

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

In the Matter of)	
)	
Custom Interface Technologies,)	File No.: EB-10-LA-0130
A Division of Thornstar Corporation)	NAL/Acct. No.: 201232900002
)	FRN: 0019067206
Joshua Tree, California)	

FORFEITURE ORDER

Adopted: November 12, 2013

Released: November 13, 2013

By the Regional Director, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (Order), we issue a monetary forfeiture in the amount of fourteen thousand dollars (\$14,000) to Custom Interface Technologies, a Division of Thornstar Corporation (CIT), in Joshua Tree, California, for willfully and repeatedly violating Section 302(b) of the Communications Act of 1934, as amended (Act),¹ and Sections 2.803(a)(1)² and 74.851(f)³ of the Commission's rules (Rules). The noted violations involved CIT's manufacturing and marketing of unauthorized radio frequency devices.

II. BACKGROUND

2. On November 17, 2011, the Enforcement Bureau's Los Angeles Office (Los Angeles Office) issued a Notice of Apparent Liability for Forfeiture (NAL)⁴ for fourteen thousand dollars (\$14,000) to CIT for manufacturing and marketing uncertified video assist transmitters.⁵ In response to the NAL, CIT does not deny the violations, but requests cancellation of the forfeiture based on its inability to pay.⁶

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. § 2.803(a)(1) (2011). We note that Section 2.803 of the Rules was amended effective May 29, 2013. *See Promoting Expanded Opportunities For Radio Experimentation and Market Trials Under Part 5 of the Commission's Rules and Streamlining Other Related Rules*, Report and Order, 28 FCC Rcd 758 (2013). The relevant language for this proceeding, which was previously found in Section 2.803(a)(1), is now found in Section 2.803(b)(1): "General rule. No person may market a radio frequency device unless: (1) For devices subject to authorization under certification, the device has been authorized in accordance with the rules in subpart J of this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter" 47 C.F.R. § 2.803(b)(1) (2013).

³ 47 C.F.R. § 74.851(f).

⁴ *Custom Interface Technologies, A Division of Thornstar Corporation*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 16000 (Enf. Bur. 2011) (NAL). A comprehensive recitation of the facts and history of this case can be found in the NAL and is incorporated herein by reference.

⁵ *Id.* Video assist transmitters are authorized under Part 74, Subpart H of the Rules for use by television and motion picture producers, transmitting on VHF and UHF television channels on a non-interference basis. 47 C.F.R. § 74.870. This type of device is used as an aide in composing camera shots on motion picture and television sets. 47 C.F.R. § 74.801. All such transmitters marketed for use in this service are required to be certificated pursuant to Part 2 of the Rules. 47 C.F.R. § 74.851(f).

⁶ *See* Letter from Philip Spinelli, Custom Interface Technologies, to Los Angeles Office, Western Region, Enforcement Bureau (Dec. 13, 2011) (on file in EB-10-LA-0130) (NAL Response).

III. DISCUSSION

3. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,⁷ Section 1.80 of the Commission's rules (Rules),⁸ and the *Forfeiture Policy Statement*.⁹ In examining CIT's response, Section 503(b)(2)(E) of the Act requires that the Commission 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 other such matters as justice may require.¹⁰

4. We affirm the *NAL*'s finding that CIT violated Section 302(b) of the Act and Sections 2.803(a)(1) and 74.851(f) of the Rules.¹¹ 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."¹² Section 2.803(a)(1) of the Rules, as in effect at the time of the violation, provided that:

Except as provided elsewhere in this section, 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

Video assist transmitters are required by Section 74.851(f) of the Rules to be approved through the equipment certification procedures described in Part 2 of the Rules prior to marketing in the U.S.¹⁴

5. As reflected in the *NAL*, in May and June 2010, the Los Angeles Office investigated allegations that uncertified video assist transmitters were being sold and rented by various entities in the Los Angeles area and determined that three film and video supply companies¹⁵ were marketing uncertified video assist transmitters, models Modulus 3000 and Modulus 5000, which were manufactured by CIT.¹⁶ On November 18, 2010, the Los Angeles Office issued citations to the Companies.¹⁷ The Companies responded, with each stating that it acquired the uncertified Modulus devices from CIT.¹⁸ On November 26,

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. § 1.80.

⁹ *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), *recons. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

¹⁰ 47 U.S.C. § 503(b)(2)(E).

¹¹ See *NAL supra* note 4.

¹² 47 U.S.C. § 302a(b).

¹³ 47 C.F.R. § 2.803(a)(1) (2011).

¹⁴ 47 C.F.R. § 74.851(f).

¹⁵ The three companies were South Bay Film and Video Services, Abel Cine Tech, and Wolf Seeberg Video (Companies). *NAL*, 26 FCC Rcd at 16000, para. 2 n. 4.

¹⁶ *Id.* at 16000, para. 2.

¹⁷ See *South Bay Film and Video Services*, Citation, 25 FCC Rcd 15989 (Enf. Bur. 2010); *Abel Cine Tech*, Citation, 25 FCC Rcd 15985 (Enf. Bur. 2010); *Wolf Seeberg Video*, Citation, 25 FCC Rcd 15981 (Enf. Bur. 2010).

¹⁸ See Letter from Jonathan L. Kramer, Attorney for South Bay Film and Video Services, to Nader Haghghat, District Director, Los Angeles Office, Western Region, Enforcement Bureau (Dec. 8, 2010) (on file in EB-10-LA-0130); Letter from Peter Abel, Chief Executive Officer, Abel Cine Tech, to Nader Haghghat, District Director, Los Angeles Office, Western Region, Enforcement Bureau (Dec. 6, 2010) (on file in EB-10-LA-0130); Letter from

2010, a Los Angeles Office agent found that the Modulus 3000 and 5000 video assist transmitters were offered for sale on CIT's website.¹⁹ On March 2, 2011, the Los Angeles Office issued a Letter of Inquiry to CIT.²⁰ On May 5, 2011, in response to the *LOI*, CIT stated that it did manufacture the Modulus video assist transmitter in two versions, the 3000 and the 5000, and that it "did not have any certifications or authorizations with regard to the Modulus transmitter, as it was manufactured for export only."²¹ Based on the undisputed evidence, we conclude that CIT willfully and repeatedly violated Section 302(b) of the Act and Sections 2.803(a)(1) and 74.851(f) of the Rules by manufacturing and marketing unauthorized radio frequency devices.

6. In response to the *NAL*, CIT nonetheless requests cancellation of the \$14,000 forfeiture, asserting that it is unable to pay the proposed forfeiture amount given its financial circumstances.²² With regard to an individual's or entity's inability to pay a claim, the Commission has determined that gross income or revenues are generally the best indicator of an ability to pay a forfeiture.²³ CIT has produced three years of tax returns and a bank statement to support its claim of an inability to pay. Based on our review of the financial documents provided by CIT, we decline to reduce the forfeiture based on inability to pay grounds.²⁴ Therefore, after consideration of the entire record and the factors listed above, we find that a forfeiture in the amount of \$14,000 is warranted.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.204, 0.311, 0.314, and 1.80(f)(4) of the Commission's rules, Custom Interface Technologies, a Division of Thornstar Corporation, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of fourteen thousand dollars (\$14,000) for violations of Section 302(b) of the Act and Sections 2.803(a)(1) and 74.851(f) of the Rules.²⁵

8. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Forfeiture Order.²⁶ If the forfeiture is not

Jonathan L. Kramer, Attorney for Wolf Seeberg Video, to Nader Haghghat, District Director, Los Angeles Office, Western Region, Enforcement Bureau (Dec. 15, 2010) (on file in EB-10-LA-0130).

¹⁹ The website contained advertising, sales, and contact information as well as dealer contacts. See *NAL*, 26 FCC Rcd 16001, para. 2 n.8.

²⁰ See *Letter of Inquiry* from Nader Haghghat, District Director, Los Angeles Office, Western Region, Enforcement Bureau, to Custom Interface Technologies (Mar. 2, 2011) (on file in EB-10-LA-0130) (*LOI*).

²¹ See Letter from Philip Spinelli, Custom Interface Technologies, to Nader Haghghat, District Director, Los Angeles Office, Western Region, Enforcement Bureau at 1 (May 5, 2011) (on file in EB-10-LA-0130). CIT acknowledged that it received notice from the Commission in 1996 concerning its marketing of the Modulus 2000 video assist transmitter and the requirement that such transmitters be certified prior to being marketed in the United States. *Id.* at 1, Attachment 2. CIT further stated that it discontinued manufacture of the Modulus models in 2010 and that it currently has no inventory of the transmitters. *Id.* at 2.

²² See *NAL Response supra* note 6.

²³ See *PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088 (1992) (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator's gross revenues); *Hoosier Broadcasting Corp.*, Memorandum Opinion and Order, 15 FCC Rcd 8640 (2000) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues); *Local Long Distance, Inc.*, Order of Forfeiture, 15 FCC Rcd 24385 (2000) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator's gross revenues).

²⁴ The \$14,000 forfeiture falls within the percentage range that the Commission has previously found acceptable. See *supra* note 25.

²⁵ 47 U.S.C. §§ 302a(b), 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 2.803(a)(1), 74.851(f) (2011).

²⁶ 47 C.F.R. § 1.80.

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 Act.²⁷ Custom Interface Technologies, a Division of Thornstar Corporation, shall send electronic notification of payment to WR-Response@fcc.gov on the date said payment is made. 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.²⁸ 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.

8. Any request for full payment over time 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. 20554.²⁹ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

9. IT IS FURTHER ORDERED that a copy of this Order shall be sent by both First Class and Certified Mail, Return Receipt Requested, to Custom Interface Technologies, a Division of Thornstar Corporation, at P.O. Box 1364, Joshua Tree, CA 92252.

FEDERAL COMMUNICATIONS COMMISSION

Rebecca L. Dorch
Regional Director, Western Region
Enforcement Bureau

²⁷ 47 U.S.C. § 504(a).

²⁸ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²⁹ See 47 C.F.R. § 1.1914.