

THE PART 15 COALITION

May 13, 2013

By Electronic Filing

Ms. Marlene H. Dortch
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: In the Matter of Progeny LMS, LLC, Petition for Waiver of
the Rules and Request for Expedited Treatment
WT Docket No. 11-49
Ex Parte Filing**

Dear Ms. Dortch:

The Part 15 Coalition (hereinafter, the “Coalition”) responds to a recent *ex parte* filing by Progeny LMS, LLC (“Progeny”),¹ in which Progeny proposes certain measures it will undertake in the event of unacceptable interference to unlicensed users in the 902-928 MHz band. Progeny’s proposal solves nothing and is no substitute for the pre-operational safeguards already in place under the Commission’s rules, which are the only effective safeguards to avoid unacceptable levels of interference to unlicensed devices operating under Part 15.

The test reports on file with the Commission demonstrate unacceptable levels of interference to certain Part 15 devices. Only a few devices, however, were actually subject to cooperative testing as required by 47 C.F.R. § 90.353(d). A number of other parties have asked Progeny to engage in cooperative testing of other devices, but Progeny has not responded to these requests.² Instead of living with the consequences of additional testing, Progeny seeks to avoid the testing requirement and instead suggests a series of proposals designed to address potential interference issues *after* interference arises. The Commission, by its rules and as a matter of good public policy, cannot unleash an interfering source into the band and then attempt to resolve interference problems after the fact through promised palliatives. Progeny’s efforts to divert the Commission’s

¹ Letter from Bruce A. Olcott, Attorney for Progeny LMS, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 11-49 (filed May 6, 2013).

² Specific requests have been made by Taggle Systems, Inovonics, GE Digital Energy, Plantronics, and EZPass.

attention away from testing are a transparent attempt to avoid the very real potential that interference to other devices will be revealed.

The record in this proceeding makes clear that there are many unlicensed users of the band that provide critical and life-safety related services, including: emergency duress and alarm systems; Supervisory Control and Data Acquisition (“SCADA”); Distribution Automation (“DA”); and Advanced Metering Infrastructure (“AMI”); critical infrastructure used for remote monitoring and controlling of pipes, valves and pumps (water), as well as remote locomotive control and dispatch (transportation) and remote wellhead and pipeline monitoring (oil and gas); and wireless broadband providers to underserved communities. These services are too important to rely on Progeny’s promises to correct interference once it occurs. Rather, Progeny must demonstrate *before* it commences nationwide commercial operations that it will not cause unacceptable levels of interference. For these reasons, the Commission must ensure that proper testing is conducted. At this juncture, although a number of parties have requested that Progeny conduct testing of devices that were not tested previously, Progeny has refused to engage in such testing.

While Progeny attempts to generate a sense of urgency, implying that it must commence operations to satisfy the needs of the public safety community for E911 indoor location technologies, there is no urgency. The public safety community quite rightly is in need of E911 location services. As CSRIC testing shows, however, Progeny is a nascent indoor location technology that does not yet meet public safety’s needs. The Progeny system would require additional development to do this – development that could well change its interference profile *vis a vis* unlicensed devices.

Progeny also argues that its limited construction to date somehow entitles it to proceed to commercial operation without meeting the Commission’s requirement for threshold testing. However, Progeny’s build-out always has been at its own risk. Progeny was well aware of its license conditions when it acquired its licenses, and was well aware that these conditions would need to be met even upon the grant of its waiver. Given the billions of dollars of investment that has been made in the unlicensed 900 MHz band, including investment by utility customers and the federal government in the form of ARRA funds, the FCC cannot be swayed by Progeny’s self-justifying argument that the Commission must protect an investment that Progeny made at its own risk with its eyes wide open.

Marlene H. Dortch

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Please direct any questions to the undersigned.

Sincerely,

/s/

Laura Stefani

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cc: Zachary Katz
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