

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

In the Matter of)	
)	File No. EB-06-SE-134
Wistron NeWeb Corporation)	Acct. No. 200932100043
)	FRN # 0006053789

ORDER

Adopted: February 12, 2009

Released: February 13, 2009

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Wistron NeWeb Corporation (“WNC”). The Consent Decree terminates an investigation initiated by the Bureau into whether certain satellite radio equipment manufactured and sold by WNC in Taiwan and imported and marketed in the United States by third parties 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 WNC have negotiated the terms of a Consent Decree that would resolve this matter and terminate the investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree, we find that the public interest will 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 WNC possesses the basic qualifications, including those related to character, to hold or obtain any FCC 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 Bureau’s investigation **IS TERMINATED**.

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.

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 counsel for Wistron NeWeb Corporation, John Janka, Esq., Latham & Watkins LLP, 555 Eleventh Street, N.W., Suite 1000, Washington, D.C. 20004.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

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Wistron NeWeb Corporation)	Acct. No. 200932100043
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CONSENT DECREE

The Enforcement Bureau (“Bureau”) of the Federal Communications Commission (“Commission”) and Wistron NeWeb Corporation (“WNC”) hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether certain satellite radio equipment manufactured and sold by WNC in Taiwan and imported and marketed in the United States by third parties 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

II. 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) “Investigation” means the investigation commenced by the Bureau’s April 20, 2006 Letter of Inquiry³ to WNC regarding whether certain satellite radio receivers (with wireless FM modulators) manufactured and marketed by WNC comply with Section 302(b) of the Act⁴ and Parts 2 and 15 of the Rules.
 - (h) “Parties” means WNC and the Bureau.

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 Edward Yeh, Wistron NeWeb Corporation (April 20, 2006) (“April 20, 2006 LOI”).

⁴ 47 U.S.C. § 302a(b).

- (i) “Rules” means the Commission’s Rules found in Title 47 of the Code of Federal Regulations.
- (j) “WNC” means Wistron NeWeb Corporation, and its predecessors-in-interest and successors-in-interest.

II. BACKGROUND

2. Pursuant to Section 302(b) of the Act⁵ and Parts 2 and 15 of the Rules,⁶ 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 April 20, 2006, the Bureau issued a Letter of Inquiry (“LOI”) to WNC.⁷ The April 20, 2006 LOI directed WNC, among other things, to submit a sworn written response to a series of questions relating to its manufacture and marketing of certain satellite radio receivers (with wireless FM modulators). WNC responded to the April 20, 2006 LOI on June 2, 2006,⁸ and filed a supplemental response on July 24, 2006.⁹

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.** WNC 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, WNC 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

⁵ 47 U.S.C. § 302a(b).

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

⁷ April 20, 2006 LOI.

⁸ Letter from Jeffrey Gau, Vice President of SatCom Business Unit, Wistron NeWeb Corporation, to Neal McNeil, Spectrum Enforcement Division, Enforcement Bureau (June 2, 2006).

⁹ Letter from Jeffrey Gau, Vice President of SatCom Business Unit, Wistron NeWeb Corporation, to Neal McNeil, Spectrum Enforcement Division, Enforcement Bureau (July 24, 2006).

new proceeding, formal or informal, or take any action on its own motion against WNC 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 WNC with respect to WNC's basic qualifications, including its character qualifications, to be a Commission licensee or hold Commission authorizations.

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

- (a) **FCC Compliance Procedures.** WNC shall develop and update as necessary appropriate FCC Compliance Procedures. Relevant WNC personnel shall be made aware of the FCC Compliance Procedures and shall be required to follow them. The FCC Compliance Procedures will, among other things, address the equipment authorization requirements of the Act and the Commission's Rules applicable to consumer electronics devices that are intentional radiators and are manufactured, imported, marketed and sold by WNC in the United States.
- (b) **Compliance Officer.** WNC shall designate a Regulatory Compliance Officer ("Compliance Officer") who will administer the RCP, supervise WNC's compliance with the Act, the Commission's Rules and the Consent Decree, and serve as the WNC point of contact for all Commission-related compliance matters. The Compliance Officer will be assigned responsibility within WNC for determining whether the manufacture, importation, marketing, and sale of such devices are in compliance with FCC Compliance Procedures.
- (c) **Review and Monitoring.** WNC will review the RCP annually to ensure that it is maintained in a proper manner and continues to address the objectives set forth therein.
- (d) **Compliance Reports.** WNC 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 WNC, stating that the officer has personal knowledge that WNC 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.
- (e) **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire twenty-four months after the Effective Date.

9. **Marketing of Radio Frequency Devices.** WNC agrees that every radio frequency device that is imported or marketed by WNC in the United States on or after the Effective Date of this Consent Decree shall be compliant with Parts 2 and 15 of the Rules before importation and marketing by WNC.

10. **Voluntary Contribution.** WNC agrees that it will make a voluntary contribution to the United States Treasury in the amount of Thirty Thousand Dollars (\$30,000). 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). WNC 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.

11. **Waivers.** WNC 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 the Adopting Order adopting the Consent Decree without change, addition, modification, or deletion. WNC 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 WNC nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and WNC shall waive any statutory right to a trial *de novo*. WNC 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.

12. **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.

13. **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 WNC does not expressly consent), that provision will be superseded by such Commission rule or Order.

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

15. **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. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, WNC 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.

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

17. **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.

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

19. **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:

Kris Anne Monteith
Chief, Enforcement Bureau

Date

For Wistron NeWeb Corporation:

Jeffrey Gau
Chief Operating Officer

Date