

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

In the Matter of)	File No.: EB-07-SE-206
)	
LawMate Technology Co., Ltd.)	NAL/Acct. No.: 200932100072
)	
)	FRN: 0017134156

FORFEITURE ORDER

Adopted: December 6, 2012

Released: December 6, 2012

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order, we issue a monetary forfeiture in the amount of fourteen thousand dollars (\$14,000) to LawMate Technology Co., Ltd. (LawMate) for its willful and repeated violations of Section 302(b) of the Communications Act of 1934, as amended (Act),¹ and Section 2.803(a) of the Commission's rules (Rules).² The noted violations involve the marketing of unauthorized radio frequency devices for more than two years.

II. BACKGROUND

2. On July 15, 2009, the Enforcement Bureau's Spectrum Enforcement Division (Division) released a *Notice of Apparent Liability for Forfeiture* to LawMate in the amount of \$14,000 for its apparent willful and repeated violations of Section 302(b) of the Act and Section 2.803(a) of the Rules by marketing³ uncertified radio frequency devices in the United States.⁴ In the *NAL*, the Division found that LawMate manufactured and marketed two models of wireless video transmitters (model numbers TD-2418CK and TD-1218CK) in the United States before obtaining FCC certifications for the models.⁵ The finding was based on LawMate's admission in response to a Division letter of inquiry that it sold the uncertified wireless video transmitters to customers in the United States within the one-year period prior to the issuance of the *NAL*.⁶

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. § 2.803(a).

³ 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." *Id.* § 2.803(e)(4).

⁴ *See LawMate Tech. Co., Ltd.*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 9120 (Enf. Bur. 2009) (*NAL*).

⁵ *See id.* at 9121, para 5.

⁶ *See* Letter from Sabar Yang, General Manager, LawMate Technology Co., Ltd., to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau at Attachment (Oct. 1, 2008) (on file in EB-07-SE-206) (LOI Response). In its LOI Response, LawMate admitted to marketing in the United States a total of four uncertified wireless video transmitter models, two of which were marketed more than one year prior to the issuance of the *NAL*. *See id.* Because Section 503(b)(6)(B) of the Act, 47 U.S.C. § 503(b)(6)(B), precluded the Division from imposing forfeiture liability against LawMate for violations occurring more than one year prior to the date the (continued . . .)

3. LawMate responded to the *NAL* on November 14, 2009.⁷ In its *NAL* Response, LawMate declares that it “is willing to pay [a] penalty charge” for its violations of Section 302(b) of the Act and Section 2.803(a) of the Rules,⁸ but requests cancellation or reduction of the proposed forfeiture amount based on certain remedial efforts that LawMate states it intends to implement, its claimed financial hardship, and its assertion of a history of compliance with the Rules.⁹

III. DISCUSSION

4. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,¹⁰ Section 1.80 of the Rules,¹¹ and the Commission’s *Forfeiture Policy Statement*.¹² In assessing forfeitures, Section 503(b)(2)(E) of the Act requires that we take into account the “nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”¹³ As discussed below, we have considered LawMate’s *NAL* Response in light of these statutory factors and find no basis for reduction or cancellation of the proposed forfeiture.

5. Section 302(b) of the 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.”¹⁴ Section 2.803(a) of the Rules prohibits the sale or lease, offer for sale or lease (including advertising for sale or lease), distribution for the purpose of selling or leasing (or offering for sale or lease), importation, or shipment of radio frequency devices,¹⁵ such as

(Continued from previous page . . .) _____

NAL was issued, the Division only proposed forfeitures for the two models marketed in the prior year. *See NAL*, 24 FCC Rcd at 2121, 2123, paras. 5, 9.

⁷ *See* Letter from Sabar Yang, General Manager, LawMate Technology Co., Ltd., to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (Nov. 14, 2009) (on file in EB-07-SE-206) (*NAL* Response). The Division sent the *NAL* to LawMate by first class mail and certified mail. Because the copy of the *NAL* sent by certified mail was returned unclaimed, the Division resent the *NAL* to LawMate on October 20, 2009, via overnight mail and facsimile, and the Division afforded LawMate additional time to respond to the *NAL*. *See* Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Sabar Yang, General Manager, LawMate Technology Co., Ltd. (Oct. 20, 2009) (on file in EB-07-SE-206).

⁸ *NAL* Response at 1.

⁹ *See id.* at 1–2. LawMate also argues that the forfeiture amount should be reduced to reflect only one violation because Section 302(b) of the Act and Section 2.803(a) of the Rules prohibit similar conduct. *See id.* at 2. Consistent with the findings of the *NAL*, however, the Bureau calculated the number of violations at issue based on the number of noncompliant models marketed, imposing a separate base forfeiture for each of two models. *See, e.g., San Jose Navigation, Inc., Notice of Apparent Liability for Forfeiture*, 21 FCC Rcd 2873, 2877, para. 14 (2006) (finding that the marketing of each model is a separate and continuing violation warranting assessment of a separate base forfeiture), *forfeiture ordered*, Forfeiture Order, 22 FCC Rcd 1040 (2007), *consent decree ordered*, Order and Consent Decree, 25 FCC Rcd 1494 (2010).

¹⁰ 47 U.S.C. § 503(b).

¹¹ 47 C.F.R. § 1.80.

¹² *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recon. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

¹³ 47 U.S.C. § 503(b)(2)(E).

¹⁴ *Id.* § 302a(b).

¹⁵ A radio frequency device is “any device which in its operation is capable of emitting radiofrequency energy by radiation, conduction or other means.” 47 C.F.R. § 2.801.

wireless video transmitters, unless, in the case of a device subject to certification, the device has first been properly authorized, identified, and labeled in accordance with the Rules.¹⁶

6. In its NAL Response, LawMate seeks cancellation or reduction of the proposed forfeiture amount based on its stated intention to undertake certain remedial measures to ensure future compliance with the Rules.¹⁷ Although we have adjusted forfeitures downward when a licensee makes voluntary disclosures to Commission staff and takes corrective measures after discovering its violations but *prior* to any Commission inquiry or initiation of enforcement action,¹⁸ we have not reduced forfeitures based on a licensee's remedial conduct after the initiation of an investigation.¹⁹ The Commission has long held that corrective action taken to come into compliance with the Rules is expected, and such corrective action does not nullify or mitigate prior violations or associated forfeiture liability.²⁰ LawMate's intention to take steps to ensure future compliance, while laudable, does not negate its willful and repeated violations of the Rules. Accordingly, we decline to reduce the forfeiture on this basis.

7. LawMate also seeks reduction of the forfeiture based on its claim that payment of the forfeiture would place "undue stress on [its] financial situation."²¹ Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.²² Further, in general, an individual's or entity's "gross revenues are the best indicator of its ability to pay a forfeiture."²³ LawMate, however, has not provided any financial or other documentation to support or corroborate its asserted financial status.²⁴ Accordingly, we decline to reduce the forfeiture based on LawMate's unsupported claim of financial hardship.

¹⁶ See *id.* § 2.803(a). Wireless video transmitters are intentional radiators that must be certified by the Commission prior to marketing. See *id.* § 15.201. An intentional radiator is "[a] device that intentionally generates and emits radio frequency energy by radiation or induction." *Id.* § 15.3(o).

¹⁷ See NAL Response at 1. Specifically, LawMate describes several remedial measures it plans to implement, including discontinuing production of the uncertified models, posting a notice on its commercial website indicating that the models may not be marketed in the United States, and advising distributors to cease marketing the models in the United States. See *id.* In addition, LawMate avers that it is "currently executing" a compliance audit on all products exported to the United States. See *id.* at 2.

¹⁸ See, e.g., *Sutro Corp.*, Memorandum Opinion and Order, 19 FCC Rcd 15274, 15277, para. 10 (2004) (stating that the Commission will generally reduce the assessed forfeiture "based on the good faith corrective efforts of a violator when those corrective efforts were taken prior to Commission notification of the violation").

¹⁹ See, e.g., *Behringer USA, Inc.*, Forfeiture Order, 22 FCC Rcd 10451, 10459, para. 19 (2007) (forfeiture paid).

²⁰ See *id.* ("[T]he Commission has repeatedly found that corrective measures implemented after [the] Commission has initiated an investigation or taken enforcement action do not nullify or mitigate past violations.").

²¹ NAL Response at 2. LawMate requests that the Division reduce the forfeiture from \$14,000 to \$7,000, alleging that the costs associated with its intended remedial efforts, the loss of future revenue from the sale of the uncertified models in the United States, and the payment of the forfeiture would place "undue stress on [its] financial situation." *Id.*

²² As stated previously in the NAL, the Commission will not consider a claim of inability to pay unless the petitioner submits "(1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ('GAAP'); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status." See NAL, 24 FCC Rcd at 9124, para. 14.

²³ *PJB Commc'ns of Va., Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088, 2089, para. 8 (1992).

²⁴ See, e.g., *Bureau D'Electronique Appliquee, Inc.*, Forfeiture Order, 20 FCC Rcd 17893, 17899-900, para. 19 (Enf. Bur. 2005) (denying inability to pay claim because company failed to provide supporting financial documentation).

8. Finally, LawMate asserts that the Division should cancel or reduce the proposed forfeiture based on LawMate's claim that it has not previously violated our Rules.²⁵ We disagree. When evaluating a petitioner's compliance history, we take into account both concurrent²⁶ and prior violations, including violations occurring outside the statute of limitations,²⁷ as well as the duration of each such violation.²⁸ During the course of the Division's investigation into this matter, LawMate admitted to marketing in the United States a total of four uncertified wireless video transmitter models;²⁹ the marketing of each uncertified model in the United States is a separate, continuing violation. Moreover, LawMate reported that it had imported into the United States units of one of these models—TD-2405CK—from 2005 to 2006, and units of two of these models—TD-2418CK and TD-1218CK—from 2006 to 2008.³⁰ Based on the number and duration of these violations, we find that LawMate does not have a history of compliance with the Rules, and decline to reduce the proposed forfeiture.

9. Having considered LawMate's response to the *NAL* in light of the applicable statutory factors, our Rules and the *Forfeiture Policy Statement*, we find that LawMate willfully³¹ and repeatedly³² violated Section 302(b) of the Act and Section 2.803(a) of the Rules in connection with its marketing of the uncertified TD-2418CK and TD-1218CK wireless video transmitters, and is therefore liable for a forfeiture in the amount of \$14,000.

²⁵ See *NAL Response* at 2.

²⁶ See, e.g., *Paulino Bernal Evangelism*, Memorandum Opinion and Order, 21 FCC Rcd 9532, 9536, para. 12 (Enf. Bur. 2006) (in determining whether a licensee has a history of overall compliance, offenses need not be "prior" to be considered), *review granted in part, denied in part*, Order on Review, 23 FCC Rcd 15959 (2008).

²⁷ Although Section 503(b)(6)(B) of the Act prohibits the Commission from proposing forfeitures for violations occurring more than one year prior to issuance of the *NAL*, it does not preclude the Commission from taking into account the underlying facts of these violations when determining relative culpability for violations occurring within the statute of limitations. See, e.g., *Globcom, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893, 19903, para. 23 (2003) (taking into account violations occurring outside the statute of limitations when determining the appropriate forfeiture amount for violations occurring within the statutory period), *forfeiture ordered*, Order of Forfeiture, 21 FCC Rcd 4710 (2006).

²⁸ We note that in several cases, not only have we declined to reduce for history of compliance but have upwardly adjusted the base forfeiture amount based, in part, on the duration of the violations. See, e.g., *Power 7 Tech. Corp.*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 1660, 1663–64, para. 12 (Enf. Bur. 2009) (upwardly adjusting the base forfeiture amount for marketing unauthorized equipment from \$7,000 to \$25,000 based on a one-year duration and the "substantial number" of units sold in the United States) (forfeiture paid).

²⁹ See *LOI Response* at 1.

³⁰ See *id.* at Attachment. In this regard, we note that the definition of marketing in Section 2.803(e)(4) of the Rules includes "importation . . . for the purpose of selling or leasing or offering for sale or lease." See *supra* note 3.

³¹ Section 312(f)(1) of the Act defines "willful" as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history of Section 312 clarifies that this definition of willful applies to Sections 312 and 503 of the Act, H.R. Rep. No. 97-765 (1982) (Conf. Rep.), and the Commission has so interpreted the term in the Section 503(b) context, see *So. Cal. Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387–88, para. 5 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992) (*Southern California*).

³² Section 312(f)(2) of the Act, which also applies to forfeitures assessed pursuant to Section 503(b) of the Act, defines "repeated" as "the commission or omission of [any] act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2); see also *Southern California*, 6 FCC Rcd at 4388, para. 5.

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311, and 1.80 of the Commission's rules,³³ LawMate Technology Co., Ltd. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of fourteen thousand dollars (\$14,000) for willful and repeated violations of Section 302(b) of the Communications Act of 1934, as amended and Section 2.803(a) of the Commission's rules.³⁴

11. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's rules within thirty (30) calendar days after the release date of this Forfeiture Order.³⁵ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Communications Act of 1934, as amended.³⁶ LawMate Technology Co., Ltd. shall send electronic notification of payment to Nissa Laughner at Nissa.Laughner@fcc.gov, Daudeline Meme at Daudeline.Meme@fcc.gov, and to Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made.

12. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.³⁷ 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). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

13. Any request for full payment under an installment plan should be sent to: Chief Financial Officer – Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.³⁸ If you have questions regarding payment procedures, please contact

³³ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80.

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

³⁵ See 47 C.F.R. § 1.80.

³⁶ 47 U.S.C. § 504(a).

³⁷ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

³⁸ See 47 C.F.R. § 1.1914.

the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

14. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by first class mail and FedEx Express to Sabar Yang, General Manager, LawMate Technology Co., Ltd., 3F1, No. 34, Lane 60, Wen-Hu St., Nei-Hu District, Taipei 114, Taiwan, R.O.C.

FEDERAL COMMUNICATIONS COMMISSION

John D. Poutasse
Chief, Spectrum Enforcement Division
Enforcement Bureau