

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

In the Matter of)	
)	
DealExtreme)	File No.: EB-07-SE-300
)	
Hong Kong, People's Republic of China)	

CITATION

**ILLEGAL MARKETING OF CELL PHONE AND GPS JAMMERS IN THE UNITED STATES
AND FAILURE TO RESPOND TO FCC LETTERS OF INQUIRY**

Adopted: February 9, 2011**Released: February 9, 2011**

By the Acting Chief, Spectrum Enforcement Division, 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"),¹ to DealExtreme for marketing in the United States unauthorized radio frequency devices in violation of section 302(b) of the Communications Act,² and sections 2.803 and 15.205(a) of the Commission's rules ("Rules"),³ and for failing to respond to Enforcement Bureau Letters of Inquiry ("LOIs") directing DealExtreme to provide certain information and documents.

2. DealExtreme should take immediate steps to come into compliance and to avoid any recurrence of this misconduct. In addition, you must respond to the Enforcement Bureau's June 12, 2009 LOI within thirty (30) days of the date of this Citation. As explained below and as provided in the Communications Act, future violations of the Communications Act and the Rules in this regard may subject your company to substantial monetary penalties, seizure of equipment and criminal sanctions.

II. BACKGROUND

3. The Spectrum Enforcement Division ("Division") of the Enforcement Bureau ("Bureau") of the Federal Communications Commission has received numerous complaints indicating that DealExtreme is marketing in the United States cell phone signal blocker devices on its web site, www.dealextreme.com. The Division has also received documentation demonstrating that DealExtreme sold and shipped a jammer device to a Brooklyn, New York resident in May 2009, and to a school in Kentucky in 2010.⁴ Additionally, the Bureau received a jamming device through the mail from DealExtreme as a result of an on-line purchase in June 2010. On numerous occasions, the Division has

¹ 47 U.S.C. § 503(b)(5).

² 47 U.S.C. § 302a(b).

³ 47 C.F.R. §§ 2.803, 15.205(a).

⁴ Specifically, the Brooklyn, New York resident provided an email from DealExtreme confirming shipment of a jammer device to the resident. The school official in Frenchburg, Kentucky relinquished the devices to an FCC investigator on August 18, 2010.

visited DealExtreme's web site and observed that it was marketing both cell phone signal blocker devices and GPS blocker devices (collectively, "jammer devices").⁵

4. On February 21, 2008, the Division sent an LOI to DealExtreme *via* certified mail initiating an investigation into DealExtreme's marketing of jammer devices in the United States.⁶ The Division sent a second LOI to DealExtreme *via* Federal Express on June 12, 2009.⁷ Federal Express tracking records show that the second LOI was delivered to DealExtreme on June 15, 2009, at the address referenced below.⁸ To date, the Division has not received a response from DealExtreme to either letter.

III. APPLICABLE LAW AND VIOLATIONS

5. Federal law prohibits the marketing and operation of cell phone jammers 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."⁹ 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."¹⁰

6. The applicable implementing regulations for section 302(b) are set forth in sections 2.803, 15.201 and 15.3(o) of the Rules.¹¹ 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.¹²

Additionally, section 2.803(g) of the Rules provides in pertinent 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.¹³

⁵ See <http://dealextreme.com/details.dx/sku.4355> (offering for sale a personal cell phone signal blocker) and <http://dealextreme.com/details.dx/sku.8758> (offering for sale a GPS signal blocker) (visited 4/24/2008, 4/13/2009, 7/13/2009, 7/19/2010, and 2/3/2011).

⁶ Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to DealExtreme (February 21, 2008).

⁷ Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to DealExtreme (June 12, 2009).

⁸ See Federal Express Tracking No. 832720587585. Federal Express tracking records show that the June 12, 2009 LOI was signed for by "Chop Ms Cheung."

⁹ 47 U.S.C. § 333.

¹⁰ 47 U.S.C. § 302a(b).

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

¹² 47 C.F.R. § 2.803(a)(1).

¹³ 47 C.F.R. § 2.803(g).

7. Pursuant to section 15.201(b) of the Rules,¹⁴ before intentional radiators¹⁵ like cell phone jammers 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."¹⁶

8. Jamming devices, however, cannot be certified or authorized because the main purpose of the jammer device is to block or interfere with radio communications. As noted above, 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.¹⁷ Thus, these devices cannot comply with the FCC's technical standards and therefore cannot be marketed in the United States.

9. Accordingly, we find that DealExtreme has violated section 302(b) of the Communications Act and sections 2.803 and 15.205(a) of the Rules by marketing in the United States radio frequency devices that are not eligible for certification.¹⁸

10. Sections 4(i), 4(j), and 403 of the Communications Act¹⁹ afford the Commission broad authority to investigate the entities it regulates. Section 4(i) authorizes the Commission to "issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions."²⁰ Section 4(j) states that "[t]he Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice."²¹ Section 403 grants the Commission "full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which complaint is authorized to be made, to or before the Commission by any provision of this Act, or concerning which any question may arise under any of the provisions of this Act."²²

11. Pursuant to this authority, we sent LOIs to DealExtreme in February of 2008 and again in June of 2009, directing you to provide certain information and documents. Federal Express tracking records confirm that DealExtreme received the second LOI on June 15, 2009. To date, however, we have received no response to either LOI. A party may not ignore the directives in a Bureau LOI.²³

¹⁴ 47 C.F.R. § 15.201(b).

¹⁵ 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).

¹⁶ 47 C.F.R. § 2.803(e)(4).

¹⁷ 47 C.F.R. § 15.205(a).

¹⁸ 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. Such a statement is a misrepresentation 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, DealExtreme 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 DealExtreme to sell or distribute these jammer devices to individuals in the United States.

¹⁹ 47 U.S.C. §§ 154 (i), 154 (j), 403.

²⁰ 47 U.S.C. § 154 (i).

²¹ 47 U.S.C. § 154 (j).

²² 47 U.S.C. § 403.

²³ See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 (2002). In *SBC Communications*, the Commission assessed a \$100,000 forfeiture against a carrier for its willful refusal to supply a sworn declaration in response to an Enforcement Bureau letter of inquiry. The Commission stated: "[T]he order at issue here was

Accordingly, we find that DealExtreme has also violated Commission orders by failing to respond to Enforcement Bureau directives to provide certain information and documents. You are again ordered, pursuant to sections 4(i), 4(j), and 403 of the Communications Act, to provide the information requested in our June 12, 2009, LOI (copy enclosed). You must provide this information in the manner indicated therein within thirty (30) days of the date of this Citation.

12. We therefore issue this Citation to DealExtreme for violating the Communications Act and the Rules as discussed above. DealExtreme should take immediate steps to ensure that it does not continue to violate the Communications Act and the Rules.

IV. FUTURE COMPLIANCE

13. If, after receipt of this Citation, DealExtreme 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.²⁴ In addition, violations of the Communications Act or the Rules can result in seizure of equipment through *in rem* forfeiture actions,²⁵ as well as criminal sanctions, including imprisonment.²⁶

14. Deal Extreme may respond to this Citation within thirty (30) days after the release of this Citation through (1) a personal interview at the closest FCC office, or (2) a written statement. Any written statement should specify what actions have been taken by DealExtreme to ensure that it does not violate the Communications Act and the Rules prohibiting the marketing of radio frequency jamming devices in the future. Please reference the EB file number EB-07-SE-300 when corresponding with the Commission.

15. 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.²⁷ Any knowingly or willfully false statement or concealment of any material fact, made in reply to this Citation is punishable by fine or imprisonment.²⁸ Please also note that section 1.17 of the Rules requires that you provide truthful and accurate statements to the Commission.²⁹

V. CONTACT INFORMATION

16. The closest FCC Office is the Seattle District Office, in Kirkland, Washington. Please call Katherine Power at 202-418-0919 if you wish to schedule a personal interview, which must take

squarely within the Commission's authority and, in any event, parties are required to comply with Commission orders even if they believe them to be outside the Commission's authority." *Id.* at 7591.

²⁴ See 47 U.S.C. § 503; 47 C.F.R. § 1.80(b)(3). These amounts are 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.

²⁵ See 47 U.S.C. § 510.

²⁶ See 47 U.S.C. §§ 401, 501.

²⁷ See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

²⁸ See 18 U.S.C. § 1001.

²⁹ 47 C.F.R. § 1.17 (“[N]o 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.”)

place within thirty (30) days after the release of this Citation. You should send any written statement within thirty (30) days after the release date of this Citation to:

Ricardo M. Durham
Acting Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W., Rm. 3-C460
Washington, D.C. 20554
Re: EB File No. EB-07-SE-300

17. 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);

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

VI. ORDERING CLAUSES

18. **IT IS ORDERED**, that pursuant to sections 4(i), 4(j), and 403 of the Communications Act, DealExtreme must provide the information requested in our June 12, 2009 Letter of Inquiry as indicated above within thirty (30) days of the release of this Citation in the manner indicated by our June 12, 2009 Letter of Inquiry.

19. **IT IS FURTHER ORDERED** that a copy of this Citation shall be sent by first class mail and United Parcel Service to DealExtreme, 21 Man Lok Street, Focal Industrial Centre, Block B, Room 225-226, Hung Hon, Kow Loon, Hong Kong, People's Republic of China and by electronic mail to: sales@dealextreme.com.

FEDERAL COMMUNICATIONS COMMISSION

Ricardo M. Durham
Acting Chief
Spectrum Enforcement Division
Enforcement Bureau