

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

In the Matter of)	File No. EB-07-SE-365
)	
Honeywell International, Inc.)	Acct. No. 200932100016
)	
)	FRN No. 0009705021

ORDER

Adopted: November 21, 2008

Released: November 25, 2008

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Honeywell International, Inc. (“Honeywell”). The Consent Decree terminates an investigation of Honeywell by the Bureau for possible violations of Section 301 of the Communications Act of 1934, as amended (“Act”),¹ and Sections 25.102, 25.117, and 25.119 of the Commission’s Rules (“Rules”)² regarding the operation and *pro forma* assignment of an earth station license.

2. The Bureau and Honeywell have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Honeywell possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act,³ and sections 0.111 and 0.311 of the Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

¹ 47 U.S.C. § 301.

² 47 C.F.R. §§ 25.102, 25.117, 25.119.

³ 47 U.S.C. § 154(i).

⁴ 47 C.F.R. §§ 0.111, 0.311.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Donna A. Balaguer, Esq., Fish & Richardson P.C., 1425 K Street, N.W., Washington, D.C. 20005 and Mark J. Larson, Vice President & Chief Litigation Counsel, Honeywell Aerospace, 1944 East Sky Harbor Circle, Phoenix, AZ 85034.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

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In the Matter of)	File No. EB-07-SE-365
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Honeywell International, Inc.)	Acct. No.
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)	FRN No. 0009705021

CONSENT DECREE

The Enforcement Bureau (“Bureau”) and Honeywell International, Inc. (“Honeywell”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation of Honeywell for possible violations of Section 301 of the Communications Act of 1934, as amended (“Act”),¹ and Sections 25.102, 25.117, and 25.119 of the Commission’s Rules (“Rules”)² regarding the operation and *pro forma* assignment of an earth station license under call sign E000156.

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (e) “Compliance Plan” means the program described in this Consent Decree at paragraph 8.
 - (f) “Effective Date” means the date on which the Bureau releases the Adopting Order.
 - (g) “Honeywell” means Honeywell International, Inc. and its subsidiaries and its and their predecessors-in-interest and successors-in-interest.
 - (h) “Investigation” means the investigation commenced by the Bureau’s February 28, 2008 letter of inquiry (“LOI”)³ to Honeywell regarding possible violations of Section 301 of the Act and Sections 25.102 and 25.117 of the Rules and the possible violation of Section 25.119 of the Rules reported by Honeywell.

¹ 47 U.S.C. § 301.

² 47 C.F.R. §§ 25.102, 25.117, 25.119.

³ See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission to Honeywell, Inc. (Feb. 28, 2008).

- (i) "Parties" means Honeywell and the Bureau.
- (j) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

2. Under section 301 of the Act, "[n]o person shall use or operate any apparatus for the transmission of energy or communications or signals by radio ... except under and in accordance with this Act and with a license in that behalf granted under the provisions of this Act." Under section 25.102 of the Rules, 47 C.F.R. § 25.102, "[n]o person shall use or operate apparatus for the transmission of energy or communications or signals by space or earth stations except under, and in accordance with, an appropriate authorization granted by the Federal Communications Commission." Pursuant to section 25.117 of the Rules, 47 C.F.R. § 25.117, no modification which affects the parameters or terms and conditions of a station authorization may be made except upon application to and grant of such application by the Commission. Pursuant to section 25.119 of the Rules, 47 C.F.R. § 25.119, no assignment of a station authorization may be made except upon application to and grant of such application by the Commission.

3. On February 28, 2008, the Bureau issued the LOI to Honeywell to inquire about Honeywell's operations under earth station E000156. Honeywell responded to the LOI on June 18, 2008.⁴ On July 25, 2008, Honeywell filed an application seeking approval of a *pro forma* assignment of the license for earth station E000156 that took place in June, 2002.⁵

III. TERMS OF AGREEMENT

4. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

5. **Jurisdiction.** Honeywell agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

6. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

7. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate its investigation. In consideration for the termination of said investigation, Honeywell agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this investigation through the

⁴ See Letter from Pete Samuel, Honeywell, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission (June 18, 2008) ("LOI Response")

⁵ See File No. SES-ASG-20080725-00989.

Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Honeywell concerning the matters that were the subject of the investigation. The Bureau also agrees that it will not use the facts developed in this investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Honeywell with respect to Honeywell's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

8. **Compliance Plan.** For purposes of settling the matters set forth herein, Honeywell agrees to maintain a Compliance Plan related to future compliance with the Act, the Commission's Rules and the Commission's Orders. The Compliance Plan will include, at a minimum, the following components:

- (a) **Compliance Officer.** Honeywell Aerospace will designate a senior corporate officer ("Compliance Officer") who is responsible for administering the Compliance Plan for Honeywell.
- (b) **Compliance Plan.** Honeywell Aerospace will maintain and update its database listing relevant information regarding all FCC licenses held by Honeywell Aerospace, including call sign E000156. Honeywell Aerospace will monitor the information contained in the database for compliance purposes. Honeywell Aerospace may be assisted by outside consultants to meet this requirement.
- (c) **Compliance Reports.** Honeywell will file compliance reports with the Commission ninety days after the Effective Date and twelve months after the Effective Date. Each compliance report shall include a compliance certificate from an officer, as an agent of Honeywell, stating that the officer has personal knowledge that Honeywell has established operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer's compliance certification. All compliance reports shall be submitted to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. All reports shall also be submitted electronically to Linda.Nagel@fcc.gov and Kathy.Berthot@fcc.gov.
- (d) **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire twelve months after the Effective Date.

9. **Voluntary Contribution.** Honeywell agrees that it will make a voluntary contribution to the United States Treasury in the amount of \$40,000. The payment will be made within 30 days after the Effective Date of the Adopting Order. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters

“FORF” in block number 24A (payment type code). Honeywell will also send electronic notification on the date said payment is made to Linda.Nagel@fcc.gov and Kathy.Berthot@fcc.gov.

10. **Waivers.** Honeywell waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order adopting the Consent Decree without change, addition, modification, or deletion. Honeywell shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Honeywell nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Honeywell shall waive any statutory right to a trial *de novo*. Honeywell hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

11. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

12. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which Honeywell does not expressly consent) that provision will be superseded by such Commission rule or Order.

13. **Successors and Assigns.** Honeywell agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

14. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission’s Rules and Orders.

15. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

16. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

17. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

18. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

Date

Mark J. Larson
Vice President & Chief Litigation Counsel
Honeywell Aerospace

Date