

Before the
Federal Communications Commission
Washington DC 20554

In the Matter of

Amendment of Part 15 of the
Commission's Rules Regarding
Spread Spectrum Devices

ET Docket No. 99-231

OPPOSITION TO PETITION FOR RECONSIDERATION

Pursuant to Section 1.429(f) of the Commission's Rules, the following parties file this Opposition to the Petition for Reconsideration of Warren C. Havens and Telesaurus Holdings GB, LLC, d/b/a LMS Wireless (LMSW) (filed July 25, 2002) (Petition):

Intersil Corporation, the leading manufacturer of integrated circuit chipsets for wireless networking applications; and

Symbol Technologies, Inc., a global leader in mobile data transaction systems, providing solutions based on wireless local area networking for data, voice, and application-specific mobile computing.

LMSW seeks reconsideration of the Second Report and Order in the above-captioned proceeding.¹ LMSW is an LMS licensee in the 902-928 MHz band, which it shares with certain Part 15 operations (among other users).

LMSW Petition. LMSW asks the Commission to defer the rule changes set out in the Second Report and Order, as they apply to this band, pending resolution of two rulemaking petitions: one filed by Progeny LMS LLC (RM-10403), and one *intended* to be filed by LMSW.²

¹ *Amendment of Part 15 of the Commission's Rules Regarding Spread Spectrum Devices*, ET Docket No. 99-231, Second Report and Order, FCC 02-151 (released May 30, 2002).

² Petition at 2. As of today we are unable to locate a rulemaking petition from LMSW on the Commission's web site.

LMSW asserts that "important developments" requested in these two rulemaking petitions "would be jeopardized by premature changes in the rules for Part 15 devices."³ Elsewhere it explains that "[i]ncreased flexibility may lead to increased traffic, and this may lead to interference with LMS operations."⁴ These are the Petition's sole grounds for reconsideration.

Opposition. The claims in the Petition are wholly speculative. Indeed, they rest in large part on a rulemaking petition from LMSW that, so far as we can tell, has not even been filed. Beyond that, the Petition has simply failed to establish that the Second Report and Order is contrary to the public interest, or even that it will have any effect at all on LMS operations.

The rule changes in the Second Report and Order leave unchanged the interference potential of a Part 15 device with respect to LMS. Specifically, the limits for both maximum peak power and power spectral density in a Part 15 device remain the same. An LMS receiver will experience no more interference from a Part 15 device operating under the Second Report and Order than from one operating under the prior rules.

Apparently acknowledging that the rule change does not increase interference potential, LMSW asserts only that greater flexibility in modulation (as allowed under the Second Report and Order) may lead to increased Part 15 usage, which in turn may produce interference to LMS. Here, again, the interference claim is speculative. Moreover, far from being objectionable, increased usage is part of the Commission's goal in making the rules more flexible. One express purpose of the proceeding is to increase the range of products available in the marketplace, so

³ Petition at 3.

⁴ Petition at 3-4.

that manufacturers can more closely accommodate individual users' needs.⁵ But all of these devices operate at low power, and LMSW has not even attempted to show that increasing their number will cause any interference at all to LMS. Indeed, nothing whatever in LMSW's Petition can be read to disturb the Commission's finding that increased modulation flexibility for Part 15 is in the public interest.

CONCLUSION

LMSW's Petition is speculative, unsupported, and utterly fails to carry its burden of showing the Second Report and Order was improvidently adopted. The Petition must be denied.

Respectfully submitted,

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September 5, 2002

⁵ "The rule changes adopted in this Second Report and Order are intended to provide manufacturers with the flexibility to design and market a more diverse set of products which are able to operate efficiently in the unlicensed bands. Manufacturers will have the freedom to design products which that fit the various needs of users who may have differing requirements for data speeds and interference resistance." Second Report and Order at para. 6.

CERTIFICATE OF SERVICE

I, Deborah N. Lunt, a secretary for the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that a true copy of the foregoing "Opposition to Petition for Reconsideration" was sent this 5th day of September, 2002 via first class, United States mail, postage prepaid to the attached Service List, except by hand delivery and e-mail as indicated.

Deborah N. Lunt

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