

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

In the Matter of)
)
Amendment of Part 15 of the)
Commission’s Rules Regarding) ET Docket No. 99-231
Spread Spectrum Devices)
)

REPLY COMMENTS OF WAVERIDER COMMUNICATIONS INC.

WaveRider Communications Inc. (WaveRider) hereby submits its Reply Comments in the above-captioned proceeding. Specifically, WaveRider supports the comments submitted by the License-Exempt Alliance (LEA), Intersil Corporation (Intersil), Symbol Technologies (Symbol) and Agere Systems (Agere), opposing the Petition for Reconsideration filed on July 25, 2002 (the “Telesaurus Petition”) by Warren C. Havens and Telesaurus Holdings GB, LLC with respect to the Commission’s *Second Report and Order*¹ in the above-captioned proceeding.

As a manufacturer of fixed wireless Internet access systems that operate in the 902-928 MHz and 2.4 GHz bands under Part 15 of the Commission’s rules, WaveRider is an interested party in this proceeding. WaveRider has also filed comments opposing a related Petition for Rule Making filed on March 5, 2002 by Progeny LMS, LLC (“Progeny”)². The proposals outlined in the Progeny Petition would directly affect the

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 for Rulemaking of Progeny LMS, LLC, RM-10403. See Comments of WaveRider Communications Inc. (filed May 15, 2002).

continued ability of Part 15 devices to operate successfully in the 902-928 MHz bands. WaveRider and other Part 15 equipment manufacturers have invested considerable resources to design equipment around the safe harbor provisions of the LMS rules. It now appears, given the state of the LMS industry, that Progeny and Telesaurus are appealing to the Commission to change the rules of the game because of the failure of their business plans.

The claims outlined in the Telesaurus Petition are wholly speculative. As pointed out in the Comments filed by Intersil and Symbol, the rule changes in the *Second Report and Order* leave unchanged the interference potential of a Part 15 device with respect to Location and Monitoring Services (LMS) in the 902-928 MHz band.³ Telesaurus has not provided any evidence that the increased flexibility in modulation formats for Part 15 devices enacted in the *Second Report and Order* would have any adverse effect on LMS operations. Indeed, as the Comments of the LEA have argued, since Telesaurus has not taken issue with or discussed the rule modifications adopted in the *Second Report and Order*, the Telesaurus Petition gives the Commission nothing to reconsider and should be denied for that reason alone.⁴

Telesaurus has also proposed in the summary ATLAS white paper which it attached to its Petition, to phase out the use of all Part 15 devices in the 902-928 MHz band, claiming that Part 15 devices “contrary to common” perceptions are not used substantially in this band.⁵ Telesaurus has not provided any evidence to substantiate this claim, and ignores the substantial infrastructure investments made by Part 15 operators and manufacturers. The Commission is no doubt aware that Part 15 devices are used

³ Intersil and Symbol Comment at 2.

⁴ License-Exempt Alliance Comment at 3.

⁵ Telesaurus Petition at 6.

extensively in this band. Millions of Part 15 devices are currently deployed throughout the United States to support a variety of applications and services including utility infrastructure monitoring, automatic meter reading, inventory control, package tracking and shipping control, alarm services, local area networks and Internet access. Any changes to the rules regarding the operation of Part 15 devices in the 902-928 MHz band could have a significant impact on public safety and commerce.

WaveRider for example has deployed fixed wireless Internet access systems that operate in the 902-928 MHz band in over 100 communities in more than 27 states serving thousands of users. These systems have been deployed by wireless Internet service providers (WISPs), municipalities, utilities, and rural telephone companies and serve a broad range of markets including consumer/residential, schools, SOHO, and small/medium-size businesses.

Taking advantage of the propagation characteristics of the 902-928 MHz band, WaveRider has developed a non-line-of-sight (NLOS) and user installable wireless broadband solution. The advantages of this solution are that it enables service providers to provide wireless broadband services to many communities that do not have broadband alternatives such as DSL or cable modems. A true NLOS solution would not be possible under the current power level restrictions in the other license-exempt bands in 2.4 GHz and 5 GHz.

Conclusion

Telesaurus does not provide any evidence to support any delay in the adoption of the *Second Report and Order*. WaveRider urges the Commission to deny the Telesaurus Petition.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "B. Sinclair". The signature is fluid and cursive, with a large initial "B" and a long, sweeping underline.

Bruce Sinclair
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September 13, 2002