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May 3, 1993

Via Express Mail

Ms. Donna R. Searcy
Secretary
Federal Communications Commission

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Accordingly, the appendix and its attachments should be treated by the Commission as confidential. Copies of this material have, of course, been served on Motorola, Inc.

Motorola, in its reply comments filed April 20th stated in pertinent part that:

"B. No FCC Investigation Is Appropriate of Any Ongoing Allegations Which Are Currently, and Properly, Being Pursued Through Judicial Tribunals. These Issues Are Not Appropriate For Deliberation In The Instant Proceeding And Are No Impediment To Selection Of An AM Standard."

In Reply Comments filed by the undersigned, there is a confidential appendix submitted, in which the following statement appears:

"Adoption of the Motorola AM Stereo system would (a) violate the Federal Communications Act 47 USC 313, as amended, and (b) aid and abet further violations by Motorola of the Federal Antitrust Laws, Sherman Act, 15 USC 1, 2."

"The Commission is required by the Communications Act, Section 313, to respect the antitrust laws of this country."

"On the other hand, the Commission is required by an act of Congress (no matter how improperly passed) to select a single system. That act does not require the Commission to select the Motorola system..." (Bold print added)

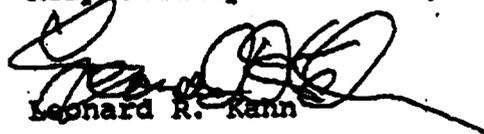
In order to put the Reply Appendix (this request for an advanced ruling concerns only the Reply Appendix)¹ before the Commission with violating the confidentiality orders in the U.S. District Courts in New York, I hereby request an advance ruling that this appendix is not open to public inspection under Section 0.459 of the Rules for the reasons stated in my two requests, dated April 20th, accompanying the appendix and in my letter of April 19th, 1993.

In the event of a favorable ruling, the appendix will be resubmitted. Any subsequent FOIA request would be opposed on the basis of the court order pursuant to Section 0.461(h)-(1) of the Commission's rules ("reverse FOIA").

¹Kahn only requests permission to file the Reply Confidential Appendix, dated April 19, 1993 as it will provide the Commission with sufficient information to initiate its own investigation. Limiting the filing to a single document avoids inconvenience and the risk of handling of a second and much larger confidential document.

A timely ruling on this request, referable to a Commission decision in Docket No. 92-298, is sought.

Respectfully submitted,



Leonard R. Kann

LRK/jd

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