



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

November 20, 2009

**VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED**  
**AND FACSIMILE AT 800.589.5939**

Mr. Jim Troxell  
President & CEO  
Troxell Communications, Inc.  
4830 S. 38<sup>th</sup> Street  
Phoenix, Arizona 85040

**Re: File No. EB-09-SE-103**

Dear Mr. Troxell:

This is an official **CITATION**, issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Act"),<sup>1</sup> for marketing an unauthorized radio frequency device in the United States in violation of Section 302(b) of the Act, and Section 2.803(a) of the Commission's Rules ("Rules").<sup>2</sup> As explained below, future violations of the Commission's rules in this regard may subject Troxell Communications, Inc. ("Troxell") to monetary forfeitures.

On May 7, 2009, the Spectrum Enforcement Division of the Commission's Enforcement Bureau ("Division") received a complaint alleging that Troxell was marketing an unauthorized radio frequency device, namely the QRF600 interactive wireless audience response system (or "QRF600"), which operates in the 2400 – 2483.5 MHz band. Division staff observed that Troxell was marketing the QRF600 on its website, [www.trox.com](http://www.trox.com). A review of Commission records at that time revealed no equipment authorization for the device. Because it appeared that Troxell was marketing<sup>3</sup> the QRF600 without proper authorization, the Division sent Troxell a letter of inquiry ("LOI") on August 20, 2009.<sup>4</sup>

In your September 10, 2009, response to the LOI, you state that Troxell began marketing the QRF600 in the United States in March of 2009.<sup>5</sup> You also state that as of August 31, 2009, Troxell had sold 15 of the subject audience response systems in the United States.<sup>6</sup> You indicate that Troxell does not

<sup>1</sup> 47 U.S.C. § 503(b)(5).

<sup>2</sup> 47 U.S.C. § 302a(b); 47 C.F.R. § 2.803(a).

<sup>3</sup> Marketing" includes the sale or lease, offer for sale or lease (including advertising for sale or lease), importing, shipping, and/or distribution for the purpose of selling or leasing or offering for sale or lease. 47 C.F.R. § 2.803(e)(4).

<sup>4</sup> Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Mr. Jim Troxell, President & CEO, Troxell Communications, Inc. (August 20, 2009).

<sup>5</sup> Letter from Wilton Hom, Esq., Counsel to Troxell Communications, Inc., to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (September 10, 2009) at 1.

<sup>6</sup> *Id.*

manufacture or import the QRF600. You further state that on information and belief, the QRF600 is manufactured and imported by QOMO HiteVision, LLC ("QOMO").<sup>7</sup> You maintain that as a distributor, Troxell relies on manufacturer statements regarding compliance with FCC regulations, and has no independent knowledge about the testing or compliance of the various products it distributes, including the QRF600.<sup>8</sup> You assert that upon receipt of the LOI, Troxell removed the subject audience response system from its websites.<sup>9</sup>

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 Commission's implementing regulations provides that:

[N]o 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.

Under Section 15.201(b) of the Rules,<sup>10</sup> intentional radiators,<sup>11</sup> such as the QRF600 audience response system, must be authorized in accordance with the Commission's certification procedures before marketing is initiated in the United States.<sup>12</sup>

Troxell admits to marketing the QRF600 in the United States, beginning in March of 2009. The QRF600 was not certified by the Commission until September 27, 2009.<sup>13</sup> Accordingly, it appears that Troxell has violated Section 302(b) of the Act and Sections 2.803(a) of the Rules by marketing an unauthorized radio frequency device in the United States.

---

<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.* at 1.

<sup>9</sup> *Id.* at 2.

<sup>10</sup> 47 C.F.R. § 15.201(b).

<sup>11</sup> Section 15.3(o) of the Rules defines an "intentional radiator" as a "device that intentionally generates and emits radio frequency energy by radiation or induction." 47 C.F.R. § 15.3(o).

<sup>12</sup> Section 2.803(e)(4) of the Rules defines "marketing" as the "sale or lease, or offering to 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>13</sup> *See* FCC IDs XQGQRF600-RE and XQGQRF600-TR (granted: September 27, 2009; grantee: QOMO HiteVision LLC.).

**If, after receipt of this citation, Troxell violates the Communications Act or the Commission's rules in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$16,000 for each such violation or each day of a continuing violation.**<sup>14</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 you are taking to ensure that you do not violate the Commission's rules governing the marketing of radio frequency equipment in the future.

The nearest Commission field office appears to be the San Diego Office, in San Diego California. Please call Jennifer Burton at 202.418.7581 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:

Jennifer Burton, Esq.  
Spectrum Enforcement Division  
Enforcement Bureau  
Re: EB-09-SE-103  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Rm. 3-A445  
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 an 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.

We thank you in advance for your anticipated cooperation.

Sincerely,

Kathryn Berthot  
Chief, Spectrum Enforcement Division  
Enforcement Bureau  
Federal Communications Commission

cc: Wilton A. Hom, Esq.  
Wilton A. Hom, PLC  
30833 Northwestern Hwy, Suite 203  
Farmington Hills, MI 48334

---

<sup>14</sup> See 47 C.F.R. § 1.80(b)(3).