

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of)
)
DeadlyDeal.com)
) File No.: EB-09-SE-082
)
)

CITATION

ILLEGAL MARKETING OF CELL PHONE JAMMERS

Adopted: January 26, 2011

Released: January 26, 2011

By the Acting Chief, Spectrum Enforcement Division, Enforcement Bureau:

I. INTRODUCTION

1. This is an official CITATION, issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (“Communications Act”),¹ to DeadlyDeal.com (“Deadly Deal”) for marketing in the United States unauthorized radio frequency devices in violation of section 302(b) of the Communications Act,² and section 2.803 of the Commission’s rules (“Rules”).³

2. Deadly Deal should take immediate steps to come into compliance and to avoid any recurrence of this misconduct. As explained below and as provided in the Communications Act, future violations of the Rules in this regard may subject your company to substantial monetary penalties, seizure of equipment and criminal sanctions.

II. BACKGROUND

3. By letter of inquiry (“LOI”) dated February 18, 2010, the Spectrum Enforcement Division (“Division”) of the Enforcement Bureau of the Federal Communications Commission initiated an investigation into whether Deadly Deal is marketing in the United States a radio frequency cell phone jamming device listed as the “Blocker.”⁴ Division staff observed an advertisement for the Blocker on Deadly Deal’s website, www.deadlydeal.com, on several occasions.⁵

¹ 47 U.S.C. § 503(b)(5).

² 47 U.S.C. § 302a(b).

³ 47 C.F.R. § 2.803.

⁴ Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Deadly Deal (February 18, 2010) (sent via e-mail).

⁵ See <http://deadlydeal.com/> (last visited, 4/8/2009); <http://www.deadlydeal.com/thecomcommunity.php?page=3> (last visited, 11/18/2009); <http://www.deadlydeal.com/theblog.php?page=38> (last visited, 7/19/2010); and <http://www.deadlydeal.com/thecomcommunity.php?page=19> (last visited, 1/24/11).

4. In Deadly Deal's March 3, 2010 response to the LOI,⁶ you admit that the Blocker was offered for sale on various dates between August 25, 2008 and January 16, 2010.⁷ You also admit that you sold approximately 118 units of the Blocker within the United States.⁸ Additionally, you indicate that you do not manufacture this device and that it ships directly from www.FocalPrice.com and/or www.DealExtreme.com to your clients.⁹ Finally, you assert that you will no longer offer this device for sale.¹⁰

III. APPLICABLE LAW AND VIOLATIONS

5. Federal law prohibits the marketing and operation of cell phone jammers in the United States. Section 333 of the Communications Act states that "[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government."¹¹ In addition, section 302(b) of the Communications 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."¹²

6. The applicable implementing regulations for section 302(b) are set forth in sections 2.803, 15.201, and 15.3(o) of the Rules.¹³ Section 2.803(a)(1) of the Rules 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.¹⁴

Additionally, section 2.803(g) of the Rules provides in pertinent part that:

[R]adio frequency devices that could not be authorized or legally operated under the current rules ... shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission.¹⁵

⁶ Letter from Sulamit Berkovits, Deadly Deal, to Samantha Peoples, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (March 3, 2010).

⁷ *Id.* at 1-2. You indicate that the DeadlyDeal.com website only sells a single product per day and that the product is only offered for sale for a 24-hour period at a time. *Id.* at 1.

⁸ *Id.* at 2.

⁹ *Id.*

¹⁰ *Id.*

¹¹ 47 U.S.C. § 333.

¹² 47 U.S.C. § 302a(b).

¹³ 47 C.F.R. §§ 2.803, 15.201, and 15.3(o).

¹⁴ 47 C.F.R. § 2.803(a)(1).

¹⁵ 47 C.F.R. § 2.803(g).

7. Pursuant to section 15.201(b) of the Rules,¹⁶ before intentional radiators¹⁷ like cell phone jammers can be marketed in the United States, they must be authorized in accordance with the Commission's certification procedures. Section 2.803(e)(4) of the Rules defines "marketing" as the "sale or lease, or offering for 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."¹⁸

8. Jamming devices, however, cannot be certified or authorized because the main purpose of a jamming device is to block or interfere with radio communications. As noted above, such use is clearly prohibited by section 333 of the Communications Act. Thus, cell phone jammers, such as the Blocker, cannot comply with the FCC's technical standards and therefore cannot be marketed in the United States.

9. Accordingly, given your admissions, and the evidence establishing that you offered the Blocker for sale as recently as January 24, 2011,¹⁹ we find that Deadly Deal has violated section 302(b) of the Communications Act and section 2.803 of the Rules by marketing in the United States radio frequency devices that are not eligible for certification. We therefore issue this Citation to Deadly Deal for violating the Communications Act and the Rules as discussed above. Deadly Deal should take immediate steps to ensure that it does not continue to violate the Communications Act and the Rules.

IV. FUTURE COMPLIANCE

10. If, after receipt of this Citation, Deadly Deal violates the Communications Act or the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures of up to \$16,000 for each such violation or each day of a continuing violation and up to \$112,500 for any single act or failure to act.²⁰ In addition, violations of the Communications Act or the Rules can result in seizure of equipment through *in rem* forfeiture actions,²¹ as well as criminal sanctions, including imprisonment.²²

11. Deadly Deal may respond to this Citation within thirty (30) days after the release date of this Citation either through (1) a personal interview at the closest FCC office, or (2) a written statement. Any written statements should specify what actions have been taken by Deadly Deal to ensure that it does not violate the Communications Act and the Rules prohibiting the marketing of radio frequency jamming devices in the future. Please reference EB file number EB-09-SE-082 when corresponding with the Commission.

12. Under the Privacy Act of 1974, any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.²³ Any knowingly or willfully false statement or concealment of any material fact, made in reply to this Citation is punishable

¹⁶ 47 C.F.R. § 15.201(b).

¹⁷ 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).

¹⁸ 47 C.F.R. § 2.803(e)(4).

¹⁹ See <http://www.deadlydeal.com/thecompany.php?page=19> (last visited on 1/24/2011). We note that the device is currently listed on the web site with the date "January 16, 2010."

²⁰ See 47 U.S.C. § 503; 47 C.F.R. § 1.80(b)(3). These amounts are subject to further adjustment for inflation (*see id.* § 1.80(b)(5)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

²¹ See 47 U.S.C. § 510.

²² See 47 U.S.C. §§ 401, 501.

²³ See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

by fine or imprisonment.²⁴ Please also note that section 1.17 of the Rules requires that you provide truthful and accurate statements to the Commission.²⁵

V. CONTACT INFORMATION

13. The closest FCC Office is the Los Angeles Field Office, in Cerritos, California. You may contact Samantha Peoples by telephone, 202-418-1101, to schedule a personal interview, which must take place within thirty (30) days after the release date of this Citation. You should send any written statement within thirty (30) days after the release date of this Citation to:

Ricardo M. Durham
Acting Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W., Rm. 3-C460
Washington, D.C. 20554
Re: EB File No. EB-09-SE-082

14. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five (5) days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format):
202-418-0530 (voice), 202-418-0432 (tty).

VI. ORDERING CLAUSE

15. **IT IS ORDERED** that a copy of this Citation shall be sent both by First Class U.S. Mail and by Certified Mail, Return Receipt Requested to Mr. Sulamit Berkovits, DeadlyDeal.com, 147 S. Vista Street, Los Angeles, CA 90036.

FEDERAL COMMUNICATIONS COMMISSION

Ricardo M. Durham
Acting Chief
Spectrum Enforcement Division
Enforcement Bureau

²⁴ See 18 U.S.C. § 1001.

²⁵ 47 C.F.R. § 1.17 (“no person subject to this rule shall; (1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and (2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.”)