



PUBLIC NOTICE

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Released: July 20, 2011

OFFICE OF ENGINEERING AND TECHNOLOGY DECLARES THE SECOND SIGHT MEDICAL PRODUCTS, INC. REQUEST FOR WAIVER OF RULE SECTION 15.209(A) TO BE A "PERMIT-BUT-DISCLOSE" PROCEEDING FOR *EX PARTE* PURPOSES AND REQUESTS COMMENT

ET Docket No. 11-123

Comment Date: August 19, 2011

Reply Comment Date: September 2, 2011

On May 27, 2011, Second Sight Medical Products, Inc. (Second Sight) filed a request for waiver of Section 15.209(a) of the Commission's rules to allow the marketing and operation of its retinal prosthesis known as the Argus II™ Retinal Prosthesis System (Argus II). Second Sight states that the device provides electrical stimulation of the eye's retina to produce light patterns in the brain's visual cortex, thereby restoring a level of functional vision to persons suffering from vision loss due to untreatable retinal degenerative disease. The system consists of a neurostimulator surgically implanted on the eye, a pair of eyeglasses housing a miniature video camera, and an external video processing unit connected to the eyeglasses via cable. The video camera captures images that are converted into instructional signals by the video processing unit and are sent back to the eyeglasses to be wirelessly transmitted to the implant.

Section 15.209(a) of the Commission's rules limit the emissions of unlicensed intentional radiators operating within the 1.705-30 MHz band to a field strength of 30 $\mu\text{V}/\text{m}$ measured at a distance of 30 meters. Second Sight states that the device's data and power transmissions from the eyeglasses to the implant, which are both carried on the 3.156 MHz operating frequency, produce a maximum field strength of 93 $\mu\text{V}/\text{m}$ at 30 meters. Second Sight asserts a waiver of this rule is necessary because at its current emission levels, the Argus II's operating range is limited to 20 millimeters, and lowering the power requirements to make the device comply with this rule would render the device ineffective. In order to provide for planned design enhancements, Second Sight requests we waive Section 15.209(a) to allow current and future generations of the Argus II to operate with emissions not to exceed 119 $\mu\text{V}/\text{m}$ at a measurement distance of 30 meters.

The FCC's Office of Engineering and Technology (OET) is reviewing the waiver request. OET has concluded that in order to develop a complete record on the complex issues presented by this request, this proceeding will be treated, for *ex parte* purposes, as "permit-but-disclose" in accordance with Section 1.1200(a) of the Commission's rules, subject to the requirements under Section 1.1206(b).

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this

document. Comments may be filed: (1) using the Commission's Electronic Comment Filing System (ECFS), (2) through the Federal Government's eRulemaking Portal, or (3) by submitting paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Paper Filers: Parties that choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Parties should also send a copy of their filings to Aole Wilkins, Office of Engineering and Technology, Federal Communications Commission, Room 7-A232, 445 12th Street, SW, Washington, DC 20554, or by e-mail to aole.wilkins@fcc.gov. Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

Documents are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

Office of Engineering and Technology contact: Aole Wilkins at (202) 418-2406.

By the Chief, Office of Engineering and Technology