

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

In the Matter of)	
)	File No. EB-02-TS-607
Samson Technologies, Inc.)	NAL/Acct. No. 200432100008
)	FRN 0009-9962-73
)	
)	

ORDER

Adopted: December 8, 2004

Released: December 13, 2004

By the Commission:

1. In this Order, we adopt the attached Consent Decree entered into between the Commission and Samson Technologies, Inc. (“Samson”). The Consent Decree terminates the forfeiture proceeding initiated by the Commission against Samson for its apparent failure to comply with the requirements set forth in Section 302(b) of the Communications Act of 1934, as amended (“Act”), and Section 2.803(a) of the Commission’s Rules (“Rules”).¹

2. The Commission and Samson have negotiated the terms of a Consent Decree that would resolve this matter and terminate the forfeiture proceeding. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. Based on the record before us, we conclude that no substantial or material questions of fact exist with respect to this matter as to whether Samson possesses the basic qualifications, including those related to character, to hold or obtain any FCC license or authorization.

4. After reviewing the terms of the Consent Decree, we find that the public interest will be served by adopting the Consent Decree and terminating the forfeiture proceeding.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 503(b) of the Communications Act of 1934, as amended,² the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the Commission’s forfeiture proceeding against Samson **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that Samson Technologies, Inc., shall make its voluntary contribution to the United States Treasury, as specified in the Consent Decree, by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259.

¹ 47 U.S.C. § 302a(b) and 47 C.F.R. § 2.803(a). See *Samson Technologies, Inc.*, 19 FCC Rcd 4221 (2004).

² 47 U.S.C. §§ 4(i) and 503(b).

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 counsel for Samson Technologies, Inc., Robert J. Ungar, Esq., Fish & Richardson, PC, 1445 K Street, N.W., 11th Floor, Washington, D.C. 20005.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

CONSENT DECREE

The Federal Communications Commission (“Commission”) and Samson Technologies, Inc. (“Samson”) hereby enter into this Consent Decree regarding possible violations of Section 302(b) of the Communications Act of 1934, as amended (“Act”),³ and Section 2.803(a) of the Commission’s Rules (“Rules”)⁴ concerning Samson’s importing and marketing of certain models of multi-track music recording devices.

Background

1. The recording devices involved in this case are classified as digital devices.⁵ Digital devices such as those involved in this case are classified as either Class A or Class B digital devices. A Class A digital device is defined as “[a] digital device that is marketed for use in a commercial, industrial or business environment, exclusive of a device which is marketed for use by the general public or is intended to be used in the home.”⁶ A Class B digital device is defined as “[a] digital device that is marketed for use in a residential environment notwithstanding use in commercial, business and industrial environments.”⁷ Class A digital devices must comply with the radiated emission limits specified by Section 15.109(b) of the Rules (“Class A radiated emission limits”).⁸ Class B digital devices are required to comply with the more stringent radiated emission limits specified by Section 15.109(a) of the Rules (“Class B radiated emission limits”).⁹

2. During 2002 and 2003, Samson imported and marketed five models of multi-track music recording devices designated as the MRS-1266, MRS-1266CD, MRS-802, MRS-802CD and MRS-4, all digital devices. On July 28 and August 6, 2003, in response to a July 7, 2003, Letter of Inquiry (“LOI”) from the Enforcement Bureau, Samson stated that all of the five models were Class A digital devices and complied with the Class A radiated emission limits. Subsequently, on September 20, 2003, in response to another LOI, dated September 4, 2003, Samson stated that it realized that, because the five devices were being marketed to the general public for residential use, they were, in fact, Class B digital devices. Samson ceased importing and shipping the five devices, withdrew them from distribution and notified its customers that any remaining devices in inventory could not be sold for residential use. Subsequently, Samson began marketing new versions of these devices that were verified as being in compliance with the Class B emission limits.

3. On March 3, 2004, the Commission released a *Notice of Apparent Liability for Forfeiture*¹⁰ (“NAL”) to Samson in the amount of \$35,000 (\$7,000 for each of the five models) for

³ 47 U.S.C. § 302a(b).

⁴ 47 C.F.R. § 2.803(a).

⁵ Section 15.3(k) of the Rules, 47 C.F.R. § 15.3(k), defines a digital device as “[a]n unintentional radiator (device or system) that generates and uses timing signals or pulses at a rate in excess of 9,000 pulses (cycles) per second and uses digital techniques; inclusive of telephone equipment that uses digital techniques or any device or system that generates and uses radio frequency energy for the purpose of performing data processing functions, such as electronic computations, operations, transformations, recording, filing, sorting, storage, retrieval, or transfer.”

⁶ 47 C.F.R. § 15.3(h).

⁷ 47 C.F.R. § 15.3(i).

⁸ 47 C.F.R. § 15.109(b).

⁹ 47 C.F.R. § 15.109(a).

¹⁰ *Samson Technologies, Inc.*, 19 FCC Rcd 4221 (2004).

apparent willful and repeated violations of Section 302(b) of the Act and Section 2.803(a) of the Rules. Samson filed a response to the *NAL* on March 22, 2004.

Definitions

4. For the purposes of this Consent Decree the following definitions shall apply:
 - (a) "Commission" means the Federal Communications Commission;
 - (b) "Samson" means Samson Technologies, Inc.;
 - (c) "Parties" means Samson and the Commission;
 - (d) "Enforcement Proceeding" means the investigation of the alleged Rule violations by Samson culminating in the *Notice of Apparent Liability for Forfeiture*;
 - (e) *Notice of Apparent Liability for Forfeiture* or "NAL" means *Samson Technologies, Inc.*, 19 FCC Rcd 4221 (2004);
 - (f) "Adopting Order" means an order of the Commission adopting the terms and conditions of this Consent Decree, in the form attached hereto;
 - (g) "Effective Date" means the date the Adopting Order is released by the Commission;
 - (h) "Rules" means the Commission's Rules found in Title 47 of the Code of Federal Regulations;
 - (i) "Act" means the Communications Act of 1934, as amended U.S.C. §§ 151 *et seq*; and
 - (j) "Compliance Plan" means the processes and procedures developed by Samson in an effort to ensure compliance with the Communications Act and the Commission's Rules regarding the importation and marketing of digital devices, as summarized in Appendix A, attached to this Consent Decree.

Terms of Settlement

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

6. The Parties agree that this consent Decree shall become binding on the Parties on the Effective Date. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other final order of the Commission and any violation of the terms or conditions of this Consent Decree shall constitute a violation of a Commission order.

7. Samson acknowledges that the Commission has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

8. The Parties waive any rights they 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 that the Adopting Order adopts the Consent Decree without change, addition or modification.

9. Samson waives any rights it may have under any provision of the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters discussed in this Consent Decree.

10. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination of any compliance or noncompliance with the Act or the Rules. The Parties further agree that this Consent Decree is for settlement purposes only and that

by agreeing to the Consent Decree, Samson does not admit or deny any liability for violating the Act or the Rules in connection with the matters that are the subject of this Consent Decree.

11. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of scarce public resources, the Commission agrees to terminate the Enforcement Proceeding.

12. Samson agrees that, as of the Effective Date of this Consent Decree, every model of multi-track music recording device imported or marketed by Samson will be compliant with the Class B radiated emission limits and all other applicable provisions of the Communications Act and the Commission's Rules. Samson further agrees to implement, for the 24-month period beginning with the Effective Date, a compliance plan to educate employees and manufacturers involved in the design and development of its products with the Communications Act and the Commission's Rules and their applicability to Samson's products (summarized in Appendix).

13. The Parties acknowledge that this Consent Decree shall constitute a final and binding settlement between Samson and the Commission regarding possible violations of Section 302(b) of the Act and Section 2.803(a) of the Rules specified by the *NAL*. In consideration for termination by the Commission of the Enforcement Proceeding and in accordance with the terms of this Consent Decree, Samson agrees to the terms set forth herein.

14. The Commission agrees that it will not entertain, or institute on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Samson for the possible violations of Section 302(b) of the Act or Section 2.803(a) of the Rules specified by the *NAL*. Nothing in this Consent Decree shall prevent the Commission from instituting investigations or enforcement proceedings against Samson in the event of any other alleged misconduct that violates this Consent Decree or that violates any provision of the Act or the Rules.

15. The Parties agree that each is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that Samson fails to satisfy any condition, in the absence of Commission alteration of the condition, it will be deemed noncompliant and may be subject to possible future enforcement action with respect to such failure to satisfy the condition.

16. The Parties also agree that any provision of this Consent Decree which conflicts with any subsequent rule, order of general applicability or other decision of general applicability adopted by the Commission will be superseded by such Commission rule, order or other decision.

17. Samson agrees to make a voluntary contribution to the United States Treasury in the amount of twenty-six thousand five hundred dollars (\$26,500) within thirty (30) days of the Effective Date. Such contribution shall be made, without further protest or recourse, by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference *NAL*/Acct. No. 200432100008 and FRN 0009-9962-73. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259.

18. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Samson nor the Commission shall contest the continuing validity of the Consent Decree or Adopting Order. The Parties agree to comply with, defend and support

the validity of this Consent Decree and the Adopting Order in any proceeding seeking to nullify, void or otherwise modify the Consent Decree or the Adopting Order.

19. The Parties agree that in the event that any court of competent jurisdiction renders this Consent Decree invalid, this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

20. This Consent Decree cannot be modified without the advance written consent of all of the Parties.

21. This Consent Decree may be signed in counterparts.

For the Commission:

By: _____
Marlene Dortch
Secretary

For Samson Technologies, Inc.

By: _____
Scott Goodman
President, Samson Technologies, Inc.

APPENDIX**Compliance Plan
of
Samson Technologies, Inc. (“Samson”)**

- I. All Samson employees involved in the importation and marketing of home recording studios will be advised in an education program of Samson’s responsibilities to comply with Parts 2 and 15 of the Commission’s rules. Particular emphasis will be placed on the requirements for labeling verified equipment and placing Part 15 compliance statements in users’ manuals. The terms of this Consent Decree will be made available to all of the employees involved in the marketing and importation of home recording studios. Employees will be encouraged to ask questions and make any suggestions. This review of FCC requirements will be performed semi-annually.
- II. No new model of home recording studio will be imported unless Samson has first received and reviewed the records required by Section 2.955 of the Rules, including a report showing that the equipment has been tested and verified for compliance with the Commission’s Class B technical standards by an authorized laboratory. These laboratory reports and records will be kept on file and made available to the Commission upon request.
- III. Each shipment of home recording studios will be sampled by Samson to assure that 1) the devices are uniquely identified, pursuant to Section 2.954 of the Rules; 2) bear the statement required by Section 15.19(a)(3); and 3) include in their manuals the statement required by Section 15.105(b).
- IV. Any shipment found not to be in compliance with these requirements will be not be offered for sale by Samson or further shipped by or to Samson, until any necessary corrections have been made.
- V. The Compliance Program, set forth above, will be under the direct supervision of Samson’s President, Mr. Scott Goodman, or, in the event Mr. Goodman is no longer with the company, his successor. Mr. Goodman or his successor will plan and supervise the employee education program and ensure that the shipment sampling activity is carried out. Any discrepancies will be reported directly to Mr. Goodman or his successor. In the event of any question concerning appropriate compliance with the Commission regulations, Mr. Goodman or his successor will consult with regulatory counsel.