



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

March 5, 2009

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Jeff Pack, COO
Griffin Technology, Inc.
1930 Air Lane Drive
Nashville, TN 37210

Re: **File No. EB-06-SE-355**

Dear Mr. Pack:

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 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(a) and 15.239(b) of the Commission's Rules ("Rules"), 47 C.F.R. §§ 2.803(a) 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 February 9, 2007, the Spectrum Enforcement Division of the Commission's Enforcement Bureau initiated an investigation into whether Griffin has been marketing a non-compliant radio frequency device in the United States, namely the RoadTrip FM transmitter.¹ In its response to the LOI,² Griffin stated that the RoadTrip transmitter is manufactured by J-Link Co., Ltd. ("J-Link"), which is based in Taiwan.³ Griffin indicated that the manufacturer conducted compliance testing on the RoadTrip transmitter and that the device was certified.⁴ Griffin also stated that it began marketing the RoadTrip transmitter in the United States on August 12, 2004, that it began importing units of the device into the United States in September 2004, and that it sold and distributed units of the device from September 2004 through the present.⁵

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:

¹ See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Griffin Technology, Inc. (February 9, 2007).

² See Letter from Jeff Pack, Chief Operation Officer, Griffin Technology, Inc. to Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (February 20, 2007) ("LOI Response").

³ *Id.* at 2.

⁴ *Id.* at 4. J-Link obtained an equipment certification for the RoadTrip transmitter under FCC ID # TVT-GR01 on December 29, 2005.

⁵ LOI Response at 2-3.

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.

Pursuant to Section 15.201(b) of the Rules, 47 C.F.R. § 15.201(b), intentional radiators,⁶ such as the RoadTrip transmitter, must be authorized in accordance with the Commission's certification procedures prior to the initiation of marketing⁷ in the United States. In addition, 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 a RoadTrip transmitter in May 2007 indicate that emissions from the RoadTrip transmitter exceed the authorized level. Accordingly, it appears that Griffin has violated Section 302(b) of the Act and Sections 2.803(a) and 15.239(b) of the Rules by marketing a non-compliant radio frequency device 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.⁸

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 Atlanta District Office, in Atlanta, Georgia. Please call Neal McNeil at 202-418-2408 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:

Neal McNeil
Spectrum Enforcement Division
Enforcement Bureau
Re: EB-06-SE-355
Federal Communications Commission
445 12th Street, S.W., Rm. 3-A461
Washington, D.C. 20554

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.

⁶ 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).

⁷ 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).

⁸ 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