

Mr. Scot Stone
Cc: Stanislava Kimball, Paul Moon
FCC Wireless Telecom Bureau via Email

RE: WT16-239, RM11-11708 Ex-Parte Reply Comments

I am in receipt of a copy of your June 2018 email memo to Spezielle Communications Systeme GmbH & Co. KG, aka "SCS" (SCS) in the US, posted to proceedings public records on November 7, 2018. The apparent purpose of your memo was to request information to determine whether or not the various PacTORS™ are open-access digital codes. To the point: Whether or not PacTORS 2,3 and 4™ are fully Specified Codes. Specified Codes being the Commission-defined term for digital codes that are fully documented publicly, and made available to be used to develop software and or hardware solutions usable by US amateur radio operators on the HF amateur bands.

Besides posting links to claimed, but not complete release of its protocols and convolution routines, it included links to various software developer sites that either have 'discovered' sufficient detail to enable their decoding software products to decipher several PacTORS™, or the more likely case: They have secured permission and perhaps even the firmware to do so directly from SCS.

In any case, the SCS' response only served to cloud its long-standing esoteric intentions. In fact, the SCS-offered three examples were only decoding or receiving software. None of it can be used for transmission. And, we do not have examples of just what content can be decoded by the third party software. Meaning, will it entirely decode such things as attached file content or emails? SCS cements its posture in the text of its reply to your memo that implementations of PacTOR™ have been, are now, and will continue to be proprietary in the future. Complete release was not and is not its intention as it so stated in its response.

You did not ask, nor did they admit that they had licensed their PacTOR™ firmware for versions 2, 3 or 4 to anyone, even if just for receiving purposes. Fully licensing their products to others would at least have allowed other manufacturers to create amateur radio products with the full capabilities of receiving and transmitting the various PacTORS™.

SCS obtained a trademark for PacTOR™ technology, albeit about 20 years ago, from the US Patent and Trademark Office.¹ Demonstrated intent not to share PacTOR™ details to the extent that others could construct or modify modem equipment to employ PacTORS™ 2, 3 or 4. Unless, of course, prior permission was obtained. The clearest evidence of SCS' intent is offered by the postulate: *What good is an investment in a patent or trademark if not used to prevent unpermitted use of an owner's protected property?*

Recent Amateur Service discussions and my prior Comment in these proceedings focused on the continued use of PacTORS™ 2, 3 and the addition of PacTOR™ 4 on the HF bands being of concern to our National Security. The logic being that the inability to decode content in the main body or attachments in real time may permit unlawful activities to be conspired and/or directed

¹ SN 75-347,223

while being hidden from 3rd party observers or the Commission's own Enforcement Bureau. One comment from a participant, appearing to defend the continued use of PacTORS,™ was that one could use an entirely-proprietary communications code (an Unspecified Code) on the HF bands so long as a record of the communication content is preserved. An example being that if Winlink or its Amateur Radio Safety Foundation IRS501 umbrella were to keep copies of content and attachments, then 41 CFR §97.309(b)(3) would be satisfied. Real time interception of the communication would supposedly be irrelevant, even though PacTORS 2,3, and 4 are, in light of SCS' response to your memo, Unspecified Codes.

While it may be interpreted as being satisfied in some circles, *would it be satisfactory for terrorist coordination and direction; transmission of child pornography; or drug trafficking to take place so long as someone or some entity relaying the proprietary-communications-protocol-based content keeps a copy?* But, lacking a Commission mandate for the capability of real time PacTOR™ decoding by uninvolved parties and its Enforcement Bureau leaves the door wide open for all sorts of nefarious behavior to go on undetected until after the fact. Who would know besides the perpetrators until it's too late to save lives or bring justice to those involved? And, Winlink is not the only user of PacTORS™. At any rate, how could such a record retention requirement be effectively ensured or audited? The short answer: It can't be.

The continued use of any PacTOR 2, 3 or 4™ protocol-based communications within the Commission's jurisdiction on the US amateur bands should be prohibited.

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