

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

In the Matter of)	File No. EB-06-SE-354
)	
Monster Cable Products, Inc. and Monster LLC)	Acct. No. 200932100058
)	
)	FRN # 0009660770

ORDER

Adopted: May 12, 2009

Released: May 15, 2009

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 Monster Cable Products, Inc. and Monster LLC (“Monster”). The Consent Decree terminates an investigation by the Bureau into whether certain devices containing FM modulators manufactured for Monster and marketed in the United States comply with the requirements of Section 302(b) of the Communications Act of 1934, as amended, (“Act”)¹ and Parts 2 and 15 of the Commission’s Rules (“Rules”).²

2. The Bureau and Monster 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 Monster 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**.

7. **IT IS FURTHER ORDERED** that all third-party complaints against Monster before the Bureau related to the above-captioned-investigation as of the date of this Consent Decree **ARE DISMISSED**.

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. § 2.1 *et seq.* and § 15.1 *et seq.*

³ 47 U.S.C. § 154(i).

⁴ 47 C.F.R. §§ 0.111, 0.311.

8. **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 David Tognotti, General Counsel and Vice President of Administration, Monster Cable Products, Inc. and Monster LLC, 7251 West Lake Mead Blvd., Suite 342, Las Vegas, NV 89128, and to Colin S. Stretch, Kellogg Huber Hansen Todd Evans & Figel, 1615 M Street, NW, Suite 400, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

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In the Matter of)	
)	File No. EB-06-SE-354
Monster Cable Products, Inc. and)	Acct. No. 200932100058
Monster LLC)	FRN # 0009660770

CONSENT DECREE

The Enforcement Bureau (“Bureau”) and Monster Cable Products, Inc. and Monster LLC (“Monster”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether certain devices containing FM modulators manufactured for Monster and marketed in the United States comply with the requirements of Section 302(b) of the Communications Act of 1934, as amended, (“Act”)¹ and Parts 2 and 15 of the Commission’s Rules (“Rules”).²

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 and conditions 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.
 - (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) “Monster” means Monster Cable Products, Inc. and Monster LLC and its predecessors-in-interest and successors-in-interest.
 - (h) “Investigation” means the investigation commenced by the Bureau’s February 9, 2007 Letter of Inquiry³ to Monster regarding whether certain devices with wireless FM modulators, manufactured for Monster and marketed by Monster, comply with Section 302(b) of the Act⁴ and Parts 2 and 15 of the Rules.⁵

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. § 2.1 *et seq.* and § 15.1 *et seq.*

³ Letter from Kathryn S. Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, to David Tognotti, General Counsel, Monster, LLC (February 9, 2007) (“February 9, 2007 LOI”).

⁴ 47 U.S.C. § 302a(b).

⁵ 47 C.F.R. §§ 2.1 *et seq.* and 15.1 *et seq.*

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

II. BACKGROUND

2. Pursuant to Section 302(b) of the Act⁶ and Parts 2 and 15 of the Rules,⁷ certain radio frequency devices, including wireless FM modulators, must be authorized in accordance with the processes set forth in the Rules and comply with all applicable technical standards and labeling requirements prior to importation into, or marketing in, the United States.

3. On February 9, 2007, the Bureau issued a Letter of Inquiry ("LOI") to Monster.⁸ The LOI directed Monster, among other things, to submit a sworn written response to a series of questions relating to its manufacture and marketing of the Monster iCarPlay Wireless device. Monster responded to the February 9, 2007 LOI on March 12, 2007.⁹

II. 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.** Monster 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, Monster 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 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 Monster 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 Monster with respect to Monster's basic qualifications,

⁶ 47 U.S.C. § 302a(b).

⁷ 47 C.F.R. §§ 2.1 *et seq.* and 15.1 *et seq.*

⁸ February 9, 2007 LOI.

⁹ Letter from Colin S. Stretch to Neal McNeil, Spectrum Enforcement Division, Enforcement Bureau (March 12, 2007).

including its character qualifications, to be a Commission licensee or hold or obtain new Commission authorizations.

8. **Compliance Plan.** For purposes of settling the matters set forth herein, Monster agrees to maintain an FCC Compliance Plan (“Compliance Plan”) related to Monster’s future compliance with the Act, the Commission’s Rules, and the Commission’s Orders. The Compliance Plan will include the following components:

- (a) **FCC Compliance Procedures.** Monster shall develop and update as necessary appropriate FCC Compliance Procedures. Relevant Monster personnel shall be made aware of the FCC Compliance Procedures and shall be required to follow them. The FCC Compliance Procedures will include appropriate steps to ensure that intentional radiators that Monster markets and sells in the United States comply with the Act and the Commission’s Rules to the extent applicable.
- (b) **Compliance Officer.** Monster shall designate a Compliance Officer (“Compliance Officer”) who will be responsible for implementing and administering the Compliance Plan.
- (c) **Compliance Reports.** Monster will file compliance reports with the Commission ninety days after the Effective Date, twelve months after the Effective Date, and twenty-four months after the Effective Date. Each compliance report shall include a compliance certificate from an officer, as an agent of Monster, stating that the officer has personal knowledge that Monster 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 the 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 Neal McNeil at Neal.McNeil@fcc.gov and to Kathy Berthot at Kathy.Berthot@fcc.gov.
- (d) **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire twenty-four months after the Effective Date.

9. **Voluntary Contribution.** Monster agrees that it will make a voluntary contribution to the United States Treasury in the amount of twelve thousand, five hundred dollars (\$12,500). The payment will be made within thirty (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). Monster will also send electronic notification on the date said payment is made to Neal McNeil at Neal.McNeil@fcc.gov and to Kathy Berthot at Kathy.Berthot@fcc.gov.

10. **Waivers.** Monster 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. Monster 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 Monster nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Monster shall waive any statutory right to a trial *de novo*. Monster 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 is rendered invalid by any court of competent jurisdiction, this Consent Decree 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 this 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 Monster does not expressly consent) that provision will be superseded by such Commission rule or Order.

13. **Successors and Assigns.** Monster 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 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. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, Monster does not admit or deny noncompliance, violation or liability for violating the Act or Rules in connection with the matters that are the subject of this Consent Decree.

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.

For the Enforcement Bureau:

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

Date

For Monster Cable Products, Inc. and Monster LLC:

David Tognotti
General Counsel and Vice President of Administration

Date