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FEDERAL COMMUNICATIONS COMMISSION
EQUIPMENT AUTHORIZATION DIVISION

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

MAY - 1 1995

COLUMBIA, MD


Re: Final Analysis, Inc.
4682-EX-PL-95; 4680-EX-PL-95; 4683-EX-PL-95

Dear Mr. Caton:

On behalf of CTA Commercial Systems, Inc. ("CTA"), I am transmitting herewith an original and four copies of its "Opposition to Experimental Applications and Motion to Strike Starsys Comments" with respect to the above- referenced experimental applications.

Should there be any questions concerning this matter, kindly communicate with the undersigned.

Sincerely,


Jill Abeshouse Stern

Attachments

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
FINAL ANALYSIS, INC.) File Nos. 4682-EX-PL-95
) 4680-EX-PL-95
Applications For Authority to Establish a) 4683-EX-PL-95
Low-Earth Orbit Satellite, to Modify a)
Fixed Ground Station, and to Establish)
9,240 Remote Terminals in the Experi-)
mental Radio Service)

**OPPOSITION TO EXPERIMENTAL APPLICATIONS
AND MOTION TO STRIKE STARSYS COMMENTS**

CTA Commercial Systems, Inc. ("CTA"), by its attorneys, hereby opposes grant of the above-captioned experimental applications of Final Analysis, Inc. ("FAI") which seek licensing of a new experimental satellite, modification of a master ground station at Logan, Utah, and authorization of 9,240 new remote mobile terminals at various locations throughout the United States. In this filing, CTA also seeks deletion of certain gratuitous attacks on CTA's qualifications that were made by STARSYS Global Positioning, Inc. in its April 5, 1995 comments on the Final Analysis experimental applications. Not only is STARSYS' attack on CTA factually inaccurate, but it had no place in a pleading dealing ostensibly with Final Analysis and which was not even served on CTA counsel.

I. THE FINAL ANALYSIS EXPERIMENTAL APPLICATIONS SHOULD BE DENIED OR CONDITIONED

At the outset, CTA notes that it is not opposed *per se* to grant of experimental licenses for testing, demonstration and other bona fide experimental purposes relating to the Non-Voice, Non-Geostationary Mobile-Satellite Service ("NVNG MSS"). Indeed, experimentation can serve a valuable purpose in developing new communications services and equipment and the Commission should not eliminate the valuable flexibility that the Experimental Radio Service now provides for new technologies.

In this case, however, Final Analysis is not engaged in bona fide experimentation. Equally troublesome, the filing of FAI's application at the same time that the other NVNG MSS applicants are seeking to identify suitable spectrum for reallocation to this service creates an erroneous impression that the FAI experiment is sanctioned by the other applicants.

As CTA has previously advised the Commission, NVNG MSS applicants are currently engaged in an intensive process to identify optimal frequencies for sharing by the NVNG MSS. This process involves both theoretical analysis and field testing. This testing must be completed before June 1995 in order to be useful in developing the U.S. position at WRC-95 where the issue of additional NVNG MSS spectrum will be considered. The time frame for FAI's experiment, under which a satellite would not be launched until August 1995 at the earliest, will not help this effort.

In addition, FAI's selection of frequencies singles out only one of various bands being considered by the NVNG MSS proponents. If FAI truly wanted to analyze spectrum usage in

candidate bands and to perform a valuable service to the industry, the experiment should be more broadly designed to analyze spectrum in the bands of interest within the 100-500 MHz range. Based on the limited nature of the spectrum analysis, combined with the excessive number of mobile terminals, CTA questions FAI's intentions and urges the Commission to deny FAI's applications.^{1/}

It is also clear from the number of terminals sought by FAI that experimentation is not the goal. FAI has requested authority to operate 9,240 mobile terminals across the United States. This excessive number of terminals cannot be justified on the basis of the experimental program described by FAI. Even assuming *arguendo* that the goal is to measure the level of activity in different bands, this could be accomplished merely by spectrum analysis, i.e., listening to noise levels in the relevant bands on a receive only basis. At most, FAI could justify a few hundred terminals to confirm the ability to operate in selected bands. FAI does not explain, in either its applications or subsequent filings, why 9,240 mobile units are required for the alleged experimentation.

In short, FAI's self-selected frequency bands and excessive number of terminals reveal the company's true intentions, namely, to use the legitimate spectrum analysis activity of the other applicants to justify its own efforts to introduce a commercial business under the guise of an experimental license. Apart from concerns about FAI's misuse of the experimental license process, CTA is equally concerned about correcting the misimpression that FAI's activity is

^{1/} CTA would support an experimental program that provided spectrum usage information for a broader number of bands subject to the conditions that (1) the experimental results are shared with the other applicants; and (2) FAI is limited to the reasonable number of terminals required for the experiment, e.g., a few hundred.

linked to the joint efforts of the NVNG MSS applicants to identify appropriate spectrum for sharing.

II. THE COMMISSION SHOULD STRIKE STARSYS' COMMENTS ABOUT CTA AS GRATUITOUS AND HIGHLY INACCURATE

In its April 5, 1995 comments with respect to the Final Analysis applications, STARSYS included a gratuitous attack on CTA. In particular, STARSYS accused CTA in strong language of, *inter alia*, "machinations," "premature and unauthorized construction of so-called experimental satellites" and of "lying to the Commission and otherwise abusing the Commission's processes." Although the Little LEO proceedings have been marked by unusually colorful language and viciousness, as STARSYS itself noted in its April 24, 1995 Reply and Motion to Strike, CTA is unaware of a similar incidence of vitriol where, as here, the subject of the attack has not been a party to the particular proceedings and is not even provided the courtesy of being served by counsel.^{2/}

Needless to say, CTA takes issue with STARSYS' characterization of CTA's conduct. No evidence has ever been introduced to support STARSYS' charges against either VITA or CTA. The record is clear that VITA held an experimental license at all relevant periods in time, and, as a manufacturer of the satellite, CTA properly relied upon VITA's assurances as to the validity of that license. While the irresponsible nature of the charges by STARSYS are troublesome, the fact that CTA's counsel was not served with the offensive pleading makes the

^{2/} One would think that STARSYS would be more sensitive, given its own outrage at the "unprompted personal attacks" and "ad hominem vitriol" to which it claims to have been subjected by Final Analysis.

transgression even worse. Although the STARSYS comments were filed in early April, CTA did not learn of the offensive language until it reviewed the Final Analysis file weeks later.

The STARSYS language regarding CTA must be stricken from the record.

III. CONCLUSION

For the foregoing reasons, CTA requests that the Commission promptly deny the experimental applications filed by Final Analysis, Inc. or issue that license subject to the proposed conditions that FAI (1) provide spectrum analysis for a broader number of bands in the 100-500 MHz range; (2) share the experimental results with other applicants; and (3) limit its request for mobile terminals to a reasonable number, e.g., a few hundred. CTA also urges the Commission to strike the gratuitous and unsubstantiated attacks by STARSYS with respect to CTA's qualifications in its April 5, 1995 Comments on the Final Analysis applications.

Respectfully submitted,

CTA COMMERCIAL SYSTEMS, INC.

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April 27, 1995

CERTIFICATE OF SERVICE

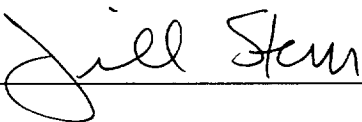
I, Bill Stern, do hereby certify that a true and correct copy of the foregoing document was served by hand or by first-class mail, postage prepaid on this 27th day of April, 1995, on the following persons:

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*Served by hand

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