

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

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In the Matter of )  
)  
Amendment of Part 90 of the )  
Commission's Rules to Adopt )  
Regulations for Automatic )  
Vehicle Monitoring Systems )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

PR Docket No. 93-61  
DOCKET FILE COPY ORIGINAL

**CONSOLIDATED OPPOSITION TO PETITIONS FOR RECONSIDERATION**

In accordance with Section 1.429 of the Commission's rules, the Part 15 Coalition ("the Coalition") submits this consolidated opposition to the petitions of Pinpoint Communications, Inc. ("Pinpoint"), Amtech Corporation ("Amtech"), and Teletrac License, Inc. ("Teletrac"), for reconsideration of the LMS Reconsideration Order<sup>1</sup> in the above-referenced proceeding.

**DISCUSSION**

**I. THE TELETRAC PETITION FOR RECONSIDERATION SHOULD BE DENIED.**

**A. Modifications To The Part 15 Rules In The Spread Spectrum Proceeding Will Not Increase Interference In The 902-928 MHz Band And Should Have No Effect On The Presumption Of Noninterference Under Section 90.361.**

In its petition, Teletrac asks that the Commission "clarify" that only Part 15 operations authorized under the rules now in effect are protected by the "safe-harbor" provisions in Section 90.361. Specifically, Teletrac argues that the changes proposed for the Part 15 rules in the Commission's Spread Spectrum NPRM<sup>2</sup> should, if adopted, vitiate the presumption of noninterference accorded certain Part 15 technologies under Part 90. This proposed "clarification" should be rejected.

As the Commission recognizes in the Spread Spectrum NPRM, the changes proposed therein are expected to promote frequency sharing by Part 15 technologies

<sup>1</sup> Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems, Order on Reconsideration, PR Docket No. 93-61 (rel. Mar. 21, 1995).

<sup>2</sup> In re Amendment of Parts 2 and 15 of the Commission's Rules Regarding Spread Spectrum Transmitters, NPRM, ET Docket 96-8 (rel. Feb. 5, 1996)

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and LMS systems.<sup>3</sup> For instance, the proposed reduction in the number of frequencies required to be used by frequency hopping Part 15 technologies would, if anything, reduce, rather than increase, the spectral occupancy of spread spectrum frequency hoppers. There is no basis to assume, therefore, that the changes in the spread spectrum rules proposed in the Spread Spectrum NPRM should in any manner increase the amount of interference from Part 15 technologies. There is equally no reason to undermine the presumption of noninterference for certain categories of Part 15 technologies operating in accordance with the new rules.

Further, the rule change proposed by Teletrac would lead to confusion in the marketplace and stifle innovation. As a matter of administrative clarity, Part 15 manufacturers and operators should not be required to retain copies of the Commission's former rules to ensure future compliance. More importantly, freezing the regulatory scheme may well "freeze-out" future technological advances. Part 15 designers and manufacturers cannot be expected to develop new technologies using the design flexibility allowed under the new spread spectrum rules (if they are adopted) if they must trade-off their presumption of noninterference in order to have that flexibility. Thus, if the Commission adopts the rule changes proposed in the Spread Spectrum NPRM, those changes should have no affect on the presumption of noninterference accorded to Part 15 technologies under the Part 90 rules.<sup>4</sup>

**B. Elimination Of The Two-Kilometer Relocation Limit On Grandfathered Systems Would Undermine The Commission's LMS Grandfathering**

Teletrac also has asked that the Commission reconsider its two-kilometer site relocation rule for grandfathered LMS systems.<sup>5</sup> Teletrac complains that the two-kilometer rule will unduly restrict its ability to relocate systems that are unable to provide adequate coverage within a given metropolitan area either because the licensed site no longer is available or because the licensed site does not allow for

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<sup>3</sup> E.g., *id.* ¶¶ 30, 33 (use of fewer hopping channels will reduce the potential for interference).

<sup>4</sup> See In re Amendment of Parts 2 and 15 of the Commission's Rules Regarding Spread Spectrum Transmitters, ET Docket 96-8, Comments of the Part 15 Coalition (filed June 19, 1996).

<sup>5</sup> Teletrac Petition for Reconsideration at 3-10.

maximum "signal density" within the service area. This request, however, is premised on a faulty understanding of purpose underlying the LMS grandfathering rules.

The Commission grandfathered certain LMS systems because it was confronted with an intractable problem: A few LMS licensees, which had been authorized to operate in the 902-928 MHz band on an interim basis, had, in reliance on their interim authority, developed systems in a band of spectrum that already was used heavily by Part 15 technologies. When the Commission adopted new rules to allow for the expansion of LMS services, it felt bound by notions of equity and fair play to grandfather those systems already authorized under the interim rules. The grandfathering rules were not intended to optimize the service potential of these systems or to encourage the proliferation of grandfathered transmitters. Indeed, Teletrac's proposal would, apparently, allow grandfathered systems to relocate their transmitters or construct fill-in transmitters anywhere within the grandfathered licensee's proposed coverage area.

There are important public policy reasons for denying the Teletrac's petition. Notwithstanding the contention of Teletrac that the success of the LMS auctions depends on its ability to be successful in the marketplace,<sup>6</sup> it stands to reason that the more generous the Commission's grandfathering provisions are, the less successful its LMS auctions will be. Each additional site that a grandfathered system is allowed to relocate to or "fill-in" is one fewer site that a bidder may purchase at auction. Although it may be that some of these sites will not be sought after by bidders, the market should make that determination, not Teletrac.

**II. THE SUGGESTION BY PINPOINT THAT THE FIELD TESTING REQUIREMENT IMPERMISSIBLY ALTERS THE PRIORITY OF SERVICES AUTHORIZED TO USE THE 902-928 MHZ BAND ALREADY HAS BEEN REJECTED BY THE COMMISSION.**

As it did in its petition for reconsideration of the LMS Report and Order, Pinpoint argues that the Commission's Part 90 LMS rules unlawfully elevate Part 15 operations to a higher status than licensed LMS services.<sup>7</sup> In this case, Pinpoint argues that language in the text of the LMS Reconsideration Order suggests that Part

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<sup>6</sup> See Teletrac Petition at 7.

<sup>7</sup> See Pinpoint Petition at 2-5.

15 use no longer is secondary in the 902-928 MHz band. This characterization of the LMS Reconsideration Order, however, simply is inaccurate.

In the paragraph cited by Pinpoint, the Commission explains that:

We hereby clarify that as a condition of grandfathering, we will also require all multilateration LMS operators who did not construct stations prior to February 3, 1995, to demonstrate through testing that their LMS systems will not cause unacceptable interference to Part 15 devices. As we stated in the LMS Report and Order, we believe that testing may provide users of the band with data that could contribute to 'fine-tuning' system operations.... Further, the Commission seeks to ensure not only that Part 15 operators refrain from causing harmful interference to LMS systems, but also that LMS systems are not operated in such a manner as to degrade, obstruct or interrupt Part 15 devices to such an extent that Part 15 operations will be negatively affected.<sup>8</sup>

Read in context, it is clear that the text of the LMS Reconsideration Order is not intended to alter the relative priority of Part 15 technologies and Part 90 LMS systems. Indeed, the rules themselves relating to the priority of service in the 902-928 MHz band remain unchanged by the LMS Reconsideration Order. The language to which Pinpoint objects merely clarifies that the Part 90 testing requirement applies to yet-to-be-constructed grandfathered systems. The testing requirement, in turn, has nothing to do with the priority of authorized services in the band. Instead, the testing requirement merely helps to ensure that only Multilateration LMS systems that share spectrum efficiently are authorized to use the band.<sup>9</sup>

### **III. AMTECH'S REQUEST FOR AN ELIMINATION OF THE HEIGHT RESTRICTIONS ON NON-MULTILATERATION SYSTEMS SHOULD BE REJECTED.**

Amtech asks that nonmultilateration LMS ("N-LMS") systems should be permitted to exceed the height restrictions adopted in the LMS Report and Order.<sup>10</sup> To begin with, Amtech's suggestion is outside of the scope of the LMS

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<sup>8</sup> LMS Reconsideration Order ¶ 15.

<sup>9</sup> See e.g., *id.* ¶ 17 ("Part 15 operation remains secondary; the testing requirement is merely an attempt to achieve the most efficient coexistence possible among the various users of the band.")

<sup>10</sup> Amtech Petition at 2.

Reconsideration Order and, therefore, procedurally improper.<sup>11</sup> Nowhere in the LMS Reconsideration Order did the Commission amend, revise, or address in any manner the antenna height restriction on N-LMS systems. Issues related to N-LMS antenna height, the Coalition is given to understand, will be addressed with a variety of other issues related to the operation of LMS systems in a “forthcoming reconsideration order.”<sup>12</sup>

Moreover, the rule change proposed by Amtech, if adopted, would unnecessarily upset the balance of users in the safe-harbor portion of the 902-928 MHz band.<sup>13</sup> The Commission set aside the 909.750-921.750 MHz frequencies within the 902-928 MHz band as a safe-harbor for Part 15 technologies and N-LMS systems.<sup>14</sup> As the Coalition has noted, however, the Commission should modify its current definition of N-LMS systems to ensure that N-LMS systems are limited, either functionally or technically, to “tag-reader” applications such as those described by Amtech.<sup>15</sup> Absent such a limitation, and in conjunction with the 30-watt power allowed for N-LMS systems under the Part 90 rules, there is a risk that a high-power, wide-area service could be provided under the guise of N-LMS.

Amtech’s proposal, if adopted, would exacerbate this risk. If the Commission permits “nonmultilateration LMS systems” to transmit from an elevated antenna with up to 30 watts of power, the central portion of the 902-928 MHz band no longer will be a “safe harbor” for nearby Part 15 technologies. Thus, to protect the integrity of the Commission’s spectrum sharing rules, Amtech’s proposal should be rejected and its petition denied.

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<sup>11</sup> Cf. 47 C.F.R. § 1.429(c) (petitions for reconsideration must state with particularity the respects in which the petitioner believes that the action taken should be changed).

<sup>12</sup> See LMS Reconsideration Order ¶ 1 & n.2.

<sup>13</sup> See Amendment of Part 90 of the Commission’s Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems, PR Docket No. 93-61, Opposition to Petitions for Reconsideration of the Part 15 Coalition (filed May 24, 1995) at 15.

<sup>14</sup> See LMS Report and Order ¶¶ 24, 39.

<sup>15</sup> See Amendment of Part 90 of the Commission’s Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems, PR Docket No. 93-61, Petition for Reconsideration of the Part 15 Coalition (filed Apr. 24, 1995) at 16-18.

## CONCLUSION

For the reasons set forth herein, the Coalition urges the Commission to deny the petitions of Pinpoint Communications, Inc., Amtech Corporation, and Teletrac License, Inc.

Respectfully submitted,

THE PART 15 COALITION

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consolidated Opposition of the Part 15 Coalition was sent by first-class mail, postage prepaid, this 5th day of July, 1996, to each of the following:

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