

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

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|-------------------|---|------------------------|
| In the Matter of |) | File No. EB-08-SE-529 |
| |) | |
| Intel Corporation |) | Acct. No. 200932100052 |
| |) | |
| |) | FRN No. 0015033319 |

ORDER

Adopted: March 25, 2009

Released: March 27, 2009

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Intel Corporation (“Intel”). The Consent Decree terminates an investigation by the Bureau against Intel for possible violations of Section 302(b) of the Communications Act of 1934, as amended (“Act”),¹ and Parts 2, 15 and 68 of the Commission’s Rules (“Rules”)² regarding certain equipment marketed by Intel and a company now owned by Intel.

2. The Bureau and Intel have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree, which terminates the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Intel possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act,³ and sections 0.111 and 0.311 of the Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. §§ 2.1 et seq., 15.1 et seq., and 68.1 et seq.

³ 47 U.S.C. § 154(i).

⁴ 47 C.F.R. §§ 0.111, 0.311.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Peter K. Pitsch, Associate General Counsel, Intel Corporation, 1634 I Street, NW, Suite 300, Washington, DC 20006, to its counsel, David H. Solomon, Wilkinson Barker Knauer, LLP, 2300 N Street, N.W., Suite 700, Washington, DC 20037-1128.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

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CONSENT DECREE

The Enforcement Bureau (“Bureau”) and Intel Corporation (“Intel” or the “Company”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether certain equipment marketed by Intel and a company now owned by Intel complied with the requirements of Section 302(b) of the Communications Act of 1934, as amended (“Act”),¹ and Parts 2, 15 and 68 of the Commission’s Rules (“Rules”).²

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (e) “Compliance Plan” means the program described in this Consent Decree at paragraph eight.
 - (f) “Effective Date” means the date on which the Bureau releases the Adopting Order.
 - (g) “Investigation” means the investigation commenced by the Bureau in response to Intel’s May, 2008 and August, 2008 voluntary disclosures regarding the compliance of certain equipment marketed by Intel and a company now owned by Intel with Section 302(b) of the Act and Parts 2, 15 and 68 of the Rules.³

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. §§ 2.1 *et seq.*, 15.1 *et seq.*, and 68.1 *et seq.*

³ 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.1 *et seq.*, 15.1 *et seq.* and 68.1 *et seq.*

- (h) “Intel” means Intel Corporation and its predecessors-in-interest and successors-in-interest.
- (i) “Parties” means Intel and the Bureau.
- (j) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

2. Pursuant to Section 302(b) of the Act⁴ and Parts 2, 15 and 68 of the Rules,⁵ radio frequency devices and terminal equipment marketed in the United States must be authorized in accordance with the Commission’s Rules and comply with all applicable technical, administrative, and labeling requirements. In May 2008, Intel voluntarily disclosed to the Office of Engineering and Technology and the Enforcement Bureau that it had recently discovered issues regarding the compliance of certain equipment marketed by Intel with Parts 2 and 15 of the Rules.⁶ Intel provided additional information to the Bureau in July 2008. Intel reported that the issues arose as a result of the unauthorized actions of a single Intel employee whose employment had since been terminated, that Intel had immediately stopped shipment of the devices in May 2008, and that Intel promptly took various other corrective actions, including steps to ensure that the products did not reach end users until the equipment was authorized.

3. In August 2008, Intel also voluntarily disclosed to the Enforcement Bureau that it had recently discovered issues regarding the compliance with Parts 2, 15 and 68 of the Rules⁷ of certain equipment marketed by a medical device company that Intel had acquired in May 2008. Intel reported that the issues related to actions by that medical device company prior to its purchase by Intel and, after discovering the problem, Intel reported it to the Food and Drug Administration, and, with the Food and Drug Administration, had agreed to a recall plan. According to Intel, under that plan, non-deployed units were recalled. Intel stated further that to minimize disruption to patient care where the units have already been deployed in homes, it communicated to and provided user instructions for healthcare providers caring for those patients to show them how their patients could mitigate any interference in the operation of those medical devices. Intel reported that as of this date, the great majority of affected devices have been recovered by Intel from healthcare providers, and Intel has FCC-compliant and FDA-cleared broadband replacement units now available for health care providers and plans to have “plain old telephone service” replacement units available for health care providers in approximately May of 2009.

III. TERMS OF AGREEMENT

4. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

⁴ 47 U.S.C. § 302a(b).

⁵ 47 C.F.R. §§ 2.1 et seq., 15.1 et seq. and 68.1 et seq.

⁶ See 47 C.F.R. §§ 2.1 et seq., 15.1 et seq.

⁷ See 47 C.F.R. §§ 2.1 et seq., 15.1 et seq. and 68.1 et seq.

5. **Jurisdiction.** Intel agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

6. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission Order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission Order.

7. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate its investigation. In consideration for the termination of said investigation, Intel agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Intel concerning the matters that were the subject of the investigation. The Bureau also agrees that it will not use the facts developed in this investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Intel with respect to Intel's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission authorizations.

8. **Compliance Plan.** For purposes of settling the matters set forth herein, Intel agrees to create within 30 days of the Effective Date a Compliance Plan related to future compliance with the Act, the Commission's Rules, and the Commission's Orders. The Plan will include, at a minimum, the following components:

- (a) **Compliance Official.** Intel shall appoint a Compliance Official who will be responsible for implementation of this Compliance Plan. The Compliance Official will be familiar with the Commission's technical and administrative rules associated with equipment authorization and marketing.
- (b) **Compliance Procedures.** Intel will periodically review, at least once during the first twelve months after the Effective Date and once during the second twelve months after the Effective Date, the Company's policies and procedures governing its compliance with the Commission's technical and administrative rules associated with equipment authorization and marketing, and will make any changes to such policies and procedures, as appropriate, to assist in compliance with the Act, the Commission's Rules and the Commission's Orders.
- (c) **Compliance Reports.** Intel will file compliance reports with the Commission twelve (12) months after the Effective Date and twenty-four (24) months after the Effective Date. Each compliance report shall include a compliance certificate from an official, at the level of Vice President or higher, as an agent of Intel, stating that the official has personal knowledge that Intel has complied with the terms of the Compliance Plan set forth in this paragraph. The compliance report shall be submitted to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. All reports shall also be submitted electronically to Ricardo M. Durham at Ricardo.Durham@fcc.gov and Nissa Laughner at Nissa.Laughner@fcc.gov.

- (d) **Termination Date.** Unless stated otherwise, the requirements of this Compliance Plan will expire 24 months from the Effective Date.

9. **Voluntary Contribution.** Intel agrees that it will make a voluntary contribution to the United States Treasury in the amount of \$25,000. The payment will be made within 30 days after the Effective Date of the Adopting Order. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Intel will also send electronic notification on the date said payment is made to Ricardo.Durham @fcc.gov and to Nissa.Laughner@fcc.gov.

10. **Waivers.** Intel waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues the Adopting Order without change, addition, modification, or deletion. Intel shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Intel nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Intel shall waive any statutory right to a trial *de novo*. Intel may, however, present evidence that it has not violated the Consent Decree. Intel hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

11. **Invalidity.** In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

12. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which Intel does not expressly consent) that provision will be superseded by such Commission rule or Order.

13. **Successors and Assigns.** Intel agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

14. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission’s Rules and Orders. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, Intel does not admit or deny noncompliance, violation or liability for violating the Act or Rules in connection with the matters that are the subject of this Consent Decree.

15. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

16. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

17. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

18. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

Date

D. Bruce Sewell
Senior Vice President and General Counsel
Intel Corporation

Date