture in the amount of twenty-five thousand dollars (\$25,000) for willful and repeated violation of Section 302(b) of the Communications Act of 1934, as amended (“Act”),¹ and Sections 2.803(a) and (g) and 2.815(b) of the Commission’s Rules (“Rules”).² The noted apparent violations involve Ramsey’s marketing of two models of unauthorized FM broadcast transmitters and two models of external radio frequency (“RF”) power amplifiers (“amplifiers”).

II. BACKGROUND

2. The Enforcement Bureau (“Bureau”) obtained information indicating that Ramsey was apparently marketing unauthorized FM broadcast transmitters and RF amplifiers in the United States. The Bureau subsequently began an investigation of Ramsey’s marketing activities and obtained a copy of Ramsey’s equipment catalog. The catalog indicates that Ramsey is offering for sale fully assembled FM broadcast transmitters designated as “FM35WT” and “FM100BWT” and fully assembled RF amplifiers designated as “PA100” and “LPA1WT.”³ The catalog indicates that these devices have the following output powers and frequency ranges: FM35WT, one watt, 87.9 – 108.1 MHz; FM100BWT, variable between 5 μ W and one watt, 88 – 108 MHz; PA100, variable between two and 40 watts, 87.5 – 108.1 MHz; and LPA1WT, one watt, 300 kHz – 1,000 MHz. With respect to the FM35WT and FM100BWT, the catalog states that those devices “can only be shipped outside the USA, or within the US if accompanied by a signed statement that the unit will be exported.” With respect to the FM35WT, FM100BWT and PA100, the catalog states that “*The end user is responsible for complying with all FCC rules and regulations within the US, or any regulations of their respective governing body*” [emphasis in original]. The FCC’s equipment authorization database indicates that Ramsey has not received a grant of

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. §§ 2.803(a) and (g), 2.815(b).

³ External RF power amplifiers, such as the PA100 and LPA1WT, are used to boost the power of radio transmitters.

equipment certification⁴ for the FM35WT, FM100BWT or PA100.

3. On November 8, 2004, December 2, 2004, February 18, 2005, April 22, 2005, and August 12, 2005, the Bureau conducted internet research on Ramsey's website, www.ramseyelectronics.com. The research indicates that Ramsey offered the PA 100 for sale on its website on November 8, 2004; and offered the FM35WT on December 2, 2004, February 18, 2005, April 22, 2005, and August 12, 2005. The information on Ramsey's website concerning those devices is consistent with the information in Ramsey's catalog. Additionally, the Bureau's internet research indicates that various other retail websites have offered fully assembled Ramsey FM transmitters for sale including the "R-FM100B-WT" (which appears to be the same device as the FM100BWT).

4. On March 4, 2005, the Bureau sent Ramsey a letter of inquiry (LOI).⁵ In its response,⁶ Ramsey states that its primary business is the manufacturing and marketing of "do it yourself" hobby kits, including broadcast transmitter kits, but that it also manufactures and markets fully assembled broadcast equipment. Ramsey acknowledges that it is currently manufacturing the FM35WT, FM100BWT and LPA1WT in the United States, and that it formerly manufactured the PA100 in the United States but discontinued manufacturing that device on December 27, 2004.⁷ Ramsey reports the following production and sales figures (including both foreign and domestic sales) as of February 6, 2005: FM35WT, 254 manufactured (beginning February 7, 2005) and 101 sold; FM100BWT, 1,457 manufactured (beginning April 26, 2004) and 1,441 sold; LPA1WT, 358 manufactured (beginning March 3, 1994) and 343 sold; PA100, 145 manufactured (beginning June 21, 2002) and 131 sold. Ramsey claims that the Commission's equipment certification requirement does not apply to the FM35WT and FM100BWT because it requires buyers in the United States to provide signed statements that those devices will be exported, and that it does not apply to the PA100 and LPA1WT because those devices are not intentional radiators.⁸

5. Ramsey provides, with its response to the LOI, copies of the materials used to market the FM35WT, FM100BWT, PA100 and LPA1WT. The information contained in these materials concerning those devices is consistent with the information in Ramsey's catalog. The marketing materials include a form entitled "FM100B and FM35 Series FM Transmitter Certification." The form states that "[t]his form is used to verify that your purchase of the FM100B and FM35 will be used in accordance with appropriate laws regulating intentional radiators. . . . Your order cannot be shipped until you return this form by fax or mail." The form requires the purchaser to certify as follows:

I hereby certify that the FM100B and FM35 series transmitters will be operated in accordance with applicable laws of the land for the intended destination of operation.

⁴ A certification is an equipment authorization issued by the Commission, based on representations and test data submitted by the applicant. *See* 47 C.F.R. § 2.907(a).

⁵ Letter of March 4, 2005, from Kathryn S. Berthot to Michael A. Leo.

⁶ Letter of March 28, 2005, from Michael A. Leo to the Enforcement Bureau, Spectrum Enforcement Division, Attention: Thomas Fitz-Gibbon.

⁷ We note that Ramsey also manufactures and markets a professional 50 watt low power FM transmitter, model PX50, which is certified under FCC ID: PF3PX50.

⁸ 47 C.F.R. § 15.3(o) defines an intentional radiator as "[a] device that intentionally generates radio frequency energy by radiation or induction."

If resold, I additionally certify that we will enforce this compliance to the purchaser.

I do understand that the output level of the FM100BEX, FM100BWT and FM35WT exceeds the authorized output levels set by the FCC and cannot be operated within the territory of the United States.

I do understand that the output level of the FM100BEX, FM100BWT and FM35WT may exceed the authorized output levels as set forth by the local governing body within your jurisdiction outside the US and its territories.

As the end user or reseller I do take full responsibility for compliance of these terms, and hereby release and hold harmless, and waive any claims against Ramsey Electronics regarding the operation or application of this product(s).

III. DISCUSSION

6. 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 in pertinent part that:

Except as provided elsewhere in this section, 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 radiofrequency device⁹ unless ... [i]n the case of a device that is subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter.

In addition, Section 2.803(g) of the Commission’s implementing regulations provides in pertinent part that:

[R]adio frequency devices that could not be authorized or legally operated under the current rules ... shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission.

Further, Section 2.815(b) of the Commission’s implementing regulations provides that:

After April 27, 1978, no person shall manufacture, sell or lease, 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 external radio frequency power amplifier or amplifier kit capable of operation on any frequency or frequencies between 24 and 35 MHz.

⁹ 47 C.F.R. § 2.801 defines a radiofrequency device as “any device which in its operation is capable of emitting radiofrequency energy by radiation, conduction, or other means.”

FM Broadcast Transmitters

7. The record establishes that Ramsey manufactured the FM broadcast transmitters designated as FM35WT and FM100BWT; that it marketed the FM35WT in the United States at least until August 12, 2005, and marketed the FM100BWT in the United States at least until February 6, 2005; and that Ramsey has not received a grant of equipment certification for either transmitter. Section 15.201(b) of the Rules¹⁰ requires certification (with inapplicable exceptions) of intentional radiators. As intentional radiators, the FM35WT and FM100BWT are, therefore, required to be certified¹¹ before being marketed in the United States.

8. We reject Ramsey's argument that it does not need equipment authorizations for the FM35WT and FM100BWT because it requires buyers in the United States to provide signed statements certifying that the devices "will be operated in accordance with applicable law of the land for the intended destination of cooperation." Section 2.807(b) of the Rules¹² exempts devices "manufactured solely for export" from the marketing prohibition of Section 2.803(a)(1) of the Rules. This exemption, however, applies only to devices that the manufacturer actually exports.¹³ Ramsey admits that it does not actually export all of the FM35WT and FM100BWT devices it sells. Rather, it attempts to shift the burden for compliance with the Commission's rules entirely to the buyer by requiring the buyer to sign a certification form which purports to absolve Ramsey of any responsibility regarding the operation and redistribution of the devices. This "FM100B and FM35 Series FM Transmitter Certification" does not explicitly state that the buyer must export the device, nor does it even mention exportation at all.¹⁴ We find, accordingly, that Ramsey apparently marketed two models of uncertified FM broadcast transmitters in the United States, in willful¹⁵ and repeated¹⁶ violation of Section 302(b) of the Act and Section 2.803(a) of the Rules.

External RF Power Amplifiers

9. The record also establishes that Ramsey manufactured the external RF power amplifiers

¹⁰ 47 C.F.R. § 15.201(b).

¹¹ Ramsey acknowledges in the "FM100B and FM35 Series FM Transmitter Certification" form provided with its marketing materials that the FM35WT and FM100BWT are intentional radiators.

¹² 47 C.F.R. § 2.807(b).

¹³ See *New Image Electronics*, 17 FCC Rcd 3594, 3596 (Enf. Bur. 2002).

¹⁴ As noted above, Ramsey's catalog states that the FM35WT and FM100BWT devices "can only be shipped outside the USA, or within the US if accompanied by a signed statement that the unit will be exported."

¹⁵ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful,' ... means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

¹⁶ Section 312(f)(2) of the Act provides that "[t]he term 'repeated,' ... means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

designated as PA100 and LPA1WT and marketed them in the United States at least until February 6, 2005. Ramsey argues that no equipment authorizations are required for those devices because they are not intentional radiators. This argument misses the point. Section 2.815(c) of the Rules¹⁷ specifically requires certification of *all* external RF power amplifiers capable of operating below 144 MHz.¹⁸ Since the LPA1WT and the PA100 both are capable of operating below 144 MHz, both devices are subject to the certification requirement. The record indicates that Ramsey has not received a grant of equipment certification for the PA100. Furthermore, as explained in paragraph 10, below, the LPA1WT cannot be legally certified or operated under the rules. We find, accordingly, that Ramsey apparently marketed two models of uncertified external RF power amplifiers in the United States, in willful and repeated violation of Section 302(b) of the Act and Section 2.803(a) of the Rules.

10. The record establishes that the LPA1WT is capable of operating on frequencies between 300 kHz and 1000 MHz, including the frequency band between 24 and 35 MHz. Section 2.815(b) of the Rules prohibits manufacturing or marketing any external RF power amplifier capable of operation in the frequency band between 24 and 35 MHz.¹⁹ In addition, Section 2.803(g) prohibits the marketing of radio frequency devices that could not be authorized or legally operated under the current rules. We therefore find that Ramsey apparently manufactured and marketed in the United States one external RF power amplifier model capable of operation in the frequency band between 24 and 35 MHz, in willful and repeated violation of Section 302(b) of the Act and Sections 2.803(g) and 2.815(b) of the Rules.

Proposed Forfeiture

11. Section 503(b) of the Act authorizes the Commission to assess a forfeiture for each willful or repeated violation of the Act or of any rule, regulation, or order issued by the Commission under the Act.²⁰ In exercising such authority, we are required to take into account “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”²¹

12. Under *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines (“Forfeiture Policy Statement”)*²² and Section 1.80 of the Rules,²³ the base forfeiture amount for the marketing of unauthorized equipment is \$7,000. In this case, Ramsey marketed two models of unauthorized broadcast transmitters (FM35WT and FM100BWT)

¹⁷ 47 C.F.R. § 2.815(c).

¹⁸ 47 C.F.R. § 2.815(e) exempts amateur licensees from this prohibition if they market no more than one unit per calendar year to another amateur licensee for the amateur’s personal use and certain technical standards are met. This exemption is clearly inapplicable here.

¹⁹ 47 C.F.R. § 2.815(d) exempts amateur licensees from this prohibition if they fabricate and market no more than one unit per calendar year to another amateur licensee for the amateur’s personal use and certain technical standards are met. This exemption is clearly inapplicable here.

²⁰ 47 U.S.C. § 503(b).

²¹ 47 U.S.C. § 503(b)(2)(D).

²² 12 FCC Rcd 17087 (1997), *recon. denied* 15 FCC Rcd 303 (1999).

²³ 47 C.F.R. § 1.80.

and two models of unauthorized external RF power amplifiers (PA100 and LPA1WT). Ramsey's marketing of each of these four unauthorized models is a separate violation. We find that a forfeiture amount of \$7,000 is apparently warranted for each of the four models for total of \$28,000.²⁴ Because the Commission has not taken prior enforcement action against Ramsey, we find that Ramsey has a history of overall compliance. Under the *Forfeiture Policy Statement* and Section 1.80(b)(4) of the Rules,²⁵ history of overall compliance is a downward adjustment factor for Section 503 forfeitures. We find that a reduction of \$3,000 from the \$28,000 base forfeiture amount is warranted on the basis of Ramsey's history of overall compliance. Accordingly, we conclude that Ramsey is apparently liable for a \$25,000 forfeiture.

13. Finally, Ramsey apparently is continuing to market unauthorized broadcast equipment. Accordingly, we require, pursuant to Section 403 of the Act,²⁶ that Ramsey submit a report within 30 days of the date of this *NAL* describing the steps it has taken to come into compliance with the Act and the Rules.

IV. ORDERING CLAUSES

14. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act²⁷ and Sections 0.111, 0.311 and 1.80 of the Rules,²⁸ Ramsey Electronics, Inc., **IS** hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty-five thousand dollars (\$25,000) for willfully and repeatedly violating Section 302(b) of the Act and Sections 2.803(a) and 2.815(b) of the Rules.

15. **IT IS FURTHER ORDERED** that, pursuant to Section 403 of the Act, Ramsey Electronics, Inc., **SHALL SUBMIT** the report described in paragraph 13 within thirty days of the release date of this Notice of Apparent Liability for Forfeiture to: Federal Communications Commission, Enforcement Bureau, Spectrum Enforcement Division, 445 12th Street, S.W., Washington, D.C. 20054.

16. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *Notice of Apparent Liability for Forfeiture and Order*, Ramsey Electronics, Inc., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

17. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the *NAL/Acct. No.* and *FRN No.* referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251.

²⁴ See *Samson Technologies, Inc.*, 19 FCC Rcd 4221, 4225 (2004).

²⁵ See *Forfeiture Policy Statement*, 12 FCC Rcd at 17100; 47 C.F.R. § 1.80(b)(4), Note to paragraph (b)(4): Section II. Adjustment Criteria for Section 503 Forfeitures.

²⁶ 47 U.S.C. § 403

²⁷ 47 U.S.C. § 503(b).

²⁸ 47 C.F.R. § 0.111, 0.311 and 1.80.

Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106.

18. The response, if any, must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Acct. No. referenced in the caption.

19. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

20. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivable Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.²⁹

21. **IT IS FURTHER ORDERED** that a copy of this *Notice of Apparent Liability for Forfeiture* shall be sent by first class mail and certified mail return receipt requested to Ramsey Electronics, Inc., 590 Fishers Station Drive, Victor, New York 14564, Attention: Michael A. Leo.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Spectrum Enforcement Division

²⁹ See 47 C.F.R. § 1.1914.