

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

In the Matter of) File No.: EB-SED-13-00007036^1
)
) Acct. No.: 201432100006
Intel Corporation)
) FRN: 0007775034
)

ORDER

Adopted: July 2, 2014

Released: July 2, 2014

By the Acting Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has resolved its investigation into whether Intel Corporation (Intel) complied with certain rules governing the importation, operation, and advertisement of prototype smartphones and tablets. Intel manufactured and imported functioning prototypes of smartphones and tablets that its business customers could use to develop their own devices for potential sale to the general public. Intel admitted that its employees operated the prototypes under investigation before the company had obtained equipment authorization for these devices. In addition, Intel admitted that it exceeded the importation limits in effect during the relevant period and that it displayed at a trade show a digital device model without the required notice to potential customers and the general public that the device had not yet been authorized by the Commission. The Commission's rules impose restrictions and conditions on these activities to ensure that unauthorized devices are not prematurely distributed to retailers and then sold to the general public; these devices, if not in full compliance with the Commission's technical requirements, could cause harmful interference to other electronics and radio communications devices. To resolve the investigation, Intel will pay \$144,000 and implement a three-year compliance plan to ensure future compliance with these important requirements.

2. In this Order, we adopt the attached Consent Decree entered into between the Bureau and Intel. The Consent Decree resolves and terminates the Bureau's investigation into possible violations of Section 302(b) of the Communications Act of 1934, as amended (Act),^2 and former Sections 2.803(c),^3 2.803(e),^4 and 2.1204^5 of the Commission's rules (Rules) pertaining to the importation, operation, and advertisement or display of certain radio frequency devices prior to equipment authorization.

3. The Bureau and Intel have negotiated the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated herein by reference.

^1 The investigation initiated under File No. EB-SED-13-00006784 was subsequently assigned File No. EB-SED-13-00007036. Any future correspondence with the FCC concerning this matter should reflect the new case number.

^2 47 U.S.C. § 302a(b).

^3 47 C.F.R. § 2.803(c) (2012).

^4 Id. § 2.803(e) (2012).

^5 Id. § 2.1204 (2012).

4. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

5. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Intel possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Act,⁶ and Sections 0.111 and 0.311 of the Rules,⁷ the Consent Decree attached to this Order **IS ADOPTED**.

7. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Jo S. Levy, Vice President, Legal and Corporate Affairs, 2111 NE 25Th Avenue, Hillsboro, Oregon 97124; and to David Solomon, Esq., Wilkinson Barker Knauer, LLP, Counsel for Intel Corporation, 2300 N Street N.W., Suite 700, Washington, DC 20037.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Acting Chief
Enforcement Bureau

⁶ 47 U.S.C. §§ 154(i), 154(j), 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311.

**Before the
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In the Matter of)	File No.: EB-SED-13-00007036 ¹
)	
Intel Corporation)	Acct. No.: 201432100006
)	
)	FRN: 0007775034
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CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and Intel Corporation, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into possible violations of Section 302(b) of the Communications Act of 1934, as amended,² and former Sections 2.803(c),³ 2.803(e),⁴ and 2.1204⁵ of the Commission's rules pertaining to the importation, operation, and advertisement or display of certain prototype radio frequency devices prior to equipment authorization.

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - (d) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
 - (e) "Communications Laws" means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Intel is subject by virtue of its business activities, including but not limited to, the Radio Frequency Device Importation and Product Evaluation Rules.
 - (f) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 12.
 - (g) "Covered Employees" means all employees of Intel who supervise, oversee, or manage the performance of the following duties that directly relate to Intel's

¹ The investigation initiated under File No. EB-SED-13-00006784 was subsequently assigned File No. EB-SED-13-00007036. Any future correspondence with the FCC concerning this matter should reflect the new case number.

² 47 U.S.C. § 302a(b).

³ 47 C.F.R. § 2.803(c) (2012).

⁴ *Id.* § 2.803(e) (2012).

⁵ *Id.* § 2.1204 (2012).

responsibilities under the Radio Frequency Device Importation and Product Evaluation Rules: distributing radio frequency devices within the United States and its territories to Intel employees or others prior to equipment authorization; advertising or displaying radio frequency devices within the United States and its territories prior to equipment authorization; and approving for importation into the United States and its territories radio frequency devices prior to equipment authorization, including those who supervise, oversee, or manage third-party brokers who execute FCC Form 740s in connection with Intel's importation of such devices into the United States and its territories.⁶

- (h) "Effective Date" means the date on which the Bureau releases the Adopting Order.
- (i) "Intel" means Intel Corporation and its predecessors-in-interest and its successors-in-interest.
- (j) "Investigation" means the investigation commenced by the Bureau following Intel's voluntary disclosure to the Bureau of possible violations of Section 302(b) of the Act and former Sections 2.803(c), 2.803(e), and 2.1204 of the Rules pertaining to the importation, operation, and advertisement or display of certain prototype radio frequency devices within the United States and its territories prior to equipment authorization.
- (k) "Operating Procedures" means the internal operating procedures and compliance policies established by Intel to implement the Compliance Plan.
- (l) "Parties" means Intel and the Bureau, each of which is a "Party."
- (m) "Radio Frequency Device" means, for purposes of Section III hereof, a "radiofrequency device" as defined by Section 2.801 of the Rules that requires but has not yet received authorization in accordance with the Rules.
- (n) "Radio Frequency Device Importation and Product Evaluation Rules" means Section 302(b) of the Act⁷ and Sections 2.803, 2.805, 2.1203, 2.1204, and 2.1205 of the Rules as they govern the importation, operation, and advertisement or display of radio frequency devices within the United States and its territories prior to equipment authorization,⁸ and the published and promulgated orders and decisions of the Commission regarding those provisions as they govern the importation, operation, and advertisement or display of radio frequency devices within the United States and its territories prior to equipment authorization.
- (o) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

2. Pursuant to Section 302(b) of the Act⁹ and Section 2.803 of the Rules,¹⁰ radio frequency devices may not be marketed in the United States unless the devices have been tested for compliance with

⁶ For purposes of this Consent Decree, when used in connection with the importation of radiofrequency devices prior to equipment authorization, the phrase "United States and its territories" shall be limited to the Customs territory of the United States. See 47 C.F.R. § 2.1203(a). The Customs territory of the United States constitutes "only the States, the District of Columbia, and Puerto Rico." 19 C.F.R. § 101.1.

⁷ 47 U.S.C. § 302a(b).

⁸ 47 C.F.R. §§ 2.803, 2.805, 2.1203, 2.1204, 2.1205.

⁹ See 47 U.S.C. § 302a(b).

the applicable technical requirements prior to the initiation of marketing in accordance with one of three authorization procedures (i.e., certification, Declaration of Conformity, or verification).¹¹ Section 2.803(a) 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.”¹²

3. Former Section 2.803(e)(1)(iv) of the Rules permitted a manufacturer to operate, but not market, radio frequency devices prior to equipment authorization to evaluate product performance and to determine customer acceptability, provided such operation took place at the manufacturer’s facilities during the developmental, design, or pre-production stages.¹³ In addition, pursuant to former Section 2.803(e)(3)(ii) of the Rules, a manufacturer could operate radio frequency devices prior to equipment authorization for demonstration or evaluation purposes pursuant to a grant of special temporary authority (STA) or an experimental license, or under the authority and with the consent of the local FCC licensed service provider.¹⁴

4. Pursuant to Sections 2.1203, 2.1204, and 2.1205 of the Rules,¹⁵ radio frequency devices may not be imported into the United States unless the importer, ultimate consignee, or customs broker files with the United States Customs and Border Protection (CBP) an FCC Form 740 (or the electronic equivalent thereof) declaring that the device meets one of the import conditions set forth in Section 2.1204 of the Rules.¹⁶ Former Section 2.1204 of the Rules also permitted the importation of “limited quantities” of radio frequency devices prior to equipment authorization for testing and evaluation of compliance with the Rules or suitability for marketing, provided such devices were not offered for sale or marketed.¹⁷ The importation of a greater number of units than permitted required prior written approval from the Commission’s Office of Engineering and Technology.¹⁸

¹⁰ See 47 C.F.R. § 2.803.

¹¹ See *id.* §§ 2.902, 2.906, 2.907.

¹² *Id.* § 2.803(a).

¹³ See *id.* § 2.803(e)(1)(iv) (2012). Pursuant to former Section 2.803(e)(1)(v)(2) of the Rules, for purposes of former Section 2.803(e)(1)(iv), the term “manufacturer’s facilities” included not only the facilities of the party responsible for compliance with the regulations and the manufacturer’s premises, but also the facilities of “other entities working under the authorization of the responsible party in connection with the development and manufacture, but not the marketing, of the equipment.” See *id.* § 2.803(e)(1)(v)(2) (2012).

¹⁴ *Id.* § 2.803(e)(3)(ii) (2012). On January 31, 2013, the Commission adopted significant changes to its Part 5 Experimental Radio Service Rules to create a more flexible framework to support the rapid pace of technological innovation, and modified, clarified, and eliminated other rules to reduce administrative burdens on experimenters and to promote greater experimentation. See *Promoting Expanded Opportunities for Radio Experimentation and Market Trials Under Part 5 of the Commission’s Rules and Streamlining Other Related Rules 2006 Biennial Review of Telecommunications Regulations – Part 2 Administered by the Office of Engineering and Technology*, Report and Order, 28 FCC Rcd 758 (2013) (*Streamlining Order*). In particular, the Commission adopted new Section 2.805 of the Rules to more clearly articulate Commission policies with respect to when radio frequency devices may be operated, but not marketed, prior to equipment authorization. See 47 C.F.R. § 2.805 (eff. May 29, 2013).

¹⁵ See 47 C.F.R. §§ 2.1203, 2.1204, 2.1205.

¹⁶ See *id.* § 2.1204.

¹⁷ See *id.* § 2.1204(a)(3). In the *Streamlining Order*, the Commission concluded that its previous limits on the importation of devices that have not yet been authorized were no longer adequate to meet industry’s needs, and amended Section 2.1204(a)(3) of the Rules to increase the number of radio frequency device units that can be imported for testing and evaluation to determine compliance with FCC Rules, product development, or suitability for marketing. 28 FCC Rcd at 811–12, paras. 145–146.

¹⁸ 47 C.F.R. § 2.1204(a)(3)(i).

5. Finally, radio frequency devices may be advertised or displayed (e.g., at a trade show or exhibition) prior to equipment authorization, provided that the advertisement or display is accompanied by the following conspicuous notice: “This device has not been authorized as required by the rules of the Federal Communications Commission. This device is not, and may not be, offered for sale or lease, or sold or leased, until authorization is obtained.”¹⁹

6. Intel designs, manufactures, and distributes semiconductor chips and other communication and computer devices that must be authorized via the Commission’s equipment verification procedures. On August 17, 2012, counsel to Intel orally disclosed to the Bureau’s Spectrum Enforcement Division (Division) possible violations of the Rules relating to the importation, operation, and advertisement or display of prototype radio frequency devices (specifically, smartphones and tablets) prior to equipment authorization. Intel supplemented its disclosure on December 19, 2012.²⁰ On March 19, 2013, the Division directed Intel to submit a sworn written response to a series of questions relating to Intel’s compliance with former Sections 2.803(c), 2.803(e), and 2.1204 of the Rules.²¹ Intel responded to the Division’s inquiry on April 18, 2013.²² In its Response, Intel identified certain prototype digital device models that were operated in residential areas for testing and evaluation purposes without an equipment authorization prior to receipt of an STA, or that were operated on licensed spectrum without the prior approval of the underlying FCC licensee.²³ In addition, Intel acknowledged that, under former Section 2.1204 of the Rules, it imported more than “limited quantities” of certain prototype digital device models prior to equipment authorization,²⁴ and that it had displayed at a trade show one prototype digital device model prior to equipment authorization with a notice that it believes stated only that: “CONFIDENTIAL INTEL RESTRICTED PROPERTY: NOT FOR SALE.”²⁵

III. TERMS OF AGREEMENT

7. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

8. **Jurisdiction.** Intel agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

9. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a

¹⁹ *Id.* § 2.803(c)(2)(iii)(A) (formerly § 2.803(c) (2012)).

²⁰ See Letter from David H. Solomon, Esq., Wilkinson Barker Knauer, LLP, Counsel to Intel Corporation, to John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (Dec. 19, 2012) (on file in EB-13-0006784) (December Letter).

²¹ See E-mail from Josh Zeldis, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau, to David H. Solomon, Esq., Wilkinson Barker Knauer, LLP, Counsel to Intel Corporation (Mar. 19, 2013, 14:17 EDT) (on file in EB-13-0006784).

²² See Letter from David H. Solomon, Esq., Wilkinson Barker Knauer, LLP, Counsel to Intel Corporation, to Josh Zeldis, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau (Apr. 18, 2013) (on file in EB-13-0006784) (Response).

²³ See *id.* at 1-6.

²⁴ See December Letter at 2.

²⁵ See Response at 1-2.

Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

10. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Intel agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against Intel concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Intel with respect to Intel's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

11. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Intel shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Intel complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Radio Frequency Device Importation and Product Evaluation Rules prior to assuming his/her duties.

12. **Compliance Plan.** For purposes of settling the matters set forth herein, Intel agrees that, consistent with its overall efforts to ensure future compliance with the Communications Laws, it shall within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan to help ensure future compliance with the Radio Frequency Device Importation and Product Evaluation Rules and with the terms and conditions of this Consent Decree. Intel represents that it has one or more employees covering each relevant business unit who have responsibility for compliance with each of the Communications Laws that are relevant to its operations, and that there are at least twenty (20) such employees, including management personnel in Intel's Corporate Product Regulations & Standards Group, who collectively exercise responsibility for Intel's compliance with all of the Communications Laws that are relevant to its operations. Intel agrees that it will either maintain this compliance structure, or, if it makes changes, shall ensure that it maintains equivalent oversight over compliance with all Communications Laws that are applicable to its operations. With respect to the Radio Frequency Device Importation and Product Evaluation Rules, Intel shall implement the following procedures:

- (a) **Operating Procedures on Device Development.** Within sixty (60) calendar days after the Effective Date, Intel shall establish Operating Procedures that all Covered Employees must follow to help ensure Intel's compliance with the Radio Frequency Device Importation and Product Evaluation Rules. Intel's Operating Procedures shall include internal procedures and policies specifically designed to ensure that (i) Intel's operation of Radio Frequency Devices prior to equipment authorization, including operation for the purpose of performance evaluation and determination of customer acceptability, complies with Section 2.805 of the Rules;²⁶ (ii) Intel's advertising and display of Radio Frequency Devices prior to equipment authorization, including the advertisement or display of such devices at trade shows or exhibitions, complies with Section 2.803 of the

²⁶ See 47 C.F.R. § 2.805(e).

Rules;²⁷ and (iii) Intel complies with the requirements of Sections 2.1203, 2.1204, and 2.1205 of the Rules relating to the importation and entry of Radio Frequency Devices into the United States prior to equipment authorization, including the importation limits set forth in Section 2.1204(a) and the filing with the United States Customs and Border Protection of an FCC Form 740 (or the electronic equivalent thereof) that accurately identifies the importation condition(s) satisfied for each such importation.²⁸

- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. Distribution by e-mail or by an e-mail link to an internal Intel intranet site shall be deemed to comply with this requirement. The Compliance Manual shall explain the Radio Frequency Device Importation and Product Evaluation Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure Intel's compliance with the Radio Frequency Device Importation and Product Evaluation Rules. Intel shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. Intel shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** Intel shall establish and implement a Compliance Training Program on compliance with the Radio Frequency Device Importation and Product Evaluation Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Intel's obligation to report any noncompliance with the Radio Frequency Device Importation and Product Evaluation Rules under paragraph 13 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the launch of the initial training shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. Intel shall repeat the compliance training on an annual basis and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness. Intel further agrees to train, by no later than October 31, 2014, its employees within its Mobile and Communications Group and New Devices Group who, based on job description and role, are likely to import, test, operate, market, display or advertise Radio Frequency Devices in the United States or its territories prior to equipment authorization, which shall include instruction on compliance with the Frequency Device Importation and Product Evaluation Rules.

13. **Reporting Noncompliance.** Intel shall report any noncompliance with the Radio Frequency Device Importation and Product Evaluation Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that Intel has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will

²⁷ See *id.* § 2.803(c).

²⁸ See *id.* §§ 2.1203, 2.1204, 2.1205.

be taken; and (iv) the steps that Intel has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, Room 3-C366, 445 12th Street, S.W. Washington, DC 20554, with a copy submitted electronically to Josh Zeldis at Josh.Zeldis@fcc.gov and to JoAnn Lucanik at JoAnn.Lucanik@fcc.gov.

14. **Compliance Reports.** Intel shall file Compliance Reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Intel's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Radio Frequency Device Importation and Product Evaluation Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Intel, stating that the Compliance Officer has personal knowledge that Intel (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 13 hereof.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the Rules²⁹ and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Intel, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully (i) each instance of noncompliance; (ii) the steps that Intel has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that Intel has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 3-C366, 445 12th Street, S.W., Washington, DC 20554, with a copy submitted electronically to Josh Zeldis at Josh.Zeldis@fcc.gov and to JoAnn Lucanik at JoAnn.Lucanik@fcc.gov.

15. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 11 through 14 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

16. **Payment.** Intel agrees that it will make a payment to the United States Treasury in the amount of one hundred and forty-four thousand dollars (\$144,000) within thirty (30) calendar days after the Effective Date. Intel shall send electronic notification of payment to Josh Zeldis at Josh.Zeldis@fcc.gov, JoAnn Lucanik at JoAnn.Lucanik@fcc.gov, and Samantha Peoples at Sam.Peoples@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

²⁹ 47 C.F.R. § 1.16.

submitted.³⁰ 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 Intel should follow based on the form of payment it selects:

- Payment by check or money order must be made payable in United States Dollars 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.

If Intel has questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

17. **Waivers**. Intel waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. Intel shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Intel nor the Commission shall contest the validity of the Consent Decree or of the Adopting Order, and Intel shall waive any statutory right to a trial *de novo*. Intel hereby agrees to waive any claims it may have under the Equal Access to Justice Act³¹ relating to the matters addressed in this Consent Decree.

18. **Invalidity**. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

19. **Subsequent Rule or Order**. The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Intel does not expressly consent) that provision will be superseded by such Rule or Commission order.

20. **Successors and Assigns**. Intel agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

21. **Final Settlement**. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further

³⁰ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

³¹ Equal Access to Justice Act, Pub L. No. 96-481, 94 Stat. 2325 (1980) (codified at 5 U.S.C. § 504); *see also* 47 C.F.R. §§ 1.1501–1.1530.

agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws.

22. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

23. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

24. **Authorized Representative.** The individual signing this Consent Decree on behalf of Intel represents and warrants that she is authorized by Intel to execute this Consent Decree and to bind Intel to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

25. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

John D. Poutasse
Chief, Spectrum Enforcement Division
Enforcement Bureau

Date

Jo S. Levy
Vice President, Legal and Corporate Affairs
Chief Compliance Officer
Intel Corporation

Date