

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

In the Matter of: )  
)  
Applications for Public Safety Pool )  
(Conventional) Licenses in the ) **File Nos. 0004348020, 0004348657,**  
433-445 MHz Band for Mobile Use ) **0004349756, 0004349765 and all similarly**  
of ReconRobotics Video and Audio ) **situated subsequent applications.**  
Surveillance Systems and Associated )  
Waiver Requests. )

To the Commission:

**PETITION TO DENY APPLICATION(S) FOR LICENSE**

Comes now, JAMES EDWIN WHEDBEE (“Petitioner”), and pursuant to Section 1.939 and, in pertinent part Sections 1.927 and 1.935, of the Commission's rules and regulations (47 CFR §§ 1.939, 1.927, 1.935) hereby respectfully petitions to deny those applications identified in the Universal Licensing System (ULS) as application numbers 0004348020, 0004348657, 0004349756, and 0004349765 in their current form and unless same are amended as to the frequencies specified therein or dismissed/withdrawn by the applicants. As good cause therefor, Petitioner states...

**PART ONE: STANDING OF THE PETITIONER  
TO OBJECT TO A GRANT OF THE APPLICATIONS**

[1] Petitioner is a natural-born citizen residing at 5816 NE Buttonwood Tree Lane, Gladstone, Missouri 64119-2236 (“Petitioner's residence”). Petitioner is a licensed amateur radio operator operating on 420-450 MHz as a General Class Operator with a fixed station at Petitioner's residence and a similar mobile station Petitioner uses nationwide. The fixed station employed by Petitioner is intended for weak signal operations in the Kansas City Metropolitan Area, and employs extremely sensitive receivers and antennas; correspondingly, the transmitter employs an output power

exceeding one hundred watts effective radiated power (100 W. ERP) with varying bandwidths to maintain weak signal communications employing troposcatter, ducting, and similar propagational phenomenon.

**PART TWO: ACTUAL OR PREDICTED INTERFERENCE WILL DAMAGE PETITIONER**

[2] Applicants, law enforcement agencies, have tendered applications for a public safety pool (conventional) radio station license operating between 433 and 445 MHz with an effective radiated power of 0.323 Watts (+25 dBm) using a mobile transmitter. Even with the mitigating factor of itinerant use specified in the 'waiver' granted to ReconRobotics, LLC, the operation of these proposed stations, shall cause harmful interference to amateur radio operators including Petitioner, all to the Petitioner's damage. Moreover, while the 'waiver' specifies itinerant use of the transmitting device, none of the applicants themselves specified such use; accordingly, one cannot infer itinerant use from the instant filings of the Applicants.

**PART THREE: DEFECTIVE GRANT OF  
WAIVER UNDERLYING APPLICANT'S EQUIPMENT**

[3] In violation of the Administrative Procedures Act, the Commission granted ReconRobotics, LLC, a 'waiver' from its rules and regulations when the waiver request of ReconRobotics, LLC, should more properly have been construed to be a Petition for Rulemaking. The Commission has the authority to construe any pleading/paper, regardless of how it is denominated, to be in actuality what it seeks to accomplish (47 CFR 1.41, et seq.). Inasmuch as the Communications Act of 1934, as amended, is intended at avoiding the very harmful interference the grant of this 'waiver' hereinabove will cause, that authority to properly construe a pleading/paper becomes a duty.

[4] Waivers are not meant to be routinely granted, and certainly not as an end-run around the

rulemaking process in violation of the Administrative Procedures Act. This 'waiver' request should not have been construed as such, or if despite same, it should have been denied in that any grant of the 'waiver' would require a rewriting of the Table of Allotments (47 CFR 2.106), ITU radio rules and regulations, and international treaties and agreements having the import of treaties. As the Table of Allotments derives its principal authority from these international treaties and agreements, it may only be amended in a manner consistent with those. The instant proposal is not. With this in mind, the 'waiver,' even if grantable as such (and I contend it was actually a rulemaking petition in the guise of a waiver request), it could not – as a practical manner – stand on its own as such for its practical effect of violating international treaties and agreements.

[5] The waiver request of ReconRobotics, LLC, is furthermore subject to the Petition for Reconsideration of the American Radio Relay League (ARRL), et al., and notwithstanding that it was improperly granted, the equipment proposed for use by the applicants could eventually be deemed illegal, and therefore, the applications are prematurely submitted. From the manufacturer's speed of distributing these devices and the number of applications filed (83 in two months with some applicants seeking authority to use multiple devices under a single authorization) the intent is to proliferate these devices ReconRobotics, LLC manufactured with the intent of consummating an ill-gotten gain all to the damage of the Petitioner and those similarly situated. For this reason, in addition to the 'waiver' being improperly granted, it was granted arbitrarily and capriciously.

#### **PART FOUR: INELIGIBILITY OF APPLICANTS FOR A LICENSE ON THE FREQUENCIES REQUESTED IN THE PUBLIC SAFETY SERVICE**

[6] The Applicants individually and collectively are ineligible for a radio station license in the public safety (conventional) radio service anywhere between 430 MHz and 450 MHz for want of an allotment of frequencies to that service in between these frequency pairs, including the 433-445 MHz

requested in each of the applicant's filings. Even though a Part 90 allotment exists for government radiolocation, neither Part 2 or Part 90 (47 CFR 2.106; 90.20) of the Commission's rules and regulations allocate such frequencies to the Public Safety Radio Service, and such use does not constitute radiolocation within either the meaning of the Commission's rules or international law.

[7] Because of the international obligations which underlie the Table of Allotments at Section 2.106 of the Commission's rules, the 'waiver' decision itself was not, ipso facto, a waiver of the Table of Allotments as to do so would involve a usurpation of the United States Senate's right to advise and consent to those international obligations, or any amendment thereof, which underlie that Table of Allotments.

[8] Were the Applicants to get equipment authorization for substantially the same equipment on a frequency or range of frequencies actually allocated to the Public Safety Radio Service, and subsequently reapply for a license within the allotted frequencies for the Public Safety Radio Service, this Petitioner would not be opposed to a routine grant of that license.

**PART FIVE: THE APPLICATIONS, AS SUBMITTED,  
ARE PATENTLY DEFECTIVE AND NOT IN A FORM GRANTABLE BY THE COMMISSION**

[9] The 'waiver' granted to ReconRobotics, LLC, suggested that use of devices under equipment authorization secured subsequent to any grant of that 'waiver' would be itinerant. Nevertheless, that 'waiver' is not transferable and is not an affirmative assertion of intended operations in a radio station application. Accordingly, unless the Applicants themselves submit an application for station license which specifies that mobile itinerant (code: MOI, or MOL) operations are contemplated, the applications are for full-time operation.

[10] Applicants not specifying, in their application for station license, itinerant station operation must coordinate the use of those frequencies sought in their application prior to submission

of the application (47 CFR 90.138; 90.175).

[11] While submitted through APCO International Inc., a frequency coordinator, no actual frequency coordination has occurred. As a factual matter, this incumbent licensee has never received any prior notice or coordination data regarding any applicant's proposed station.

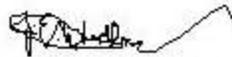
[12] In order for Applicants to exercise Conditional/Temporary Authority to operate, unless itinerant operations are specified, frequency coordination is required; accordingly, it would be prudent for the Commission to notify each and all Applicants that such Conditional/Temporary Authority to operate in this instance does not exist (47 CFR 90.159).

[13] In that the Applicants have not submitted applications for itinerant operation and have not submitted properly coordinated applications otherwise, the same are fatally defective and cannot be granted in their present form.

WHEREFORE, the foregoing considered, unless the sooner withdrawn/voluntarily dismissed, the undersigned prays the Commission's Order denying all applications subject hereto with prejudice to their refiling in their current form.

WHEREFORE AGAIN, Petitioner prays the Commission's immediate injunction against any Applicants' exercise of Conditional/Temporary Authority.

Respectfully Submitted:



**James E. Whedbee, M.Ed.**  
SBE #26971

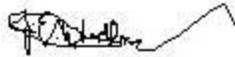
August 12, 2010

JAMES EDWIN WHEDBEE, M.Ed.

5816 NE BUTTONWOOD TREE LN.  
GLADSTONE, MO 64119-2236  
816.694.5913  
Petitioner

**CERTIFICATE OF SERVICE**

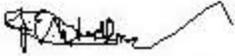
This certifies that on the 12<sup>th</sup> of August, A.D., 2010, the undersigned served a copy of the within and foregoing Petition to Deny upon the Applicants stated in Exhibit A by sending a true copy hereof to the person designated in each Application as the Applicant's contact.



**James E. Whedbee, M.Ed.**  
**SBE #26971**

**AFFIDAVIT**

Under penalties for perjury, as provided by 18 USC 1001, on this 12<sup>th</sup> day of August, A.D., 2010, the undersigned states and declares the within and foregoing petition to deny is true and correct according to his information and belief.



**James E. Whedbee, M.Ed.**  
**SBE #26971**

Firefox browser window showing the FCC website page for Non-docketed Pleadings Confirmation. The address bar shows <https://wireless2.fcc.gov/UlsEntry/pleadings/confirmation.jsp?pleadingId=9202>. The page title is "Non-docketed Pleadings".

### Confirmation

Thank you for your submission. Please make a note of your confirmation number: **9202**.

The following information was submitted with this Pleading:

**Type of Pleading**  
Petition to Deny

**Dates**  
Entered Date: 08/12/2010

**Filer Information**  
Whedbee, James E  
James Edwin Whedbee, M.Ed.  
5816 NE Buttonwood Tree Lane  
Gladstone, MO 64119  
(816)694-5913  
jamesewhedbee@yahoo.com

**Contact Information**  
Whedbee, James E  
James Edwin Whedbee, M.Ed.  
5816 NE Buttonwood Tree Lane  
Gladstone, MO 64119  
(816)694-5913  
jamesewhedbee@yahoo.com

**File Number(s)/Call Sign(s)**  
0004348020 File Number  
0004348657 File Number  
0004349756 File Number  
0004349765 File Number

**Attachment(s)**  
08/12/2010 Pleading Petition to Deny Application(s) PetitionToDeny.pdf

System tray shows the time as 7:55 PM.