



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

February 23, 2009

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED
AND FACSIMILE AT (909) 230-6889

Macally USA Mace Group, Inc.
Mike Chen, President
4601 E. Airport Drive
Ontario, CA 91761

Re: **File No. EB-08-SE-531**

Dear Mr. Chen:

This is an official **CITATION**, issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Act"), 47 U.S.C. § 503(b)(5), for marketing unauthorized and non-compliant radio frequency devices in the United States in violation of Section 302(b) of the Act, 47 U.S.C. § 302a(b), and Sections 2.803 and 15.239(b) of the Commission's Rules ("Rules"), 47 C.F.R. §§ 2.803 and 15.239(b). As explained below, future violations of the Commission's rules in this regard may subject your company to monetary forfeitures.

By letter of inquiry ("LOI") dated June 18, 2008, the Spectrum Enforcement Division of the Commission's Enforcement Bureau initiated an investigation into whether Macally USA Mace Group, Inc. ("Macally") is marketing an unauthorized radio frequency device in the United States -- specifically, the FM Cup Transmitter. We received your response to the LOI on July 17, 2008. You state therein that you began marketing the FM Cup Transmitter on February 17, 2006, that you have imported 88,245 FM Cup Transmitters into the United States and that you have sold and distributed 81,780 of units of that device in the United States. Additionally, you state that CML Development Limited ("CML") manufactured the FM Cup Transmitter between April 2006 and June 2007 and that Power 7 Technology ("Power 7") has manufactured it between April 2007 and the present.

Pursuant to Section 15.201(b) of the Rules, 47 C.F.R. § 15.201(b), intentional radiators¹, such as the FM Cup Transmitter, must be authorized in accordance with the Commission's certification procedures prior to the initiation of marketing² in the United States. CML obtained an equipment certification for the FM Cup Transmitter on June 6, 2006, and Power 7 obtained an equipment certification for the FM Cup Transmitter on July 11, 2008. Thus, all FM Cup Transmitter units manufactured by CML and marketed by Macally before June 6, 2006, were apparently unauthorized, as

¹ Section 15.3(o) of the Rules defines an "intentional radiator" as a "device that intentionally generates and emits radio frequency energy by radiation or induction." 47 C.F.R. § 15.3(o).

² Section 2.803(e)(4) of the Rules defines "marketing" as the "sale or lease, or offering to sale or lease, including advertising for sale or lease, or importation, shipment or distribution for the purpose of selling or leasing or offering for sale or lease." 47 C.F.R. § 2.803(e)(4).

were all FM Cup Transmitter units manufactured by Power 7 and marketed by Macally before July 11, 2008.

Section 302(b) of the Act provides that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” Section 2.803(a)(1) of the Commission’s implementing regulations provides that:

no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless . . . [i]n the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter.

Under section 15.239(b) of the Rules, the field strength of any emission within the band of operation may not exceed 250 microvolts per meter at 3 meters. Tests conducted by the FCC’s Office of Engineering and Technology Laboratory on an FM Cup Transmitter obtained by the Enforcement Bureau in April 2008 indicate that emissions from the FM Cup Transmitter exceed the authorized level.

Accordingly, it appears that Macally USA Mace Group, Inc., has violated Section 302(b) of the Act and Sections 2.803 and 15.239(b) of the Rules by marketing unauthorized and non-compliant radio frequency devices in the United States.

If, after receipt of this citation, you violate the Communications Act or the Commission’s rules in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$16,000 for each such violation or each day of a continuing violation.³

You may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission’s Field Office nearest to your place of business, or (2) a written statement. Your response should specify the actions that you are taking to ensure that you do not violate the Commission’s rules governing the marketing of radio frequency equipment in the future.

The nearest Commission field office appears to be the Los Angeles District Office, in Los Angeles, California. Please call Thomas D Fitz-Gibbon at 202-418-0693 if you wish to schedule a personal interview. You should schedule any interview to take place within 30 days of the date of this letter. You should send any written statement within 30 days of the date of this letter to:

Thomas D. Fitz-Gibbon
Spectrum Enforcement Division
Enforcement Bureau
Re: EB-08-SE-531
Federal Communications Commission
445 12th Street, S.W., Rm. 3-A460
Washington, D.C. 2055

Under the Privacy Act of 1974, 5 U.S.C. § 552(a)(e)(3), we are informing you that the Commission’s staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission’s rules.

³ See 47 C.F.R. § 1.80(b)(3).

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

Thank you in advance for your anticipated cooperation.

Sincerely,

Kathryn Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission