

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

In the Matter of)	
)	
Broadband Telecommunications Network, Corp.)	EB-FIELDSCR-18-00027343
(d/b/a Integra Wireless), San Juan, Puerto Rico)	NAL/Acct. No. 201932020004
)	FRN: 0028605210
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE AND ORDER

Adopted: August 22, 2019

Released: August 22, 2019

By the Acting Field Director, Enforcement Bureau:

I. INTRODUCTION

1. The Federal Aviation Administration (FAA) uses terminal doppler weather radar stations to detect wind shear and other dangerous weather conditions near airports. Interference to these radar stations is unacceptable and, in certain circumstances, could be potentially life threatening. Broadband Telecommunications Network, Corp. (d/b/a Integra Wireless) (Integra)¹ provides wireless internet service in Puerto Rico. Integra was apparently operating two Unlicensed National Information Infrastructure (U-NII) devices in an unauthorized manner that caused interference to an FAA terminal doppler weather radar station in San Juan, Puerto Rico. This operation was in apparent willful violation of section 301 of the Communications Act of 1934, as amended (Act),² and sections 15.1(b) and 15.407(h)(2) of the Commission's rules.³ Accordingly, we propose a penalty of \$25,000 against Integra.

II. BACKGROUND

2. Section 301 of the Act states that “[n]o person shall use or operate any apparatus for the transmission of energy or communications or signals by radio” within the United States or its territories without a license granted by the Commission.⁴ Part 15 of the Commission's rules provides an exception to this general section 301 license requirement and sets forth conditions under which such devices (intentional radiators) may operate without an individual license.⁵ Pursuant to section 15.1(b) of the

¹ Any entity that is a “Small Business Concern” as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, “Oversight of Regulatory Enforcement,” in addition to other rights set forth herein.

² 47 U.S.C. § 301. 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). As Congress explained, the term is used to address a situation in which a person “knew that he [or she] was doing the act in question, regardless of whether there was an intent to violate the law.” H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) (also noting that the definition of “willful” in section 312(f)(1) was intended to be similarly interpreted in the context of a forfeiture brought under section 503(b) of the Act). *See also, Jay Peralta, Corona, New York, Notice of Apparent Liability for Forfeiture*, 32 FCC Rcd 3246, 3247-48, para. 5 (2017), *forfeiture ordered*, 32 FCC Rcd 7993 (2017).

³ 47 CFR §§ 15.1(b), 15.407(h)(2).

⁴ 47 U.S.C. § 301.

⁵ *See* 47 CFR §§ 15.1, *et seq.*

Commission's rules, however, "operation of an intentional . . . radiator that is not in accordance with the regulations in this part *must be licensed*. . . ."⁶

3. In 2003, the Commission allocated additional spectrum for unlicensed use by U-NII devices in the 5 GHz band as a means of promoting competitive wireless broadband services.⁷ In particular, some wireless Internet service providers rely U-NII devices to provide point-to-point broadband connections within their networks. U-NII device operators are authorized to operate radio transmitters in specific portions of the 5 GHz band on an unlicensed basis, but they must comply with technical rules specific to U-NII devices to prevent harmful interference to radar stations (including the FAA's terminal doppler weather radar system) operating in the same portions of the 5 GHz band in which U-NII devices are permitted to operate.⁸ To enable this spectrum sharing while avoiding harmful interference to government radar stations, the Commission requires, pursuant to section 15.407(h)(2) of its rules, that U-NII devices operating in the 5.25 – 5.35 GHz (U-NII-2A) and 5.47 – 5.725 GHz (U-NII-2C) bands have Dynamic Frequency Selection radar detection functionality, which allows them to detect the presence of radar systems and automatically avoid operating on the same channel as those nearby radar systems.⁹ Without Dynamic Frequency Selection enabled, a U-NII device operating on this shared spectrum can cause harmful interference to government radar stations.

4. As part of the Enforcement Bureau's (Bureau) ongoing coordination efforts with the FAA, on August 8, 2018, the FAA reported that its terminal doppler weather radar station serving the San Juan International Airport was receiving interference from a source to the Southeast of the radar station (i.e., on an azimuth of 140° True North). According to the FAA, the San Juan terminal doppler weather radar station operates on 5.610 GHz and was receiving interference from a source operating on that frequency or an adjacent frequency.

5. On August 15, 2018, Bureau personnel used direction-finding techniques and determined that radio emissions centered on 5.610 GHz were emanating from the roof of Fontainebleau Plaza Building in Guaynabo, Puerto Rico (Transmitter Site). The Transmitter Site is situated to the Southeast of the San Juan terminal doppler weather radar station (i.e., on an azimuth of 140° True North).

6. On September 13, 2018, Bureau personnel returned to the Transmitter Site, and, after speaking with the building's manager, obtained access to the building's roof. Once on the roof, the Bureau personnel determined that the source of the transmissions on 5.610 GHz was a device located on the building's Northwest corner. Although the building's manager was able to identify the owners of some of the U-NII devices on the building's roof, he was not able to identify the owner of the device operating on 5.610 GHz.

7. On December 12, 2018, a Bureau agent spoke further with the building manager and with personnel of the companies operating other U-NII devices on the roof of the Transmitter Site. Based on those discussions, the agent learned that Integra might be the operator of the device transmitting on 5.610 GHz. Later that day, the Bureau agent performed online research, using publicly-available sources, to identify Integra's president and the location of its corporate office.¹⁰

⁶ 47 CFR § 15.1(b) (emphasis added).

⁷ See *Revision of Parts 2 and 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band*, Report and Order, 18 FCC Rcd 24484 (2003).

⁸ See 47 CFR § 15.407.

⁹ See 47 CFR § 15.407(h)(2).

¹⁰ Integra's website states that "Integra Wireless" is a mark of Broadband Telecommunications Network, Corp. See Integra Wireless, *Nuestra Historia*, <https://integrawireless.com/nosotros/> (last visited June 12, 2019).

8. On December 13, 2018, Bureau personnel returned to the Transmitter Site and observed that transmissions on 5.610 GHz continued to emanate from that site. While the Bureau personnel were monitoring the transmissions at the Transmitter Site, one of the Bureau's agents traveled to Integra's place of business to meet with company personnel. The agent observed as Integra personnel used an online management tool to show the agent the configuration of its device at the Transmitter Site. The Bureau's agent observed that two Ubiquiti PowerBeam M5 400 U-NII devices (one located at the Transmitter Site and the other located at a remote location) (together, the Ubiquiti Devices) were operating on the same wireless network using a center frequency of 5.610 GHz. The Bureau's agent also observed that the devices were configured to operate in "Licensed" mode (rather than under the parameters for a specific country) and that Dynamic Frequency Selection was not enabled. At the conclusion of the inspection, the agent instructed Integra personnel to change the country code to United States, whereupon the remote management tool provided visual confirmation that Dynamic Frequency Selection had been enabled on frequencies in the U-NII-2C band.

9. Following the December 13, 2018, inspection, the agent reviewed the Bureau's records and determined that, on May 14, 2018, the Bureau issued Integra a written warning cautioning them to ensure that Dynamic Frequency Selection was enabled on U-NII devices operating on frequencies in the 5.47 – 5.725 GHz band (the U-NII-2C band) to avoid interference to the FAA's terminal doppler weather radar station in San Juan, Puerto Rico.¹¹ On May 24, 2018, Integra responded to the Bureau's warning letter and confirmed that it had checked its entire network for compliance with the Commission's rules and stated that all devices on its network were then in compliance with applicable regulations.¹²

III. DISCUSSION

10. We find that Integra has apparently willfully violated section 301 of the Act and has also apparently violated sections 15.1(b) and 15.407(h)(2) of the Commission's rules.¹³ Specifically, on December 13, 2018, a Bureau agent and other Bureau personnel observed that Integra was operating the Ubiquiti Devices on 5.610 GHz (i.e., within the U-NII-2C band) that it had configured to operate without the required Dynamic Frequency Selection capability enabled. Integra's misconfiguration of the Ubiquiti Devices apparently violated section 15.407(h)(2) of the Commission's rules. Because Integra was operating the Ubiquiti Devices on 5.610 GHz without Dynamic Frequency Selection enabled, it did not satisfy the section 15.1(b) condition for unlicensed operation—namely, that devices must be operated in accordance with the applicable provisions of part 15 of the Commission's rules.¹⁴ Accordingly, because Integra holds no license from the Commission permitting operation on 5.610 GHz without Dynamic Frequency Selection, we find that its operation of the two Ubiquiti Devices without Dynamic Frequency Selection enabled apparently violated section 301 of the Act and sections 15.1(b) and 15.407(h)(2) of the Commission's rules.¹⁵

A. Proposed Forfeiture

11. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that "willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission."¹⁶ Here, section 503(b)(2)(D) of the Act authorizes us to

¹¹ Letter from Ronald Ramage, Regional Director, Region Two, Enforcement Bureau, to Integra Wireless (May 14, 2018) (on file in EB-FIELDSCR-18-00027343).

¹² Letter from Edilberto Berrios Febles, President, Integra Wireless, to Ronald Ramage, Regional Director, Region Two, Enforcement Bureau (May 24, 2018) (on file in EB-FIELDSCR-18-00027343).

¹³ 47 U.S.C. § 301; 47 CFR §§ 15.1(b), 15.407(h)(2).

¹⁴ 47 CFR §§ 15.1(b), 15.407(h)(2).

¹⁵ 47 U.S.C. § 301; 47 CFR §§ 15.1(b), 15.407(h)(2).

¹⁶ 47 U.S.C. § 503(b).

assess a forfeiture against Integra of up to \$20,134 for each day of a continuing violation, up to a statutory maximum of \$151,005 for a single act or failure to act.¹⁷ In exercising our forfeiture authority, we must consider 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.”¹⁸ In addition, the Commission has established forfeiture guidelines; they establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.¹⁹ Under these guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.²⁰

12. Pursuant to the Commission’s *Forfeiture Policy Statement* and section 1.80 of the Commission’s rules, the base forfeiture amount for operation without an instrument of authorization is \$10,000.²¹ Because, on December 13, 2018, Integra apparently operated the two Ubiquiti Devices on 5.610 GHz without having Dynamic Frequency Selection enabled and without a license, as required when operating outside of the parameters set forth in part 15 of the Commission’s rules,²² we find that Integra’s conduct resulted in two separate apparent violations of section 301 of the Act and sections 15.1(b) and 15.407(h)(2) of the Commission’s rules. These two apparent violations yield an aggregate base forfeiture of \$20,000.²³

13. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, 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. Based on the prior warning that the Bureau issued to Integra on May 14, 2018, we conclude that Integra’s apparent violations of section 301 of the Act and sections 15.1(b) and 15.407(h)(2) were intentional and warrant an upward adjustment of \$5,000.²⁴ We therefore propose an aggregate forfeiture of \$25,000 for Integra’s apparent violations of section 301 of the Act and sections 15.1(b) and 15.407(h)(2) of the Commission’s rules.

B. Reporting Requirement

14. To preserve the integrity of the FAA’s terminal doppler weather radar station serving the San Juan International Airport, we also find that Integra should certify its compliance with the requirements at issue in this matter. We therefore order Integra to submit a statement signed under

¹⁷ See 47 U.S.C. § 503(b)(2)(D); 47 CFR §§ 1.80(b)(7), (9); see also *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, 33 FCC Rcd 12278 (EB 2018).

¹⁸ 47 U.S.C. § 503(b)(2)(E).

¹⁹ 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

²⁰ *Id.*

²¹ *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) (*Forfeiture Policy Statement*), recons. denied, 15 FCC Rcd 303 (1999); 47 CFR § 1.80.

²² See 47 CFR § 15.1(b).

²³ See, e.g., *Towerstream Corporation, Middletown, Rhode Island*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 11604 (2013) (applying a \$10,000 base forfeiture for the unauthorized operation of a U-NII device and upwardly adjusting the proposed forfeiture to the statutory maximum because the violations were intentional, caused substantial harm to terminal doppler weather radar systems, and followed multiple prior violations) (*Towerstream NAL*), terminated in, Order, 31 FCC Rcd 8530 (EB 2016).

²⁴ *Id.*

penalty of perjury by an officer or director of the company stating that each U-NII device that it operates is currently operating in compliance with the Commission's rules and the equipment's applicable authorizations. This statement must be provided to the Enforcement Bureau at the address listed in paragraph 18 within thirty (30) calendar days of the release date hereof.

IV. CONCLUSION

15. We have determined that Integra apparently willfully violated section 301 of the Act and sections 15.1(b) and 15.407(h)(2) of the Commission's rules.²⁵ As such, Integra is apparently liable for a forfeiture of \$25,000.

V. ORDERING CLAUSES

16. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act²⁶ and section 1.80 of the Commission's rules,²⁷ Broadband Telecommunications Network, Corp. (d/b/a Integra Wireless) is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of Twenty-Five Thousand Dollars (\$25,000) for willful violations of section 301 of the Act²⁸ and sections 15.1(b) and 15.407(h)(2) of the Commission's rules.²⁹

17. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules,³⁰ within thirty (30) calendar days of the release of this Notice of Apparent Liability for Forfeiture and Order, Broadband Telecommunications Network, Corp. (d/b/a Integra Wireless) **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 21 below.

18. **IT IS FURTHER ORDERED** that Broadband Telecommunications Network, Corp. (d/b/a Integra Wireless) **SHALL SUBMIT** a written statement, as described in paragraph 14, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture and Order. The statement must be mailed to the Federal Communications Commission, Enforcement Bureau, Office of the Field Director, 445 12th Street, SW, Washington, DC 20554, with a copy sent by email to field@fcc.gov.

19. Payment of the forfeiture must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission's Fee Filer (the Commission's online payment system),³¹ or by wire transfer. The Commission no longer accepts forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:³²

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as

²⁵ 47 U.S.C. § 301; 47 CFR §§ 15.1(b), 15.407(h)(2).

²⁶ 47 U.S.C. § 503(b).

²⁷ 47 CFR § 1.80.

²⁸ 47 U.S.C. § 301.

²⁹ 47 CFR §§ 15.1(b), 15.407(h)(2).

³⁰ 47 CFR § 1.80.

³¹ Payments made using the Commission's Fee Filer system do not require the submission of FCC Form 159.

³² For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).³³ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.

- Payment by credit card must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by credit card, log-in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu, and select the bill number associated with the NAL Account—the bill number is the NAL Account number with the first two digits excluded—and then choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu and then select the bill number associated to the NAL Account—the bill number is the NAL Account number with the first two digits excluded—and choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

20. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.³⁴ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

21. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.16 and 1.80(f)(3) of the Commission’s rules.³⁵ The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau—Office of the Field Director, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to field@fcc.gov.

22. The Commission will not consider reducing or canceling a forfeiture in response to 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; or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation.

³³ Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

³⁴ See 47 CFR § 1.1914.

³⁵ 47 CFR §§ 1.16, 1.80(f)(3).

23. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture and Order shall be sent by first class mail and certified mail, return receipt requested, to Broadband Telecommunications Network, Corp. (d/b/a Integra Wireless), at 74 Calle Bolivia, San Juan, Puerto Rico 00919.

FEDERAL COMMUNICATIONS COMMISSION

Ronald Ramage
Acting Field Director
Enforcement Bureau