

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Klein Electronics, Inc.)

)
) File No.: EB-SED-19-0002870
) CD Acct. No.: 202132100001
) FRN: 0016302218
)
)

ORDER

Adopted: October 7, 2020

Released: October 7, 2020

By the Deputy Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission has entered into a Consent Decree to resolve its investigation into whether Klein Electronics, Inc. (Klein Electronics) violated Commission rules that require certain types of radiofrequency equipment to display an FCC identifier or to include specific labeling or user information statements when marketed. These rules enable potential retailers and consumers to identify radiofrequency devices that have been authorized for sale and use within the United States. These rules also help to ensure that radiofrequency devices are operated in a manner that minimizes potential interference to authorized communications. To settle this matter, Klein Electronics admits that it marketed radiofrequency equipment in violation of the Commission’s rules, will implement a compliance plan, and will pay a \$20,000 civil penalty.

2. 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 referenced investigation regarding Klein Electronics’ compliance with equipment identification and labeling requirements, as set forth in section 302(b) of the Communications Act of 1934, as amended (Act)¹, and sections 2.803, 2.925, 2.1077, 15.19, 15.21, and 15.105 of the Commission’s rules.²

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Klein Electronics’ basic qualifications to hold or obtain any Commission license or authorization.³

4. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act⁴ and the authority delegated by sections 0.111 and 0.311 of the Commission’s rules,⁵ the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED** in accordance with the terms of the attached Consent Decree.

¹ 47 U.S.C. § 302a(b).

² 47 CFR §§ 2.803, 2.925, 2.1077, 15.19, 15.21, 15.105.

³ See 47 CFR § 1.93(b).

⁴ 47 U.S.C. § 154(i).

⁵ 47 CFR §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by e-mail to Mr. Richard Klein, President, Klein Electronics, Inc., 349 North Vinewood Street, Escondido, California, 92029.

FEDERAL COMMUNICATIONS COMMISSION

Christopher L. Killian
Deputy Chief
Enforcement Bureau

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Klein Electronics, Inc.) File No.: EB-SED-19-0002870
) CD Acct. No.: 202132100001
) FRN: 0016302218
)
)

CONSENT DECREE

1. The FCC equipment marketing rules advance the Commission’s goal of ensuring that radiofrequency equipment marketed in the United States do not cause harmful interference to authorized communications. In furtherance of this objective, the Commission’s Enforcement Bureau and Klein Electronics, Inc. (Klein Electronics) by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into whether Klein Electronics violated section 302(b) of the Communications Act of 1934, as amended (Act),¹ and sections 2.803, 2.925, 2.1077, 15.19, 15.21, and 15.105 of the Commission’s rules² in connection with the company’s unauthorized marketing of radiofrequency equipment. To resolve this matter, Klein Electronics agrees to implement a compliance plan, file periodic compliance reports, and pay a \$20,000 civil penalty.

I. DEFINITIONS

- 2. For the purposes of this Consent Decree, the following definitions shall apply:
(a) “Act” means the Communications Act of 1934, as amended.³
(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) “CD Acct No.” means account number 202132100001, associated with payment obligations described in paragraph 17 of this Consent Decree.
(e) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
(f) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Klein Electronics is subject by virtue of its business activities, including but not limited to the Equipment Marketing Rules.
(g) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 13.
(h) “Covered Employees” means all employees and agents of Klein Electronics who perform, supervise, oversee, or manage the performance of, duties that relate to

¹ 47 U.S.C. § 302a(b).

² 47 CFR §§ 2.803, 2.925, 2.1077, 15.19, 15.21, 15.105.

³ 47 U.S.C. § 151 et seq.

Klein Electronics' responsibilities under the Communications Laws, including the Equipment Marketing Rules.

- (i) "Effective Date" means the date by which both the Bureau and Klein Electronics have signed the Consent Decree and the Bureau has released an Adopting Order.
- (j) "Equipment Marketing Rules" means section 302(b) of the Act;⁴ sections 2.803, 2.925, 2.1077, 15.19, 15.21, and 15.105 of the Rules,⁵ and other provisions of the Act, the Rules, and Commission orders related to the authorization of radiofrequency devices and the marketing of such devices.
- (k) "Investigation" means the investigation commenced by the Bureau in File No. EB-SED-19-0002870 regarding whether Klein Electronics violated the Equipment Marketing Rules.
- (l) "Klein Electronics" or "Company" means Klein Electronics and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (m) "Operating Procedures" means the standard internal operating procedures and compliance policies established by Klein Electronics to implement the Compliance Plan.
- (n) "Parties" means Klein Electronics and the Bureau, each of which is a "Party."
- (o) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

3. 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."⁶ Pursuant to section 2.803 of the Rules, radiofrequency (RF) devices must be properly authorized, identified, labeled, and comply with the applicable technical standards prior to being marketed in the United States.⁷ Pursuant to section 2.925 of the Rules, a device that is subject to authorization by certification must conspicuously display its FCC Identifier (FCC ID) and any other statement or labeling requirement set forth in the Rules.⁸ For certain such devices in this case, section 15.19 requires that the device include a label advising the user against operation that causes harmful interference,⁹ while section 15.21 requires a statement that cautions the user against unauthorized modification of the device.¹⁰ Similarly, a device that is subject to authorization by the

⁴ *Id.* § 302a(b).

⁵ 47 CFR §§ 2.803, 2.925, 2.1077, 15.19, 15.21, 15.105.

⁶ 47 U.S.C. § 302a(b).

⁷ 47 CFR § 2.803. The term "marketing" is defined in the Rules and includes 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(a).

⁸ Under section 2.925(a) of the Rules, "[e]ach equipment covered in an application for equipment authorization shall bear a label listing the following: (1) FCC Identifier consisting of the two elements in the exact order specified in § 2.926. The FCC Identifier shall be preceded by the term FCC ID in capital letters on a single line and shall be of a type size large enough to be legible without the aid of magnification. (2) Any other statements or labeling requirements imposed by the rules governing the operation of the specific class of equipment, except that such statements(s) or compliance may appear on a separate label at the option of the applicant/grantee. (3) The information required may be provided electronically pursuant to §2.935." *Id.* § 2.925(a).

⁹ *See id.* § 15.19.

¹⁰ *See id.* § 15.21.

Supplier's Declaration of Conformity must include a compliance information statement with the device when marketed.¹¹ Additionally, pursuant to section 15.105 of the Rules, certain devices that operate as unintentional radiators are required to include a user manual statement advising that the device generates RF energy and may cause harmful interference to radio communications.¹²

4. Klein Electronics is a California-based retailer and manufacturer of mobile and handheld two-way radios, Bluetooth-enabled devices, and other RF devices and accessories. The Spectrum Enforcement Division (Division) of the Enforcement Bureau received a complaint alleging that this company was selling RF devices that did not appear to have an FCC equipment authorization. Specifically, the complaint alleged that certain devices sold by the company were neither labeled with an FCC Identifier (FCC ID), as required for devices subject to authorization by certification, nor marketed with a compliance information statement, as required for devices subject to authorization by Supplier's Declaration of Conformity.¹³

5. On April 18, 2019, the Division issued a Letter of Inquiry (LOI) to Klein Electronics, directing it to provide information and documents regarding the equipment authorization and marketing of its BLU-PTT and BLU-RSM Bluetooth-enabled devices.¹⁴ The company filed an incomplete response on October 18, 2019.¹⁵ Consequently, on January 22, 2020, the Division issued a supplemental letter of inquiry (supplemental LOI) that sought the missing information and expanded the scope of the investigation to the company's entire inventory of RF products.¹⁶ The company filed a response to the supplemental LOI on May 11, 2020.¹⁷ Klein Electronics' responses indicated that, although each of its devices had been properly tested and authorized under the Rules, some models did not include the required FCC ID label or user information statement on the device, packaging, and/or user manual. Klein Electronics stated that it ceased all RF equipment marketing until it brought those models and user manuals into full compliance.¹⁸

¹¹ See *id.* § 2.1077.

¹² See *id.* § 15.105(a).

¹³ Under current Rules, most new devices may be authorized either by certification or by Supplier's Declaration of Conformity (SDoC). See *FCC Enforcement Advisory, Attention Electronic Device Retailers: Supplier's Declaration of Conformity Procedures Are Now in Effect*, Public Notice, DA 19-91 (Feb. 15, 2019). Each unit marketed must show that it was authorized under the Commission's rules before it may be advertised, imported, or offered for sale in the United States: a certified device must display its FCC ID, while an SDoC device must include a separate compliance information statement when the device is marketed. See Office of Engineering & Technology (OET), Equipment Authorization, <https://www.fcc.gov/engineering-technology/laboratory-division/general/equipment-authorization> (last visited Sept. 2, 2020).

¹⁴ See Letter from Elizabeth Y. Mumaw, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Richard Klein, Owner, Klein Electronics, Inc. (Apr. 18, 2019) (on file in EB-SED-19-0002870) (LOI).

¹⁵ See Letter from Ken Sampson, Vice President, Klein Electronics, Inc. to Elizabeth Y. Mumaw, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to (Oct. 18, 2019) (on file in EB-SED-19-0002870) (LOI Response).

¹⁶ See Letter from Elizabeth Y. Mumaw, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Richard Klein, Owner, Klein Electronics, Inc. (Jan. 22, 2020) (on file in EB-SED-19-0002870).

¹⁷ See Letter from Richard Klein, President, Klein Electronics, Inc., to Elizabeth Y. Mumaw, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (May 11, 2020); E-mail from Richard Klein, President, Klein Electronics, Inc., to Kevin Pittman, Spectrum Enforcement Division, FCC Enforcement Bureau (May 28, 2020, 17:16 EST) (on file in EB-SED-19-0002870).

¹⁸ *Id.* The company also attested to its limited current ability to generate sales of its RF products due to the impact of the global COVID-19 pandemic on market demand for such products. See E-mail from Richard Klein, President, Klein Electronics, Inc., to Kevin Pittman, Spectrum Enforcement Division, FCC Enforcement Bureau (June 19, 2020, 16:23 EST); E-mail from Richard Klein, President, Klein Electronics, Inc., to Kevin Pittman, Spectrum

6. Klein Electronics and the Bureau subsequently entered into a Tolling Agreement to toll the statute of limitations and engaged in settlement negotiations, resulting in an agreement of the terms outlined in this Consent Decree. To settle this matter, Klein Electronics agrees to implement a compliance plan, file periodic reports with the Division regarding the company's compliance with the Equipment Marketing Rules, and pay a \$20,000 civil penalty.

7. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

8. **Jurisdiction.** Klein Electronics agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and 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 Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

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, Klein Electronics agrees to the terms, conditions, and procedures contained herein. The Bureau further 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 any new proceeding on its own motion against Klein Electronics concerning the matters that were the subject of the Investigation, or to set for hearing the question of Klein Electronics' basic qualifications to be a Commission licensee or hold Commission licenses or authorizations based on the matters that were the subject of the Investigation.¹⁹

11. **Admission of Liability.** Klein Electronics admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 10 herein, that its actions described in paragraph 5 violated section 302(b) of the Communications Act and sections 2.803, 2.925, 2.1077, 15.19, 15.21, and 15.105 of the Rules.

12. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Klein Electronics shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a 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 Klein Electronics 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 or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Equipment Marketing Rules prior to assuming his/her duties.

13. **Compliance Plan.** For purposes of settling the matters set forth herein, Klein Electronics agrees that it shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Equipment Marketing Rules, Klein Electronics will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within thirty (30) calendar days after the Effective Date, Klein Electronics shall establish Operating Procedures that all Covered Employees

Enforcement Division, FCC Enforcement Bureau (June 25, 2020, 16:42 EST; E-mail from Richard Klein, President, Klein Electronics, Inc., to Kevin Pittman, Spectrum Enforcement Division, FCC Enforcement Bureau (June 29, 2020, 16:48 EST); E-mail from Richard Klein, President, Klein Electronics, Inc., to Kevin Pittman, Spectrum Enforcement Division, FCC Enforcement Bureau (Aug. 26, 2020, 17:06 EST) (on file in EB-SED-19-0002870).

¹⁹ See 47 CFR § 1.93(b).

must follow to help ensure Klein Electronics' compliance with the Equipment Marketing Rules. Klein Electronics' Operating Procedures shall include internal procedures and policies specifically designed to ensure that, prior to marketing, each RF model in its inventory has been properly authorized and satisfies the applicable identification, labeling, and administrative requirements when marketed. Klein Electronics shall annually review each RF model in its inventory and confirm that each model continues to meet the technical standards of its equipment authorization and continues to satisfy other applicable Rule requirements. Klein Electronics shall also develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Equipment Marketing Rules.

- (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. The Compliance Manual shall explain the Equipment Marketing Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure Klein Electronics' compliance with the Equipment Marketing Rules. Klein Electronics shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Klein Electronics shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program**. Klein Electronics shall establish and implement a Compliance Training Program in compliance with the Equipment Marketing Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Klein Electronics' obligation to report any noncompliance with the Equipment Marketing Rules under paragraph 14 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 initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. Klein Electronics shall repeat 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.

14. **Reporting Noncompliance**. Klein Electronics shall report any noncompliance with the Equipment Marketing 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 Klein Electronics has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that Klein Electronics has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted electronically to EB-SED-Response@fcc.gov, with a copy submitted to kevin.pittman@fcc.gov.

15. **Compliance Reports**. Klein Electronics 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 Klein Electronics' efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Equipment Marketing Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Klein Electronics, stating that the Compliance Officer has personal

knowledge that Klein Electronics: (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 14 of this Consent Decree.

- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.²⁰
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Klein Electronics, 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 Klein Electronics 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 Klein Electronics 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 electronically to EB-SED-Response@fcc.gov, with a copy submitted to kevin.pittman@fcc.gov.

16. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 12 through 15 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

17. **Civil Penalty.** Klein Electronics will pay a civil penalty to the United States Treasury in the amount of twenty thousand dollars (\$20,000) within thirty (30) calendar days of the Effective Date. Klein Electronics acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).²¹ Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. Klein Electronics shall send electronic notification of payment to EB-SED-Response@fcc.gov and to kevin.pittman@fcc.gov on the date said payment is made. Payment of the Civil Penalty 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),²² or by wire transfer. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:²³

- 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 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).²⁴ For

²⁰ 47 CFR § 1.16.

²¹ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

²² Payments made using the Commission's Fee Filer system do not require the submission of an FCC Form 159.

²³ 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.

²⁴ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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 CD Acct. No. – the bill number is the CD Acct. No. with the first two digits excluded – and then choose the "Pay by Credit Card" option. IMPORTANT NOTE: 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 with the CD Acct. No. – the bill number is the CD Acct. No. with the first two digits excluded (e.g., NAL 1912345678 = FCC bill Number 12345678) – 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.

18. **Event of Default.** Klein Electronics agrees that an Event of Default shall occur upon the failure by Klein Electronics to pay the full amount of the Civil Penalty on or before the due date specified in this Consent Decree.

19. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the Civil Penalty shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the Civil Penalty, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys' fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by Klein Electronics.

20. **Waivers.** As of the Effective Date, Klein Electronics 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. Klein Electronics 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 Consent Decree or the Adopting Order, neither Klein Electronics nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Klein Electronics shall waive any statutory right to a trial *de novo*. Klein Electronics hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act²⁵ relating to the matters addressed in this Consent Decree.

21. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

²⁵ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

22. **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.

23. **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 Klein Electronics does not expressly consent) that provision will be superseded by such Rule or order.

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

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

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

27. **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.

28. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

29. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Christopher L. Killian
Deputy Bureau Chief
Enforcement Bureau

Date

Richard Klein
President
Klein Electronics, Inc.

Date