

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

In the Matter of)	
)	
LawMate Technology Co., Ltd.)	File No. EB-07-SE-206
)	NAL/Act. No. 200932100072
)	FRN 0017134156
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: July 14, 2009

Released: July 15, 2009

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture and Order* (“NAL”), we find LawMate Technology Co., Ltd. (“LawMate”) apparently liable for a forfeiture in the amount of fourteen thousand dollars (\$14,000) for willful and repeated violation of Section 302(b) of the Communications Act of 1934, as amended (“Act”),¹ and Section 2.803(a) of the Commission’s Rules (“Rules”).² The apparent violation involves LawMate’s marketing of unauthorized radio frequency devices.

II. BACKGROUND

2. By letter of inquiry (“LOI”) dated September, 19, 2007, the Enforcement Bureau (“Bureau”) Spectrum Enforcement Division (“Division”) initiated an investigation into whether LawMate had marketed non-compliant wireless video transmitter devices in the United States.³ In subsequent LOIs dated August 4, 2008, and September 10, 2008, the Division instructed LawMate to provide specific information regarding the importation and certification status of its TD-2402CK, TD-2405CK, TD-2418CK, and TD-1218CK transmitters.⁴

3. In response to the August 4, 2008 LOI, LawMate concedes that it marketed its TD-2402CK, TD-2405CK, TD-2418CK, and TD-1218CK transmitters without the required FCC authorizations.⁵ Furthermore, in its response to the September 10, 2008 LOI, LawMate indicates that, within the past year, it manufactured and sold units of its TD-2418CK and TD-1218CK transmitters to

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. § 2.803(a).

³ See letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission to LawMate Technology Co., Ltd. (September 19, 2007).

⁴ Letters from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission to Sabar Yang, General Manager, LawMate Technology Co., Ltd. dated August 4, 2008 (“August 4 LOI”) and September 10, 2008 (“September 10 LOI”).

⁵ See letter from Sabar Yang, General Manager, LawMate Technology Co., Ltd. to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (“August 20 Response”) at 2.

companies in the United States.⁶ LawMate's response indicates that it has not sold its TD-2402CK or TD-2405CK models in the United States within the past year.⁷

III. DISCUSSION

A. Marketing of Unauthorized Equipment

4. 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 Rules provides 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 radio frequency device⁸ 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 [*emphasis added*].

As intentional radiators,⁹ wireless video transmitters are required by Section 15.201 of the Rules¹⁰ to be approved prior to marketing through the equipment certification¹¹ procedures described in Sections 2.1031 – 2.1060 of the Rules.¹²

5. LawMate admits that it manufactured and sold units of two of its wireless video transmitters in the United States within the past year. LawMate further admits that the devices were not certified prior to marketing in the United States. Accordingly, we find that LawMate apparently marketed¹³ uncertified radio frequency devices in willful¹⁴ and repeated¹⁵ violation of Section 302(b) of the Act and Section 2.803(a) of the Rules.

⁶ See letter from Saber Yang, General Manager, LawMate Technology Co., Ltd. to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (October 1, 2008) (“October 1 Response”) at 2.

⁷ *Id.*

⁸ 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.”

⁹ An intentional radiator is “[a] device that intentionally generates and emits radio frequency energy by radiation or induction.” 47 C.F.R. § 15.3 (o).

¹⁰ 47 C.F.R. § 15.201.

¹¹ 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).

¹² 47 C.F.R. §§ 2.1031 – 2.1060.

¹³ Marketing, as defined in 47 C.F.R. § 2.803(e)(4), “includes 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.”

¹⁴ 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.*, Memorandum

B. Proposed Forfeiture

6. 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.¹⁶ 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.”¹⁷

7. Section 503(b)(6) of the Act bars the Commission from proposing a forfeiture for violations that occurred more than a year prior to the issuance of a Notice of Apparent Liability.¹⁸ Section 503(b)(6) does not, however, bar the Commission from assessing whether LawMate’s conduct prior to that time period apparently violated the provisions of the Act and Rules and from considering such conduct in determining the appropriate forfeiture amount for violations that occurred within the one-year statutory period.¹⁹ Thus, while we may consider the fact that LawMate’s conduct commenced more than one year ago, the forfeiture amount we propose herein relates only to LawMate’s apparent violations that have occurred within the past year.

8. Pursuant to the Commission’s *Forfeiture Policy Statement*²⁰ and Section 1.80 of the Rules,²¹ the base forfeiture amount for the marketing of unauthorized equipment is \$7,000. At the time of LawMate’s apparent violation, Section 503(b)(2)(D) of the Act authorized the Commission to assess a maximum forfeiture of \$11,000 for each violation, or each day of a continuing violation, up to a statutory maximum forfeiture of \$97,500 for any single continuing violation.²²

Opinion and Order, 6 FCC Rcd 4387, 4388 (1991) (“*Southern California*”).

¹⁵ 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). See, e.g., *Callais Cablevision, Inc., Grand Isle, Louisiana*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362 (2001) (“*Callais Cablevision*”) (issuing a Notice of Apparent Liability for, *inter alia*, a cable television operator’s repeated signal leakage).

¹⁶ 47 U.S.C. § 503(b).

¹⁷ 47 U.S.C. § 503(b)(2)(E). See also 47 C.F.R. § 1.80(b)(4), Note to paragraph (b)(4): Section II. Adjustment Criteria for Section 503 Forfeitures.

¹⁸ 47 U.S.C. § 503(b)(6).

¹⁹ See 47 U.S.C. § 503(b)(2)(D), 47 C.F.R. § 1.80(b)(4); see also *Behringer USA, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 1820, 1825 (2006), *forfeiture ordered*, 22 FCC Rcd. 1051 (2007) (forfeiture paid); *Globcom, Inc. d/b/a Globcom Global Communications*, Notice of Apparent Liability for Forfeiture, 18 FCC Rcd 19893, 19903 (2003), *forfeiture ordered*, 21 FCC Rcd 4710 (2006); *Roadrunner Transportation, Inc.*, Forfeiture Order, 15 FCC Rcd 9669, 9671-71 (2000); *Cate Communications Corp.*, Memorandum Opinion and Order, 60 RR 2d 1386, 1388 (1986); *Eastern Broadcasting Corp.*, Memorandum Opinion and Order, 10 FCC 2d 37 (1967), *recon. den.*, 11 FCC 2d 193 (1967); *Bureau D’Electronique Appliquee, Inc.*, Notice of Apparent Liability for Forfeiture, 20 FCC Rcd 3445, 3447-48 (Enf. Bur., Spectrum Enf. Div. 2005), *forfeiture ordered*, 20 FCC Rcd 17893 (Enf. Bur., Spectrum Enf. Div. 2005) (forfeiture paid).

²⁰ *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recon. denied* 15 FCC Rcd 303 (1999).

²¹ 47 C.F.R. § 1.80.

²² 47 U.S.C. § 503(b)(2)(D). The Commission has amended Section 1.80(b)(3) of the Rules, 47 C.F.R. § 1.80(b)(3),

9. Based on the record before us, and having considered the statutory factors set forth above, we conclude that no upward or downward adjustment of the forfeiture from the base amount of \$7,000 is warranted. Accordingly, we conclude that LawMate is apparently liable for a \$14,000 forfeiture for marketing two uncertified radio frequency device in willful and repeated violation of Section 302(b) of the Act and Section 2.803(a) of the Rules.

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's Rules,²³ LawMate Technology Co., Ltd., is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of fourteen thousand dollars (\$14,000) for marketing two uncertified radio frequency devices in willful and repeated violation of Section 302(a) of the Act and Section 2.803(a) of the Rules.

11. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's Rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, LawMate Technology Co., Ltd., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

12. 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/Account Number and FRN Number referenced above. 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 NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. LawMate will also send electronic notification on the date said payment is made to Neal.McNeil@fcc.gov.

13. 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.

three times to increase the maximum forfeiture amounts, in accordance with the inflation adjustment requirements contained in the Debt Collection Improvement Act of 1996, 28 U.S.C. § 2461. *See Amendment of Section 1.80 of the Commission's Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, 15 FCC Rcd 18221 (2000) (adjusting the maximum statutory amounts from \$10,000/\$75,000 to \$11,000/\$87,500); *Amendment of Section 1.80 of the Commission's Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, 19 FCC Rcd 10945 (2004) (adjusting the maximum statutory amounts from \$11,000/\$87,500 to \$11,000/\$97,500); *Amendment of Section 1.80 of the Commission's Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, 23 FCC Rcd 9845 (2008) (adjusting the maximum statutory amounts from \$11,000/\$97,500 to \$16,000/\$112,500). The most recent inflation adjustment took effect September 2, 2008. *See* 73 Fed. Reg. 44663-5. LawMate's apparent violations occurred prior to this date and therefore are subject to the old statutory forfeiture limits.

²³ 47 U.S.C. § 503(b), 47 C.F.R. § 1.80.

14. 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 ("GAAP"); 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.

15. **IT IS FURTHER ORDERED** that a copy of this *Notice of Apparent Liability for Forfeiture* shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Saber Yang, General Manager, LawMate Technology Co., Ltd., 7FL. No. 99, Kangchien Rd. Taipei, Taiwan.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau