

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

In the Matter of)	File Nos.: EB-10-CG-0011
)	EB-10-LA-0001
)	
ReconRobotics, Inc.)	Acct. No.: 201132320004
)	
)	FRN: 0016022279

ORDER

Adopted: July 12, 2011

Released: July 13, 2011

By the Regional Director, Northeast Region, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) of the Federal Communications Commission (“FCC” or “Commission”) and ReconRobotics, Inc. (“ReconRobotics”). The Consent Decree terminates an investigation by the Bureau into whether ReconRobotics violated section 302a(b) of the Communications Act of 1934, as amended (“Act”),¹ and section 2.803 of the Commission’s rules (“Rules”),² regarding the manufacturing, marketing, distributing, and selling of radio frequency transmitters.

2. The Bureau and ReconRobotics have negotiated the terms of a Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated herein 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 ReconRobotics 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**.

¹ 47 U. S. C. § 302a(b).

² 47 C.F.R. §§ 2.803(a)(1).

³ 47 U. S. C. §154(i).

⁴ 47 C.F.R. §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class and certified mail, return receipt requested, to counsel for ReconRobotics, Inc., Mitchell Lazarus, Fletcher, Heald & Hildreth, P.L.C., 1300 North 17th Street 11th Floor, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

G. Michael Moffitt
Regional Director
Northeast Region
Enforcement Bureau

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CONSENT DECREE

1. The Enforcement Bureau and ReconRobotics, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into whether ReconRobotics, Inc. violated section 302a(b) of the Communications Act of 1934, as amended ("Act"),¹ and section 2.803 of the Commission's rules,² regarding the manufacturing, marketing, distributing, and selling of radio frequency transmitters.

I. DEFINITIONS

2. 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) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
- (c) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
- (d) "Effective Date" means the date on which the Bureau releases the Adopting Order.
- (e) "Compliance Plan" means the program described in this Consent Decree at paragraph 9.
- (f) "Investigation" means the investigation initiated by the Bureau's March 15, 2010 letter of inquiry³ regarding possible violations by ReconRobotics of section 302a(b) of the Act and section 2.803(a)(1) of the Rules.

¹ 47 U. S. C. § 302a(b).

² 47 C.F.R. §§ 2.803(a)(1).

³ Letter from Mr. James M. Roop, District Director, Chicago Office, Northeast Region, Enforcement Bureau to Alan Bignall, President and CEO, ReconRobotics, Inc. (March 15, 2010).

- (g) “ReconRobotics” or “the Company” means ReconRobotics, Inc. and its subsidiaries and their predecessors-in-interest and successors-in-interest.
- (h) “Order” or “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (i) “Parties” means ReconRobotics and the Bureau, and each is a “Party.”
- (j) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

3. Section 302a(b) of the Act and section 2.803(a)(1) of the Rules prohibit the marketing of radio frequency devices in the United States unless such devices comply with the applicable technical and administrative provisions of the Rules.⁴

4. On March 15, 2010, in response to a complaint alleging that the Company had unlawfully marketed the Recon Scout surveillance device before receiving an equipment certification from the Commission, the Bureau’s Chicago Field Office issued a letter of inquiry (“LOI”) to ReconRobotics.⁵ The Recon Scout is a remote-controlled, maneuverable surveillance robot operating in the 420-450 MHz band. The LOI directed ReconRobotics to respond to a series of questions regarding the manufacturing, marketing, distributing, and selling of the Recon Scout surveillance device. ReconRobotics responded to the LOI on April 23, 2010⁶ and ReconRobotics and the Bureau subsequently entered into settlement discussions.

III. TERMS OF AGREEMENT

5. **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.

6. **Jurisdiction.** ReconRobotics 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.

7. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. 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.

⁴ 47 U.S.C. § 302a(b); 47 C.F.R. § 2.803(a)(1).

⁵ See LOI, n.3 *supra*.

⁶ Letter from Mitchell Lazarus and Christine E. Goepf, Counsel for ReconRobotics, Inc., to Mr. James M. Roop, District Director, Chicago Office, Northeast Region, Enforcement Bureau (April 23, 2010).

8. **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 the Investigation. In consideration for the termination of the Investigation, ReconRobotics 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 ReconRobotics, or any party engaged in the evaluation of ReconRobotics's products, 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 ReconRobotics with respect to ReconRobotics's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

9. **Compliance Plan.** For purposes of settling the matters set forth herein, ReconRobotics agrees, within thirty (30) days of the Effective Date, to create and maintain a Compliance Plan related to future compliance with the Act and the Rules and orders concerning the manufacturing, marketing, distribution, and selling of radio frequency devices. The Compliance Plan will include, at a minimum, the following components:

(a) **Training.** Within sixty (60) days of the Effective Date, ReconRobotics will implement and conduct a training program for all of its employees responsible for the development, marketing, and sourcing of radio frequency devices by ReconRobotics in the United States. New employees, or reassigned employees who take on such responsibilities, will be provided such training within 30 days of hiring or reassignment.

(b) **Compliance Officer.** ReconRobotics shall designate a Compliance Officer within thirty (30) days of the Effective Date. The Compliance Officer shall be responsible for administering the Compliance Plan and shall be the individual with central responsibility for overseeing ReconRobotics's compliance with the Compliance Plan and with the Act and the Rules and orders.

(c) **Review and Monitoring.** ReconRobotics shall review the Compliance Training Program to ensure that it continues to ensure compliance with the Act and the Commission's Rules and orders pertaining to the development, marketing and sourcing of radio frequency devices. ReconRobotics shall update the Compliance Training Program as necessary and appropriate, and in the event of changes and/or additions to the relevant Rules and orders shall update the Compliance Training Program within thirty (30) days after the effective date of any such change or addition.

(d) **Compliance Reports.** ReconRobotics shall file Compliance Reports with the Commission ninety (90) days after the Effective Date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date. ReconRobotics also shall disclose any failure to comply with the terms and conditions of this Consent Decree within fifteen (15) business days after discovery of such failure to comply.

- (1) Each Compliance Report shall include assertions by ReconRobotics that it:
 - a. has established operating procedures intended to ensure compliance with the terms and conditions of this Consent Decree and with the relevant sections of the Rules, together

- with an accompanying statement explaining the basis for the assertion;
 - b. has been utilizing these procedures for the entire term of the Compliance Plan;
 - c. has disclosed any known instances of non-compliance with this Compliance Plan discovered during the reporting period; and
 - d. has addressed any instances of non-compliance and taken steps to remedy the cause thereof.
- (2) Each Compliance Report must be supported by the declaration of an officer as an agent of and on behalf of ReconRobotics with personal knowledge of the representations provided in the report, verifying the truth and accuracy of the information. The declaration must comply with section 1.16 and be subscribed to as true under penalty of perjury in substantially the same form set forth therein.
- (3) Any instance of non-compliance with the Compliance Plan disclosed in the report shall provide:
- a. a detailed explanation of the non-compliance;
 - b. the steps ReconRobotics has taken to remedy the non-compliance and ensure future compliance; and
 - c. the schedule on which the proposed remedial actions will be taken.

(e) Filing. All Compliance Reports and other disclosures required by this Consent Decree shall be submitted to Sharon Webber, Regional Counsel, Northeast Region, Enforcement Bureau, Federal Communications Commission, One Oxford Valley Office Building, Room 404, 2300 East Lincoln Highway, Langhorne, PA 19047. ReconRobotics must also transmit a copy of the reports via email to NER-Response@fcc.gov.

10. **Termination Date**. Unless stated otherwise, the requirements of paragraph 9 of this Consent Decree will expire twenty-four (24) months after the Effective Date.

11. **Voluntary Contribution**. ReconRobotics agrees that it will make a voluntary contribution to the United States Treasury in the amount of seventeen thousand five hundred dollars (\$17,500). The payment will be made within thirty (30) calendar days after the Effective Date. 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 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). ReconRobotics will also send electronic notification to NER-Response@fcc.gov on the date said payment is made.

12. **Waivers**. ReconRobotics 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. ReconRobotics 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 ReconRobotics nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and ReconRobotics shall waive any statutory right to a trial *de novo*. ReconRobotics 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.

13. **Invalidity.** In the event that this Consent Decree is rendered invalid by a court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

14. **Subsequent Rule or Order.** The Parties agree that if any provision of the 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 ReconRobotics does not expressly consent) that provision will be superseded by such Rule or order.

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

16. **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.

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

18. **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.

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

20. **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.

G. Michael Moffitt
Regional Director
Northeast Region
Enforcement Bureau

Date

Alan Bignall
President and CEO
ReconRobotics, Inc.

Date