

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

In the Matter of)
)
Section 68.4(a) of the Commission's Rules)
Governing Hearing Aid-Compatible Telephones)
)
Petitions for Waiver of Section 20.19 of the)
Commission's Rules)
)

WT Docket No. 01-309

AFFIDAVIT

COMES NOW Phillip Luebke, having been duly sworn, and testifies as follows:

1. My name is Phillip Luebke. I am over 21 years old and competent to testify to the facts in this affidavit.

2. I am the Inventory Manager for Iowa Wireless Services, LLC d/b/a i wireless ("i wireless"). I have personal knowledge of the statements made herein. I am responsible for coordinating the ordering and testing of handsets used by i wireless and other carriers operating in affiliation with i wireless.

3. i wireless is a Tier III GSM PCS licensee providing service in Iowa and western Illinois. As a Tier III carrier, i wireless does not have the capability to influence the production and distribution timetables of handset manufacturers, such as Motorola and Nokia. Small Tier III carriers do not have sufficient purchasing power to buy handsets directly from the manufacturers, and instead, they must procure them from authorized U.S. distributors. It is my understanding that large Tier I carriers, such as Cingular (now AT&T), Verizon, and Sprint can quickly obtain the latest, and often customized, handsets directly from equipment manufacturers.

4. Before i wireless can make a wireless handset available at retail to its subscribers, each phone must be tested to ensure that it is compatible with i wireless's GSM network, that its

RF performance, construction, and form factor meets certain minimum criteria, and that the phone can be reliably deployed and activated by sales agents at the point of sale. i wireless generally obtains test units directly from the manufacturer, and the company's standard testing process usually takes approximately two months to complete. Once i wireless determines that a phone is acceptable for deployment, i wireless will place an order with the manufacturer's authorized U.S. distributor, and it takes approximately two to four weeks for the first shipment to arrive at i wireless's warehouse. i wireless accelerated its testing program to identify, test, order, and distribute hearing aid compatible ("HAC") phones as soon as possible to make two HAC handsets available at retail by or as soon as possible after the September 18, 2006 deadline.

5. The FCC has identified the following GSM handsets as being HAC compliant (FCC ID Nos. are in parentheses): LG models C2000 (BEJC2000), CG300 (BEJCG300), and CU400 (BEJCU400); Motorola models V3e (IHDT56GL1) and V3i (IHDT56GW1); Nokia models 6126h (PPIRM-126H), 6133h (PPIRM-126H), and 6085 (LJPRM-198H); RIM models 8705 (L6ARBH40GW) and 8705g (L6ARBH40GW), Samsung models SGH-407T (A3LSGHD407) and SGH-ZX20 (A3LSGHZX20), Sony Ericsson models W712a (PY7AF042011) and Z712a (PY7AF042012).¹ Of those models, i wireless identified five HAC compliant handsets that were compatible with i wireless's GSM system, and that were likely to be available to small Tier III carriers, such as i wireless. They were as follows: Motorola V3i (IHDT56GL1), Nokia 6126h (PPIRM-126H), Nokia 6085 (LJPRM-198H), Sony Ericsson W712a (PY7AF042011), and Sony Ericsson Z712a (PY7AF042012).

6. The LG models listed by the FCC as HAC compliant were Cingular (AT&T) models, and generic versions of the CG300 and CU400 handsets were not made available to

¹ *Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones; Petitions for Waiver of Section 20.19 of the Commission's Rules, Memorandum Opinion and Order, FCC 08-67, WT Docket No. 01-309, Appendix D (rel. Feb. 27, 2008).*

smaller carriers. It is my understanding that the "C" in the model number indicates that the LG phones were models exclusive to Cingular (AT&T). I am aware that LG did produce the LG2000 phone, which apparently was a generic version of the LG C2000. i wireless tested the LG2000 in July and August 2006, and rejected it due in part to our understanding at the time that the LG2000 did not meet the T3 rating.

7. It is my understanding that the Motorola V3e was an HAC handset that was not made available to the regional carrier channel. Its sister model, the Motorola V3i, however, was made available to Tier III carriers, and i wireless tested and launched that handset on October 16, 2006, with retail availability the next day on October 17, 2006.

8. For the Nokia GSM phones that were approved as meeting the T3 rating, i wireless deployed the Nokia 6126h on March 22, 2007, shortly after that phone became available from Nokia's authorized U.S. distributor, Brightpoint, beginning in March 2007. It is my understanding that the Nokia 6133h was not available to Tier III carriers as that was a T-Mobile exclusive version of the phone. i wireless received test samples of the Nokia 6085 on February 2, 2007. However, that phone did not become commercially available until March 15, 2007, which was after i wireless had already ordered the two phones it deployed to comply with its HAC handset obligations.

9. The RIM phones are Blackberry units with e-mail capability. i wireless does not have the infrastructure in place to support RIM/Blackberry units. Moreover, a carrier must also have an agreement with RIM in order to enable subscribers to use the RIM/Blackberry units, and i wireless does not have such an agreement in place. Therefore, the use of the RIM handsets was not an option for i wireless to meet the HAC requirement.

10. It is my understanding that the Samsung SGH-ZX20 was a Cingular (AT&T) exclusive unit, and I am not aware of a generic version being made available. Similarly, it is my understanding that Cingular (AT&T) carried the Samsung SGH-D407, which has the same FCC ID as the Samsung SGH-407T. However, I am not aware that the Samsung SGH-407T was ever put into production or made available to Tier III carriers.

11. The Sony Ericsson W712a and Z712a handsets were generally available to the smaller carriers. However, at the time i wireless was attempting to find a source for those units, they were not available from Sony Ericsson's authorized U.S. distributor, Brightpoint. Rather, they were only available through a company called HITEC. It is my understanding that HITEC only sold handsets to customers at retail. i wireless did not receive any samples of the Sony Ericsson W712a or Z712a units for testing, despite having made several requests. i wireless decided not to go forward with procuring Sony Ericsson phones due to, among other things, the unavailability of any test samples, the lack of any experience or relationship with HITEC, including the establishment of lines of credit, account representatives, and ordering and delivery procedures.

12. In order to identify and procure HAC phones for i wireless to comply with Section 20.19(d)(2) of the Commission's rules, I regularly contacted manufacturers and distributors, and asked them for information regarding the availability of compliant handsets. An outline of the timeline of my efforts regarding each of the GSM HAC handsets discussed above is as follows:

Timelines For Each HAC Compliant Handset Considered by i wireless²

Motorola V3i

- 4/17/06 [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]
CONFIDENTIAL]
- 6/30/06 Received two Motorola V3i test units
- 7/26/06 Tested and approved the Motorola V3i in 27 days on an expedited basis, which is less than half of i wireless' standard testing and approval period for new handsets
- 7/31/06 Motorola informed i wireless that the Motorola V3i would not be available until mid-to-late August
- 8/3/06 FCC approved Motorola V3i as HAC compliant
- 8/21/06 Placed purchase order for Motorola V3i handsets
- 9/13/06 [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]
- 9/18/06 FCC deadline to carry at least two handsets rated T3 or T4 for compatibility with T-coils
- 9/19/06 i wireless submitted waiver request to the FCC
- 10/12/06 Received first shipment of Motorola V3i handsets at i wireless's warehouse.
- 10/16/06 Launched the Motorola V3i

Nokia 6126h

- 7/19/06 [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]
- 7/26/06 i wireless received two Nokia 6126 (non-HAC) test handsets
- 9/18/06 FCC deadline to carry at least two handsets rated T3 or T4 for compatibility with T-coils
- 9/19/06 i wireless submitted waiver request to the FCC
- 10/10/06 i wireless requested 6126h test units
- 10/17/06 i wireless requested 6126h test units a second time
- 11/15/06 Received one Nokia 6126h test handset
- 1/25/07 [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]
- March 07 Nokia 6126h became available from Nokia's authorized U.S. distributor, Brightpoint
- 3/13/07 Placed purchase order for Nokia 6126h handsets, pending approval
- 3/15/07 i wireless approved the Nokia 6126h
- 3/21/07 Received first shipment of Nokia 6126h handsets at i wireless's warehouse

² This is not an exhaustive timeline as there were many other communications between i wireless and the manufacturers/distributors. This timeline only contains significant events to demonstrate that i wireless's efforts to identify and procure compliant handsets began well before the FCC's September 2006 deadline, and also to show the timing of the availability of the handsets.

3/21/07 Launched Nokia 6126h

LG 2000

6/19/06 [BEGIN CONFIDENTIAL] [REDACTED]
[END CONFIDENTIAL]
7/13/06 Received one LG 2000 test unit
7/17/06 i wireless noted that the LG 2000 is rated M3 only, and not T3
8/1/06 Received approval from the i wireless Network Operations Center
9/18/06 FCC deadline to carry at least two handsets rated T3 or T4 for compatibility with T-coils
9/19/06 i wireless submitted waiver request to the FCC
9/22/06 Confused about the differences between the LG 2000 v. the LG C2000 (which the FCC approved for HAC), i wireless decided not to implement the LG 2000 as its second HAC-compliant phone, and instead, decided to pursue the Nokia 6126h

Sony Ericsson W712a and Z712a

8/4/06 Received Sony Ericsson Z710i (non-HAC compliant handset) test unit
8/10/06 Received Sony Ericsson Z710i and W710i (both non-HAC-compliant handset) test units
8/8/06 [BEGIN CONFIDENTIAL] [REDACTED]
[REDACTED] [END CONFIDENTIAL]
9/19/06 i wireless submitted waiver request to the FCC
9/22/06 [BEGIN CONFIDENTIAL] [REDACTED]
[REDACTED] [END CONFIDENTIAL]
10/2/06 [BEGIN CONFIDENTIAL] [REDACTED]
[REDACTED] [END CONFIDENTIAL]
11/9/06 i wireless approved the Sony Ericsson W710i
4/4/07 i wireless launched Sony Ericsson W710i. i wireless never received the HAC compliant handsets for testing.

Nokia 6085

9/18/06 FCC deadline to carry at least two handsets rated T3 or T4 for compatibility with T-coils
9/19/06 i wireless submitted waiver request
12/4/06 Added the Nokia 6085 to portfolio consideration as "full" HAC compliant
1/24/07 [BEGIN CONFIDENTIAL] [REDACTED]
[REDACTED] [END CONFIDENTIAL]
2/2/07 Received two Nokia 6085 test units from Nokia

- 3/3/07 Removed from testing – rejected by Sales & Marketing
- 3/15/07 *Nokia 6085 became available; however, the availability of the Nokia 6126h obviated the need for the Nokia 6085 for HAC compliance purposes*
- 12/20/07 Sales & Marketing put the Nokia 6085 back on i wireless's road map
- 2/21/08 i wireless approved the Nokia 6085
- 2/29/08 Placed purchase order for the Nokia 6085

13. During the period that I was searching for and coordinating the testing of handsets for HAC compliance, i wireless determined that it should deploy the Nokia 6126h because it was the only unit other than the Motorola V3i that i wireless had been able to confirm that was HAC compliant, and that was likely to be available within a reasonable time after the September 18, 2006 deadline. It was my understanding at that time that Nokia would be adding hearing aid compatibility to the Nokia 6126h by the end of 2006. However, Nokia's projection was incorrect, and the addition of HAC functionality was delayed. The Nokia 6126h was not available for distribution to carriers by Brightpoint until March 2007. It was my further understanding that the only company authorized to distribute Nokia handsets in the U.S. on a wholesale basis to smaller carriers like i wireless was Brightpoint.

14. [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

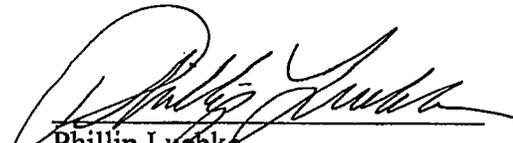
[REDACTED]

[REDACTED]

[REDACTED]

[END CONFIDENTIAL]

15. I declare under penalty of perjury that the foregoing is true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.


Phillip Luebke

March 25, 2008
Date

EXHIBITS

EXHIBIT A

Picture of Packaging Demonstrating M3-Only Rating of LG2000
At the Time of Receipt by i wireless

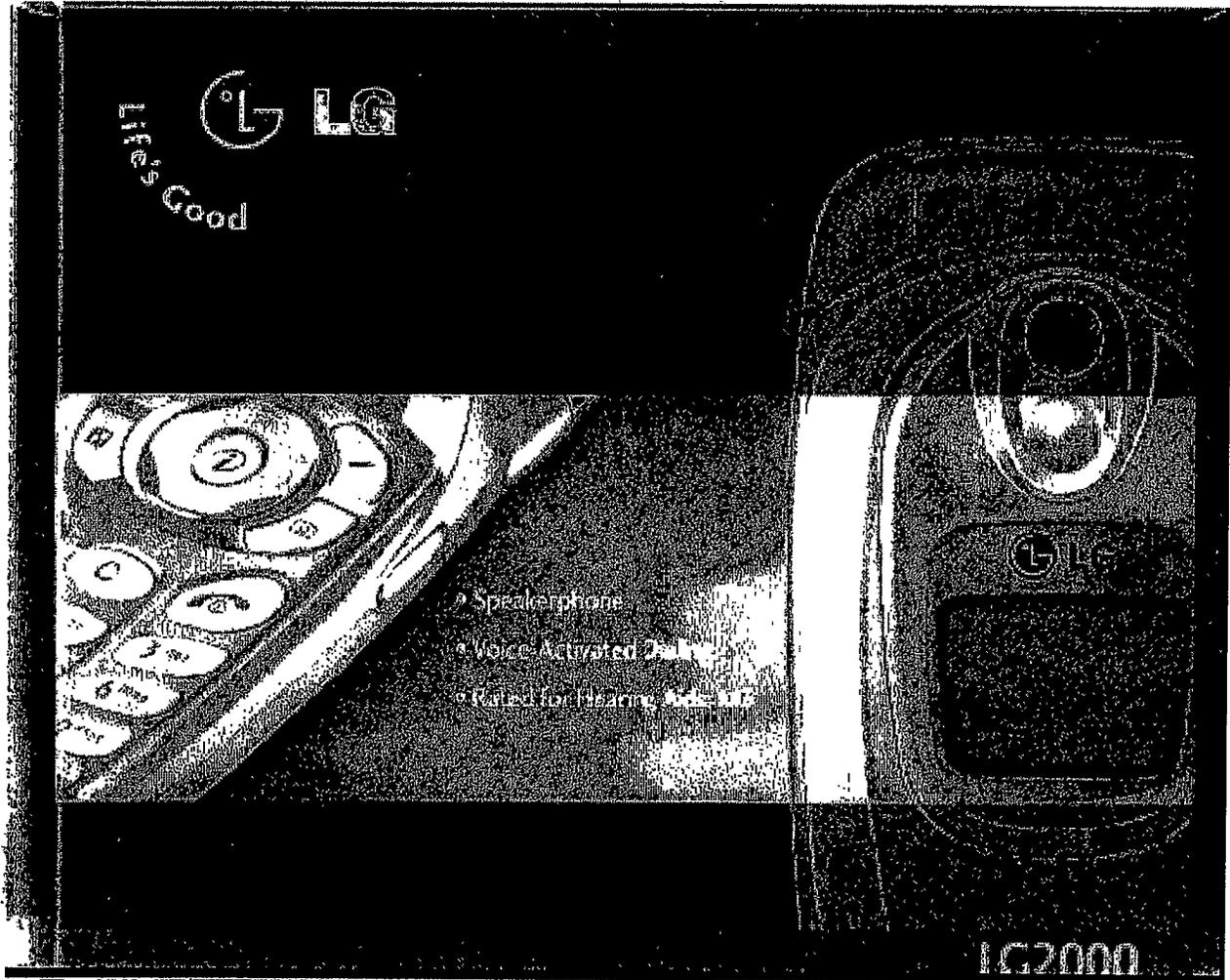


EXHIBIT B

Confidential – Not for Public Inspection

EXHIBIT C

Confidential – Not for Public Inspection

CERTIFICATION

I, Phillip Luebke, hereby certify under penalty of perjury that I am the Inventory Manager for Iowa Wireless Services, LLC d/b/a i wireless; that I have read the foregoing documents and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.



Phillip Luebke
Inventory Manager
Iowa Wireless Services, LLC d/b/a i wireless

March 25, 2008
Date