

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

In the Matter of
TD Spot Inc.
dba Spy Spot Investigations
www.spy-spot.com
Deerfield Beach, FL
File No.: EB-11-MA-0223
Citation No.: C201232600001

CITATION AND ORDER

ILLEGAL MARKETING OF SIGNAL JAMMING DEVICES

Adopted: July 12, 2012

Released: July 12, 2012

By the Resident Agent, Miami 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), to TD Spot, Inc. dba Spy Spot Investigations and www.spy-spot.com (Spy Spot) for marketing to consumers in the United States and its territories (United States) unauthorized radio frequency devices - specifically Global Positioning System (GPS) signal jammers - in violation of Section 302(b) of the Act, and Sections 2.803(a)(1) and 15.201(b) of the Commission's rules (Rules).

2. Spy Spot 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 Spot 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 Spot to confirm within thirty (30) calendar days after the release date of this Citation that it has ceased to market signal

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).

5 47 U.S.C. §§ 154(i) - (j), 403.

jamming devices and to provide information concerning its signal jamming device suppliers, distribution channels, and sales.

II. BACKGROUND

3. Spy Spot claims to be the “biggest spy store showroom in Florida” with nine locations, specializing in GPS trackers and other surveillance products.⁶ On November 8, 2011, agents from the Miami Office conducted an enforcement investigation and found that Spy Spot was offering for sale a GPS signal jammer, marketed as a “GPS Blocker,” at the Spy Spot Investigations store located at 190 West Palmetto Park Rd., Boca Raton, Florida 33432 (Palmetto Rd. location) and at The Hemp Factory located at 503 N.E. 20th St. Boca Raton, Florida 33431 (Hemp Factory location). Specifically, the agents observed the GPS Blocker in a glass display case at the Palmetto Rd. location. The Spy Spot salesperson at that location explained to the agents that the device can block GPS signals within a close proximity and was for sale for \$149.99. The agents also observed the GPS Blocker in a glass display case in a Spy Spot kiosk within the Hemp Factory location. The Spy Spot salesperson at the Hemp Factory also telephoned a salesperson at the Palmetto Rd. location to confirm the GPS Blocker’s sales price of \$149.99.

4. The Miami Office agent later visited Spy Spot’s online store, www.spy-spot.com, and observed that Spy Spot has marketed via the Internet within the past several months a GPS jamming device to consumers in the United States.⁷ Specifically, the agent observed Spy Spot marketing a “Vehicle GPS Jammer Blocker” for \$155.00, which it claimed could prevent cars and people from being tracked.⁸ Spy Spot also touts the availability of its “GPS Jammer Blocker” on other business promotion websites.⁹

III. APPLICABLE LAW AND VIOLATIONS

5. 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.”¹⁰ 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.”¹¹

⁶ See www.spy-spot.com (listing locations in Ft. Lauderdale, Boca Raton, Hollywood, Miami Gardens, Davie and Pompano Beach).

⁷ See <http://www.spy-spot.com/product/Vehicle+GPS+Jammer+Blocker> (last visited Apr. 5, 2012) (claiming that the device intercepts World GPS satellite special channel L1/L2).

⁸ *Id.*

⁹ See e.g., <http://www.superpages.com/bp/Miami-FL/Miami-Spy-Store-Spy-Spot-Investigations-GPS-CCTV-Security-Camera-Installation-L2319358646.htm> (“Spy Spot investigation Online Spy Store Spy Shop specializes in . . . GPS Jammer Blocker. . . .”) (last visited June 30, 2012); <http://www.manta.com/c/mx78rsc/spy-spot-store-gps-tracking-surveillance-products> (“spy equipment such as SPY GPS Trackers . . . GPS Jammer Blocker . . .”) (last visited June 30, 2012).

¹⁰ 47 U.S.C. § 333.

¹¹ 47 U.S.C. § 302a(b).

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.¹² 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.¹³

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.¹⁴

7. Pursuant to Section 15.201(b) of the Rules,¹⁵ intentional radiators¹⁶ like GPS 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."¹⁷

8. 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.¹⁸ Thus, signal jamming devices such as those offered by Spy Spot cannot comply with the FCC's technical standards and therefore cannot be marketed lawfully in the United States or its territories.¹⁹

9. Spy Spot has illegally marketed and apparently continues to market signal jammers to consumers in the U.S. and its territories. As detailed above, on November 8, 2011, a Spy Spot salesperson offered for sale GPS signal jamming devices to agents from the Miami Office at its two locations in Boca Raton, Florida. As recently as April 5, 2012, Spy Spot also has offered for sale a signal jamming device through its online store, www.spy-spot.com.²⁰ In fact, the device marketed was expressly

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

¹³ 47 C.F.R. § 2.803(a)(1).

¹⁴ 47 C.F.R. § 2.803(g).

¹⁵ 47 C.F.R. § 15.201(b).

¹⁶ 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).

¹⁷ 47 C.F.R. § 2.803(e)(4).

¹⁸ 47 U.S.C. § 333.

¹⁹ See *supra* note 2.

²⁰ See *supra* para. 4 and accompanying notes.

labeled as a “GPS jammer,” and the product information and specifications variously touted the device as “small” and “carried easily.”²¹

10. We observed no statements or notices on the website indicating that Spy Spot – a U.S.-based retailer – would refuse to sell its GPS Jammer Blocker to unauthorized purchasers in the United States or its territories or would decline to complete any sales transactions originating with such consumers.²² To the contrary, during the checkout procedures, customers are only permitted to enter a city, state, and zip code and cannot enter a country.²³ In addition, Spy Spot’s physical store locations in South Florida were described as “showrooms” and were prominently featured on the webpage.²⁴

11. We also note that Spy Spot includes a general disclaimer that purports to shift the burden of complying with applicable laws to the purchaser.²⁵ As we have repeatedly noted, it is insufficient and misleading for retailers to include a disclaimer on their websites or in promotional or advertising materials stating or implying that consumers in the United States and its territories bear *sole* responsibility for complying with the applicable legal obligations related to signal jamming devices.²⁶ Such disclaimers are misleading because they fail to disclose that the retailer also is violating the law both by offering the device for sale to U.S. consumers and by completing the sales transaction. Use of disclaimers that purport to place the sole burden on the buyer of a jamming device does not absolve the retailer of liability.

12. Accordingly, we find that Spy Spot 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.²⁷ We therefore issue this Citation to Spy Spot for violating the Rules and the Communications Act as discussed above. Spy Spot should take immediate steps to ensure that it does not continue to market these signal jamming devices or any other signal jamming devices. This may include actions such as removing illegal GPS signal jamming devices from its online websites and other displays, voluntarily surrendering existing inventory, and declining to sell signal jamming devices to consumers in the United States.²⁸

²¹ See *supra* note 7.

²² 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).

²³ See www.spy-spot.com/cart/checkout (last visited July 2, 2012).

²⁴ The homepage of the website directly links the online webstore to the physical locations in Florida. See <http://www.spy-spot.com/> (last visited July 2, 2012) (“Assisting with hidden recordings/tracking devices or anti tracking devices, SPY-SPOT INVESTIGATIONS is your one stop shop located on Palmetto Park Rd in Boca Raton FL, west of Dixie Highway at 190c West Palmetto Park Road Boca Raton FL 33432 . (one of our many locations).”

²⁵ See www.spy-spot.com/terms (“purchaser of product has the responsibility to confirm and comply with any and all applicable federal, state and and/or local laws”) (last visited June 30, 2012).

²⁶ See *Illegal Marketing of Signal Jamming Devices*, Omnibus Citation and Order, 26 FCC Rcd 13565 (Enf. Bur. 2011). See also FCC Enforcement Advisory: Cell Jammers, GPS Jammers, and Other Jamming Devices, Retailers Advised that the Marketing or Sale of Devices Designed to Block, Jam, or Interfere with Authorized Radio Communications Is Strictly Prohibited in the U.S., Public Notice, DA 11-249 (Feb. 9, 2011), available at <http://www.fcc.gov/eb/jammerenforcement>; *New Generation Hobbies*, Citation, 26 FCC Rcd 9468 (Enf. Bur. 2011).

²⁷ 47 U.S.C. § 302; 47 C.F.R. §§ 2.803, 15.201(b).

²⁸ *Id.*

IV. FUTURE COMPLIANCE

13. If, after receipt of this Citation, Spy Spot violates the Communications Act or the Rules by marketing unauthorized radio frequency devices within the United States or its territories or otherwise engaging in conduct of the type described herein, the Commission may impose monetary forfeitures of up to \$16,000 for *each* such violation, or in the case of a continuing violation, the Commission may impose monetary forfeitures of up to \$16,000 for *each* day such continuing violation, up to a maximum forfeiture of \$112,500 for any single act or failure to act.²⁹ For instance, the Commission could impose separate forfeitures for each signal jamming device sold and/or for each day on which a signal jamming device is advertised or otherwise offered for sale. In addition, violations of the Communications Act or the Rules also can result in seizure of equipment through *in rem* forfeiture actions,³⁰ as well as criminal sanctions, including imprisonment.³¹

14. In addition to providing the required information described in paragraph 18 below, Spy Spot may respond to this Citation within thirty (30) 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 statement should specify the actions taken by Spy Spot to ensure that it does not violate the Communications Act or the Commission's rules governing the marketing of GPS signal jamming devices and other radio frequency devices in the future. Please reference file number EB-11-MA-0223 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.³² Any knowingly or willfully false statement, or concealment of any material fact, made in reply to this Citation is punishable by fine or imprisonment.³³ Please also note that Section 1.17 of the Rules requires that you provide truthful and accurate statements to the Commission.³⁴

V. CONTACT INFORMATION

16. The closest FCC Office is the Miami Office in Miami, Florida. Spy Spot may contact Michael Mattern by telephone, 305-994-1642, to schedule a personal interview, which must take place within thirty (30) calendar days after the release date of this Citation. Spy Spot should also send any written statement within thirty (30) calendar days after the release date of this Citation to:

²⁹ See 47 U.S.C. §§ 401, 501, 503; 47 C.F.R. § 1.80(b)(4). These amounts are subject to further adjustment for inflation (see 47 C.F.R. § 1.80(b)(6)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

³⁰ See 47 U.S.C. § 510.

³¹ See *id.* §§ 401, 501.

³² See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

³³ See 18 U.S.C. § 1001 *et seq.*

³⁴ 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.”).

Michael Mattern
Federal Communications Commission
Miami Office
P.O. Box 520617
Miami, FL 33122
Re: EB-11-MA-0223

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) 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).

VI. REQUEST FOR INFORMATION

18. Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act,³⁵ Spy Spot is directed to provide the information requested in non-public Appendix A hereto within thirty (30) calendar days after the release date of this Citation. The request for information concerns Spy Spot's signal jamming suppliers and sales as well as the disposition of the signal jamming device in its inventory. A failure to respond, or an inadequate, incomplete, or misleading response, may subject Spy Spot to additional sanctions.³⁶

VII. ORDERING CLAUSES

19. **IT IS ORDERED** that pursuant to Sections 4(i), 4(j), and 403 of the Communications Act, TD Spot, Inc. dba Spy Spot Investigations must provide the information requested in paragraph 18 and Non-Public 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.

20. **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 TD Spot, Inc. dba Spy Spot

³⁵ 47 U.S.C. §§ 154(i), 154(j), 403.

³⁶ See, e.g., *SBC Communications, Inc., Apparent Liability for Forfeiture*, Forfeiture Order, 17 FCC Rcd 7589, 7599-7600, paras. 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).

Investigations, at 41 S.E. 9th Terrace, Deerfield Beach, FL 33441 and at 190 West Palmetto Park Rd., Boca Raton, FL 33432.

FEDERAL COMMUNICATIONS COMMISSION

Michael Mattern
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