

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

|                         |   |                                  |
|-------------------------|---|----------------------------------|
| In the Matter of        | ) |                                  |
|                         | ) |                                  |
| Panasystem Corp.        | ) | File No.: EB-FIELDWR-14-00014693 |
|                         | ) | Citation No.: C201432900004      |
| Canoga Park, California | ) |                                  |

**CITATION AND ORDER**

**Importation of Uncertified Radiofrequency Devices**

**Adopted: May 20, 2014**

**Released: May 20, 2014**

By the District Director, Los Angeles Office, Western Region, Enforcement Bureau:

**I. INTRODUCTION**

1. This **CITATION AND ORDER** (Citation) notifies Panasystem Corp. (Panasystem) that it must stop importing and marketing uncertified radiofrequency devices. This includes uncertified cellphones, smartphones, and any other illegal radio equipment. If Panasystem continues importing and marketing this illegal equipment, it may be liable for severe penalties, including fines of up to \$16,000 per model, per day.

2. This is an official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (Communications Act or Act),<sup>1</sup> to Panasystem.<sup>2</sup> Specifically, Panasystem is being cited for the marketing, including importation, of uncertified radiofrequency devices in violation of Section 302(b) of the Communications Act,<sup>3</sup> and Sections 2.803, 2.925, and 2.926 of the Commission's rules (Rules).<sup>4</sup>

3. Notice of Duty to Comply With Laws: Panasystem should take immediate steps to come into compliance with the Communications Act and Rules on importing and marketing uncertified devices, discontinue the importation and marketing of uncertified radio frequency devices, and avoid any recurrence of the misconduct described herein. Panasystem is hereby on notice that if it subsequently engages in any conduct of the type described in this Citation, including any violation of Section 302(b) of the Communications Act or Sections 2.803, 2.925, or 2.926 of the Rules, it may be subject to civil and criminal penalties initiated by the Federal Communications Commission (FCC), including but not limited

<sup>1</sup> 47 U.S.C. § 503(b)(5).

<sup>2</sup> Panasystem operates a website that sells cellphones, smartphones, and other electronic devices. *See* <http://panasystem.com/pana/index14.asp>, last visited Apr. 22, 2014.

<sup>3</sup> 47 U.S.C. § 302a(b).

<sup>4</sup> 47 C.F.R. §§ 2.803, 2.925, 2.926. *See SmartLabs, Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 7780 (Enf. Bur. 2011) (forfeiture of \$10,000 proposed for marketing devices with FCC Identifiers not found in the FCC's equipment authorization database) (forfeiture paid); *Wireless Extenders, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 8983 (Enf Bur. 2010) (forfeiture of \$4,000 proposed for marketing devices with FCC Identifier that added extra letters to a valid FCC Identifier, rendering it invalid).

to substantial monetary fines (forfeitures) and seizure of equipment. Such forfeitures may be based on both the conduct that led to this Citation and conduct following it.<sup>5</sup>

4. **Your Response Required:** Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act,<sup>6</sup> we also direct Panasystem to respond in writing, within thirty (30) calendar days after the release date of this Citation, and signed under penalty of perjury, with descriptions of the specific action(s) taken or plans to cease the importation and marketing of uncertified radio devices and preclude recurrence of the violations, and also a timeline for completion of any corrective action(s).

## II. BACKGROUND

5. In January 2014, the Enforcement Bureau's Los Angeles Office (Los Angeles Office) received two separate inquiries from the U.S. Department of Homeland Security (DHS) concerning the importation of what appeared to be counterfeit radio frequency devices by Panasystem. DHS first provided information to the Los Angeles Office concerning two devices (smartphones) being imported by Panasystem: Samsung Electronics Co. Ltd (Samsung) model "Galaxy S Duos" bearing a label with an FCC Identifier of "A3LGTS7562" and model "Galaxy Ace" bearing a label with an FCC Identifier of "A3LGTS5830." According to the FCC equipment authorization database, Samsung is the grantee of both of these FCC Identifiers. However, the devices being imported did not match the information in the FCC equipment database on the actual certified devices. In addition, an inspection report from Samsung explained that the devices in question were not manufactured by Samsung or under its authority and that the labels on the phones were not authorized by Samsung.

6. DHS made a second inquiry to the Los Angeles Office concerning a shipment of what appeared to be counterfeit BlackBerry 9790 devices (smartphones) imported by Panasystem. The information provided by DHS shows that the devices bear a label with an FCC Identifier of "L6RBT7OUW" and/or "L6RBT7OU." According to the FCC equipment authorization database, neither "L6RBT7OUW" nor "L6RBT7OU" is a valid FCC Identifier,<sup>7</sup> and neither includes a valid grantee code for BlackBerry.

## III. APPLICABLE LAW AND VIOLATIONS

7. Federal law requires that radio frequency devices must be certified in accordance with the Commission's technical standards before they can be marketed in the United States.<sup>8</sup> 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."<sup>9</sup>

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<sup>5</sup> See 47 U.S.C. § 503(b)(5). See also S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a Citation by the Commission thereafter engages in the conduct for which the Citation of violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently but also for the conduct for which the citation was originally sent") (emphasis added).

<sup>6</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

<sup>7</sup> A review of the FCC equipment authorization database for "L6RBT7OUW" and "L6RBT7OU" revealed that neither of these combinations are valid FCC Identifiers. The FCC Identifier for the Blackberry Bold 9790 smartphone model number REC71U is L6AREC70UW. The FCC Identifier for BlackBerry Bold 9790 smartphone model number RED71UW is L6ARED70UW.

<sup>8</sup> See, e.g., *Revision of Part 2 of the Commission's Rules Relating to the Marketing and Authorization of Radio Frequency Devices*, Report and Order, 12 FCC Rcd 4533 (1997); 47 C.F.R. § 2.803.

<sup>9</sup> 47 U.S.C. § 302a(b).

8. The applicable implementing regulations for Section 302(b) of the Communications Act are set forth in the Section 2.803 of the Rules.<sup>10</sup> Specifically, Section 2.803 of the Rules provides, in relevant part, that:

(a) Marketing, as used in this section, includes 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.

(b) General rule. No person may market a radio frequency device unless: (1) For devices subject to authorization under certification, the device has been authorized in accordance with the rules in subpart J of this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter; or (2) For devices subject to authorization under verification or Declaration of Conformity in accordance with the rules in subpart J of this chapter, the device complies with all applicable technical, labeling, identification and administrative requirements; . . . .<sup>11</sup>

The devices at issue here are intentional radiators<sup>12</sup> and must be certificated by the Commission prior to marketing.<sup>13</sup> Pursuant to Section 2.925 of the Rules, each device must bear a nameplate or label that lists the FCC Identifier.<sup>14</sup> A valid FCC Identifier for an authorized piece of equipment consists of the grantee code assigned by the FCC and the equipment product code assigned by the grantee.<sup>15</sup> The grantee code assigned by the FCC is assigned permanently to the grantee and is valid only for the party specified as the grantee in the code assignment.<sup>16</sup> According to Section 2.926(e) of the Rules, “[n]o FCC Identifier may be used on equipment to be marketed unless that specific identifier has been validated by a grant of equipment authorization issued by the Commission.”<sup>17</sup> Section 2.926(e) of the Rules also states that the FCC Identifier is uniquely assigned to the grantee and may not be placed on equipment without the authorization of the grantee.<sup>18</sup>

9. The record in this case shows that the labels applied on the imported Galaxy S Duos and Galaxy Ace devices contain the Samsung FCC Identifier for each device without obtaining permission from Samsung. This is a violation of Section 2.926 of the Rules and renders the models uncertified. The record also shows that the labels applied on the imported BlackBerry devices did not contain a valid FCC Identifier or bear the BlackBerry grantee code. This is also a violation of Section 2.926 of the Rules and renders these models uncertified. Because all of these devices are uncertified, the importation, shipment,

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<sup>10</sup> 47 C.F.R. § 2.803.

<sup>11</sup> 47 C.F.R. § 2.803(a)–(b).

<sup>12</sup> The Rules define 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). See 47 C.F.R. § 15.201.

<sup>13</sup> 47 C.F.R. § 15.201(b).

<sup>14</sup> 47 C.F.R. § 2.925.

<sup>15</sup> 47 C.F.R. § 2.926(a).

<sup>16</sup> 47 C.F.R. § 2.926(b).

<sup>17</sup> 47 C.F.R. § 2.926(e).

<sup>18</sup> 47 C.F.R. § 2.926(e).

or distribution for the purpose of selling or leasing or offering for sale or lease of these devices is a violation of Section 302(b) of the Communications Act and Sections 2.803, 2.925, and 2.926 of the Rules.<sup>19</sup> Based on the foregoing evidence, we find that Panasystem violated Section 302(b) of the Communications Act and Sections 2.803, 2.925, and 2.926 of the Rules by importing, for the purpose of selling or leasing or offering for sale or lease, these devices.

#### IV. REQUEST FOR INFORMATION

10. Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act,<sup>20</sup> Panasystem is directed to confirm in writing that it has ceased importing and marketing uncertified radio frequency devices in the United States and is further directed to provide the information requested below within thirty (30) calendar days after the release date of this Citation.

- i. Provide a list of all radio frequency (RF) devices imported or marketed or available for sale in the United States by Panasystem in the past 12 months.
- ii. For each unique RF device identified in response to (i), list the make, model number, and FCC Identifier, and provide name and address of the manufacturer of the device.
- iii. For each model identified in response to (ii), provide a copy of any equipment certification, authorization, verification, or declaration of conformity issued by the FCC or a relevant party concerning that model. Explain how each model complies with Section 302(b) of the Act and Section 2.803 of the Rules.
- iv. For each model identified in response to (ii) for which you are unable to provide the documentation requested in response to (iii), explain how each model complies with Section 302(b) of the Act and Section 2.803 of the Rules.
- v. Provide a list of all individuals and entities in the United States that have purchased each of the RF devices identified in response to (iv) from Panasystem within the past 12 months. Provide contact names and addresses.
- vi. Provide copies of all marketing materials for RF equipment identified in response to (iv).
- vii. Provide a copy of the completed FCC Form 740, Statement Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference, for each shipment of RF devices identified in response to (i) imported by Panasystem within the past 12 months.
- viii. If any of the RF devices identified in response to (iv) were originally purchased domestically by Panasystem, please identify the source including amount paid and proof-of-purchase.

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<sup>19</sup> 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.803, 2.925, 2.926.

<sup>20</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

A failure to respond in writing, or the provision of an inadequate, incomplete, or misleading response, may subject Panasystem to additional sanctions.

## V. RESPONDING TO THIS CITATION

11. In addition to the required written information described in paragraphs 4 and 10, above, Panasystem may, if it so chooses, respond to this Citation—challenging the factual and legal findings herein—within thirty (30) calendar days from the release date of this Citation either through (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to your place of business.

12. If you would like to arrange a teleconference or personal interview, please contact Charles A. Cooper at (562) 860-7474. The nearest Commission Field Office is located in Cerritos, California. Such teleconference or interview must take place within thirty (30) calendar days of the date of this Citation. If you would like to submit a written response, including any supporting documentation, you must send the response within thirty (30) calendar days of the date of this Citation to the contact and address provided in paragraph 13, below.

13. All written communications, including the information requested in paragraphs 4 and 10, above, should be provided to the address below.

Federal Communications Commission  
Los Angeles Office  
18000 Studebaker Road, Suite 660  
Cerritos, California 90703  
**Re: EB-FIELDWR-14-00014693**

14. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, and include 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) business days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the FCC's 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):  
202-418-0531 (voice), 202-418-7365 (tty).

15. Please be advised that it is a violation of Section 1.17 of the Rules (47 C.F.R. § 1.17) for any person or a staff member of that person to make any false or misleading written or oral statement of fact. Specifically, no person 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.<sup>21</sup>

16. Further, 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.

17. If you violate Section 1.17 of the Rules or the criminal statute referenced above, you may be subject to further legal action, including monetary fines pursuant to Section 503 of the Communications Act.<sup>22</sup>

18. Under the Privacy Act of 1974, 5 U.S.C. § 552a(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 Rules.

## VI. FUTURE VIOLATIONS

19. If, after receipt of this Citation, Panasystem again violates Section 302(b) of the Act or Sections 2.803, 2.925, or 2.926 of the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures up to \$16,000 for each such violation or each day of a continuing violation, and up to \$122,500 for any single act or failure to act.<sup>23</sup> For instance, the Commission could impose separate forfeitures for each day on which an uncertified RF device is sold or for each day on which an uncertified RF device is advertised or otherwise offered for sale. Further, as discussed above, such forfeitures may be based on both the conduct that led to the Citation and the conduct following it.<sup>24</sup> In addition, violations of the Communications Act or the Rules also can result in seizure of equipment through *in rem* forfeiture actions,<sup>25</sup> as well as criminal sanctions, including imprisonment.<sup>26</sup>

## VI. ORDERING CLAUSES

20. **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 403 of the Communications Act, Panasystem must provide the written information requested in paragraphs 4 and 10, above. The response to the request for information must be provided in writing, signed under penalty of perjury by an authorized official at Panasystem with personal knowledge of the information and representations provided in the written response, and must be received by the FCC within thirty (30) calendar days after the release date of this Citation and Order.

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<sup>21</sup> 47 C.F.R. § 1.17.

<sup>22</sup> 47 U.S.C. § 503.

<sup>23</sup> See 47 U.S.C. §§ 401, 501, 503; 47 C.F.R. § 1.80(b)(7). This amount is subject to further adjustment for inflation (see 47 C.F.R. § 1.80(b)(9)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

<sup>24</sup> See *supra* para. 3.

<sup>25</sup> See 47 U.S.C. § 510.

<sup>26</sup> See 47 U.S.C. §§ 401, 501.

21. **IT IS FURTHER ORDERED** that a copy of this Citation and Order shall be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested, to Panasystem Corp. at 21000 Osborne Street, Suite 6, Canoga Park, California, 91304.

**FEDERAL COMMUNICATIONS COMMISSION**

Charles A. Cooper  
District Director  
Los Angeles Office  
Western Region  
Enforcement Bureau