

From: John Finklea

To: Leann Nguyen

Date: February 06, 2013

Subject: FCC File# 0104-EX-ST-2013

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Message:

1. Identification of the specific information for which confidential treatment is sought

Answer: Specifically, Exhibits 1-7, 10,11, & 13 which are marked "EXPORT CONTROL WARNING:" As stated in Exhibit 1, this data falls under the International Traffic in Arms Regulations (ITAR) which prohibit by law the dissemination of this information to persons who are not US Persons. Furthermore, "Public" dissemination within the US cannot be construed as meeting these laws; because "Public" dissemination is generally uncontrolled. Although this information is "Unclassified", it is still protected under ITAR.

2. Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.

Answer: The information was submitted as part of an STA; (Conf # EL618016; File # 0104-EX-STA-2013) The STA is required by Avon Park Air Force Range to operate equipment that has not been certified to Part 15 of the FCC regulations. Per their instructions:

"If your experiment will be radiating on a given frequency or frequency band, you must have prior approval to transmit on that frequency/frequency band. Prior approval may include compliance with Federal Communications Commission (FCC) Title 47, Part 15, a Special Temporary Authority (STA) from the FCC." We are using the ISM band and are within the limits of operation for ISM band, however, we are not certified to Part 15, thus the request for an STA.

3. Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged

Answer: Per the Dept of State website, Subchapter M of the ITAR para 120.6 defines "Defense Article" as including technical data. This is considered as privileged information to be kept from being disseminated to persons who are not "US Persons";.

4. Explanation of the degree to which the information concerns a service that is subject to competition

Answer: This is determined by the US Department of State. When foreign individuals obtain technology developed by and for the use of the US Military, it hurts our military technical advantage and represents a financial loss to the US Government.

5. Explanation of how disclosure of the information could result in the substantial competitive harm.

Answer: The US Dept of State can and will fine corporations for non-compliance of ITAR. In extreme cases, they will stop corporations from doing any export business which in Textron's case is substantial. They will also fine and/or imprison individuals who do not comply with ITAR.

6. Identification of any measures taken by the submitting party to prevent unauthorized disclosure.

Answer: All documents are marked with "Export Control Warning". Textron corporation spends considerable amount of money each year training it's employees on ITAR. When the information is disseminated to a US Person, it is the responsibility of the individual submitting the information to alert the recipient that this is privileged information and needs to be protected and held in confidence.

7. Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.

Answer: Some data is allowed by the Department of State to be disseminated to the public for marketing purposes. However, the level of detail required by the FCC goes beyond "marketing information" and falls into the category of technical data under ITAR.

8. Justification of the period during which the submitting party asserts that material should not be available for public disclosure.

Answer: ITAR is applicable until the Department of State removes the item from the Munitions List.

9. Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.

Answer: The previous generation MicroObserver System was FCC certified and given FCC identifiers S2ZM-100 & S2ZMO-1045 in 2007. These were also governed by ITAR and the request for confidentiality was granted then.