

June 18, 2019

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Confidentiality Request for Certain Information Provided in Support of a Request for  
Limited Waiver

Dear Ms. Dortch:

Pursuant to Sections 0.457 and 0.459 of the Commission's rules, Patriot One Technologies Inc. ("Patriot One") hereby requests confidential treatment of certain confidential business information contained in a request for limited waiver of 47 C.F.R. § 15.510(b) being filed today ("request for waiver"). Specifically, Patriot One requests that the request marked **"CONFIDENTIAL—NOT FOR PUBLIC INSPECTION"** be withheld from routine public inspection, as it contains trade secret information regarding the design of its PATSCAN SMR 2.0 device ("confidential information"). Patriot One has never made this confidential information public.

Section 0.457(d) of the Commission's rules provides that this information is automatically protected under the Commission's confidentiality procedures because it contains trade secret information. Section 0.457 of the Commission's rules also requires that the Commission treat as confidential documents that contain "trade secrets and commercial or financial information . . . not routinely available for public inspection."

As you are aware, these Commission regulations implement and incorporate exemptions from the Freedom of Information Act, 5 U.S.C. § 552(b)(4), and the Trade Secrets Act, 18 U.S.C. § 1905. *See* 47 C.F.R. § 0.457(d). Under these exemptions, information is exempt from public disclosure if it is (1) commercial or financial in nature, (2) obtained from a person, and (3) privileged or confidential in nature. 5 U.S.C. § 552(b)(4). The information being provided by Patriot One is exempt from public disclosure under the aforementioned exemptions and the

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<sup>1</sup> 47 C.F.R. § 0.459(a) ("If the materials are specifically listed in § 0.457, such a request is unnecessary.")

FCC's regulations because it constitutes commercial and financial information, obtained from a person, which is confidential in nature.<sup>2</sup>

Similarly, Section 1905 of Title 18 of the United States Code makes it unlawful for federal government agencies or employees to disclose information relating to 'the trade secrets, processes, operations, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm partnership, corporation, or association....' Information that is exempt from release under Exemption 4 of the FOIA is prohibited from being disclosed, under 18 U.S.C. § 1905, unless disclosure is "authorized by law" by another statute other than FOIA.<sup>3</sup> Because no other statute authorizes the release of the information at issue here, disclosure of the Documents is prohibited by the criminal provisions of 18 U.S.C. § 1905.<sup>4</sup>

Nevertheless, out of an abundance of caution, Patriot One is also making a showing that the information would also qualify for protection pursuant to Commission rule 0.459.<sup>5</sup> As required in rule 0.459, Patriot One is providing below a statement of the reasons for withholding the information marked confidential, as well as a statement of facts underlying the information. If upon review of this request, the any Office or Bureau of the Commission, or the Commission itself, decides not to grant this request, Patriot One requests that all Commission staff refrain from reviewing the enclosed materials and immediately contact the undersigned counsel who will retrieve the confidential materials as soon as possible.

**(1) Identification of the specific information for which confidential treatment is sought;**

Patriot One seeks to withhold from public inspection and otherwise seeks confidential treatment of the confidential information.

**(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission;**

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<sup>2</sup> Under Exemption 4 of the FOIA, the terms "commercial" and "financial" are to be given their "ordinary meaning," and thus include information in which a submitter has a "commercial interest" *Public Citizen Research Group v. FDA*, 704 F.2d 1280, 1290 (D.C. Cir. 1983); *accord, Washington Research Project, Inc. v. HEW*, 504 F.2d 238, 244 n.6 (D.C. Cir. 1974), *cert denied*, 421 U.S. 963 (1975). "Commercial interest" has been interpreted broadly to include anything "pertaining or relating to or dealing with commerce." *American Airlines, Inc. v. National Mediation Bd.*, 588 F.2d 863, 870 (2d Cir. 1978). The term "person," for FOIA purposes, includes entities such as BHN. *See, e.g., Critical Mass Energy Project v. Nuclear Regulatory Comm'n*, 830 F.2d 871 n.15 (D.C. Cir. 1987) ("For FOIA purposes a person may be a partnership, corporation, association, or public or private organization other than an agency.").

<sup>3</sup> *See Chrysler Corp. v. Brown*, 441 U.S. 281 (1979) (Exemption 4 and 18 U.S.C. § 1905 are "coextensive" and § 1905 prohibits the disclosure of confidential business information unless release is authorized by a federal statute other than FOIA); *see also* 47 C.F.R. § 0.457(d).

<sup>4</sup> *See CAN Fin. Corp. v. Donovan*, 830 F.2d 1132, 1151 (D.C. Cir. 1987).

<sup>5</sup> 47 C.F.R. § 0.459.

Patriot One is providing this confidential information to the Commission to its request for waiver.

**(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged;**

Patriot One does not publicly disclose its sensitive business such as the design of its devices still in development, and takes particular caution to ensure that such information is not disclosed to competitors. Disclosure of the confidential information would put Patriot One at a disadvantage because it is still in the process of developing the PATSCAN CMR 2.0.

**(4) Explanation of the degree to which the information concerns a service that is subject to competition;**

The market of providing developing new threat detection technology is highly competitive.

**(5) Explanation of how disclosure of the information could result in substantial competitive harm;**

Disclosure of the confidential information would give competitors an unfair advantage by providing them with sensitive information that they could use to unfairly compete with Patriot One, including by developing the same or similar product prior to Patriot One.

**(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure;**

Patriot One has consistently sought to keep the confidential information from being publicly disclosed, and has only shared this information with its attorneys and any other consultants on a need-to-know basis.

**(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties;**

This information has never been made available to or otherwise disclosed to the public except to attorneys and similar advisors on a need-to-know basis.

**(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure; and**

The design of the PATSCAN CMR 2.0 will largely become public once the device is commercially available.

**(9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.**

The foregoing establishes that this confidential information is subject to confidential treatment pursuant to the FCC's rules at 47 C.F.R. sec. 0.457, 0.459, and 18 U.S.C. sec. 1905, and that it contains information containing trade secrets, and commercial and financial information in a company- specific manner that has not been previously made public, and that is otherwise prohibited from being publicly disclosed.

Respectfully submitted,



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*Counsel to Patriot One Technologies Inc.*

**REDACTED FOR PUBLIC INSPECTION**

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of )  
 )  
Request by Patriot One Technologies, Inc. )  
for Limited Waiver of Section 15.510(b) ) File No. \_\_\_\_\_  
of the Commission's Rules )

To: Chief, Office of Engineering and Technology

**REQUEST FOR LIMITED WAIVER**

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June 18, 2019

## **REDACTED FOR PUBLIC INSPECTION**

### **SUMMARY**

Patriot One Technologies, Inc. (“Patriot One”), submits this Petition for a Limited Waiver of Section 15.510(b) of the Commission's rules for a through D-wall imaging weapons detection device operating in ultra-wideband (“UWB”) frequencies so that this device may be operated by private security professionals for purposes associated with law enforcement and emergency rescue.

Patriot One has developed an innovative radar technology and software solution to provide first responders and law enforcement personnel invaluable information in active threat scenarios that operates by scanning some portion of the 220 MHz to 9 GHz frequency range to detect the physical properties of common weapons. Recent mass shootings highlight the need for such technology in places like hotels, casinos, and shopping malls.

Because Patriot One’s weapons detection device will ultimately be certified as a “through D-wall imaging system” pursuant to Section 15.510 of the Commission’s rules, its operation would be restricted to law enforcement, emergency rescue organizations that are under the authority of a local or state government. Unfortunately most facilities in need of threat detection are privately owned and employ private security forces, which, pursuant to Section 15.510(b) of the Commission’s rules, cannot operate. Therefore, Patriot One requests a limited waiver of subsection (b) of Section 15.510 the Commission’s rules is needed to allow private security professionals performing functions associated with law enforcement, and emergency rescue to operate the weapons detection device and fully take advantage of its threat detection benefits.

**REDACTED FOR PUBLIC INSPECTION**

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Request by Patriot One Technologies, Inc. )  
For Limited Waiver of Sections 15.510(b) ) File No. \_\_\_\_\_  
of the Commission's Rules )

To: Chief, Office of Engineering and Technology

**REQUEST FOR LIMITED WAIVER**

Patriot One Technologies, Inc. ("Patriot One"), pursuant to Section 1.3 of the Federal Communications Commission's ("FCC" or "Commission") rules,<sup>1</sup> hereby requests a limited waiver of Section 15.510(b) of the Commission's rules for a through D-wall imaging weapons detection device operating in ultra-wideband ("UWB") frequencies so that this device may be operated by private security professionals for purposes associated with law enforcement and emergency rescue. The device—the PATSCAN-CMR 2.0—will be the next generation device leveraging Patriot One's highly advanced "cognitive" ability to detect weapons and assess threats.<sup>2</sup> These abilities are unique in the threat detection industry, and should be made widely available to enhance public safety. The PATSCAN-CMR 2.0 is will be similar to the first generation device, the PATSCAN-CMR 1.0, which was been previously authorized by the

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<sup>1</sup> 47 C.F.R. § 1.3.

<sup>2</sup> Patriot One is simultaneously applying for an experimental license to permit it to test the PATSCAN-CMR 2.0 prior to certification. This testing would include experiments at higher power levels but Patriot One would only employ power levels above those contemplated by applicable Commission rules during the testing phase. Any commercially-deployed devices would comply with the power limits in Commission rules.



Commission.<sup>3</sup> This new device differs in its physical presentation **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED] **[[END CONFIDENTIAL]]** Patriot One is working to reduce the power to levels required by the Commission's D-wall rules for the PATSCAN-CMR 2.0, so that this new device will soon be ready for commercial deployment. To that end, Patriot One has filed an application for an experimental license to permit Patriot One to conduct field tests as it works to ensure functionality and accuracy at the required power levels for D-wall imaging devices under the Commission's rules.<sup>4</sup> Once it has perfected this functionality and accuracy at the Commission-required power levels, Patriot One would seek Commission certification to commercially market the PATSCAN-CMR 2.0.

Unfortunately, any operation of the device pursuant to a permanent equipment certification would be restricted in the United States to *official* law enforcement and emergency rescue organizations pursuant to Section 15.510(b) of the Commission's rules.<sup>5</sup> Yet it is increasingly the case that trained private security professionals fulfill the roles traditionally played by official law enforcement and emergency organizations. These private security professionals are unable to benefit from advances in technology such as the PATSCAN-CMR 2.0.

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<sup>3</sup> FCC Identifier: 2ALZTCMR.

<sup>4</sup> Application of Patriot One Technologies, Inc. for Experimental License, File No. 0489-EX-CN-2019 (June 18, 2019).

<sup>5</sup> 47 C.F.R. § 15.510(b).

Patriot One, therefore, seeks a limited waiver of Section 15.510(b) of the Commission's rules in order to permit its PATSCAN-CMR 2.0 to be operated by trained private security professionals for purposes directly associated with law enforcement and emergency rescue once the device has been duly certified under the Commission's rules.<sup>6</sup>

## **I. BACKGROUND**

### **A. Patriot One and the PATSCAN-CMR 2.0**

Patriot One was founded in 2010 and has worked alongside a research team from McMaster University, a well-respected Canadian center for research, to commercialize a system to detect concealed weapons utilizing novel radar technologies and custom software solutions. The PATSCAN-CMR 2.0 employs an innovative radar technology and software solution to provide first responders and law enforcement personnel invaluable information in active threat scenarios. The PATSCAN-CMR 2.0 operates by scanning some portion of the 220 MHz to 9 GHz frequency range to detect the physical properties of common weapons.<sup>7</sup> The technology offers stand-off detection of concealed threats typically employed in public locations. What makes Patriot One's technology unique is its built-in artificial intelligence and ability to continually improve on its detection abilities of all types of weapons at an affordable price point. By providing real-time information, Patriot One technology gives responsible parties the ability to be proactive in handling active threats. Protecting people and property from threats and those who intend to do harm is a global problem which Patriot One is addressing head-on.

The PATSCAN-CMR 1.0 was authorized by the Commission on Sept. 28, 2017. This device is installed in a traditional manner for D-wall imaging systems, *i.e.*, installed within a wall

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<sup>6</sup> *Id.*

<sup>7</sup> The likely range of operation is 220 MHz to 6.5 GHz. *See* Application of Patriot One Technologies, Inc. for Experimental License, File No. 0489-EX-CN-2019 (June 18, 2019).

and scanning the room as people walk in, out and around the room. [[BEGIN

CONFIDENTIAL]] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [[END CONFIDENTIAL]]

## B. Need for Greater Flexibility in Permitted Users

Flexibility pertaining to the class of authorized users of the PATSCAN-CMR 2.0 device is necessary to help security professionals detect potential security threats before they can result in an attack. Recent mass shootings across the country, and throughout the world, highlight this need. As attacks unfortunately become more common, the tools used to fight them must be capable and robust, while minimizing the impact on the public, including the flow of pedestrian and vehicular traffic. The use of private security professionals has been one tactic used to combat these threats. In fact, it has been reported that there are 1.1 million private security guards in the United States compared to roughly only 666,000 police officers.<sup>8</sup> The practice of using private security professionals is commonplace around the world: private security professionals outnumber uniformed police throughout most of the world in what is estimated to be an industry worth \$180 billion.<sup>9</sup> As private security professionals continue to meet the security needs traditionally fulfilled by uniformed police officers and other law enforcement personnel, we must give them the necessary tools to protect the sectors now under their charge.

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<sup>8</sup> *Private Security Outnumbers The Police In Most Countries Worldwide*, Forbes (Aug. 31, 2017) available at <https://www.forbes.com/sites/niallmccarthy/2017/08/31/private-security-outnumbers-the-police-in-most-countries-worldwide-infographic/#2636d277210f>.

<sup>9</sup> *See id.*

Not long after the October 2017 shooting, the Las Vegas Police Union Chief was quoted as saying that securing Las Vegas hotels and casinos may not be possible due to the number of entrances there are to the casinos and hotels, but he remarked that “[i]f you can come up with a good way to do it (security), I’m for it.”<sup>10</sup> The PATSCAN-CMR 2.0 provides a cost-effective, non-obstructive, threat detection system that can be used to secure multiple entrances of venues like hotels and casinos, but there are simply not enough public safety and law enforcement under the authority of a local or state government to meet public needs. Unfortunately, due to the operational restrictions imposed by Section 15.510(b) of the Commission’s rules, use of the PATSCAN-CMR 2.0 by private security professionals to secure venues like hotels and casinos is not currently permitted. Typically, there is an official law enforcement officer assigned to the site who is in frequent communication with these security professionals. But that officer is not constantly on site, and in any event, could not cover the entirety of a large locale like a casino. The Commission should grant this this Petition for Limited Waiver and permit operation of the PATSCAN-CMR 2.0 by security professionals as long as they are operating the devices for purposes associated with law enforcement and emergency rescue.

## **II. DISCUSSION**

### **A. Request for Limited Waiver**

The PATSCAN-CMR 2.0 is a valuable tool for law enforcement, public safety officials, and security professionals to detect and eliminate concealed weapons before threats are carried out. Because the PATSCAN-CMR 2.0 would be licensed (and eventually, certified) as a “through D-wall imaging system” pursuant to Section 15.510 of the Commission’s rules,<sup>11</sup> its

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<sup>10</sup> *See id.*

<sup>11</sup> 47 CFR § 15.510.

operation would be restricted to law enforcement, emergency rescue organizations that are under the authority of a local or state government.<sup>12</sup> Unfortunately, such a restriction greatly impairs the benefits associated with the PATSCAN technology by failing to account for the fact that users that can safely operate the PATSCAN-CMR 2.0 *without any increase in the potential for harmful interference*. Most facilities in need of threat detection are privately owned and employ private security forces, which, pursuant to Section 15.510(b) of the Commission's rules, cannot operate the PATSCAN-CMR 2.0. And even if these facilities sought the placement of official law enforcement personnel on site, only a small fraction of their security needs would be met given the small number of available law enforcement personnel and the size of the venues. Therefore, a limited waiver of subsection (b) of Section 15.510 the Commission's rules is needed to allow private security professionals performing functions associated with law enforcement, and emergency rescue to operate the PATSCAN-CMR 2.0 and fully take advantage of its threat detection benefits.<sup>13</sup> By limiting operation of this device to a class of users performing functions associated with law enforcement and emergency rescue, the PATSCAN-CMR 2.0 can be operated by security professionals trained in weapons detection, but will not permit consumers, hobbyists, and other casual users that theoretically may have an interest in operating such a device.

The Commission's practice has been that it will waive its equipment approval rules if it determines that the public interest will be served and the limited waiver will not undermine the policy of the rule to be waived.<sup>14</sup> As is further described in more detail below, grant of Patriot

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<sup>12</sup> 47 CFR § 15.510(b). Users must also be eligible for licensing under the provisions of Part 90 of the Commission's rules. 47 CFR § 15.510(c)(1).

<sup>13</sup> 47 CFR § 15.510(b)

<sup>14</sup> *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

One's limited waiver request will serve the public interest by improving concealed weapons detection without undermining the intent of the Commission's rules as the PATSCAN-CMR 2.0 will not cause harmful interference to any licensed or unlicensed services.

**B. Public Interest.**

The very serious and important public interest associated with the operation of the PATSCAN devices by an expanded class of qualified users justifies the requested limited waiver. When the Commission adopted the first set of UWB rules in 2002, it described the rules as "extremely conservative," "over protective" and likely to "unnecessarily constrain the development of UWB technology."<sup>15</sup> In fact, the Commission was so concerned with the conservative nature of its initial UWB rules that it stated that it would revisit the rules one year after they were adopted "to explore more flexible technical standards and to address the operation of additional types of UWB operations and technology."<sup>16</sup> Indeed, one year after adopting the UWB rules, in its *UWB Rule Revision Order*<sup>17</sup> the Commission showed a willingness to amend its user-based restrictions when the restrictions undermined the functionality of a particular class of devices and amendment of the rule was shown to further important public interest goals. The Commission then amended its UWB rules to permit more flexible operation of ground penetrating radar ("GPR") and wall imaging devices by a greater class of users.<sup>18</sup> Specifically, the Commission noted that GPRs and wall imaging systems

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<sup>15</sup> *Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission Systems*, First Report and Order, 17 FCC Rcd 7435, paras. 1-2 (2002) ("2002 UWB Order").

<sup>16</sup> *Id.*, para. 269.

<sup>17</sup> *See Memorandum Opinion and Order and Further Notice of Proposed Rule Making*, 18 FCC Rcd 3857 (2003) ("UWB Rule Revision Order").

<sup>18</sup> GPR devices are subject to the UWB rules at Section 15.509 of the Commission's rules. 47 C.F.R. § 15.509.

certified under Section 15.509 of the Commission's rules were already not being "...operated by the parties listed in the regulations but are operated instead under contract by personnel specifically trained in the operation of the devices."<sup>19</sup> After learning these facts, the Commission reasoned that the "adoption of the UWB rules should not result in disruption of the critical safety services that can be performed effectively only through the use of GPRs and wall imaging systems [by private security personnel]."<sup>20</sup> To ensure that GPRs and wall imaging systems maintain their utility in practice, the Commission amended its rules to allow for a more flexible use of these devices. Specifically, the Commission stated that it is "acceptable that GPRs and wall imaging systems are used for one of the purposes described in the regulations without being physically controlled by one of the described [official law enforcement] parties."<sup>21</sup>

Patriot One seeks the exact type of relief granted to devices authorized under Section 15.509 of the Commission's rules for its PATSCAN devices. The Commission should permit operation of the PATSCAN-CMR 2.0 for uses associated with one of the purposes described in Section 15.510(b) of the Commission's rules by private security personnel, by granting the waiver requested herein.

Importantly, when the Commission expanded the class of authorized users for 15.509 devices it noted that that it was only granting a waiver limited to a particular class of devices because the Commission was "...not aware of any existing UWB surveillance, medical imaging, or through-wall imaging systems for which the current rules would have an adverse impact."<sup>22</sup> Of course, that was almost fifteen years ago and the state of the world has changed significantly

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<sup>19</sup> *UWB Rule Revision Order*, 18 FCC Rcd. at 3869, para. 28.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 3870, para. 29.

since then. The need for increasingly sophisticated threat detection systems is now more prevalent, and so is our technical ability to meet that need. By limiting the class of users that may operate the PATSCAN-CMR 2.0, vulnerable locations like hotels and casinos are more susceptible to threats such as mass shootings. This limited waiver would permit trained security professionals to control the PATSCAN-CMR 2.0 to detect concealed weapons and avoid tragedies like the 2017 Las Vegas shooting. When Congress created the Commission in 1934, it did so in part “for the purpose of promoting safety of life and property through the use of wire and radio communications.”<sup>23</sup> The Patriot One PATSCAN-CMR 2.0 device directly fulfills this purpose. At a time when mass shootings and other violent tragedies have become all too common in the United States, the PATSCAN-CMR 2.0 is designed to assist trained security professionals to help ensure the safety of individuals at vulnerable facilities across the country, and therefore, is inherently in the public interest. Therefore, the Commission should grant this Petition for Limited Waiver as requested.

**C. A Limited Waiver of Section 15.510(b) Will Not Increase the Potential for Harmful Interference**

The Commission has found on several occasions that limited waiver of its Part 15 rules is in the public interest, if grant of the limited waiver would protect authorized users from harmful interference and would not undermine the purpose of these rules. The Commission assesses waiver requests according to the standards set out in *WAIT Radio v. FCC*.<sup>24</sup> In that case, as here,

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<sup>23</sup> 47 U.S.C. § 151.

<sup>24</sup> 418 F.2d 1153 (D.C. Cir. 1969). *See also*, 2002 Biennial Regulatory Review, 18 FCC Rcd 13620 at para. 85 n.130 (2003) (citing *WAIT Radio* as “setting out criteria for waivers of Commission rules.”)



the applicant sought a waiver of the Commission's rules where grant of the waiver request would satisfy the underlying purpose of the rules.<sup>25</sup> The standard set forth in that case is:

[A] general rule, deemed valid because its overall objectives are in the public interest, may not be in the "public interest" if extended to an applicant who proposes a new service that will not undermine the policy, served by the rule, that has been adjudged in the public interest.<sup>26</sup>

In other words, the underlying public interest must carry the day, rather than rote application of any rules that do not serve to implement that public interest in any given case.

The limited waiver requested here meets the *WAIT Radio* standard. Patriot One proposes a limited waiver of the Commission's rules that squarely meets the underlying public policy goal of the rules. The Part 15 rules are designed to ensure that "there is a low probability that these unlicensed devices will cause harmful interference to authorized users."<sup>27</sup> And the specific purpose of Section 15.510(b) is to limit the applications and locations where the devices may be operated in order to reduce the risk of causing harmful interference to other users of the radio frequency spectrum.<sup>28</sup> Patriot One, however, does not seek to expand the use of the devices beyond the context envisioned by the rule. It only seeks a waiver to accommodate for the fact that these functions are often and increasingly fulfilled by private security professionals who act in the stead of official law enforcement and emergency personnel. Put another way, the devices would be used in the same way and deployed in the same types of places that official law

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<sup>25</sup> *WAIT Radio* operated an AM broadcast station. Operation of the radio station was limited to daylight hours to afford protection to "white areas" that had no local service, and that relied on nighttime sky wave propagation from another station. *WAIT Radio* proposed to transmit at night using a directional antenna that would limit its signal in the white areas. *WAIT Radio v. FCC*, 418 F.2d at 1154-55.

<sup>26</sup> *WAIT Radio v. FCC*, 418 F.2d at 1157.

<sup>27</sup> *Multispectral Solutions, Inc. Request for Waiver of Section 15.250 of the Commission's Rules*, Order, 22 FCC Rcd 9831 (2007).

<sup>28</sup> *2002 UWB Order*, 17 FCC Rcd. 7499, para. 185.

enforcement or emergency rescue personnel have traditionally been deployed and used for the same purposes. Such natural limitation in deployment should prevent any theoretical harmful interference that could be caused by the use of the PATSCAN-CMR 2.0 by private entities otherwise engaging in law enforcement and other public safety roles. To the extent that the Commission is concerned about the sudden and rapid deployment of PATSCAN-CMR 2.0 devices, and to further allay the Commission's fears of harmful interference, Patriot One commits to ensuring that operation of the PATSCAN-CMR 2.0 is limited exclusively to indoor locations and areas adjacent to entrances and exits. This commitment, coupled with the fact that the PATSCAN-CMR 2.0 has already been authorized under the Commission's "extremely conservative" and "over protective" UWB rules,"<sup>29</sup> should negate any potential concerns over any increases in risk of harmful interference.

But perhaps more importantly, the Commission must not some let theoretical risk "unnecessarily constrain the development of UWB technology."<sup>30</sup> When the Commission adopted the UWB over 15 years ago applications of UWB technology, like that employed by the PATSCAN-CMR 2.0, were a complete unknown. Now the PATSCAN technology, utilizing extremely low power levels,<sup>31</sup> is able enhance public safety and security in vulnerable locations across the United States utilizing UWB spectrum. The Commission would be doing the country a disservice to based on some theoretical risk increase, particularly when Patriot One is willing to work with the Commission to proactively mitigate any such risks.

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<sup>29</sup> *Id.* at paras. 1-2.

<sup>30</sup> *Id.*

<sup>31</sup> Furthermore, the PATSCAN-CMR 2.0 operates at extremely low power levels, the equivalent to 1/500000 of the power levels typically associated with the operation of mobile phones.

The Commission established its waiver process for instances exactly like the one described herein—to ensure that there is no “disruption of the critical safety services that can be performed effectively only through the use of” devices subject to the UWB rules, like Patriot One’s PATSCAN-CMR 2.0.<sup>32</sup> The requested limited waiver clearly is in the public interest, not only in terms of benefits to the public, but also in the absence of any downside. Therefore, grant of the limited waiver is squarely in the public interest and meets the precedent established by *WAIT Radio*.

### III. CONCLUSION

For the foregoing reasons, Patriot One respectfully requests that the Office of Engineering and Technology grant the requested limited waiver of the Commission’s to permit operation of the PATSCAN-CMR 2.0 device, subject to the grant of a permanent Commission certification, by trained security professionals for reasons associated with law enforcement, and emergency rescue. Doing so will significantly advance public safety at vulnerable facilities across the country.

Respectfully submitted,



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June 18, 2019

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<sup>32</sup> *UWB Rule Revision Order*, 18 FCC Rcd. at 3869, para. 28.