

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

In the Matter of)
Everbuying.com) File No.: EB-10-CF-0171
Nanshan District, Shenzhen 518057, China) Citation No.: C201132340002

CITATION

ILLEGAL MARKETING OF CELL PHONE AND GPS JAMMERS

Adopted: December 6, 2010

Released: December 6, 2010

By the District Director, Columbia Office, Northeast Region, Enforcement Bureau:

I. INTRODUCTION

1. This is an official CITATION issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Communications Act"), to Everbuying.com for marketing unauthorized radio frequency devices in the United States in violation of Section 302(b) of the Communications Act, and Section 2.803(a)(1) of the Commission's rules ("Rules").

2. Everbuying.com should take immediate steps to come into compliance and to avoid any recurrence of this misconduct. As explained below and as provided in the Communications Act, future violations of the Rules in this regard may subject your company to substantial monetary penalties, seizure of equipment, and criminal sanctions.

II. BACKGROUND

3. On July 23, 2010, an agent from the Enforcement Bureau's Columbia Office ("Columbia Office") viewed Everbuying.com's web site, www.everbuying.com, and observed an advertisement for a device listed as a "Mini Cigarette Lighter Anti-Tracker GPS Jammer Blocker." On July 23, 2010, the agent made an undercover buy on-line, and received the device through the mail from Dalee Technology LTD. The agent conducted tests and confirmed that the device jams the GPS L1 frequency 1575.42 MHz. On several subsequent occasions, agents have visited Everbuying.com's web site and observed that it was marketing both cell phone signal blocker devices and GPS signal blocker devices (collectively, "jammer devices").

1 47 U.S.C. § 503(b)(5).

2 47 U.S.C. § 302a(b).

3 47 C.F.R. §§ 2.803(a)(1).

4 The agent observed on November 4, 5, and 22, 2010, that Everbuying.com was offering for sale several different jammer devices on its web site. See www.everbuying.com (featuring the Mobile Cell Phone GPS Jammer Blocker, (continued....))

III. APPLICABLE LAW AND VIOLATIONS

4. Federal law prohibits the marketing and operation of jammer devices in the United States. Section 333 of the Communications Act states that “[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government.”⁵ In addition, Section 302(b) of the Communications 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.”⁶

5. Section 2.803(a)(1) of the Commission’s implementing regulations provides that “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 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....”⁷ Additionally, Section 2.803(g) of the Rules provides in pertinent part that “radio frequency devices that could not be authorized or legally operated under the current rules...shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission.”⁸

6. Pursuant to Section 15.201(b) of the Rules,⁹ before intentional radiators¹⁰ like jammer devices can be marketed in the United States, they must be authorized in accordance with the Commission’s certification procedures. Section 2.803(e)(4) of the Rules defines “marketing” as the “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.”¹¹

7. Jammer devices, however, cannot be certified or authorized because the main purpose of jammer devices is to block or interfere with radio communications. Such use is clearly prohibited by Section 333 of the Communications Act. Moreover, GPS signal blockers operate within restricted frequency bands listed in Section 15.205(a) of the Rules.¹² Thus, these devices cannot comply with the FCC’s technical standards and therefore cannot be marketed in the United States.¹³

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Delicate cell phone jammers TG-101(latest design) with internal insulated antenna, and an 8W cell phone 3G jammer with remote control, and noting that these devices “can disable all types of cellular signals including the new 3G band”).

⁵ 47 U.S.C. § 333.

⁶ 47 U.S.C. § 302a(b).

⁷ 47 C.F.R. § 2.803(a)(1).

⁸ 47 C.F.R. § 2.803(g).

⁹ 47 C.F.R. § 15.201(b).

¹⁰ 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).

¹¹ 47 C.F.R. § 2.803(e)(4).

¹² 47 C.F.R. § 15.205(a).

¹³ These devices may be used in the United States only in limited circumstances not present here. *See e.g.*, 47 U.S.C. § 302a(c) (“Devices ... for use by the Government of the United States or any agency thereof shall be developed, procured, or otherwise acquired, including offshore procurement, under United States Government (continued....)”).

8. Everbuying.com advertised on its web site a Mini Cigarette Lighter Anti-Tracker GPS Jammer Blocker device, which was subsequently sold and shipped to an Enforcement Bureau agent in the United States. Everbuying.com continues to offer jammer devices for sale on its web site, www.everbuying.com, and to solicit customers worldwide. Accordingly, we find that Everbuying.com has violated Section 302(b) of the Communications Act and Section 2.803 of the Rules by marketing in the United States radio frequency devices that are not eligible for certification.¹⁴ We therefore issue this Citation to Everbuying.com for violating the Rules as discussed above. Everbuying.com should take immediate steps to ensure that it does not continue to violate the Rules, including not completing any sale of jammer devices to customers in the United States.

IV. FUTURE COMPLIANCE

9. If, after receipt of this Citation, Everbuying.com violates the Communications Act or the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures of up to \$16,000 for each such violation or each day of a continuing violation and up to \$112,500 for any single act or failure to act.¹⁵ In addition, violations of the Communications Act or the Rules can result in seizure of equipment through *in rem* forfeiture actions, as well as criminal sanctions, including imprisonment.¹⁶

10. Everbuying.com may respond to this Citation within thirty (30) days after the release date of this Citation either through (1) a personal interview at the closest FCC office, or (2) a written statement. Any written statements should specify what actions have been taken by Everbuying.com to ensure that it does not violate the Rules governing the marketing of radio frequency devices in the future. Please reference file number EB-10-CF-0171 when corresponding with the Commission.

11. Under the Privacy Act of 1974, any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.¹⁷ Any knowingly or willfully false statement, or concealment of any material fact, made in reply to this Citation is punishable

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criteria, standards, or specifications designed to achieve the objectives of reducing interference to radio reception and to home electronic equipment and systems, taking into account the unique needs of national defense and security.).

¹⁴ Furthermore, we note that it is not sufficient to merely include a notice on your web site indicating that jammer devices may not be allowed in certain countries, and stating that it is the purchaser's responsibility to comply with local regulations. *See, e.g., Phonejammer.com*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 3827, 3830 (EB 2010). Such a statement is misleading to consumers as Section 2.803(a) is specifically directed at, and enforceable against, persons selling, leasing, offering for sale or lease, importing, shipping, or distributing for the purpose of sale or lease, noncompliant radio frequency devices. Therefore, as a seller of such devices, Everbuying.com is *also* responsible for understanding and complying with FCC rules. As noted, *supra*, it is a violation of the Communications Act and the Rules for Everbuying.com to sell these jammer devices to individuals in the United States.

¹⁵ *See* 47 U.S.C. § 401, 501, 503; 47 C.F.R. § 1.80(b)(3). This amount is subject to further adjustment for inflation (*see id.* § 1.80(b)(5)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

¹⁶ *See* 47 U.S.C. § 510.

¹⁷ *See* Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

by fine or imprisonment.¹⁸ Please also note that Section 1.17 of the Rules requires that you provide truthful and accurate statements to the Commission.¹⁹

V. CONTACT INFORMATION

12. The closest FCC Office is the Seattle Field Office in Kirkland, Washington. You may contact Salomon Satche by telephone, (301) 725-1996, to schedule a personal interview, which must take place within thirty (30) days after the release date of this Citation. You should send any written statement within thirty (30) days after the release date of this Citation to: Federal Communications Commission, Columbia Field Office, 9200 Farm House Lane, Columbia, MD 21046

13. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five (5) days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-0530 (voice), 202-418-0432 (tty);

To request this document in accessible formats for people with disabilities (braille, large print, electronic files, audio format): 202-418-0530 (voice), 202-418-0432 (tty).

VI. ORDERING CLAUSES

14. **IT IS ORDERED** that a copy of this Citation shall be sent both by First Class U.S. Mail and overnight mail to Everbuying.com at Room 18K, Nanjingyan, Tao Yuan RD, Nanshan District, Shenzhen 518057, China and by electronic mail to Everbuying.com at support@everbuying.com.

FEDERAL COMMUNICATIONS COMMISSION

Salomon Satche
District Director
Columbia Office
Northeast Region
Enforcement Bureau

¹⁸ See 18 U.S.C. § 1001 *et seq.*

¹⁹ 47 C.F.R. § 1.17 (“... no person subject to this rule shall; (1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and (2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.”).