



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

January 31, 2007

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
**AND FACSIMILE**

Mr. Harlan E. Gauger, Jr.  
Electronic Retail Solutions, Inc.  
5601 Roanne Way, Suite 608  
Greensboro, North Carolina 27409

Re: File No. EB-05-SE-268

Dear Mr. Gauger:

This is an official **CITATION**, issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (“Act”), 47 U.S.C. § 503(b)(5), for marketing in the United States certain police radar jamming devices manufactured by Rocky Mountain Radar (“RMR”), specifically, the RMR-S201 and RMR-C450 devices, in violation of Section 302(b) of the Act, 47 U.S.C. § 302a(b), and Sections 2.803 and 15.205 of the Commission’s Rules (“Rules”), 47 C.F.R. §§ 2.803 and 15.205. As explained below, future violations of the Commission’s rules in this regard may subject your company to monetary forfeitures.

The Spectrum Enforcement Division (“Division”) of the Enforcement Bureau obtained information through several informal complaints alleging that various entities, including Electronic Retail Solutions, Inc., were marketing police radar jamming devices in the United States. On June 8, 2005 and June 9, 2005, Division staff visited Electronic Retail Solutions, Inc.’s affiliated internet web sites, [www.carwaves.com](http://www.carwaves.com), [www.ismellbacon.com](http://www.ismellbacon.com), and [www.jammercity.com](http://www.jammercity.com), and observed that Electronic Retail Solutions, Inc. was marketing<sup>1</sup> the RMR-S201 (also known as the Phazer II) and the RMR-C450 devices. On September 1, 2005, the Division issued a letter of inquiry (“LOI”) to Electronic Retail Solutions, Inc. requesting certain information concerning its marketing of these devices.<sup>2</sup> In its response to the LOI, filed on September 19, 2005, Electronic Retail Solutions, Inc. failed to respond to the questions set forth in the LOI as directed.<sup>3</sup> Instead, Electronic Retail Solutions, Inc. simply stated that it had contacted the manufacturer, RMR, which claimed that the RMR-S201 and the RMR-C450 devices are not intentional radiators and “have been tested and certified by the FCC.”<sup>4</sup>

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<sup>1</sup> “Marketing” is defined as “sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.” 47 C.F.R. § 2.803(e)(4).

<sup>2</sup> See Letter from Kathryn Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission to Electronic Retail Solutions, Inc. (September 1, 2005).

<sup>3</sup> See Letter from Harlan E. Gauger, Jr., Electronic Retail Solutions, Inc., to Susan Magnotti, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (September 19, 2005).

<sup>4</sup> *Id.*

The Commission's Office of Engineering and Technology ("OET") Laboratory subsequently obtained samples of the RMR-S201 and RMR-C450 devices directly from RMR for testing. Testing of the samples indicated that both units are designed to emit a signal that intentionally interferes with a licensed radio service (police radar), and are indeed capable of interfering with police radar. Therefore, the OET Laboratory concluded that the devices are intentional radiators, as described in Section 15.3(o) of the Rules, 47 C.F.R. § 15.3(o).<sup>5</sup> In addition, the OET Laboratory's tests indicated that the RMR-C450 device produced a radiated emission at 11.23 GHz, a restricted frequency band listed in Section 15.205 of the Rules, 47 C.F.R. § 15.205, and that this radiated emission substantially exceeds the radiated emission limits for intentional radiators specified in Section 15.209 of the Rules, 47 C.F.R. § 15.209. The OET Laboratory also concluded that the RMR-C450 device was improperly certified.<sup>6</sup> In this regard, the OET Laboratory noted that the grant of certification issued for the RMR-C450 device indicates that the device was tested as an "unintentional radiator."<sup>7</sup> As explained above, however, the OET Laboratory found that the device is an intentional radiator.

On January 22, 2007, the Division staff again visited one of Electronic Retail Solutions, Inc.'s internet web sites, [www.electronicretailsolutions.com](http://www.electronicretailsolutions.com), and observed that Electronic Retail Solutions, Inc. was continuing to market the RMR-S201 and RMR-C450 devices.

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 to this section." Section 2.803(a)(1) of the Rules, 47 C.F.R. § 2.803(a)(1), 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 labeled as required by § 2.925 and other relevant sections in this chapter.

Pursuant to Section 15.201 of the Rules, 47 C.F.R. § 15.201, intentional radiators must ordinarily be authorized in accordance with the certification procedure prior to marketing. Section 2.803(g) of the Rules, 47 C.F.R. § 2.803(g), however, 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.

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<sup>5</sup> An intentional radiator is defined by Section 15.3(o) of the Rules, 47 C.F.R. § 15.3(o), as "[a] device that intentionally generates and emits radio frequency energy by radiation or induction."

<sup>6</sup> RMR obtained certification for the RMR-C450 under FCC ID No. QKK-C03 by representing to a Telecommunications Certification Body that the device was a radar detector. We note, however, that RMR marketed the device as a radar detector and a radar "scrambler."

<sup>7</sup> An "unintentional radiator" is defined by Section 15.3(z) of the Rules, 47 C.F.R. § 15.3(z), as:

[a] device that intentionally generates radio frequency energy for use within the device, or that sends radio frequency signals by conduction to associated equipment via connecting wiring, but which is not intended to emit RF energy by radiation or induction.

Further, Section 333 of the Act, 47 U.S.C. § 333, prohibits any person from willfully or maliciously interfering with or causing interference to any radio communications of any station licensed or authorized by the Commission. Moreover, Section 15.205 of the Rules, 47 C.F.R. § 15.205, prohibits radiated emissions, other than spurious emissions,<sup>8</sup> in any of the restricted frequency bands listed in that section. Thus, intentional radiators that cannot legally be operated – because, for example, they interfere with or jam licensed police radio facilities or operate in restricted frequency bands – are not eligible for a grant of equipment certification. Finally, Section 15.209 of the Rules sets forth the radiated emission limits applicable to intentional radiators.

As noted above, contrary to the claims of RMR, the RMR-S201 and RMR-C450 devices are intentional radiators. These devices are not, however, eligible for a grant of certification because their intended purpose is to interfere with Commission authorized radio facilities, specifically, licensed police radar, in violation of Section 333 of the Act, and the OET Laboratory has determined that these devices in fact are capable of interfering with police radar. Moreover, there are two additional grounds for finding the marketing of the RMR-C450 device to be unlawful. The RMR-C450 device is not eligible for a grant of certification because it produces a radiated emission in the restricted frequency band at 11.23 GHz in violation of Section 15.205 of the Rules. This radiated emission also substantially exceeds the radiated emission limits for intentional radiators specified in Section 15.209 of the Rules. We note that on January 31, 2007, concurrently with the issuance of this Citation, the Division issued a Notice of Apparent Liability for Forfeiture proposing a \$25,000 forfeiture against RMR for marketing the RMR-S201 and RMR-C450 devices in apparent willful and repeated violation of Section 302(b) of the Act and Sections 2.803, 15.205 and 15.209 of the Rules.<sup>9</sup>

The record before us indicates that Electronic Retail Solutions has marketed and continues to market the RMR-S201 and the RMR-C450 devices. Accordingly, it appears that Electronic Retail Solutions has violated Section 302(b) of the Act and Section 2.803 of the Rules by marketing the RMR-S201 and RMR-C450 devices, which are not eligible for a grant of equipment certification because they are intended to interfere with licensed police radar, in violation of Section 333 of the Act. Electronic Retail Solutions has also apparently violated Section 302(a) of the Act and Sections 2.803, 15.205 and 15.209 of the Rules by marketing the RMR-C450 device, which is not eligible for a grant of equipment certification because it produces a radiated emission in the restricted frequency band at 11.23 GHz, and which produces emissions that substantially exceed the radiated emission limits for intentional radiators.

**If, after receipt of this citation, Electronic Retail Solutions, Inc. violates 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.**<sup>10</sup>

If you choose to do so, 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 Electronic Retail Solutions, Inc.-Detectors is taking to ensure that it does not violate the Commission's rules governing the marketing of intentional radiating jamming devices in the future.

<sup>8</sup> Section 2.1(c) of the Rules, 47 C.F.R. § 2.1(c), defines a spurious emission 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."

<sup>9</sup> *Rocky Mountain Radar*, Notice of Apparent Liability for Forfeiture, DA 07-299 (Enf. Bur., Spectrum Enf. Div., rel. January 31, 2007).

<sup>10</sup> See 47 C.F.R. § 1.80(b)(3).

**The nearest Commission field office is the Norfolk Resident Agent Office in Chesapeake, VA. Please call Jacqueline Johnson at 202-418-2871 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 S. Berthot  
Chief, Spectrum Enforcement Division  
Enforcement Bureau  
Federal Communications Commission  
445-12<sup>th</sup> Street, S.W., Rm. 3-C366  
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 S. Berthot  
Chief, Spectrum Enforcement Division  
Enforcement Bureau