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

In the Matter of	)	
	)	
Eken Group Limited	)	File No.: EB-TCD-24-00036532
	)	NAL/Acct. No.: 202532170001
	)	FRN: 0024002933

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: November 21, 2024 **Released: November 21, 2024**

By the Commission: Chairwoman Rosenworcel and Commissioner Starks issuing separate statements; Commissioner Simington dissenting.

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (NAL), the Federal Communications Commission (Commission or FCC) proposes a penalty of $734,872 against Eken Group Limited (Eken or Company) for apparently violating the laws and rules regarding truthful statements to the Commission in designating an agent for service of process located in the United States and for willfully failing to respond at all to the Enforcement Bureau's (Bureau) Letter of Inquiry (LOI) as directed. Specifically, Eken (1) submitted three applications for equipment authorization to the Commission that contained incorrect factual information as to the address of its agent for service of process, and (2) failed to respond to an LOI requesting information about alleged privacy and security flaws in its products. Accordingly, Eken's submission of incorrect information to the Commission apparently violated sections 1.17 and 2.911(d) of the Commission's rules. In addition, Eken apparently violated a Commission order by failing to respond to the Bureau's LOI as directed. Eken thus is subject to a proposed forfeiture under section 503(b)(1)(B) of the Act.[1]

2. The FCC is committed to protecting consumers in the United States in their interactions with foreign entities that import or market radio frequency (RF) equipment. Regulation of RF devices is a key Commission responsibility. Applicants for equipment authorizations are required to conduct due diligence in providing information to the Commission and its designees. To facilitate this process, Commission rules require that all parties, including foreign parties, abide by the Commission's equipment authorization rules and provide full and correct information about the party's place of business and designated agent. Additionally, the Commission has a duty to investigate allegations involving potential statutory and regulatory violations and will not tolerate late or inaccurate responses to authorized investigative inquiries. Instead, investigated parties must reply promptly and fully to Commission inquiries and provide all responsive information in their possession and control so the Commission can ascertain whether consumers are being protected in accordance with statutory requirements and associated Commission rules.

II. BACKGROUND

A. Legal Framework

3. *Commission's equipment authorization authority*. The Communications Act of 1934, as amended (Act), authorizes the Commission to adopt rules, consistent with the "public interest," governing the interference potential of devices capable of emitting RF energy.[2] The statute prohibits the

[1] *See* 47 U.S.C. § 503(b)(1)(B); 47 CFR §§ 1.17, 2.911(d).

[2] 47 U.S.C. § 302a(a).

manufacture, importation, sale, offer for sale, shipment, or use of RF devices in the United States unless they comply with the Commission's equipment authorization rules.[3] This includes "intentional radiators,"[4] such as Wi-Fi transmitters and Bluetooth radio devices.[5]

4. The Commission recently exercised its equipment authorization authority to address cybersecurity vulnerabilities arising from wireless consumer Internet of Things (IoT) devices.[6] Because Congress gave the Commission "exclusive jurisdiction" over matters involving radio frequency interference,[7] the Commission plays a crucial role in protecting the public from potential harms arising from wireless consumer IoT devices. Many wireless devices are manufactured overseas; in the past, if those devices harmed American consumers their foreign suppliers and manufacturers could evade U.S. law if the U.S. government could not readily reach them.[8] The FCC's authority to prohibit the importation, sale, or marketing of such devices unless they comply with the Commission's equipment authorization rules remains one of the only legal protections available for Americans from foreign-supplied wireless consumer IoT devices that could harm them.[9]

5. *Equipment authorization rules to designate U.S. agent for service of process.* In November 2022, the Commission released a Report and Order adopting new equipment authorization rules—consistent with the public interest, convenience and necessity, and with national security[10]—to require each applicant

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[3] 47 U.S.C. § 302a(b).

[4] 47 CFR § 15.3(o) (defining an "Intentional Radiator" as a device that "intentionally generates and emits radio frequency energy by radiation or induction).

[5] Fed. Commc'ns Comm'n, *Equipment Authorization – RF Device*, https://www.fcc.gov/oet/ea/rfdevice (last visited Sept. 11, 2024).

[6] *See Cybersecurity Labeling for Internet of Things,* PS Docket No. 23-239, Report and Order and Further Notice of Proposed Rulemaking, FCC 24-26, 2024 WL 1191979, *7, para. 15 (Mar. 15, 2024) (*IoT Labeling Order)* ("our initial IoT Labeling Program will focus on wireless consumer IoT devices consistent with the core of our section 302 authority governing the interference potential of devices that emit radio frequency energy"); *id.* at para. 20 ("The record thus bears out our view that cybersecurity vulnerabilities in wireless IoT devices could cause harmful interference to radio communications.").

[7] *IoT Labeling Order* at *66, para. 157 (citing H.R. Rep. No. 97-765, at 32, 1982 U.S.C.C.A.N. at 2276 (1982)).

[8] *See C.T.S. Tech. Co. Ltd.,* Forfeiture Order, 31 FCC Rcd 6126 (2016) (entering default judgment and imposing $34.9 million penalty on foreign company that marketed signal jammers that could endanger life and property in violation of FCC equipment authorization rules; noting that despite efforts to serve company in the People's Republic of China (P.R.C.) pursuant to Hague Service Convention, no response to prior notice of apparent liability for forfeiture and no timely certification of service from P.RC.'s designated authority was received), *forfeiture not paid*; *Shenzhen Tangreat Tech. Co. Ltd.,* Order to Show Cause and Notice of Opportunity for Hearing, 30 FCC Rcd 3501, 3505, paras. 12-14 (2015) (ordering foreign company to show cause why its equipment authorization should not be revoked for apparent misrepresentations in its application to mislead test certification body and ordering a copy of the Order to Show Cause to be sent pursuant to the Hague Convention on Service Abroad of Judicial and Extrajudicial Documents to P.R.C. Ministry of Justice to effect service on foreign company); *Protecting Against Nat'l Sec. Threats to the Commc'ns Supply Chain Through the Equip. Authorization Program; Protecting Against Nat'l Sec. Threats to the Commc'ns Supply Chain Through the Competitive Bidding Program*, ET Docket No. 21-232 and EA Docket No. 21-233, 36 FCC Rcd 10578, 10639 (2021) (*EA Security NPRM and NOI)* (statement of Comm'r Starks noting companies such as Shenzhen Tangreat and C.T.S. that apparently violated equipment authorization rules did not have a U.S. agent for service of process and the Commission was unsuccessful to serving process on those entities in the P.R.C. via procedures under the Hague Service Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters).

[9] *See also IoT Labeling Order* at *66, *107.

[10] *Protecting Against Nat'l Sec. Threats to the Commc'ns Supply Chain Through the Equip. Authorization Program; Protecting Against Nat'l Sec. Threats to the Commc'ns Supply Chain Through the Competitive Bidding Program*, 37 FCC Rcd 13493, 13512-13, para. 40 (2022) (*EA Security FNPRM)* ("[T]he inclusion of the phrase 'public interest'

(continued…)

for an equipment authorization to designate an agent for service of process located in the United States.[11]

6. Section 2.911(d)(7) of the Commission's rules requires an applicant for an equipment authorization to "designate an agent located in the United States for the purpose of accepting service of process on behalf of the applicant."[12] The rule, which went into effect on February 6, 2023, requires that the applicant provide a written certification[13]:

> (A) Signed by both the applicant and its designated agent, if different from the applicant;
>
> (B) Acknowledging the applicant's consent and the designated agent's obligation to accept service of process in the United States . . . at the physical U.S. address and email address of its designated agent; and
>
> (C) Acknowledging the applicant's acceptance of its obligation to maintain an agent for service of process in the United States for no less than one year after either the grantee has permanently terminated all marketing and importation of the applicable equipment within the U.S., or the conclusion of any Commission-related administrative or judicial proceeding involving the equipment, whichever is later.[14]

7. In imposing this new U.S. agent requirement, the Commission explained it was "not always easy to communicate effectively with grantees, *particularly foreign-based grantees*, in order to engage in relevant inquiries, determine compliance, or even enforce our rules[.]"[15] The record in the proceeding shows the Commission previously considered its inability to enforce equipment authorization rules against foreign entities that did not have a U.S. agent or respond to enforcement actions.[16] Companies that choose to do business in the United States must abide by U.S. laws, and accurately identifying a party to accept service of process is an important predicate to ensure such compliance.[17] The Commission's new U.S. agent requirement ensures that foreign companies are accountable for their compliance with the FCC's equipment

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in section [302a] provides independent authority to take into account, in our consideration of the public interest, the national defense, and the promotion of safety of life and property, goals which must inform the Commission's exercise of its statutory responsibilities."), *upheld in part and vacated in part on other grounds, Hikvision USA, Inc. v. FCC,* 97 F.4th 938 (D.C. Cir. 2024).

[11] *Id.* at paras. 59-64,

[12] 47 CFR § 2.911(d)(7).

[13] The written certification required by section 2.911(d)(7) is subject to section 1.16 of the Commission's rules, which governs written certifications required to be filed with the Commission under penalty of perjury. Section 1.16 was adopted and modeled after Title 28, United States Code, Section 1746, which makes certain unsworn declarations subject to the penalty of perjury. *Amend. of Part 1 of the Commission's Rules to Provide for the Use of Unsworn Declarations Under Penalty of Perjury*, 93 F.C.C.2d 1, 2 para. 4 (1983) (stating that the "Commission has formulated the amendment described herein [Section 1.16] pursuant to the statutory provisions of 28 U.S.C. § 1746").

[14] 47 CFR § 2.911(d)(7)(i).

[15] *EA Security FNPRM,* 37 FCC Rcd at 13520, para. 61 (emphasis added).

[16] *EA Security NPRM and NOI*, 36 FCC Rcd at 10647-48 (statement of Comm'r Starks discussing *Shenzhen Tangreat* and *C.T.S.* enforcement actions and noting that "[y]ears later, these cases have gone nowhere. Both Shenzen [Tangreat] and C.T.S. are Chinese companies, and because neither firm has a U.S. agent for service of process, the Commission had to attempt service for both companies in China.").

[17] *See also EA Security NPRM and NOI,* 36 FCC Rcd at 10647-48 (statement of Comm'r Starks that "if your equipment harms Americans, the FCC needs to be able to find you, and hold you accountable. These changes will hopefully increase transparency, and prevent future bad actors from using their foreign status to avoid any FCC accountability.").

authorization rules—just as U.S. companies are accountable to the Commission.[18]

8. *Truthful and accurate statements to the Commission*: Section 1.17(a)(2) of the Commission's rules states that in any investigatory or adjudicatory matter within the Commission's jurisdiction:

> no person subject to this rule shall . . .
>
> (2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.[19]

9. Even absent an intent to deceive, an incorrect statement may constitute a violation of section 1.17(a)(2) if provided without a reasonable basis for believing it is correct and not misleading.[20] As noted, section 1.17 applies to "any adjudicatory matter within the Commission's jurisdiction"[21] and persons subject to the rule include "[a]ny applicant for any Commission authorization [and a]ny holder of any Commission authorization."[22] The Commission has explained that these parties must "use due diligence in providing information that is correct and not misleading to the Commission, including taking appropriate affirmative steps to determine the truthfulness of what is being submitted. A failure to exercise such reasonable diligence would mean that the party did not have a reasonable basis for believing in the truthfulness of the information."[23] As we have stated in the past, "the Commission relies heavily on the truthfulness and accuracy of the information submitted to us. If information submitted to us is incorrect, we cannot properly carry out our statutory responsibilities."[24] This includes even incorrect addresses, the

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[18] In recent years, however, legal commentators have noted the trend of foreign defendants using foreign data security laws to evade the reach of U.S. discovery and evade liability in litigation. *See* Kirk K. Nahra, Lester Ross, Allison Bingxue Que, *Navigating China's Data Security Laws in US Discovery*, WilmerHale (Apr. 3, 2024), https://www.wilmerhale.com/insights/client-alerts/20240403-navigating-chinas-data-security-laws-in-us-discovery. The Commission's requirement here is consistent with federal district court opinions generally holding foreign parties accountable for responding to U.S. discovery and liability. *See, e.g., In re Valsartan, Losartan, & Irbesartan Prod. Liab. Litig.*, No. MDL 2875 (RBK), 2021 WL 6010575, at *18 (D.N.J. Dec. 20, 2021) ("Any expectation that a [foreign] law will successfully shield discovery in a U.S. litigation needs a tempering of realism. That is, [foreign] defendants must know from the outset they risk serious consequences if and when they fail to obey a U.S. court's order to compel discovery.").

[19] 47 CFR § 1.17(a)(2).

[20] *Compare id.* § 1.17(a)(1), *with id.* § 1.17(a)(2); *Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission*, Report and Order, 18 FCC Rcd 4016, 4017, para. 4 (stating revision to Section 1.17 is intended to "prohibit incorrect statements or omissions that are the result of negligence, as well as an intent to deceive."); *id.* at 4019, para. 5 ("[T]hese changes achieve . . . our objective of codifying an appropriate standard of care regarding submissions of information to the Commission and ensuring that we may take appropriate enforcement action when regulatees submit incorrect or misleading information to the Commission. The new rule improves upon the old rule by making clear that its obligations extend to all regulatees and not just to applicants, licensees, and permittees.").

[21] 47 CFR § 1.17(a).

[22] *Id.* § 1.17(b)(1)-(2).

[23] *Amendment of Section* 1.17 *of the Commission's Rules Concerning Truthful Statements to the Commission***,** Report and Order, 18 FCC Rcd 4016, 4021, para. 12 (2003), *recons. denied*, Memorandum Opinion and Order, 19 FCC Rcd 5790 (2004), *further recons. denied*, Memorandum Opinion and Order, 20 FCC Rcd 1250 (2004) (*1.17 Amendment Order*); *accord Neon Phone Serv., Inc.*, Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 7964, 7968, para. 10 (2017) (quoting portion of statement) (*Neon*).

[24] *Amendment of Section* 1.17 *of the Commission's Rules Concerning Truthful Statements to the Commission***,** Notice of Proposed Rulemaking, 17 FCC Rcd 3296, 3297, para. 3 (2002).

submission of which the Commission has previously found to constitute an apparent violation of section 1.17 of our rules.[25]

10. *Failure to respond to a Letter of Inquiry*. The Commission's authority to conduct investigations and to compel entities to provide information and documents sought during investigations is well-established.[26] Section 403 gives the Commission full authority to commence an investigation on its own motion and the "power to make and enforce any order or orders in the case" relating to the inquiry.[27] An LOI issued by the Bureau constitutes a Commission order directing the recipient to provide the specified information and documents, in the manner directed, within the stated response period.[28] The Commission has repeatedly taken enforcement action against entities that disregard orders to provide information related to potential violations.[29]

11. *National Security Considerations*. Under the Act, Congress directed the Commission to regulate the nation's communications infrastructure for, among other reasons, the purpose of "the national defense."[30] This includes taking steps to protect the integrity of the nation's communications networks and equipment supply chain.[31] Threat actors can exploit access to equipment supply chains in order to conduct a variety of activities that can threaten the nation's critical infrastructure.[32] The Commission similarly recognizes the importance of preventing threat actors from exploiting access to sensitive customer

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[25] *Tone Commc'n Servs.*, Notice of Apparent Liability for Forfeiture and Order Initiating Removal Proceeding, FCC 24-14, 2024 WL 356934 (Jan. 26, 2024) (counting, among section 1.17 violations, submission of incorrect address in election form to USAC).

[26] Section 403 grants the Commission both the authority to institute inquiries and "the power to make and enforce any order or orders" relating to its inquiries into compliance with the Act. 47 U.S.C. § 403. Section 4(i) authorizes the Commission to "issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions." 47 U.S.C. § 154(i). Section 4(j) states that "[t]he Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice." 47 U.S.C. § 154(j). Section 0.111(a)(17) of the Commission's rules delegates this authority to the Bureau. 47 CFR § 0.111(a)(17) (granting the Enforcement Bureau the authority to "[i]dentify and analyze complaint information, conduct investigations, conduct external audits and collect information, including pursuant to sections 218, 220, 308(b), 403 and 409(e) through (k) of the Communications Act, in connection with complaints, on its own initiative or upon request of another Bureau or Office."). Furthermore, section 416(c) of the Act provides, "[i]t shall be the duty of every person . . . to observe and comply with such orders so long as the same shall remain in effect." 47 U.S.C. § 416(c).

[27] 47 U.S.C. § 403.

[28] *See, e.g.*, *Neon*, 32 FCC Rcd at 7970, para. 16 (2017) ("It is well established that a failure to respond to a Bureau LOI [letter of inquiry] constitutes a violation of a Commission Order."); *Technical Communication Network, LLC*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 1018, 1019, para. 5 (2013) ("The LOI the Bureau directed to TCN served as a legal order of the Commission to produce the requested documents and information.").

[29] *ABC Fulfillment Servs. LLC d/b/a Hobbyking USA LLC & Hobbyking.com*, Forfeiture Order, 35 FCC Rcd 7441 (2020), *aff'd*, Memorandum and Order, 36 FCC Rcd 10688 (2021); *Aura Holdings of Wisconsin, Inc.*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 3688, 3696, para. 21 (2018), *forfeiture order issued*, 34 FCC Rcd 2540 (2019); *Kenai Educational Media, Inc.*, 32 FCC Rcd. 6211, 6218 (2017); *SBC Commc'ns, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7599-7600, paras. 23-28 (2002) (*SBC Forfeiture Order*); *Cellco Partnership D/B/A Verizon Wireless*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 7799, para. 13 (EB 2022); *Net One Int'l, Net One, LLC, Farrahtel Int'l, LLC*, Forfeiture Order, 29 FCC Rcd 264, 267, para. 9 (EB 2014), *recons. denied*, Memorandum Opinion and Order, 30 FCC Rcd 1021 (EB 2015).

[30] *See* 47 U.S.C. § 151.

[31] *See e.g., EA Security FNPRM*, 37 FCC Rcd at 13510-13, paras. 34-43.

[32] National Counterintelligence and Security Center, National Counterintelligence Strategy at 17 (2024), https://www.dni.gov/files/NCSC/documents/features/NCSC_CI_Strategy-pages-20240730.pdf (National Counterintelligence Strategy).

information.[33] Personally identifiable information and other types of sensitive personal data, when in the wrong hands, pose a risk not only to the average consumer, but also to national security.[34] For example, foreign threat actors can use this information to target and blackmail U.S. citizens.[35] The Commission also enforces prohibitions of unauthorized receipt, transmission, or use of communications under section 705 of the Act and prohibitions on using devices for eavesdropping under section 15.9 of the Commission's rules.[36] More broadly, the U.S. Government has taken recent actions to identify and address the national security vulnerabilities arising from the collection of vast amounts of sensitive data on U.S. persons.[37] Given the Commission's role in protecting the communications networks from these threats, it is *uniquely* imperative that applicants provide the Commission with accurate information and respond to Commission orders. Failure on either part obstructs the Commission's ability to investigate and, where appropriate, address these risks to consumer privacy and national security.

B. Factual Background

12. *Company and products sold in the United States*. Eken is a manufacturer based in Hong Kong, China, specializing in manufacturing video doorbells and other smart home devices.[38] The Eken website provides information about three primary categories of products: (i) portable video "action" cameras; (ii) home security cameras; and (iii) video doorbells.[39] These devices were sold in a variety of online marketplaces, including Amazon, Sears, Shein, Walmart, and Temu.[40] Because Eken did not respond to the Commission's LOI, the Commission does not have access to precise information about the number of Eken products sold in the United States.[41]

13. *FCC Equipment Authorizations*. In order to sell RF equipment in the United States, Eken has applied for and received over 20 total FCC authorizations since 2014.[42] Following the amendment of

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[33] *See e.g.*, *China Telecom (Americas) Corporation*, GN Docket No. 20-109, Order on Revocation and Termination, 36 FCC Rcd 15966, 16014-15, paras. 73-74 (2021), *aff'd*, *China Telecom (Americas) Corp. v. FCC*, 57 F.4th 256 (D.C. Cir. 2022).

[34] National Counterintelligence Strategy at 13.

[35] *Id*.

[36] *See* 47 U.S.C. § 605; 47 CFR § 15.9.

[37] *See e.g.*, National Counterintelligence Strategy at 13; Exec. Order 14117, *Executive Order on Preventing Access to Americans' Bulk Sensitive Personal Data and United States Government-Related Data by Countries of Concern*, 89 Fed. Reg. 15780 (Feb. 28, 2024); National Security Division, Department of Justice; *Provisions Regarding Access to Americans' Bulk Sensitive Personal Data and Government-Related Data by Countries of Concern*, 89 Fed. Reg. 15780 (Mar. 5, 2024).

[38] Eken, *About Us*, https://www.eken.com/about_us [https://perma.cc/3UQY-H5UE] (last visited Aug. 13, 2024).

[39] Eken, *Homepage*, http://eken.com/ [https://perma.cc/M4MA-XQQE] (last visited Aug. 29, 2024).

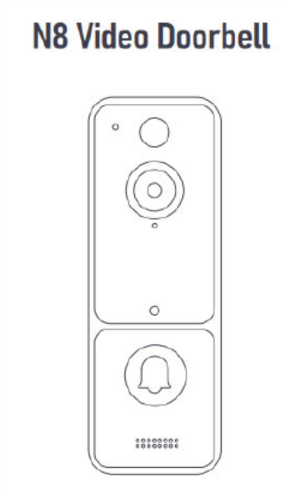
[40] Stacey Higginbotham, Daniel Wroclawski, *These Video Doorbells Have Terrible Security. Amazon Sells Them Anyway*. (Feb. 29, 2024), https://www.consumerreports.org/home-garden/home-security-cameras/video-doorbells-sold-by-major-retailers-have-security-flaws-a2579288796/ [https://perma.cc/55GV-F8Q9]. *See also* Lynn Stanton, *Rubio, Starks Raise Concerns About Chinese Video Doorbells* (Mar. 11, 2024), https://www.vitallaw.com/news/rubio-starks-raise-concerns-about-chinese-video-doorbells/cspd01c5094149efb246f99e190a50f3f315cf; Press Release, Fed. Commc'ns Comm'n, FCC Commissioner Geoffrey Starks Calls On Online Marketplaces To Stop The Sale Of Insecure And Unauthorized IoT Devices (Mar. 8, 2024), https://www.fcc.gov/document/starks-letters-amazon-sears-shein-temu-and-walmart.

[41] The Commission requested sales information from retailers but did not receive complete responses from all.

[42] *See* Eken's authorizations on file with OET, available by using the Equipment Authorization Search. *Equipment Authorization Search*, https://apps.fcc.gov/oetcf/eas/reports/GenericSearch.cfm (last visited Sept. 8, 2024) (OET EAS). Eken's first application was for 2ADDG-W8, submitted on October 18, 2014.

the Commission's equipment authorization rules, effective February 6, 2023, Eken submitted three applications for equipment authorizations. These include:

- the M50 Smart Wi-Fi Doorbell Camera (FCC ID 2ADDG-M50); application submitted on December 18, 2023;
- the N8 Video Doorbell (FCC ID 2ADDG-DBCAM), application submitted on February 29, 2024; and
- the R6 Security Camera (FCC ID 2ADDG-CAM), application submitted on March 4, 2024.[43]



Figures 1-3 above: (left-to-right) Users Manuals submitted as exhibits to equipment authorization applications for FCC IDs: 2ADDG-M50, 2ADDG-DBCAM, and 2ADDG-CAM. [44]

14. In February 2024, a Consumer Reports article identified serious privacy and security vulnerabilities in Eken video doorbells.[45] These security issues were critical because "[p]eople who face threats from a stalker or estranged abusive partner are sometimes spied on through their phones, online platforms and connected smartphone devices."[46] These vulnerabilities could allow a dangerous person to take control of the video doorbell on their target's home, watching when they and their family members come and go.[47] Consumer Reports found that the devices "expose [consumers'] home IP address and WiFi network name to the internet without encryption" and noted that security experts have concerns about "poor security on the company servers where videos are being stored."[48] As one consumer advocate noted,

[43] U.S. Agent Designation form for FCC IDs 2ADDG-M50, 2ADDG-DBCAM, and 2ADDG-CAM on file with the FCC's Office of Engineering and Technology (OET), available by using OET's Equipment Authorization Search. Since this investigation began, Eken products are no longer listed on any of the online marketplaces identified by Consumer Reports.

[44] *See* user manuals for applications 2ADDG-M50, 2ADDG-DBCAM, and 2ADDG-CAM on file with OET, available by using the Equipment Authorization Search.

[45] Higginbotham, *supra* note 40.

[46] Higginbotham, *supra* note 40.

[47] Higginbotham, *supra* note 40.

[48] Higginbotham, *supra* note 40.

"[p]roducts like these, by failing to prioritize trust and safety, put domestic violence victims at risk. Without question, the one place a victim needs to be safe is in their home[.] . . . Devices designed to make someone feel safe at home, while actually doing the opposite, shouldn't be allowed on the market."[49] Eken later informed Consumer Reports that the Company had released a security patch resolving the vulnerabilities.[50]

15. In its applications for each of these three equipment authorizations, Eken submitted a "U.S. Agent Designation" identifying GSS Service Inc. (GSS Service) as its U.S. agent for service of process; the physical U.S. address of its agent for service of process was at 6547 N Academy Boulevard #2266, Colorado Springs, Colorado; and the email address of its U.S. agent for service of process was MichouxLogan@outlook.com. Each submission was signed by "Michoux Logan" on behalf of GSS Service:

[49] Higginbotham, *supra* note 40.

[50] Cyrus Rassool, *Eken Fixes Security Issues in Video Doorbell Cameras after Consumer Reports Investigation* (Apr. 25, 2024), https://www.consumerreports.org/media-room/press-releases/2024/04/eken-fixes-security-issues-in-video-doorbell-cameras-after-consumer-reports-investigation/ [https://perma.cc/R6AA-Z7C3].

EKEN GROUP LIMITED

FLAT/RM 05 12/F EMPRESS PLAZA N0.17-19 CHATHAM ROAD TST KL

Federal Communications Commission
Authorization and Evaluation Division
Equipment Authorization Branch
7435 Oakland Mills Road
Columbia, MD 21046

2023/12/18

U.S. Agent Designation

EKEN GROUP LIMITED acknowledges their consent for the following contact located in the United States to act as their agent for service of process for the equipment for which authorization is sought (FCC ID: **2ADDG-M50**):

Name and company of U.S. agent:	GSS SERVICE INC
Physical U.S. address of agent:	6547 N Academy Blvd #2266 Colorado Springs COLORADO 80918 United States
FRN of U.S. agent:	0033402082
Email address of U.S. agent:	MichouxLogan@outlook.com

An expiration date for this letter does not exist. In case the U.S. agent changes, the grantee is obligated to notify the FCC within 30 days via the granting TCB.

Sincerely,

[redacted]

Signature	Signature
[redacted]	Michoux Logan
Sales Manager	PM
EKEN GROUP LIMITED	GSS SERVICE INC

Figure 4 above: 47 CFR § 2.911(d)(7) U.S. Agent Designation for FCC ID 2ADDG-M50 (Eken M50 Smart Wi-Fi Doorbell Camera); submitted on December 18, 2023 (excerpted, redacted, and annotated in red)[51]

[51] *See* Eken's authorizations, available by searching its grantee code with OET. Application on file at 2ADDG-M50, submitted on December 18, 2023.

EKEN GROUP LIMITED

FLAT/RM 05 12/F EMPRESS PLAZA N0.17-19 CHATHAM ROAD

TST KL Hongkong, China

Federal Communications Commission
Authorization and Evaluation Division
Equipment Authorization Branch
7435 Oakland Mills Road
Columbia, MD 21046

2024/02/29

U.S. Agent Designation

EKEN GROUP LIMITED acknowledges their consent for the following contact located in the United States to act as their agent for service of process for the equipment for which authorization is sought (FCC ID: **2ADDG-DBCAM**):

Name and company of U.S. agent:	GSS SERVICE INC
Physical U.S. address of agent:	6547 N Academy Blvd #2266 Colorado Springs COLORADO 80918 United States
FRN of U.S. agent:	0033402082
Email address of U.S. agent:	MichouxLogan@outlook.com

An expiration date for this letter does not exist. In case the U.S. agent changes, the grantee is obligated to notify the FCC within 30 days via the granting TCB.

Sincerely,

[redacted]

Signature
[redacted]
Sales Manager
EKEN GROUP LIMITED

Signature
Michoux Logan
PM
GSS SERVICE INC

Figure 5 above: 47 CFR § 2.911(d)(7) U.S. Agent Designation for FCC ID 2ADDG-DBCAM (N8 Video Doorbell); submitted on February 29, 2024 (excerpted, redacted, and annotated in red)[52]

[52] *See* Eken's authorizations, available by searching its grantee code with OET. Application on file at 2ADDG-DBCAM, submitted on February 29, 2024.

EKEN GROUP LIMITED

FLAT/RM 05 12/F EMPRESS PLAZA N0.17-19 CHATHAM ROAD

TST KL Hongkong, China

Federal Communications Commission
Authorization and Evaluation Division
Equipment Authorization Branch
7435 Oakland Mills Road
Columbia, MD 21046

2024/03/04

U.S. Agent Designation

EKEN GROUP LIMITED acknowledges their consent for the following contact located in the United States to act as their agent for service of process for the equipment for which authorization is sought (FCC ID: **2ADDG-CAM**):

Name and company of U.S. agent:	GSS SERVICE INC
Physical U.S. address of agent:	6547 N Academy Blvd #2266 Colorado Springs COLORADO 80918 United States
FRN of U.S. agent:	0033402082
Email address of U.S. agent:	MichouxLogan@outlook.com

An expiration date for this letter does not exist. In case the U.S. agent changes, the grantee is obligated to notify the FCC within 30 days via the granting TCB.

Sincerely,

[redacted]

Signature
[redacted]
Sales Manager
EKEN GROUP LIMITED

Signature
Michoux Logan
PM
GSS SERVICE INC

Figure 6 above: 47 CFR § 2.911(d)(7) U.S. Agent Designation for FCC ID 2ADDG-CAM (R6 Security Camera); submitted on March 4, 2024 (excerpted, redacted, and annotated in red)[53]

[53] *See* Eken's authorizations, available by searching its grantee code with OET. Application on file at 2ADDG-CAM, submitted on March 4, 2024.

16. Each of the U.S. Agent Designation forms also included the following acknowledgement, (identical for FCC IDs 2ADDG-M50; 2ADDG-CAM; and 2ADDG-DBCAM) acknowledging Eken's acceptance of its continuing obligation to maintain an agent for service:

> **EKEN GROUP LIMITED** with the FRN **[0024002933]** accepts its obligation to maintain an agent for service of process in the United States for no less than one year after either the grantee has permanently terminated all marketing and importation of the applicable equipment within the U.S., or the conclusion of any Commission-related administrative or judicial proceeding involving the equipment, whichever is later.

Figure 8 above: excerpted from 47 CFR § 2.911(d)(7) U.S. Agent Designation for FCC ID 2ADDG-M50 (Eken M50 Smart Wi-Fi Doorbell Camera); submitted on December 18, 2023[54]

> **EKEN GROUP LIMITED** with the FRN **[0024002933]** accepts its obligation to maintain an agent for service of process in the United States for no less than one year after either the grantee has permanently terminated all marketing and importation of the applicable equipment within the U.S., or the conclusion of any Commission-related administrative or judicial proceeding involving the equipment, whichever is later.

Figure 9 above: excerpted from 47 CFR § 2.911(d)(7) U.S. Agent Designation for FCC ID 2ADDG-DBCAM (N8 Video Doorbell); submitted on February 29, 2024[55]

> **EKEN GROUP LIMITED** with the FRN **[0024002933]** accepts its obligation to maintain an agent for service of process in the United States for no less than one year after either the grantee has permanently terminated all marketing and importation of the applicable equipment within the U.S., or the conclusion of any Commission-related administrative or judicial proceeding involving the equipment, whichever is later.

Figure 10 above: excerpted from 47 CFR § 2.911(d)(7) U.S. Agent Designation for FCC ID 2ADDG-CAM (R6 Security Camera); submitted on March 4, 2024[56]

17. GSS Service is a Colorado corporation with its principal business address at 6547 N. Academy Blvd #2266, Colorado Springs, CO 80918, and a second mailing address at 18351 Colima Road Ste 2896, Rowland Heights, CA 91748.[57]

18. Bureau staff has not been able to identify any individual named "Michoux Logan" in any public database or other source of public records. Michoux Logan does not appear to be associated with any credit history, driver's license, Social Security Number, mortgage, apartment or car lease, voter registration, real estate transactions, property tax assessments, marriage records, professional licenses, or

[54] *See* Eken's authorizations, available by searching its grantee code with OET. Application on file at 2ADDG-M50, submitted on December 18, 2023.

[55] *See* Eken's authorizations, available by searching its grantee code with OET. Application on file at 2ADDG-DBCAM, submitted on February 29, 2024.

[56] *See* Eken's authorizations, available by searching its grantee code with OET. Application on file at 2ADDG-CAM, submitted on March 4, 2024

[57] *See* Colorado Secretary of State file for GSS Service, Inc., https://www.sos.state.co.us/biz/BusinessEntityDetail.do?quitButtonDestination=BusinessEntityResults&nameTyp=ENT&masterFileId=20211500191&entityId2=20211500191&fileId=20211500191&srchTyp=ENTITY (last visited Sept. 18, 2024) (on file in EB-TCD-23-00036532).

household family members. Michoux Logan appears to exist only in FCC equipment authorization filings after February 2023 as a designated U.S. agent.

19. *Investigative history*: The Bureau opened an investigation and issued the LOI to Eken via GSS Service on April 19, 2024.[58] On that day, the Bureau served the LOI by certified mail to the physical U.S. address of Eken's designated agent for service of process in Colorado—an address that Eken had repeatedly submitted to the Commission in its three equipment authorizations cited above. On the same day, the Bureau also served the LOI by email on the same day to the email specified in Eken's applications for its designated U.S. agent, i.e., MichouxLogan@outlook.com. The Bureau additionally sent courtesy copies of the LOI by email to the Eken employee who submitted each of the three FCC equipment authorization applications listed above, and the primary support email for Eken customers in the United States.[59] The LOI stated the Bureau was investigating potential violations of 47 U.S.C. § 605 ("Unauthorized publication or use of communications") and 47 CFR § 15.9 ("Prohibition against eavesdropping") and requested information about Eken's compliance with the Act's privacy and security protections. The LOI stated that Eken had a " continuing obligation to update its responses and document production[,]" and further stated the "***Continuing Nature of Inquiries.*** The specific Inquiries made herein are continuing in nature."[60] The LOI ordered Eken to provide a response by May 19, 2024.[61]

20. On May 8, 2024, the LOI was returned to the Commission by the United States Postal Service after it was unable to deliver it to Eken's agent's supposed address on April 26. That same day, Bureau staff called the U.S. phone number for GSS Service listed in the FCC Registration Number (FRN) database.[62] No one picked up at that number, and there was no voicemail mechanism that allowed the Bureau staff to leave a voice message. On May 9, staff in the Commission's Office of Engineering and Technology (OET) sent an email to MichouxLogan@outlook.com "verifying agent of service for EKEN GROUP LIMITED[.]" The OET representative received a response from MichouxLogan@outlook.com the following night at 4:50 AM Eastern Daylight Time.

[58] Letter of Inquiry, from Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Eken Group Limited, c/o U.S. Agent for Service of Process GSS Service Inc. (on file in EB-TCD-23-00036532) (Initial LOI).

[59] Eken, *Contact Us*, http://test.eken.com/index.php?route=information/contact (last visited Sept. 18, 2024), [https://perma.cc/XK8S-MVQA].

[60] *Supra* note 58 (emphasis in the original).

[61] *Supra* note 58.

[62] *See* FRN entry for GSS Service, Inc., https://apps.fcc.gov/cores/searchDetail.do?frn=0033402082&csfrToken= (last visited Aug. 29, 2024) (also accessible by searching for FRN #0033402082 on the FCC Registration site, https://apps.fcc.gov/cores/advancedSearch.do?csfrToken=).

From: Michoux Logan
To: [redacted]
Subject: [EXTERNAL]: 回复: verifying agent of service for
Date: Friday, May 10, 2024 4:50:22 AM

CAUTION: This email originated from outside of the Federal Communications Commission. Do open attachments unless you recognize the sender and trust the content to be safe. If you sus attempt, please use the 'Report Message' feature in Microsoft Outlook or forward the email tc

yes it's ture

发件人: [redacted]@fcc.gov>
发送时间: 2024年5月10日 0:38
收件人: MichouxLogan@outlook.com <MichouxLogan@outlook.com>
主题: verifying agent of service for

verifying agent of service for EKEN GROUP LIMITED email bounceback,

Figure 7 above: May 10, 2024 Email received by OET representative from "Michoux Logan"[63]

21. On May 9, 2024, Bureau staff arranged for personal service of the LOI on Eken's designated agent for service of process, GSS Service, at two locations: (1) at the Colorado Springs, Colorado address provided by Eken in its equipment authorization applications; and (2) the Rowland Heights, California mailing address listed for GSS Service in corporate registration documents filed with the Colorado Secretary of State.[64] The Bureau could not effect personal service on the designated U.S. agent's Colorado address because the address was inside a mailbox store (The Mail Center); an employee at the location stated that personal service was not permitted and did not permit physical entry to access the mailbox listed as the designated agent's physical U.S. address.[65] The Bureau, however, did effect personal service at the designated U.S. agent's California address, where the LOI was hand-delivered to an individual answering to "GSS Service," who tried to reject service by unsuccessfully refusing to take the documents.[66]

22. On June 20, 2024, the Bureau, still having received no response from Eken to the LOI, served a subpoena on The Mail Center, seeking the identity of the renter of box #2266 inside the store, which Eken had identified as the physical U.S. address of its agent GSS Service.[67] The Bureau received responses from The Mail Center on June 24, 2024, and on September 18, 2024.

[63] Information on file in EB-TCD-23-00036532.

[64] *See supra* note 57.

[65] *Affidavit of Non-service,* Shauna Williams (dated May 15, 2024) (on file in EB-TCD-23-00036532).

[66] *Affidavit of Service,* Xiaotian Fan (dated May 13, 2024) (on file in EB-TCD-23-00036532). *See* 47 CFR § 1.47(d) (providing that "documents may be served upon a party, his attorney, or other duly constituted agent by delivering a copy or by mailing a copy to the last known address," such as the California address on file with the Colorado Secretary of State).

[67] Subpoena, from Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Ryan Martin, The Mail Center (on file in EB-TCD-23-00036532).

23. In its responses, The Mail Center confirmed that it offers both physical and virtual mailboxes.[68] Its virtual mailbox service allows entities that need a physical mailing address but want to view their mail electronically.[69] These customers each receive a mailbox number and their mail is received at The Mail Center's physical location, then scanned and emailed to the customer at their request.[70] Mailbox #2266 was a virtual mailbox registered in 2018 by {[[redacted]]}.[71] However, the mailbox received mail directed at a number of businesses that were apparently registered at the same address.[72] Because of the volume and variety of the mail that was received, The Mail Center internally flagged the mailbox for fraud, and subsequently closed the mailbox on June 28, 2019, roughly four and a half years before Eken began incorrectly specifying mailbox #2266 as the address of its designated agent in the applications discussed above.[73] That mailbox number has not been reassigned to any other customer since that date, and mailbox #2266 remains closed.[74] GSS Service has not rented any other mailbox at The Mail Center.[75]

24. {[[redacted]]}.[76]

25. {[[redacted]]}[78]

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[68] *Declaration of Brian Roerig* (dated Sept. 18, 2024), from Brian Roerig, co-owner, The Mail Center, to Telecommunications Consumers Division, FCC Enforcement Bureau (on file in EB-TCD-23-00036532) (Roerig Declaration).

[69] *Id.*

[70] *Id.*

[71] *Id.* Material set off by double brackets {[ ]} is confidential and is redacted from the public version of this document.

[72] *Id.*

[73] *Id.*

[74] *Id.*

[75] *Id.*

[76] *Id.*

[77] {[[redacted]]}

[78] {[[redacted]]}

26. To date, the Bureau still has received no response to the LOI. Indeed, while Michoux Logan's email account appeared to be active on May 9, 2024, the Bureau has received no response from him, Eken, or GSS Service to the Bureau's emails or phone calls concerning the LOI.[79]

III. DISCUSSION

27. We find that Eken apparently willfully or repeatedly: (1) violated sections 1.17(a)(2) and 2.911(d)(7) of the Commission's rules by providing material factual information to the Commission that was incorrect as to the physical U.S. address of its agent for service of process,[80] and (2) violated a Commission order by failing to respond to the Bureau's LOI. These violations are punishable by forfeiture under section 503(b)(1)(B) of the Act.[81] For the violations at issue here, the Commission proposes a forfeiture of $734,872.

A. Eken Apparently Violated Sections 1.17(a)(2) and 2.911(d)(7) of the Commission's Rules by Providing False Information Without a Reasonable Basis as to the Physical Address of its U.S. Agent for Service of Process

28. On December 18, 2023; February 29, 2024; and March 4, 2024, Eken submitted three applications to the Commission that contained incorrect material factual information.[82] These three submissions had nearly identical statements as to: (i) the physical U.S. address of Eken's agent for service of process; (ii) the email address for Eken's agent for service of process; (iii) the name of the person, Michoux Logan, acting on behalf of Eken's agent GSS Service; and (iv) the signature of the person, Michoux Logan, acting on behalf of Eken's agent GSS Service.[83]

29. Here, Eken apparently violated sections 1.17(a)(2) and 2.911(d)(7) of the Commission's rules by providing material factual information that was incorrect in each of the three written certifications it submitted to the Commission as to the physical U.S. address of its agent for service of process. Eken apparently did so without a reasonable basis for believing that such material factual statement was correct and not misleading.

1. Eken Provided "Material Factual Information" that was "Incorrect" in its Equipment Authorization Applications by Submitting a False Address for its U.S. Agent for Service of Process.

30. Each of Eken's three applications for equipment authorization contained incorrect factual information as to the physical U.S. address of its agent.

31. GSS Service was not physically located at the address listed on Eken's submissions and did not and could not accept service of process at that address.[84] Moreover, The Mail Center closed Box #2266 in June 2019, years before Eken filed its equipment authorization applications incorrectly stating that Box #2266 was a valid address for its designated agent. And, after The Mail Center closed it, Box #2266 was never registered to a business called GSS Service and could not receive mail or accept service of process. The address of a *virtual* office where a designated agent is incapable of accepting service does not satisfy the letter of the Commission's requirement of the applicant's consent and agent's

[79] Emails on file in EB-TCD-24-00036532 (Apr. 19, 2024 Email from EB to molly@eken.com; support-us@eken.com; michouxlogan@outlook.com); phone calls to GSS Service number of record (949-299-0192) made on May 8, 2024 and June 11, 2024.

[80] 47 CFR §§ 1.17(a)(2), 2.911(d)(7).

[81] 47 U.S.C. § 503(b)(1)(B).

[82] *See* Eken applications submitted December 18, 2023, February 29, 2024, and March 4, 2024, on file with OET.

[83] *Id.*

[84] Roerig declaration.

obligation to accept service at the agent's "physical U.S. address."[85] It also does not satisfy the intent of the requirement, which was adopted after the Commission considered its past inability to enforce against foreign entities that violated FCC equipment authorization rules, did not have a U.S. agent, and could not be served timely overseas under Hague Service Convention procedures.[86]

32. Thus, the Commission finds that Eken submitted an incorrect statement of fact as to the physical U.S. address of its agent in each of its three submissions.

33. *Materiality*. Each of these incorrect statements of fact was material. The Commission revised its rules, in the interest of national security, to require that applicants for equipment certification accept service of process within the United States, identify an agent for service of process to do so, and identify that agent's physical location within the United States, along with other related requirements.[87] The reviewing Telecommunications Certification Body (TCB) would not have accepted Eken's three applications for equipment authorization, and they therefore would not have been granted, had the TCBs been aware that Eken had specified an incorrect physical address for its agent and thus service of process could not be effected there.

2. Eken Did Not Have a "Reasonable Basis for Believing" That the Physical U.S. Address of its Agent was "Correct and Not Misleading."

34. Eken did not have a reasonable basis for believing that GSS Service's physical U.S. address was correct. An applicant has a reasonable basis for believing a statement is "correct and not misleading" if it has taken due diligence in providing information, including "affirmative steps to determine the truthfulness of what is being submitted."[88] Eken submitted the incorrect physical U.S. address of its agent pursuant to its obligations under section 2.911(d)(7)(1) of the Commission's rules governing equipment authorization applications. Eken expressly stated that all of its exhibits and statements submitted as part of its equipment authorization applications, including the physical U.S. address of its designated agent, were "true and correct."[89] Yet, they were not.

35. Eken submitted three designations of GSS Service as its agent for process of service in 2023 and 2024. It specified an incorrect physical address for GSS Service, years after The Mail Center had closed Box #2266 (and as a rule did not accept personal service of process), with no evidence that an agent for service of process ever existed at the specified address. In other words, Eken provided a physical U.S. address—a mailbox—*that did not exist and had not existed for years* (a fact that Eken could have easily ascertained with minimal inquiry), yet it still certified the address as accurate in its applications. Moreover, Eken could have easily remedied the difficulties the agency had in reaching Eken and mitigated the harm to the Bureau's investigation by responding to the LOI and providing the Bureau with the correct address for a U.S. registered agent. It did not take the opportunity to do so.

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[85] 47 CFR § 2.911(d)(7)(i)(B).

[86] *See supra* para. 7, note 16.

[87] *See EA Security FNPRM,* 37 FCC Rcd at 13506-07, 13520-21, paras. 26, 61-64. *See also supra* para. 5.

[88] *Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission*, Report and Order, GC Docket No. 02-37, 18 FCC Rcd 4016, 4021, para. 12 (2003) (*Truthful Statements Order*).

[89] FCC Form 731 and applications on file at 2ADDG-CAM (submitted on Mar. 4, 2024); 2ADDG-DBCAM (submitted on Feb. 29, 2024); and 2ADDG-M50 (submitted on Dec. 18, 2023). The Commission routinely pursues enforcement actions for violations of 47 CFR § 1.17(a) by entities that have submitted inaccurate or erroneous certifications in connection with applications. *See, e.g., Aura Holdings of Wisconsin*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 3688 (2016) (proposing penalty against entity for violating Rule 1.17 by, among other things, submitting false certifications with 10 change-in-ownership applications covered by NAL); *Application of Alabama Media, LLC*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 34 FCC Rcd 1913, 1920, para. 19 (MB 2019) (admonishing construction permit applicant for failing to disclose material fact covered by certification and "caution[ing]" applicant that a false statement under certification "may constitute an actionable violation of Section 1.17 of the Rules").

36. In sum, Eken was required to exercise due diligence to ensure that GSS Service was capable of acting as its agent for service of process based on the information that Eken was supplying to the Commission.[90] It plainly did not do so—the record reflects that GSS Service could not accept service at the designated address, and had been unable to do so for years. Eken could have also used the Bureau's LOI as an opportunity to demonstrate why its belief was reasonable; its failure to do so leads us to conclude that it apparently had no such belief. Accordingly, we find that Eken did not have a reasonable basis for believing the statement of fact as to its agent's physical U.S. address in its applications was correct and not misleading.

3. Eken is a "Person Subject To" Section 1.17(a) of the Commission's Rules

37. Section 1.17(a) applies to any "adjudicatory matter" within the Commission's jurisdiction, including applications for equipment authorizations. Section 1.17(b)(1) also states that section 1.17(a) applies to "[a]ny applicant for any Commission authorization," which includes applicants for equipment authorizations.[91] Likewise, per section 1.17(b)(2), section 1.17(a) applies to "[a]ny holder of any Commission authorization."[92] Eken was subject to section 1.17(a) because it made these incorrect factual statements as an applicant for a Commission equipment authorization.

4. Eken Apparently Violated Section 2.911(d)(7)

38. Eken apparently willfully or repeatedly violated its obligation under section 2.911(d)(7) to designate a U.S. agent to accept service of process at a physical U.S. address. As required by section 2.911(d)(7)(i)(C), applicants must accept that they have continuing obligations to maintain a U.S. agent, even after they have stopped marketing and importing devices.[93] Eken's certifications to the Commission make clear that its obligations under section 2.911(d)(7) were continuing. As shown above in Figures 8-10 above, each of Eken's three submitted "U.S. Agent Designation" forms included the following statement:

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[90] *Truthful Statements Order* at 4021, para. 12 ("we believe that in preparing written statements in fact-based adjudications and investigations, regulatees are on heightened notice that they must have a reasonable basis to believe that what they say is correct and not misleading. In these circumstances, we consider it justified to require that parties use due diligence in providing information that is correct and not misleading to the Commission, including taking appropriate affirmative steps to determine the truthfulness of what is being submitted. A failure to exercise such reasonable diligence would mean that the party did not have a reasonable basis for believing in the truthfulness of the information."); *accord Loveday v. FCC*, 707 F.2d 1443, 1449 (D.C. Cir. 1983) ("[T]he 'reasonable diligence' required . . . does not mandate a full-scale investigation by a broadcaster and is satisfied by appropriate inquiries . . . .").

[91] *See* 47 CFR §§ 2.911-2.926 (Application Procedures for Equipment Authorizations).

[92] *Id.* § 1.17(b)(2). The Commission has previously taken the position that other mandatory compliance certifications—including post–ETC designation certifications in the CAF II program and CPNI certifications by telecommunications carriers and interconnected VoIP providers—must conform to the requirements of Rule 1.17. *See, e.g.*, *Connect America Fund Phase II Auction Support Authorized for New York Winning Bidder*, WC Docket No. 10-90, Public Notice, DA-21-54 (WCB Jan. 14, 2021) ("All post-designation ETC-related filings must be submitted in good faith and include a certification that, to the best of the ETC's knowledge and belief, the information is complete and accurate.") (citing FCC Form 481 and 47 CFR § 1.17); *cf., e.g.*, *FCC Enforcement Advisory*, EB Docket No. 06-36, Public Notice, DA 21-106, Att. 2 (EB Feb. 4, 2021) (template CPNI compliance certification that is "consistent with 47 CFR § 1.17"). The Commission also routinely pursues enforcement actions under Rule 1.17 against entities that have submitted inaccurate or erroneous certifications in connection with applications. *See, e.g.*, *Aura Holdings of Wisconsin*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 3688 (2016) (proposing penalty against entity for violating Rule 1.17 by, among other things, submitting false certifications with 10 change-in-ownership applications covered by NAL); *Application of Alabama Media*, LLC, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 34 FCC Rcd 1913, 1920, para. 19 (MB 2019) (admonishing construction permit applicant for failing to disclose material fact covered by certification and "caution[ing]" applicant that a false statement under certification "may constitute an actionable violation of Section 1.17 of the Rules").

[93] 47 CFR § 2.911(d)(7)(i)(C).

> EKEN GROUP LIMITED with the FRN [0024002933] accepts its obligation to maintain an agent for service of process in the United States for no less than one year after either the grantee has permanently terminated all marketing and importation of the applicable equipment within the U.S., or the conclusion of any Commission-related administrative or judicial proceeding involving the equipment, whichever is later.[94]

39. An obligation to "maintain" an agent is plainly a continuing one, as is the commitment to continue to maintain that agent for one year after terminating marketing and importation. Each form also expressly states that an "expiration date for this letter does not exist. In case the U.S. agent changes, the grantee is obligated to notify the FCC within 30 days via the granting TCB."[95]

40. Based on the above, we thus find that Eken apparently willfully or repeatedly violated both sections 1.17(a)(2) and 2.911(d)(7) of the Commission's rules by specifying an incorrect physical U.S. address for GSS Service in each of the three applications to the Commission discussed herein.

B. Eken Apparently Violated Commission Orders by Failing to Respond Timely to a Letter of Inquiry.

41. Section 503(b)(1)(B) of the Act, in part, provides that a person who willfully or repeatedly fails to comply with a Commission rule or order shall be liable for a forfeiture penalty.[96] A Commission LOI is an "order" under section 503(b)(1)(B).[97] Accordingly, recipients that fail to respond or fail to provide a complete response to a Commission LOI may be subject to a monetary forfeiture penalty.[98] Indeed, the public interest implications of failing to respond are significant. The Commission has delegated authority to the Bureau to request information, and the failure to respond or provide a complete response hinders the Bureau's ability to investigate and therefore fundamentally affects the Bureau's ability to operate.[99]

42. The Bureau issued the LOI on April 19, 2024, in which it directed Eken to respond in 30 days, i.e., by May 19, 2024. The Commission sent the LOI to both the physical U.S. address and email address Eken had specified as its U.S. agent for service of process, GSS Service. The Bureau also sent courtesy copies of the LOI via email to the Eken employee who submitted the FCC equipment authorization documents and to Eken's general U.S. support email. The LOI stated the continuing nature of Eken's obligations to respond.[100] To this day, the Commission has not received from Eken any response to the LOI.

43. The Bureau also independently identified a second physical address in California for GSS Service and effected personal service there on May 9, 2024.[101] Separately, Commission staff informally reached out to Eken via the email it had specified for GSS Service in its applications, and received a response, confirming that the email is functional and that the operator of the account is claiming to be

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[94] *See supra* para. 16.

[95] *See supra* para. 15.

[96] 47 U.S.C. § 503(b)(1)(B).

[97] *See, e.g., Neon,* 32 FCC Rcd at 7970, para. 16 (2017) ("It is well established that a failure to respond to a Bureau LOI [letter of inquiry] constitutes a violation of a Commission Order."); *Technical Communication Network, LLC*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 1018, 1019, para. 5 (2013) ("The LOI the Bureau directed to TCN served as a legal order of the Commission to produce the requested documents and information.").

[98] *See supra* para. 10.

[99] See *supra* para. 10.

[100] *See supra* para. 19 (quoting LOI ordering Eken that it had a " continuing obligation to update its responses and document production[,]" and further stating the "***Continuing Nature of Inquiries.*** The specific Inquiries made herein are continuing in nature.").

[101] *See supra* note 57.

"Michoux Logan." Commission staff also called the phone number associated with GSS Service[102] on numerous occasions; no one picked up at that number and staff was unable to leave a voicemail. Again, despite these multiple attempts, the FCC has not received any response from Eken to the LOI.

44. Accordingly, we find that Eken apparently willfully violated a Commission order by failing to respond to the LOI.

C. Proposed Forfeiture

45. 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[.]"[103] Here, section 503(b)(2)(D), as implemented by section 1.80(b)(10) of the Commission's rules, authorizes us to assess a forfeiture against Eken of up to $24,496 for each day of a continuing violation, up to a statutory maximum of $183,718 for a single act or failure to act.[104] 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."[105] In addition, the Commission has established forfeiture guidelines that set forth base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.[106] 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.[107] We may adjust a forfeiture downward for violations that are minor, good faith or voluntary disclosure of violations, where there is a history of compliance, or where there is an inability to pay.[108]

46. *Sections 1.17 and 2.911(d)(7) Violations*. The three apparent violations of section 1.17(a)(2) and 2.911(d)(7) began on December 18, 2023; February 29, 2024; and March 4, 2024, respectively, when Eken submitted the inaccurate statements to the Commission.

47. We find that these apparent violations, in the context in which they occurred, are continuing violations. Section 2.911(d)(7)(i)(C) of the Commission's rules shows that applicants accept they have continuing obligations to maintain a U.S. agent for service of process, even after they have stopped marketing and importing devices.[109] Eken's actual submissions to the Commission make clear that its obligations under section 2.911(d)(7) were continuing, and Eken expressly acknowledged that in "case the U.S. agent changes, the grantee is obligated to notify the FCC within 30 days via the granting TCB."[110] As

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[102] On file at FCC FRN database, FRN No. 0033500653.

[103] 47 U.S.C. § 503(b).

[104] *See* 47 U.S.C. § 503(b)(2)(D); 47 CFR § 1.80(b)(10). *See Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also Annual Adjustment of Civil Monetary Penalties to Reflect Inflation*, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting January 15, 2024 as the effective date for the increases).

[105] 47 U.S.C. § 503(b)(2)(E).

[106] 47 CFR § 1.80(b)(11), Table 3 and Note 2.

[107] *Id.* § 1.80 (b)(11), Table 3 to Paragraph (b)(11)—Adjustment Criteria for Section 503 Forfeitures; *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, 17098, para. 22 (1997) *(Forfeiture Policy Statement),* recons. denied, 15 FCC Rcd 303 (1999) (noting that "[a]lthough we have adopted the base forfeiture amounts as guidelines to provide a measure of predictability to the forfeiture process, we retain our discretion to depart from the guidelines and issue forfeitures on a case-by-case basis, under our general forfeiture authority contained in Section 503 of the Act").

[108] 47 CFR § 1.80 (b)(11), Table 3 to Paragraph (b)(11).

[109] 47 CFR § 2.911(d)(7)(i)(C).

[110] *See supra* para. 15.

shown above in Figures 8-10 above, each of Eken's three submitted "U.S. Agent Designation" forms included the following statement: "EKEN GROUP LIMITED with the FRN [0024002933] accepts its obligation to maintain an agent for service of process in the United States for no less than one year after either the grantee has permanently terminated all marketing and importation of the applicable equipment within the U.S., or the conclusion of any Commission-related administrative or judicial proceeding involving the equipment, whichever is later."[111] Each of these statements shows that Eken was aware of the continuing nature of the obligation and its relationship to section 2.911(d)(7).

48. Here, Eken directly benefited from its misrepresentations by offering for sale products that would not have been authorized but for the agent for service of process designation. The agent for service of process designation is permanent until the Commission is told otherwise, there is a change in designation, or a year after the equipment authorization holder permanently terminates all marketing and importation or any proceedings involving Eken.[112] Since the filing of its three equipment authorization applications discussed above, Eken has not sought a new grant of authorization or designated a new agent. In addition, the purpose of the rules is to enable the Commission to be able to reach grantees of equipment certifications, whether for routine communications, compliance matters, or enforcement matters.[113] The U.S. agent requirement was adopted specifically after the Commission considered past examples of foreign entities that violated the equipment authorization rules and evaded enforcement.[114] This purpose is materially thwarted if a grantee submits a certification that identifies an incorrect address for its U.S. based agent for service of process, and never corrects the error, notwithstanding readily available information clearly demonstrating that the address was wrong.[115] Thus, we treat these violations as continuing for purposes of our forfeiture calculations.[116] To put it another way, Eken has been in violation since it provided a false address for GSS Service (its agent for service of process) in each of its December 18, 2023; February 29, 2024; and March 4, 2024 filings, and will remain in violation of our rules until it designates a proper agent for process of service or one year after permanently ceasing all marketing and importation in the United States or the conclusion of any Commission-related proceedings, whichever is later.[117]

[111] *See supra* para. 16.

[112] 47 CFR § 2.911 (d)(7)(i)(C).

[113] *See EA Security FNPRM*, 37 FCC Rcd at 13520, para. 61 (2022).

[114] *See supra* para. 5, note 8; para. 7, notes 16-17.

[115] *See supra* paras. 20-23.

[116] *See Kyle Traxler & Cleo Commc'ns*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 8151, 8169, para. 47 (2022) (finding that broadband provider that made untruthful and inaccurate statements to Commission to gain authorization to participate in Emergency Broadband Benefit (EBB) program, and failed to cure its misrepresentations by withdrawing its submissions, was liable for continuing violations of section 1.17); *see also Purple Communications, Inc.,* Forfeiture Order, 30 FCC Rcd 14892, 14900, para. 25 (2015) ("Purple has not amended any of the submissions to make them accurate, and thus each submission is a continuing apparent violation and remains actionable until corrected"); *Purple Communications, Inc.,* Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 5491, 5506, n.87 (2014) (finding Telecom Relay Service (TRS) provider that submitted inaccurate information to TRS Fund administrator and sought reimbursement for calls that were not compensable, was liable for continuing violations until the TRS provider amended the submissions to make them accurate)*; VCI Company,* Notice of Apparent Liability for Forfeiture and Order, 22 FCC Rcd 15933, 15940, para. 20 (2007) (finding that an eligible telecommunications carrier's (ETC's) failure to file an accurate Form 497 was a continuing violation until cured); *Truphone, Inc.,* Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 5393, 5401-5402, paras. 17, 22 (Apr. 21, 2022) (finding that a carrier's failure to obtain prior Commission approval of certain ownership changes constituted a continuing violation until either the carrier unwound the transaction or the Commission approved the changes in the carrier's ownership structure).

[117] *See supra* para. 6.

49. Considering all of the enumerated factors and the particular circumstances of this case, and consistent with the *Forfeiture Policy Statement*, we find that the statutory maximum permitted forfeiture is appropriate for each of Eken's three violations of sections 1.17(a)(2) and 2.911(d)(7).[118] For applicants such as Eken, the statutory maximum is $24,496 for each violation or each day of a continuing violation, up to $183,718 for any single act.[119]

50. Eken submitted three applications, each containing a single incorrect statement made without a reasonable basis for believing that such statement is correct and not misleading.[120] Accordingly, we would propose a total base forfeiture for the apparent violations of sections 1.17 and 2.911(d)(7) of $73,488, or $24,496 * 3. In the case of a continuing violation, the statutory maximum is $183,718 for a single act, which each violation reached after approximately eight days of noncompliance (i.e., $24,496 * 8 days = $195,968) for each apparent violation of sections 1.17 and 2.911(d)(7). Thus, we propose an aggregate forfeiture of $551,154 ($183,718 * 3 apparent violations of sections 1.17 and 2.911(d)(7)).

51. The Commission finds that Eken's violations of 1.17(a)(2) and 2.911(d)(7) were egregious. Over the course of multiple months, Eken failed to correct its patently incorrect certification as to GSS Service's physical address. Indeed, that address had not existed for years. Eken did this on multiple equipment authorization applications, in the process gaining authorization for products that could have significant harm to consumers. All available evidence indicates that, in effect, Eken treated Commission rules as checkboxes to fill out as quickly as possible, rather than as substantive regulations meant to protect U.S. customers and the public interest.

52. Additionally, the Commission has a significant interest in establishing a disincentive to this kind of misconduct, particularly as it relates to the Commission's 2022 amendments to its equipment authorization rules to protect the national security. There, the Commission specifically noted the requirement to designate a U.S. agent for service of process was intended to "enable the Commission to efficiently carry out its enforcement duties[.]"[121] However, we conclude that an upward adjustment, although warranted, is not possible because the proposed base forfeiture amount is at the maximum amount permitted by statute.

53. *Failure to Respond Violation*. For Eken's failure to respond to the LOI, section 1.80(b) of the Commission's rules sets a base forfeiture amount of $4,000 for each violation for failure to respond to Commission communications.[122] Under Commission and Bureau precedent, failure to respond to a Commission order is a continuing violation until cured.[123]

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[118] *Syntax-Brillian Corp.*, Forfeiture Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6323, 6343, paras. 45-46 (2008) (imposing the statutory maximum for violations of 47 CFR § 1.17(a)(2)).

[119] *See Forfeiture Policy Statement*, 12 FCC Rcd at 17098, para. 21 ("We have set the base forfeiture amount for misrepresentation at the statutory maximum for the particular type of service provided by the violator. Regardless of the factual circumstances of each case, misrepresentation to the Commission always is an egregious violation. Any entity or individual that engages in this type of behavior should expect to pay the highest forfeiture applicable to the service at issue.").

[120] *See supra* paras. 15-25.

[121] *EA Security FNPRM*, 37 FCC Rcd at 13520-21, para. 64 (2022).

[122] 47 CFR § 1.80(b)(11), Table 1.

[123] *Onda Mexicana Radio Group, Inc.*, Licensee of AM Station WWFL, Clermont, FL, Notice of Apparent Liability for Forfeiture and Order, 29 FCC Rcd 527, 530, para. 8 (EB 2014) (ongoing failure to respond to an NOV can be a continuing violation); *Message Communications, Inc.*, 29 FCC Rcd 8214, 8217-18, para. 12 (EB 2014) (noting company's willful disregard of its obligation to comply with LOI continued unabated and that such failure to respond to FCC inquiries is misconduct that "exhibits contempt for the Commission's authority, and threatens to compromise the Commission's ability to adequately investigate violations of its rules."); *see also ADMA Telecom, Inc.*, Forfeiture Order, 26 FCC Rcd 4152, 4155, para. 8 (2011) (construing a carrier's failure to file a required document (a Form 499) with the Commission as a continuing violation until cured); *Google Inc.*, Notice of Apparent

(continued…)

54. Given the totality of the circumstances, and consistent with the *Forfeiture Policy Statement*, we conclude that an upward adjustment is warranted for Eken's failure to respond to Commission communications. Eken's failure to respond (thus providing the Commission none of the information requested by the LOI) was egregious and caused the Commission to expend significant resources on an investigation without being able to investigate the serious security and privacy risks described in the LOI, or potential rule violations associated with Eken's equipment. Eken claimed to the press that it resolved these issues,[124] but its failure to provide any information made it impossible for the Commission to investigate the risks to consumer privacy and national security posed by Eken's devices. It has delayed the Bureau's investigation and caused the Commission to expend significant resources attempting to serve process on Eken, instead of protecting consumer privacy and national security. Eken was ordered to respond to the LOI by May 19, 2024, and has failed to respond at all for a total of 151 days. As such, we propose a forfeiture of $4,000 * 151 days, which must then be reduced to the statutory maximum of $183,718 for the apparent violation stemming from Eken's failure to respond to the LOI, resulting in an overall proposed forfeiture of $734,872 ($551,154 + $183,718) for the four apparent violations. Once again, we conclude that an upward adjustment, although warranted, is not possible because the proposed base forfeiture amount is at the maximum amount permitted by statute.

55. In applying the applicable statutory factors, we also consider whether there is any basis for a downward adjustment of the proposed forfeiture.[125] Here, we find none.

56. Therefore, after applying the statutory factors, section 1.80 of the Commission's rules, and the *Forfeiture Policy Statement*, we propose a total forfeiture of $734,872, for which Eken is apparently liable.

IV. CONCLUSION

57. We have determined that Eken apparently willfully or repeatedly violated sections 1.17 and 2.911(d)(7) of the Commission's rules and failed to respond to an agency order. As such, Eken is apparently liable for a forfeiture of $734,872.

V. ORDERING CLAUSES

58. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 CFR § 1.80, Eken Group Limited is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of seven hundred and thirty-four thousand, eight hundred and seventy-two dollars ($734,872) for willful or repeated violations of sections 1.17(a)(2) and 2.911(d)(7) of the Commission's rules, and of an agency order.

59. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules, 47 CFR § 1.80, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Eken Group Limited **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 62 below.

Liability for Forfeiture, 27 FCC Rcd 4012, 4033, para. 50 (EB 2012) (Google's failures to provide information in response to LOI were continuing violations that lasted until cured); *LDC Telecomm., Inc.*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 300, 302, para. 8 (EB 2012) (characterizing LDC's failure to respond to the Bureau's LOI as "continuous"); *Net One Int'l*, Notice of Apparent Liability for Forfeiture and Order, 26 FCC Rcd 16493, 16496, para. 9 (EB 2011) (advising Net One that its failure "to respond fully to the LOI within ten days of the date of this NAL .... may constitute an additional, continuing violation"); *1st Source Info. Specialists, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 8193, 8196-97, para. 13 (2006) (characterizing a data broker's failure to respond fully to a Bureau subpoena and a citation the Bureau issued based on that failure as a continuing violation), forfeiture issued, Forfeiture Order, 22 FCC Rcd 431 (2007).

[124] *See supra*, para. 14.

[125] 47 CFR § 1.80(b)(11), Table 3.

60. In order for Eken Group Limited to pay the proposed forfeiture, Eken Group Limited shall notify Samuel Hanks and Kristi Thompson at EB-TCD-Privacy@fcc.gov of its intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at https://apps.fcc.gov/cores/userLogin.do. Upon payment, Eken Group Limited shall send electronic notification of payment to Kristi Thompson, Enforcement Bureau, Federal Communications Commission, at Kristi.Thompson@fcc.gov on the date said payment is made. Payment of the forfeiture must be made by credit card using CORES at https://apps.fcc.gov/cores/userLogin.do, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. 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:[126]

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters "FORF". In addition, a completed Form 159[127] or printed CORES form[128] 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 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, 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).[129] 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 CORES at https://apps.fcc.gov/cores/userLogin.do. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, 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 CORES at https://apps.fcc.gov/cores/userLogin.do. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). Finally, 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.

[126] For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6).

[127] FCC Form 159 is accessible at https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159.

[128] Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at https://apps.fcc.gov/cores/userLogin.do.

[129] Instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Form159/159.pdf.

61. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554.[130] 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.

62. 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(g)(3) of the Commission's rules.[131] The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, ATTN: Enforcement Bureau – Telecommunications Consumers Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Kristi Thompson at Kristi.Thompson@fcc.gov.

63. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits the following documentation: (1) federal tax returns for the past three years; (2) financial statements for the past three years prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status.[132] Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we retain the discretion to decline reducing or canceling the forfeiture if other prongs of 47 U.S.C. § 503(b)(2)(E) support that result.[133]

64. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to Eken Group Limited c/o GSS Service Inc., 6547 N Academy Blvd #2266, Colorado Springs, CO 80918; and to Eken Group Limited c/o GSS Service Inc., 18351 Colima Road Ste 2896, Rowland Heights, Los Angeles, CA 91748; and by email to MichouxLogan@outlook.com.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

[130] *See* 47 CFR § 1.1914.

[131] *Id.* §§ 1.16, 1.80(g)(3).

[132] 47 U.S.C. § 503(b)(2)(E).

[133] *See, e.g.*, *Ocean Adrian Hinson, Surry County, North Carolina*, Forfeiture Order, 34 FCC Rcd 7619, 7621, para. 9 & n.21 (2019); *Vearl Pennington and Michael Williamson*, Forfeiture Order, 34 FCC Rcd 770, paras. 18-21 (2019); *Fabrice Polynice, Harold Sido and Veronise Sido, North Miami, Florida*, Forfeiture Order, 33 FCC Rcd 6852, 6860-62, paras. 21-25 (2018); *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44-45 (2018); *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892, 14903-04, paras. 32-33 (2015); *TV Max, Inc., et al.*, Forfeiture Order, 29 FCC Rcd 8648, 8661, para. 25 (2014).

STATEMENT OF
CHAIRWOMAN JESSICA ROSENWORCEL

Re: *Eken Group Limited*, Notice of Apparent Liability for Forfeiture, File No.: EB-TCD-24-00036532 (November 21, 2024)

Last week, I was in Cape Town, at the Africa Tech Festival. It is the premier gathering of public and private sector technology interests on the continent. If you need an object lesson in the power of connection, this is the place to be. Every event, every speech, and every meeting was a testament to the need for connections so we can build a digital future that works for everyone.

It is essential that the United States participate in fora like this. Because we know that when we multiply the communications connections in the world around us—between people, between people and things, and among things themselves—we create transformative opportunities for civic and commercial life. We know something else we need to share with our international counterparts. We understand that when we increase connections, we also expand digital vulnerabilities. That means as we head into this connected future, we need to focus on network security like never before.

At the Federal Communications Commission, I have made sure that network security is no longer an afterthought. It is front and center in everything we do. For the first time in history, we have revoked the authorization of state-affiliated carriers that have been identified as a national security threat. We built a first-of-its-kind program to remove insecure foreign equipment from our Nation's communications networks. We are revamping our policies for assessing the security of undersea cables with an initiative today. We have proposed measures to address the insecurities in Border Gateway Protocol, which can be used by malicious foreign actors to hijack internet traffic. On top of that, we now make public a Covered List of communications equipment and services that pose an unacceptable risk to national security. We exclude this equipment from our universal service support programs—and share this fact globally, as I did in Africa. Plus, we prevent this equipment from using our equipment authorization program. As part of this effort, this year we suspended the approval of a test lab operated by Huawei and flagged for our national security colleagues other labs with possible ties to the government of the People's Republic of China.

There is more to do. In our connected world new vulnerabilities arise all the time. We need to be on guard. And we need to set a global example by prioritizing network security.

We do that here by addressing a vulnerability we identified in our equipment authorization process. This process provides manufacturers with the ability to get the go-ahead to market devices using spectrum in the United States because we have determined they comply with our rules and will not cause harmful interference to others. Our rules require entities seeking this authorization to designate an agent for service in the United States and to provide the FCC with truthful and accurate information. That means if you are a company based here or abroad, if this agency has questions about your compliance, we will know how to reach you and get answers.

Eken is a Hong Kong-based, Chinese manufacturer of video doorbells and other connected devices. It sells its products through online retailers in the United States, including Walmart, Amazon, and Sears. Earlier this year, we became aware of serious allegations of privacy and security flaws in Eken's video doorbell devices. Consumer Reports found these devices exposed home IP addresses and Wi-Fi networks, opening your home to online criminals. The potential for abuse is vast—from theft to domestic violence to state-sanctioned surveillance by malicious state actors.

So we got to work and started an investigation. Very quickly we found a big problem. When our Enforcement Bureau sought to serve a Letter of Inquiry on the company, we discovered that the address for the agent registered in our equipment authorization process was not valid. This violates our rules. It is the foundation of the enforcement action we have voted on today. But we are not stopping here. The agency is also notifying all Telecommunications Certification Bodies that evaluate and certify devices through our equipment authorization process to stop processing any applications with this designated agent. Today we are also starting an audit of all other filers that used the same agent, giving them 30 days to respond or face consequences.

This is just a start. We need a fuller accounting of how cheap and insecure electronics from China and elsewhere wind up at major retailers without lawful approval from our equipment authorization process. Because as our connections here at home and abroad multiply, we all need to know that the devices we bring into our homes and businesses are safe. If we want to build a digital future that works for everyone, this has to be a priority.

I want to thank Senator Rubio for alerting us to the vulnerabilities in these video doorbell devices and Commissioner Starks for his efforts in this investigation. Thank you also to the staff who worked on this action, including Michael Antonino, Hunter Deeley, Loyaan Egal, Eric Ehrenreich, Jeff Gary, Matthew Gibson, Samuel Hanks, Stephen Hanson, Peter Hyun, Alice Suh Jou, Shannon Lipp, Jeremy Marcus, Lauren Merk, Neal McNeil, Elizabeth Mumaw, Kevin Pittman, and Victoria Randazzo from the Enforcement Bureau; Reza Biazaran, Jamie Coleman, Ira Keltz, Dana Shaffer, and Jim Szeliga from the Office of Engineering and Technology; and David Konczal, Erika Olsen, Robert Primosch, Joel Rabinovitz, Anjali Singh, Elliot Tarloff, Shana Yates, and Chin Yoo from the Office of General Counsel.

STATEMENT OF
COMMISSIONER GEOFFREY STARKS

Re: *Eken Group Limited*, Notice of Apparent Liability for Forfeiture, File No.: EB-TCD-24-00036532 (November 21, 2024)

Insecure Internet of Things (IoT) devices pose a real and tangible threat to Americans. Devices that lack baseline cybersecurity protections, such as Eken's video doorbells, dramatically increase the entry points for cyberattacks. A compromised device can open a backdoor to personal or enterprise networks. And once a hacker is in, they can wreak mayhem—identity theft, espionage, and fraud—that costs consumers billions of dollars. This is not a theory, this is a fact.[1] Beyond the risk to individual households, this is a larger threat to our national security. These devices may also become part of a botnet, contributing to large scale attacks. Again, this is not a theory, this is a fact. The Flax Typhoon breach, for example, we now know was a Chinese-controlled botnet made up of 260,000 IoT devices and routers used to spy on sensitive organizations in the United States and worldwide.[2]

Back in 2019, I called for the Commission to use its equipment authorization authority to improve network security. In 2021, as we initiated a proceeding to review our equipment authorization rules, I fought for the Commission to require each applicant for equipment authorization to designate a contact located in the United States to serve as an agent to access service of process.[3] I strongly supported our order in 2022 when we did just that.[4]

I have long felt that too many bad actors relied on our service of process rules as a loophole to evade enforcement and flood our markets with equipment that wouldn't have otherwise passed muster. No more. Bad actors should know that they won't be able to duck and dodge our rules, and the enforcement action we initiate today backs that up.

Eken apparently illegally marketed and sold insecure Internet of Things devices in the United States that put both American consumers and our communications networks at risk. Once Eken's equipment was identified as a threat, I wrote letters to 5 of the largest online retailers serving the United States back in March of this year calling for them to stop the sale of these insecure and unauthorized devices.[5]

Those letters led to an important dialogue on protecting consumers. And today, we take the next step—the right step—in pursuing the manufacturer that, as alleged, has disregarded our rules. Any

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[1] Stacey Higginbotham, Daniel Wroclawski, *These Video Doorbells Have Terrible Security. Amazon Sells Them Anyway*, Consumer Reports (Feb. 29, 2024), https://www.consumerreports.org/home-garden/home-securitycameras/video-doorbells-sold-by-major-retailers-have-security-flaws-a2579288796/; Tatum Hunter, *These camera doorbells from Amazon, Walmart aren't safe*, The Washington Post (Feb. 29, 2024), https://www.washingtonpost.com/technology/2024/02/29/doorbell-cameras-aiwit-privacy-amazon-walmart-temu/.

[2] *Court-Authorized Operation Disrupts Worldwide Botnet Used by People's Republic of China State-Sponsored Hackers*, United States Department of Justice, Press Release, Sept. 18, 2024, *available at* https://www.justice.gov/opa/pr/court-authorized-operation-disrupts-worldwide-botnet-used-peoples-republic-china-state.

[3] *Protecting Against National Security Threats to the Communications Supply Chain through the Competitive Bidding Program*, EA Docket No. 21-233, Notice of Proposed Rulemaking and Notice of Inquiry, 36 FCC Rcd 10578, Statement of Commissioner Geoffrey Starks at 1 (2021).

[4] *Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program*, ET Docket 21-232; EA Docket 21-233, Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 13493, Statement of Commissioner Geoffrey Starks at 1 (2022).

[5] *FCC Commissioner Geoffrey Starks Calls on Online Marketplaces to Stop the Sale of Insecure and Unauthorized IoT Devices*, Press Release, Mar. 8, 2024, *available at* https://docs.fcc.gov/public/attachments/DOC-401038A1.pdf.

manufacturer that seeks to flood our markets with cheap and insecure equipment, while lying about compliance, will similarly hear from our enforcement team as we seek to keep Americans safe.

I thank the Commission staff for their great work on this item and approve.