

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

In the Matter of)	
)	
Unlicensed Operation in the TV)	ET Docket No. 04-186
Broadcast Bands)	DA 11-1872
)	

To: The Commission

Comments of EIBASS

Engineers for the Integrity of Broadcast Auxiliary Services Spectrum (EIBASS) hereby respectfully submits its comments relating to the Commission's November 12, 2011, public notice number DA 11-1872, *Office of Engineering and Technology Requests Comment on the Public Testing of Spectrum Bridge Inc.'s TV Bands Database System*. The comment deadline in November 28, 2011, so these comments are timely filed.

I. Once a Broadcast Station Application to Consummate a Construction Permit Has Been Accepted for Filing, the Station Should Be Entitled To Protection

1. Spectrum Bridge indicates that it will not protect the new or modified facilities of a broadcast station until a license has been issued. EIBASS believes that protection should commence as soon as a station has filed a license application to consummate its construction permit (CP), and the Consolidated Database System (CDBS) shows that application as accepted for filing.
2. It can take weeks or months for the Commission to grant a license application to consummate a CP; sometimes years.¹ While EIBASS agrees that a CP should not require protection, because sometimes the facilities authorized by a CP end up never getting built, it is rare for a license application to consummate a CP to not be granted. The filing of the license application means that the station has been built and is on the air; at that point the station is entitled to protection from Part 15 white spaces devices (WSDs).

¹ For example, Station KCET, D28 (V28), filed a license application to consummate its CP on June 15, 2009; that application was accepted for filing on June 16, 2011 (FCC File Number BLEDT-20090615ADO). Yet this routine license application was not granted until August 3, 2011.

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II. A TV Station with a Timely-Filed Renewal Application Must Also Be Protected

3. Another WSD database problem is if the CDBS shows that a station's license has expired, it will not be protected. Section 1.62 of the FCC Rules (Operation Pending Action on Renewal Application) is perfectly clear that if a timely renewal application is filed, a station has continuing authority until the Commission acts on that renewal application, even if this takes the station past the expiration date shown on its license.² If a station has a properly filed pending renewal application, it must be protected. This applies equally to full-service TV licenses, Class A TV licenses, LPTV licenses, TV Translator licenses, and all Broadcast Auxiliary Service (BAS) licenses.

**III. Mexican and Canadian TV Stations with Service in the United States Should
Be Protected**

4. The Spectrum Bridge database does not appear to recognize Canadian or Canadian TV stations near the border, and having service in the United States. For example, the CDBS shows the following Tijuana, Mexico, TV stations:

<u>Channel</u>	<u>Call Sign</u>	<u>ERP</u>
N6	XETV	99.25 kW
N12	XEWT	325
D22	XHUAA-TDT	3,000
D23	XETV-DT	200
N27	XHJK-TV	3,091
D29	XHTIT-TDT	350
D32	XEWT-TDT	200
N33	XHAS-TV	2,447

Indeed, XETV, NTSC Channel 6, DTV Channel 23, Tijuana, Mexico, is the CW Television Network affiliate serving San Diego. The CDBS also shows multiple TV channel allotments for Tijuana, although EIBASS would agree that a WSD could properly operate on those vacant channels until actual transmissions commence.

² For example, Station KPIX-TV, D29 (V05), the CBS affiliate serving the San Francisco Bay Area, filed a timely license renewal application for its then analog Channel 5 operation on August 9, 2006, and the CDBS shows that application was accepted for filing on August 18, 2006 (FCC File Number BRCT-20060809AKT). However, because of the "wardrobe malfunction" incident at the 2004 Super Bowl half-time show, that renewal application was held up past the stated December 1, 2006, expiration date for the analog station license. Indeed, the CDBS still shows that KPIX-TV renewal application for its analog operation was never granted, and became moot with the June 2009 termination of analog operation by full-service TV stations in the United States. However, KPIX-TV properly continued to broadcast on its analog Channel 5, and continued to use its various Low Power Auxiliary wireless microphones, past the indicated license expiration date, pursuant to its rights under Section 1.62 of the FCC Rules.

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5. As shown by the attached Figure 1, Spectrum Bridge shows Channels 6, 12, 21, 22, 23, 27, 32 and 33 as available for WSD use in San Diego. Strangely, though, the Spectrum Bridge database correctly shows Channels 28 and 29 as “not available.” EIBASS submits that the Spectrum Bridge WSD database, and any other WSD databases, should recognize Canadian and Mexican TV stations with service in the United States.

IV. Summary

6. Broadcast stations must qualify for protection from WSDs once an application for license to consummate a CP has been accepted for filing; it is unreasonable for any entity maintaining a database intended to protect higher-priority authorized stations to delay protection until a station license gets issued. Any station with a timely-filed renewal application is entitled to continued protection until the Commission acts on the renewal application, even if such action takes months or years, and extends beyond the indicated expiration date on the station license. That is, a WSD database administrator should not have the right to interfere with the very last step of a licensing process. Finally, Canadian and Mexican TV stations with service in the United States should be protected..

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List of Figures

7. The following figure has been prepared as a part of these ET Docket 04-186 comments:
 1. Spectrum Bridge TV channel availability search for San Diego, CA.

Respectfully submitted,

/s/ Dane E. Ericksen, P.E., CSRTE, 8-VSB, CBNT
EIBASS Co-Chair
Hammett & Edison, Inc., Consulting Engineers
San Francisco, CA

/s/ Richard A. Rudman, CPBE
EIBASS Co-Chair
Remote Possibilities
Los Angeles, CA

November 28, 2011

EIBASS
c/o Hammett & Edison, Inc., Consulting Engineers
Box 280068
San Francisco, CA 94128
707/996-5200

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TV Channel Search Results for San Diego

Enter your device type and location below

Fixed TVBD < 3m
 Fixed TVBD < 10m
 Fixed TVBD <= 30m
 Portable 100mW
 Portable 40mW

san diego, ca

Best match: San Diego, CA

Available Channels

Fixed TVBD <= 30m

HAAT: -26.58 meters

[View Full Map](#)

2	✓	19	✗	36	📡
3	✗	20	📡	37	✗
4	✗	21	✓	38	📡
5	✓	22	✓	39	✗
6	✓	23	✓	40	✗
7	✗	24	✓	41	✗
8	✗	25	✓	42	✗
9	✗	26	✓	43	✗
10	✗	27	✓	44	✗
11	📡	28	✗	45	✓
12	✓	29	✗	46	✓
13	✓	30	✗	47	✗
14	✓	31	✗	48	✗
15	✓	32	✓	49	✗
16	📡	33	✓	50	✗
17	✗	34	✗	51	✗
18	✗	35	✗		

The table shows all the 6 MHz TV channels between channels 2 and 51 that are potentially available for secondary use by White Space radios (i.e. TV Band Devices or TVBDs).

Channel Map Legend

- ✗ Your location is within the service area of a TV station or other licensed user and this channel cannot be used by a TVBD.
- ✓ This channel is vacant in your location, and can potentially be used by your TVBD.
- ✓ This channel is vacant in your location, and can potentially be used by your TVBD, but personal portable devices may not be used on channels 2-20.
- 📡 This channel is reserved for wireless microphone use.

Note that the latest FCC Report and Order describes different types of White Space devices. Not all of them are permitted to use every available channel. As the FCC refines the rules and use definitions, we will add filters so that you can see which subset of channels a particular class of White Space device can use.

Disclaimer: The information provided is based on the FCC's Second Memorandum Opinion and Order, September 23, 2010.

Screen capture from the Spectrum Bridge web site taken November 21, 2011.