

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

In the Matter of)	
)	File No.: EB-11-SJ-0031
Spy Gallery, Inc.)	
)	Citation No.: C201232680001
San Juan, PR)	
)	
)	

CITATION AND ORDER

ILLEGAL MARKETING OF SIGNAL JAMMING DEVICES

Adopted: October 17, 2011

Released: October 17, 2011

By the Resident Agent, San Juan Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. This is an official **CITATION AND ORDER** (“Citation”) issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (“Communications Act”),¹ to Spy Gallery, Inc. (“Spy Gallery”) for marketing to consumers in the United States and its territories (“United States”)² unauthorized radio frequency devices – cell phone signal blockers and Global Positioning System (“GPS”) signal jammers (collectively, “signal jamming devices”) – in violation of section 302(b) of the Act,³ and sections 2.803 and 15.201(b) of the Commission’s rules (“Rules”).⁴

2. Spy Gallery should take immediate steps to come into compliance and to avoid any recurrence of this misconduct, including actions such as removing illegal signal jamming devices from displays and declining to sell signal jamming devices in the United States. Signal jamming devices pose significant risks to public safety and potentially compromise other radio communications services. As explained below and as provided in the Communications Act, future violations of the Rules in this regard may subject Spy Gallery to substantial monetary penalties, seizure of equipment, and criminal sanctions. Pursuant to sections 4(i), 4(j), and 403 of the Communications Act, we also direct Spy Gallery to confirm within thirty (30) calendar days after the release date of this Citation that it has ceased to market signal jamming devices and to provide information concerning its signal jamming device suppliers, distribution channels, and sales.

¹ 47 U.S.C. § 503(b)(5).

² In very limited circumstances and consistent with applicable procurement requirements, retailers may market these devices to the U.S. federal government for authorized, official use. See 47 U.S.C. § 302a(c); see also 47 C.F.R. § 2.807(d).

³ 47 U.S.C. § 302a(b).

⁴ 47 C.F.R. §§ 2.803(a)(1), 15.201(b).

II. BACKGROUND

3. On May 3, 2011, Spy Gallery sold a cell phone signal blocker device to a private citizen for use in a child care center.⁵ In addition, on June 29, 2011, in response to a complaint, agents from the Enforcement Bureau's San Juan Office ("San Juan Office") visited the Spy Gallery retail store in the Plaza Las Americas Mall in San Juan and observed a salesperson offer for sale signal jamming devices.⁶ Specifically, Spy Gallery's salesman explained to the agents that the devices can jam both wireless and GPS networks and that their jamming ranges extend from 10 meters to well over 100 meters.

III. APPLICABLE LAW AND VIOLATIONS

4. Federal law prohibits the marketing and operation of signal jamming devices in the United States and its territories. 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."⁷ 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."⁸

5. The applicable implementing regulations for section 302(b) are set forth in sections 2.803, 15.201 and 15.3(o) of the Rules.⁹ Section 2.803(a)(1) of the Rules 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 as required by § 2.925 and other relevant sections in this chapter.¹⁰

Additionally, section 2.803(g) of the Rules provides in relevant part that:

[R]adio 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.¹¹

⁵ The outside of the signal jamming device sold to the child care center did not contain any identifying information. The manual accompanying the device contained a Spy Gallery inventory sticker, which identified the signal jamming device as model CVSAL-3400.

⁶ The outside of the signal jamming devices did not contain any identifying information. However, Spy Gallery identified the cellular signal jamming device as model CVSAL-3400 and the GPS signal jamming device as model CVDLM-GJ168. The entity, which supplied Spy Gallery with the devices, listed these model numbers on an invoice. We separately will pursue appropriate enforcement action against this entity.

⁷ 47 U.S.C. § 333.

⁸ 47 U.S.C. § 302a(b).

⁹ 47 C.F.R. §§ 2.803, 15.201, and 15.3(o).

¹⁰ 47 C.F.R. § 2.803(a)(1).

¹¹ 47 C.F.R. § 2.803(g).

6. Pursuant to section 15.201(b) of the Rules,¹² intentional radiators¹³ like signal jamming devices cannot be marketed in the United States or its territories unless they have first been 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."¹⁴

7. Signal jamming devices, however, cannot be certified or authorized because their primary purpose is to block or interfere with authorized radio communications. As noted above, use of such a device is clearly prohibited by section 333 of the Communications Act. Thus, signal jamming devices such as those offered by Spy Gallery cannot comply with the FCC's technical standards and therefore cannot be marketed lawfully in the United States or its territories.¹⁵

8. On May 3, 2011, Spy Gallery sold a cell phone signal blocker device to a private citizen. On June 29, 2011, a Spy Gallery salesman offered for sale signal jamming devices to agents from the San Juan Office in its retail store at Plaza Las Americas Mall in San Juan. Accordingly, we find that Spy Gallery has violated section 302(b) of the Communications Act and sections 2.803 and 15.201(b) of the Rules by marketing in the United States radio frequency devices that are not eligible for certification. We therefore issue this Citation to Spy Gallery for violating the Rules and the Communications Act as discussed above. Spy Gallery should take immediate steps to ensure that it does not continue to market these signal jamming devices or other signal jamming devices. This may include actions such as removing illegal signal jamming devices from displays and declining to sell signal jamming devices to consumers in the United States.¹⁶

IV. REQUEST FOR INFORMATION

9. Pursuant to sections 4(i), 4(j), and 403 of the Communications Act,¹⁷ Spy Gallery is directed to provide the information requested in confidential Appendix A hereto within thirty (30) calendar days after the release date of this Citation. The request for information concerns Spy Gallery's signal jamming suppliers and sales as well as the disposition of its signal jamming device inventory. A failure to respond, or an inadequate, incomplete, or misleading response, may subject Spy Gallery to additional sanctions.¹⁸

¹² 47 C.F.R. § 15.201(b).

¹³ 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).

¹⁴ 47 C.F.R. § 2.803(e)(4).

¹⁵ See *supra* note 2.

¹⁶ *Id.*

¹⁷ 47 U.S.C. §§ 154(i), 154(j), 403.

¹⁸ See, e.g., *SBC Communications, Inc., Apparent Liability for Forfeiture*, Forfeiture Order, 17 FCC Rcd 7589, 7599-7600, ¶¶ 23-28 (2002) (\$100,000 forfeiture for egregious and intentional misconduct, *i.e.*, refusing to attest to truthfulness and accuracy of responses to a Letter Inquiry (LOI)); *Connect Paging, Inc. d/b/a Get A Phone*, Forfeiture Order, 22 FCC Rcd 15146 (Enf. Bur. 2007) (\$4,000 forfeiture for failure to respond to an LOI); *BigZoo.Com Corporation*, Order of Forfeiture, 20 FCC Rcd 3954 (Enf. Bur. 2005) (\$20,000 forfeiture for failure to respond to a USF LOI); *Donald W. Kaminski, Jr.*, Forfeiture Order, 18 FCC Rcd 26065 (Enf. Bur. 2003) (\$4,000 forfeiture for failure to respond to an LOI); *World Communications Satellite Systems, Inc.*, Notice of Apparent Liability for Forfeiture, 18 FCC Rcd 18545 (Enf. Bur. 2003) (\$10,000 forfeiture for a non-responsive reply to an LOI); *Digital Antenna, Inc., Sunrise, Florida*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 7600 (Spectrum Enf. Div., Enf. Bur. 2007) (\$11,000 forfeiture for failure to provide complete responses to an LOI).

V. FUTURE COMPLIANCE

10. If, after receipt of this Citation, Spy Gallery 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.¹⁹ For instance, the Commission could impose separate forfeitures for each signal jamming device sold or for each day on which a signal jamming device is advertised or otherwise offered for sale. Violations of the Communications Act or the Rules also can result in seizure of equipment through *in rem* forfeiture actions,²⁰ as well as criminal sanctions, including imprisonment.²¹

11. In addition to providing the required information described in paragraph 9 above, Spy Gallery may respond to this Citation within 30 (thirty) calendar 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 the actions taken by Spy Gallery to ensure that it does not violate the Commission's rules governing the marketing of cell and GPS signal jamming devices and other radio frequency devices in the future. Please reference file number EB-11-SJ-0031 when corresponding with the Commission.

12. 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.²² Any knowingly or willfully false statement, or concealment of any material fact, made in reply to this Citation is punishable by fine or imprisonment.²³ Please also note that section 1.17 of the Rules requires that you provide truthful and accurate statements to the Commission.²⁴

VI. CONTACT INFORMATION

13. The closest FCC Office is the San Juan Office in San Juan, Puerto Rico. Spy Gallery may contact Reuben Jusino by telephone, 787-306-1193, to schedule a personal interview, which must take place within thirty (30) calendar days after the release date of this Citation. You should send any written statement within thirty (30) calendar days after the release date of this Citation to:

¹⁹ 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.

²⁰ See 47 U.S.C. § 510.

²¹ See *id.* §§ 401, 501.

²² See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

²³ See 18 U.S.C. § 1001 *et seq.*

²⁴ 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.”).

Reuben Jusino
Federal Communications Commission
San Juan Office
US Federal Building Room 762
San Juan, PR 00918
Re: EB-11-SJ-0031

14. 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) calendar 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);

For accessible format materials (braille, large print, electronic files, and audio format):
202-418-0531 (voice), 202-418-7365 (tty).

VII. ORDERING CLAUSES

15. **IT IS ORDERED** that pursuant to sections 4(i), 4(j), and 403 of the Communications Act, Spy Gallery, Inc. must provide the information requested in paragraph 9 and Confidential Appendix A to this Citation and Order. The response to the Request for Information must be provided in the manner indicated herein and must be received by the FCC within thirty (30) calendar days after the release date of this Citation and Order.

16. **IT IS FURTHER ORDERED** that a copy of this Citation and Order shall be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested to Spy Gallery, Inc. at: Plaza Las Americas #429 525 FD, Roosevelt Ave. San Juan, PR 00918 and at: POB 9776, Plaza Carolina Station, Carolina, PR 00988.

FEDERAL COMMUNICATIONS COMMISSION

Reuben Jusino
Resident Agent
San Juan Office
South Central Region
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