

**Before the  
Federal Communications Commission  
Washington, DC 20554**

|                  |   |   |
|------------------|---|---|
| In the Matter of | ) | File No.: EB-SED-12-00005192 <sup>1</sup> |
|                  | ) |   |
| Rane Corporation | ) | Acct. No.: 201432100001                   |
|                  | ) |   |
|                  | ) | FRN: 0022833305                           |
|                  | ) |   |

**ORDER**

**Adopted: December 23, 2013**

**Released: December 23, 2013**

By the Deputy Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) and Rane Corporation (Rane). The Consent Decree resolves and terminates the Bureau's investigation into Rane's compliance with Section 302(b) of the Communications Act of 1934, as amended (Act),<sup>2</sup> and Sections 2.803, 15.19, and 15.105 of the Commission's rules (Rules)<sup>3</sup> pertaining to the marketing of digital radio frequency devices, such as amplifiers, preamplifiers, and mixers.

2. The Bureau and Rane have negotiated the Consent Decree that resolves this matter. A copy of this Consent Decree is attached hereto and incorporated herein 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 and terminating 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 Rane 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 Sections 4(i), 4(j), and 503(b) of the Act,<sup>4</sup> and Sections 0.111 and 0.311 of the Rules,<sup>5</sup> the Consent Decree attached to this Order **IS ADOPTED**.

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<sup>1</sup> This investigation was initiated under File No. EB-10-SE-043 and was subsequently assigned File No. EB-SED-12-00005192. Any future correspondence with the FCC concerning this case will reference the new case number, File No. EB-SED-12-00005192.

<sup>2</sup> 47 U.S.C. § 302a(b).

<sup>3</sup> 47 C.F.R. §§ 2.803, 15.19, 15.105.

<sup>4</sup> 47 U.S.C. §§ 154(i), 154(j), 503(b).

<sup>5</sup> 47 C.F.R. §§ 0.111, 0.311.

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

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 Linda Arink, Vice President, Finance and Administration, Rane Corporation, 10802 47<sup>th</sup> Avenue, West, Mukilteo, WA 98275, and to Jacob Farber, Esq., Perkins Coie LLP, Counsel for Rane Corporation, 700 Thirteenth Street, N.W., Suite 600, Washington, DC 20005-3960.

FEDERAL COMMUNICATIONS COMMISSION

Robert H. Ratcliffe  
Deputy Chief  
Enforcement Bureau

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**CONSENT DECREE**

The Enforcement Bureau of the Federal Communications Commission and Rane Corporation, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into possible violations of Section 302(b) of the Communications Act of 1934, as amended,<sup>2</sup> and Sections 2.803, 15.19, and 15.105 of the Commission's rules<sup>3</sup> pertaining to the marketing of digital radio frequency devices, such as amplifiers, preamplifiers, and mixers.

**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) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Rane is subject by virtue of its business activities, including but not limited to, the Equipment Marketing Rules.
  - (f) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 10.
  - (g) "Covered Employees" means all employees and agents of Rane who perform, or supervise, oversee, or manage the performance of, duties that relate to Rane's responsibilities under the Equipment Marketing Rules.

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<sup>1</sup> This investigation was initiated under File No. EB-10-SE-043 and was subsequently assigned File No. EB-SED-12-00005192. Any future correspondence with the FCC concerning this case will reference the new case number, File No. EB-SED-12-00005192.

<sup>2</sup> 47 U.S.C. § 302a(b).

<sup>3</sup> 47 C.F.R. §§ 2.803, 15.19, 15.105.

- (h) “Digital Device” means an unintentional radiator (device or system) as defined in Section 15.3(k) of the Rules.<sup>4</sup>
- (i) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (j) “Equipment Marketing Rules” means Section 302(b) of the Act,<sup>5</sup> Sections 2.803, 15.19, and 15.105 of the Rules<sup>6</sup> and other Communications Laws governing the marketing of radio frequency devices within the United States and its territories.
- (k) “Investigation” means the investigation commenced by the Bureau’s July 10, 2012, letter of inquiry<sup>7</sup> regarding whether the marketing of certain Digital Devices by Rane complies with the Equipment Marketing Rules.
- (l) “Rane” means Rane Corporation and its predecessors-in-interest and successors-in-interest.
- (m) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by Rane to implement the Compliance Plan.
- (n) “Parties” means Rane and the Bureau, each of which is a “Party.”
- (o) “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 Act<sup>8</sup> and Sections 2.803, 15.19, and 15.105 of the Rules,<sup>9</sup> certain Digital Devices may not be marketed in the United States unless the devices comply with the applicable technical standards as well as the administrative requirements relating to equipment labeling and consumer disclosure. Section 2.803(a) 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.”<sup>10</sup>

3. Rane manufactures and markets Digital Devices, including professional audio and live sound products, such as amplifiers, compressors, equalizers, and mixers. These Digital Devices are unintentional radiators subject to authorization prior to marketing, via either the Commission’s equipment verification or declaration of conformity procedures.<sup>11</sup>

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<sup>4</sup> *Id.* § 15.3(k).

<sup>5</sup> 47 U.S.C. § 302a(b).

<sup>6</sup> 47 C.F.R. §§ 2.803, 15.19, 15.105.

<sup>7</sup> See Letter from John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to George Sheppard, Chief Executive Officer, Rane Corporation (July 10, 2012) (on file in EB-SED-12-00005192).

<sup>8</sup> 47 U.S.C. § 302a(b).

<sup>9</sup> 47 C.F.R. §§ 2.803, 15.19, 15.105.

<sup>10</sup> *Id.* § 2.803(a).

<sup>11</sup> See *id.* § 15.101.

4. On July 10, 2012, the Bureau's Spectrum Enforcement Division (Division) issued a letter of inquiry (LOI) to Rane, directing Rane to submit a sworn written response to a series of questions relating to its manufacture and marketing of certain Digital Devices.<sup>12</sup> Rane responded to the LOI on August 20, 2012.<sup>13</sup> In its LOI Response, Rane submitted information and documentation relating to the Digital Devices at issue.<sup>14</sup> Rane also provided information concerning whether its Digital Devices were properly labeled in accordance with Section 15.19 of the Rules,<sup>15</sup> and whether the consumer disclosure language required by Section 15.105 of the Rules<sup>16</sup> was included in the user manual for each Digital Device. In the course of responding to the LOI, Rane discovered that some of the Digital Devices had not been labeled and that certain Digital Device user manuals were missing the consumer disclosure statements.<sup>17</sup> The Bureau and Rane entered into a tolling agreement to toll the statute of limitations.<sup>18</sup>

### III. TERMS OF AGREEMENT

5. **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.

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

7. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, 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.

8. **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 the Investigation. In consideration for the termination of the Investigation, Rane 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, 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 Rane concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in this Investigation through the Effective Date, or the existence of this

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<sup>12</sup> See *supra* note 7.

<sup>13</sup> See Letter from Linda Arink, Vice President, Finance and Administration, Rane Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission (Aug. 20, 2012) (on file in on file in EB-SED-12-00005192) (LOI Response).

<sup>14</sup> See LOI Response at 4-8.

<sup>15</sup> See 47 C.F.R. § 15.19.

<sup>16</sup> See *id.* § 15.105.

<sup>17</sup> See LOI Response at 3 & Attachment 1.

<sup>18</sup> See Tolling Agreement, executed by and between John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, and Jacob S. Farber, Esq., Perkins Coie LLP, Counsel for Rane Corporation (Dec. 11, 2012) (on file in EB-SED-12-00005192).

Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Rane with respect to Rane's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

9. **Compliance Officer.** Within ten (10) calendar days after the Effective Date, Rane shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Rane complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Equipment Marketing Rules prior to assuming his/her duties.

10. **Compliance Plan.** For purposes of settling the matters set forth herein, Rane agrees that it shall within thirty (30) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Equipment Marketing Rules, Rane shall implement the following procedures:

- (a) **Operating Procedures on Equipment Marketing.** Within thirty (30) calendar days after the Effective Date, Rane shall establish Operating Procedures that all Covered Employees must follow to help ensure Rane's compliance with the Equipment Marketing Rules. Rane's Operating Procedures shall include internal procedures and policies specifically designed to ensure that prior to the initiation of marketing (as such term is defined in Section 2.803 of the Rules<sup>19</sup>), all Digital Devices and other radio frequency devices to be marketed by Rane comply with applicable technical standards, have been properly authorized (via the certification, verification, or declaration of conformity procedures, as applicable), and comply with the applicable administrative requirements relating to equipment labeling and consumer disclosure.<sup>20</sup>
- (b) **Compliance Manual.** Within thirty (30) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Equipment Marketing Rules, including the obligations to secure an equipment authorization from the FCC prior to marketing a Digital Device and to comply with the applicable administrative requirements relating to equipment labeling and consumer disclosure, and set forth the Operating Procedures that Covered Employees shall follow to help ensure Rane's compliance with the Equipment Marketing Rules. Rane shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. Rane shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** Rane shall establish and implement a Compliance Training Program on compliance with the Equipment Marketing Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Rane's obligation to report any

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<sup>19</sup> See *supra* note 10 and accompanying text.

<sup>20</sup> See 47 C.F.R. §§ 2.1203, 2.1204, 2.1205.

noncompliance with the Equipment Marketing Rules under paragraph 11 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within thirty (30) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the Effective Date shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. Rane shall repeat the compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

- (d) **Remedial Efforts for Discontinued Models.** Rane shall continue to ensure that all unlabeled Digital Devices returned to Rane or its service centers for service or repair shall be affixed with a label that complies with Section 15.19 of the Rules<sup>21</sup> prior to being returned to the customer. In addition, Rane shall continue to maintain on its website an online user manual for all Digital Devices it markets that includes the consumer disclosure language required by Section 15.105 of the Rules.<sup>22</sup>

11. **Reporting Noncompliance.** Rane shall report any noncompliance with the Equipment Marketing Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that Rane has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that Rane has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted on paper to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, Room 3-C366, 445 12th Street, S.W., Washington, DC 20554, with a copy submitted electronically to Kathy Harvey at [Kathy.Harvey@fcc.gov](mailto:Kathy.Harvey@fcc.gov) and to JoAnn Lucanik at [JoAnn.Lucanik@fcc.gov](mailto:JoAnn.Lucanik@fcc.gov).

12. **Compliance Reports.** Rane shall file Compliance Reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, thirty-six (36) months after the Effective Date, and forty-eight (48) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Rane's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Equipment Marketing Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Rane, stating that the Compliance Officer has personal knowledge that Rane (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 11 hereof.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the

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<sup>21</sup> See *id.* § 15.19.

<sup>22</sup> See *id.* § 15.105.

Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.<sup>23</sup>

- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Rane, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully (i) each instance of noncompliance; (ii) the steps that Rane has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that Rane has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted on paper to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, Room 3-C366, 445 12th Street, S.W., Washington, DC 20554, with a copy submitted electronically to Kathy Harvey at [Kathy.Harvey@fcc.gov](mailto:Kathy.Harvey@fcc.gov) and to JoAnn Lucanik at [JoAnn.Lucanik@fcc.gov](mailto:JoAnn.Lucanik@fcc.gov).

13. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 9 through 12 of this Consent Decree shall expire forty-eight (48) months after the Effective Date.

14. **Voluntary Contribution.** Rane agrees that it will make a voluntary contribution to the United States Treasury in the amount of sixty one thousand five hundred dollars (\$61,500) within ten (10) calendar days after the Effective Date. Rane shall also send electronic notification of payment to Kathy Harvey at [Kathy.Harvey@fcc.gov](mailto:Kathy.Harvey@fcc.gov), JoAnn Lucanik at [JoAnn.Lucanik@fcc.gov](mailto:JoAnn.Lucanik@fcc.gov), and Samantha Peoples at [Sam.Peoples@fcc.gov](mailto:Sam.Peoples@fcc.gov) on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>24</sup> 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). Below are additional instructions that Rane should follow based on the form of payment it selects:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank –

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<sup>23</sup> See *id.* § 1.16.

<sup>24</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

If Rane has questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

15. **Waivers.** Rane 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 an Adopting Order as defined herein. Rane 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 Rane nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Rane shall waive any statutory right to a trial *de novo*. Rane hereby agrees to waive any claims it may have under the Equal Access to Justice Act<sup>25</sup> relating to the matters addressed in this Consent Decree.

16. **Invalidity.** In the event that this Consent Decree in its entirety 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.

17. **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 Rane does not expressly consent) that provision will be superseded by such Rule or Commission order.

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

19. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. 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 Communications Laws.

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

21. **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.

22. **Authorized Representative.** The individual signing this Consent Decree on behalf of Rane represents and warrants that she is authorized by Rane to execute this Consent Decree and to bind Rane to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

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<sup>25</sup> Equal Access to Justice Act, Pub L. No. 96-481, 94 Stat. 2325 (1980) (codified at 5 U.S.C. § 504); *see also* 47 C.F.R. §§ 1.1501-1.1530.

23. **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.

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Robert H. Ratcliffe  
Deputy Chief  
Enforcement Bureau

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Date

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Linda Arink  
Vice President, Finance and Administration  
Rane Corporation

\_\_\_\_\_  
Date