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April 2, 1999

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Mr. James Burtle, Acting Chief
Experimental Licensing Branch
Federal Communications Commission
2000 M Street, N.W. (Mail Stop 1300E1)
Washington, D.C. 20554

Re: Motorola, Inc.
Amendment to Application for Experimental License
File Nos. 5677-EX-PL-97 and 5728-EX-PL-97

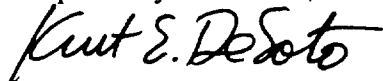
On behalf of Motorola, Inc., electronically transmitted herewith is an amendment to the above-referenced applications. This amendment also responds to an FCC inquiry regarding this matter. See Letter from Anthony N. Serafini, Engineer, Office of Engineering and Technology, FCC, to Kurt E. DeSoto, Wiley, Rein & Fielding (March 3, 1999).

Specifically, attached is a revised FCC Form 442 and attachment to an application filed March 7, 1997, and amended April 28, 1997. See File No. 5677-EX-PL-97. These materials are intended to supersede and replace the Form and attachment currently on file at the FCC.

By this amendment, Motorola seeks to: (1) consolidate the above-referenced applications currently pending at the FCC; (2) update the list of frequencies requested to accommodate additional experimental efforts; (3) withdraw its request for confidentiality; and (4) clarify the scope of the proposed experimentation.

Should you have any questions regarding this amendment or the underlying applications, please call me at (202) 719-7235. In my absence, please call David E. Hilliard or Thomas Dombrowsky at (202) 719-7000.

Respectfully submitted,



Kurt E. DeSoto
Counsel for Motorola, Inc.

cc: Anthony Serafini, FCC

APPLICATION FOR NEW OR MODIFIED RADIO STATION AUTHORIZATION UNDER PART 5
OF FCC RULES - EXPERIMENTAL RADIO SERVICE (OTHER THAN BROADCAST)

1. Applicant's Name and Post Office address
(Street address, city, state, and ZIP Code. See instruction
No. 4)

Motorola, Inc.
5555 N. Beach Street
Ft. Worth, TX 76137

DO NOT WRITE IN THIS BLOCK

File No.

5677-EX-PL-97

2(a). Application for (check only one box)

☒ New station ☐ Modification of existing authorization

2(b). For Modification indicate below:

File No:

Call Sign:

3. Application for Modification: Check the box beside all particulars to be modified. Check either addition or replacement to indicate whether the change is an addition or a replacement of parameters in the current authorization.

☐ FREQUENCY - ☐ EMISSION - ☐ POWER - ☐ LOCATION -
☐ addition or ☐ replacement? ☐ addition or ☐ replacement? ☐ addition or ☐ replacement? ☐ addition or ☐ replacement?

☐ OTHER PARTICULARS - addition or replacement? (Describe below or in attached EXHIBIT No. _____)

4. Particulars of Operation (see instruction below)

Frequency (state whether kHz or MHz)	POWER			EMISSION	MODULATING SIGNAL	NECESSARY BANDWIDTH (kHz)
(A)	(B)	(C)	(D)	(E)	(F)	(G)
	SEE ATTACHMENT					

- (A) List each frequency or frequency band separately. (If more space is required, attach as EXHIBIT No. _____)
(B) Insert maximum R.F. output power at the transmitter terminals. Specify units.
(C) Insert maximum effective radiated power from the antenna (If pulsed emission, specify peak power). Specify units.
(D) Insert "MEAN" or "PEAK" (See definitions in Part 5).
(E) List each type of emission separately for each frequency. (See Section 2.201 of FCC Rules.)
(F) Insert as appropriate for the type of modulation:
(1) the maximum speed of keying in bauds;
(2) maximum audio modulating frequency;
(3) frequency deviation of carrier;
(4) pulse duration and repetition rate.
For complex emissions, describe in detail in the space provided below.
(G) Describe how the necessary bandwidth was determined in space provided below.

5(a). Proposed location of transmitter and transmitting antenna (check only one box to indicate type of operation):

☐ FIXED/BASE

☐ MOBILE

☒ BASE AND MOBILE

5(b). If permanently located at a FIXED location, give below:

State _____ County _____ City or Town _____

Number and street (or other indication of location) _____

5(c). If mobile, describe the exact area of operation

See Attachment

5(b)(1). Enter geographical coordinates exact to the nearest second (see instruction 10)

North Latitude (DD-MM-SS)

0 ' "

West Longitude (DD-MM-SS)

0 ' "

5(c)(1) Enter geographical coordinates of the approximate center of mobile operation (see instruction 10.)

North Latitude

0 ' "

West Longitude

0 ' "

5(d). Datum (see instruction 10): ☐ NAD 27 ☐ NAD 83

6. Is a directional antenna (other than radar) used? ☒ YES ☐ NO

If "YES", give the following information: See Attachment

(a) Width of beam in degrees at the half-power point _____

(b) Orientation in horizontal plane _____ (c) Orientation in vertical plane _____

7. Is this authorization to be used for fulfilling the requirement of a government contract with an agency of the United States Government? ☐ YES ☒ NO

If "YES", attach as EXHIBIT No. _____ a narrative statement describing the government project, agency and contact number.

8. Is this authorization to be used for the exclusive purpose of developing radio equipment for export to be employed by stations under the jurisdiction of a foreign government? ☐ YES ☒ NO

If "YES", attach as EXHIBIT No. _____ the following information: Provide the contract number and the name of the foreign government concerned.

9. Is this authorization to be used for providing communications essential to a research project? (The radio communication is not the objective of the research project). ☐ YES ☒ NO

If "YES", attach as EXHIBIT No. _____ a narrative statement providing the following information:

(a) A description of the nature of the research project being conducted.

(b) A showing that the communications facilities requested are necessary for the research project involved.

(c) A showing that existing communications facilities are inadequate.

10. If all the answers to Items 7, 8, and 9, are "NO", attach as EXHIBIT No. Attachment a narrative statement describing in detail the following:

(a) The complete program of research and experimentation proposed including description of equipment and theory of operation.

(b) The specific objectives sought to be accomplished.

(c) How the program of experimentation has a reasonable promise of contribution to the development, extension, expansion, or utilization of the radio art, or is along line not already investigated.

11(a). Give an estimate of the length of time that will be required to complete the program of experimentation proposed in this application: 2 years

(b) If less than 2 years, give the length of time in months that the authorization requested in this application will be required: _____

12. Would a Commission grant of this application come within Section 1.1307 of the FCC Rules, such that it may have a significant environmental impact (see instruction 11)? ☐ YES ☒ NO

If "YES", attach as EXHIBIT No. _____ an Environmental Assessment as required by Section 1.1311.

13. List below transmitting equipment to be installed (if experimental, so state):

MANUFACTURER

MODEL NUMBER

NO. OF UNITS

See Attachment

14. Is the equipment listed in Item 13 capable of station identification pursuant to Section 5.152? ☐ YES ☒ NO

15. Will the antenna extend more than 6 meters above the ground, or if mounted on an existing building, will it extend more than 6 meters above the building, or will the proposed antenna be mounted on an existing structure other than a building? ☒ YES ☐ NO

If "YES", give the following (see instruction 9): See Attachment

(a) Overall height above ground to tip of antenna is _____ meters.

(b) Elevation of ground at antenna site above mean sea level is _____ meters.

(c) Distance to nearest aircraft landing area is _____ kilometers.

(d) List any natural formations of existing man-made structures (hills, trees, water tanks, towers, etc.) which, in the opinion of the applicant, would tend to shield the antenna from aircraft and thereby minimize the aeronautical hazard of the antenna.

(e) Submit as EXHIBIT No. _____ a vertical profile sketch of total structure including supporting building, if any, giving heights in meters above ground for all significant features. Clearly indicate existing portion, noting particulars of aviation obstruction lighting already available.

16. Applicant is: (check only one box)

☐ INDIVIDUAL ☐ ASSOCIATION ☐ PARTNERSHIP ☒ CORPORATION

☐ OTHER (describe in space provided below)

17. Is applicant a foreign government or a representative of a foreign government? ☐ YES ☒ NO

18. Has applicant or any party to this application had any FCC station license or permit revoked or had any application for permit, license or renewal denied by this Commission? ☐ YES ☒ NO

If "YES", attach as EXHIBIT No. _____ a statement giving call sign of license or permit revoked and relate circumstances.

19. Will applicant be owner and operator of the station? See Attachment ☐ YES ☒ NO

20. Give name, title, and telephone number (include area code), and Internet e-mail address (if applicable) of person who can best handle inquiries pertaining to this application.

See Attachment

21. APPLICANT ANTI-DRUG ABUSE CERTIFICATION:

By checking "YES", the individual applicant certifies that he or she is eligible for this license. This requires that he or she is not subject to a denial of federal benefits, including FCC benefits, as a result of a drug offense conviction pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862. A non-individual applicant, e.g., corporation, partnership or other unincorporated association, certifies that no party to the application is subject to a denial of federal benefits, pursuant to that section. For definition of a "party" for these purposes, see 47 CFR 1.2002(b).

☒ YES ☐ NO

22. List below all exhibits in numerical sequence and the item number of form requiring the exhibit identified.

EXHIBIT NUMBER	ITEM NO. OF FORM	EXHIBIT NUMBER	ITEM NO. OF FORM	EXHIBIT NUMBER	ITEM NO. OF FORM
Attachment	4,5,6,10,13, 15,19,20				

23. CERTIFICATION:

Attention: Read this certification carefully before signing this application.

THE APPLICANT CERTIFIES THAT:

- (a) Copies of FCC Rule Parts 2 and 5 are on hand; and
- (b) Adequate financial appropriations have been made to carry on the program of experimentation which will be conducted by qualified personnel; and
- (c) All operations will be on an experimental basis in accordance with Part 5 and other applicable rules, and will be conducted in such a manner and at such a time as to preclude harmful interference to any authorized station; and
- (d) Grant of the authorization requested herein will not be construed as a finding on the part of the Commission:
 - (1) that the frequencies and other technical parameters specified in the authorization are the best suited for the proposed program of experimentation, and
 - (2) that the applicant will be authorized to operate on any basis other than experimental, and
 - (3) that the Commission is obligated by the results of the experimental program to make provision in its rules including its table of frequency allocations for applicant's type of operation on a regularly licensed basis.

APPLICANT CERTIFIES FURTHER THAT:

- (e) All the statements in the application and attached exhibits are true, complete and correct to the best of the applicant's knowledge; and
- (f) The applicant is willing to finance and conduct the experimental program with full knowledge and understanding of the above limitations; and
- (g) The applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the USA.

Signed and dated this 5th day of March, 19 97

Name of Applicant MOTOROLA, Inc.
(must correspond with name given on page 1)

By RONALD C JOHNSON [Signature]
(print) (signature)

Title SENIOR RESOURCE MANAGER

Check appropriate classification:

- ☐ Individual applicant ☐ Member of applicant partnership
☒ Authorized employee ☐ Office of applicant corporation or association

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18 Section 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).

NOTIFICATION TO INDIVIDUALS UNDER PRIVACY ACT OF 1974
AND THE PAPERWORK REDUCTION ACT OF 1980

Information requested through this form is authorized by the Communications Act of 1934, as amended, and specified by Section 308 therein. The information will be used by Federal Communications Commission staff to determine eligibility for issuing authorizations in the use of the frequency spectrum and to effect the provisions of regulatory responsibilities rendered by the Commission by the Act. Information requested by this form will be available to the public unless otherwise requested pursuant to 47 CFR 0.459 of the FCC Rules and Regulations. Your response is required to obtain this authorization.

Public reporting burden for this collection of information is estimated to average four (4) hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to the Federal Communications Commission, Records Management Branch, Paperwork Reduction Project (3060-0065), Washington, DC 20554. **DO NOT send completed applications to this address.** Individuals are not required to respond to this collection unless it displays a currently valid OMB control number.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.

INTRODUCTION AND BACKGROUND

Motorola, Inc., is a leading manufacturer of radio-frequency ("RF") devices sold in the United States and overseas. It maintains its position in the industry by continually developing new products in response to evolving technologies and consumer demand. Most recently, Motorola has been involved in the development of equipment for digital cellular services and personal communications services ("PCS").

Motorola is now in the process of designing and testing several new generations of transmitters and transceivers to operate in the bands 806-849 MHz, 851-894 MHz, 896-902 MHz, 1850-1910 MHz, 1910-1930 MHz, 1930-1990 MHz and 1990-2200 MHz. Such devices are primarily subject to the FCC's type acceptance procedures set forth in Section 2.983 of the agency's rules, 47 C.F.R. § 2.983 et. seq. (1995) and generally cannot be marketed or operated until FCC approval has been granted. See generally id. at § 2.803. Accordingly, Motorola has in the past obtained either regular equipment authorization or special temporary authority to test and market such devices. For example, it recently requested and received authorization to evaluate several PCS prototype devices under an STA issued for call sign KF2XJE, File No. S-2539-EX-96.

Motorola believes, however, that its practice of obtaining equipment approval or special temporary authority before conducting research and development for each product does not provide it the needed flexibility to adapt quickly to changes in research plans and requirements. Consequently, Motorola now seeks a regular experimental license -- subject to the non-interference and other conditions described below -- to test, demonstrate, operate, and conduct limited marketing of these products prior to approval. Attached for the staff's convenience is a draft authorization prepared for this purpose.

Motorola believes the public interest, necessity and convenience will be served by the grant of the subject application, as it would enhance the company's ability to obtain information needed to ensure that the products it is designing will accommodate and promote new technologies and services.

II. RESPONSES TO INDIVIDUAL QUESTIONS ON FCC FORM 442

Item 4(A): Frequencies

806-849 MHz, 851-894 MHz, 896-902 MHz, 1850-1910 MHz, 1910-1930 MHz, 1930-1990 MHz, and 1990-2200 MHz. In the band 1910-1930 MHz, Motorola will test only low-power, unlicensed PCS devices in accordance with FCC rules and policies. See Public Notice, "Experimental Licenses in the 1910-1930 MHz Band," Mimeo No. 61800, released March 1, 1996 (allowing experimental testing in this band only for low-power, unlicensed PCS devices) ("Public Notice"). A copy of the Public Notice is attached for the staff's convenience.

Item 4(B): Transmitter Power

45 Watts TPO maximum for all frequencies except for operations in the 1910-1930 MHz band. Operation in the 1910-1930 MHz band shall comply with the power requirements under Part 15 governing low-power, unlicensed PCS devices. See Public Notice.

Item 4(C): Maximum Effective Radiated Power

500 Watts ERP maximum for all frequencies except for operations in the 1910-1930 MHz band. Operation in the 1910-1930 MHz band shall comply with the power requirements under Part 15 governing low-power, unlicensed PCS devices. See Public Notice.

Item 4(D): "Mean" or "Peak"

All power limits set forth in Items 4(B) and 4(C) are "Peak." Operation in the 1910-1930 MHz band shall comply with the requirements under Part 15 governing low-power, unlicensed PCS devices. See Public Notice.

Item 4(E): Emission

Motorola seeks to employ various modes of modulation, bandwidth and data rates. Nevertheless, none of these modes of operation would extend beyond the band limits set forth under Item 4(A) above.

Item 4(F): Modulating Signal

See Item 4(E) above

Item 4(G): Necessary Bandwidth

See Item 4(E) above

Item 5(b): Location of Proposed Operation

Motorola proposes to conduct its experimental operations primarily within 80 km of its research and development sites at Ft. Worth, Texas, and at Arlington Heights, Illinois, but it also seeks authority to conduct experimental operations at other locations within the United States. Motorola proposes to test, demonstrate, and operate products (1) at its own premises; (2) at the premises of entities working under Motorola's authorization in the design and development of the devices and related products; (3) at trade shows or non-residential exhibitions; and (4) at non-residential business, commercial, industrial, scientific or medical locations during the design, development and pre-production stages. Accordingly, Motorola submits that its operations would be consistent with Section 2.803 of the Commission's new marketing rules. See Revision of Part 2 of the Commission's Rules Relating to the Marketing and Authorization of Radio Frequency Devices, ET Docket No. 94-45, Report and Order, released Feb. 12, 1997, at ¶¶ 11-13, 19-20 ("Marketing Rule Revisions").

- need more specifics

In addition, and as further explained below, Motorola seeks authority to operate mobile devices at certain end user locations, including residential locations. Motorola would not operate any base stations at residential locations or environments, however. Motorola submits that grant of such authority is consistent with and may be authorized under Section 5.206(j) and (k) of the Commission's rules. 47 C.F.R. Section 5.206(j) and (k) (1995).

Items 6, 15: Antenna Information

Motorola will employ a number of antennas with varied direction, beamwidth and polarization depending on the type and frequency of the operation under test. The antennas will be located either at ground level or mounted on existing buildings or antenna structures. Motorola certifies that no antennas will be mounted higher than 6 meters above the ground or a building. With respect to any tower structure, Motorola certifies that it will not increase the height of the structure. In sum, Motorola certifies that it will restrict construction under its experimental authorization to ensure compliance with FCC and Federal Aviation Administration ("FAA") antenna requirements.

Item 10: Narrative Statement

See discussion under "Introduction and Background" above.

Item 13: Equipment to Be Installed

The section above entitled "Introduction and Background" describes the equipment to be installed under the authority requested in this application. Motorola seeks authority to operate a sufficient number of units as discussed below to complete performance, functionality, acceptance and market testing of its products.

Item 19: Owner and Operator of Equipment

Motorola understands that the FCC permits (1) companies to enter into agreements and contracts to manufacture new products and (2) manufacturers to sell, but not deliver, products on a conditional basis to wholesalers and retailers. Motorola also understands that the FCC permits the operation of prototype devices for, among other things, compliance testing, demonstration at trade shows and other exhibitions with appropriate notices displayed, and evaluation of product performance and customer acceptability at the manufacturer's facilities or at certain non-residential sites during the developmental, design and pre-production stages. See Marketing Rule Revisions, § 2.803; Part 15 Revisions, 6 FCC Rcd 1683, 1685 (1991).

Notwithstanding these general rules, the FCC requires parties to seek authorization (1) to use devices that normally require a license to operate; (2) to operate and lease units at residential locations or environments; and (3) to sell and deliver products to entities engaged in the design and development of prototypes. Such authority may be granted under the FCC's experimental rules set forth in Part 5 of the Code of Federal Regulations, 47 C.F.R. Part 5 (1995).

Accordingly, Motorola seeks an experimental license to conduct limited market studies as permitted under Sections 5.202(j), 5.202(k), and 5.206 of the Commission's rules. 47 C.F.R. §§ 5.202(j), 5.202 (k), 5.206 (1995). Those rules permit companies to conduct such studies, as well as to distribute and lease prototype devices, provided that: (1) participants are advised that the service or device is granted under experimental authority and is strictly temporary; and (2) the devices are owned by the licensee. Such authority will allow Motorola to conduct experimentation at locations that, at least for mobiles, could involve residential environments. The nature of the services and devices associated with cellular and PCS services typically involve such usage and therefore should be tested at these user locations.

Motorola also seeks authority to sell and deliver devices to entities engaged in the design and development. Indeed, it has been Motorola's experience that companies are reluctant to participate in joint development without tangible leasehold or property rights in the devices being developed. For example, some companies will not participate in the necessary research and development funding without business, economic or accounting interests. Others require a property interest in the equipment before they will test devices that are delivered to them for research and development.

Many of the consumer products Motorola manufactures are typically sold in quantities of hundreds of thousands. In fact, the potential market for its products includes over ten million consumers that currently subscribe to cellular and cellular-like services in the United States. To obtain accurate data, Motorola must employ a sufficient number of units during its studies to simulate actual usage. It expects that it will be able to complete such studies with a maximum of 50 base stations and 450 mobiles per product generation. These numbers are intended to reflect the maximum number of unapproved units that will be in operation at any given time. In other words, before Motorola begins to experiment on a new product, it generally will have

obtained approval for certain existing products under experimentation or it will have recalled those products and ceased operation. As required, Motorola would seek separate and specific authority if more units are needed to conduct a particular study.

Motorola recognizes that the operation of any unapproved device under experimentation must not cause harmful interference to authorized facilities. Should interference occur, Motorola will take reasonable steps to resolve the interference, including if necessary arranging for the discontinuance of operation. To that end, Motorola would advise entities receiving the equipment that permission to operate the equipment has been granted under experimental authority issued to Motorola and that operation is subject to the condition that the equipment may not cause harmful interference. Accordingly, Motorola proposes to label the equipment or user information conspicuously as follows:

FCC STATEMENT

Permission to operate this device has been granted under experimental authority issued by the Federal Communications Commission to Motorola, Inc., is strictly temporary, and may be cancelled at any time. Operation is subject to the following two conditions (1) this device may not cause harmful interference and (2) this device must accept any interference received including interference that may cause undesired operation.

This device has not been approved by the FCC and is not, and may not be, offered for sale or sold until the approval of the FCC has been obtained. Thus, the user does not hold a property right in the device and may be required to return the device. However, this device may be marketed in limited quantities to certain entities involved in design and development.

In any event, Motorola submits that its experimental operations are unlikely to cause interference. First, Motorola plans to coordinate its operations with existing licensees in the areas of proposed operation. Indeed, it expects that many of its experiments will be conducted on behalf of and with the cooperation of existing licensees. Second, Motorola intends to monitor use of the relevant frequencies before commencing transmissions, and it will not operate if the frequencies are in use.

Furthermore, if necessary, Motorola would be prepared to file semi-annual progress reports to advise the FCC of the specifics of its experimentation, including the actual number of units tested and the actual number of unapproved units remaining in the field. As noted above, however, at no time would that number be greater than 500 units.

Item 20: Contacts for Inquiries

Technical Contacts:

In Fort Worth:

Mr. Ronald C. Johnson
Senior Resource Manager
Cellular Infrastructure Group
Personal Communications Division
Ft. Worth Research &
Development Center
5555 North Beach Street
Ft. Worth, Texas 76137
Phone: (817) 245-6231
Fax: (817) 245-6906

In Arlington Heights:

Mr. Neal J. Campbell
Senior Resource Manager
Cellular Infrastructure Group
Digital Systems Division, CIG
1441 West Shure Drive
Arlington Heights, IL 60004
Phone: (847) 632-4660
Fax: (847) 435-9970

Legal Contacts:

David E. Hilliard, Esq.
(david_hilliard@wrf.com)
Kurt E. DeSoto, Esq.
(kurt_desoto@wrf.com)
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
Phone: (202) 429-7000
Fax: (202) 429-7207

III. REQUEST FOR CONFIDENTIALITY

Pursuant to Section 0.459(b) of the Commission's Rules, 47 C.F.R. § 0.459(b) (1995), Motorola requests that the information in this application and any associated correspondence be withheld from public inspection and be treated confidentially. This request is made under the provisions of Section 0.457(d) of the Commission's Rules, 47 C.F.R. § 0.457(d) (1995), and Section 552(b)(4) of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), which permit the withholding from public disclosure of "trade secrets and commercial or financial information obtained from any person and privileged or confidential." 47 C.F.R. § 0.457(d)(1995; see also Gulf & Western Industries, Inc. v. United States, 615 F.2d 527, 529 (D.C. Cir. 1979).

The information for which confidential treatment is sought clearly contains trade secrets. See Kewanee Oil Co. v. Bicron Corp., 416 U.S. 470, 474-75 (1974); Public Citizen Health Research Group v. FDA, 704 F.2d 1280 (D.C. Cir. 1983). For example, the request provides certain particulars regarding the types of equipment involved, as well as information regarding the status of the testing, manufacturing and marketing of such devices.

Moreover, the information is "confidential." As noted in Section 0.457(d) of the Commission's Rules, the agency may withhold "materials which would not customarily be released to the public by that person" supplying the information. 47 C.F.R. § 0.457(d) (1995). The United States Court of Appeals for the District of Columbia Circuit has determined that such material "is 'confidential' for purposes of the exemption if disclosure of the information is likely to have either of the following effects: (1) to impair the government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained." National Parks & Conservation Ass'n. v. Morton, 498 F.2d 765, 770 (D.C. Cir. 1974) (footnote omitted); see also Critical Mass Energy Project v. NRC, 975 F.2d 871 (D.C. Cir. 1992), cert. denied, 113 S.Ct. 1579 (1993).

While Motorola's participation in certain new and innovative communications initiatives have received publicity, the specific information and details discussed in this application will not be released to the public. If such specific information were released prematurely, Motorola's competitive position would be harmed substantially. Motorola has kept, and intends to keep, this information confidential, i.e., non-affiliated third parties will not routinely be granted access to information contained therein. If the FCC were to make this information or the associated correspondence public, Motorola's

competitors would gain the benefit of its testing, manufacturing and marketing plans. Under these circumstances, it is "virtually axiomatic" that the information qualifies for withholding under Exemption 4. National Parks & Conservation Ass'n v. Kleppe, 547 F.2d 673, 684 (D.C. Cir. 1976).

Should the agency determine that it cannot grant confidentiality, however, Motorola requests at a minimum that any FCC correspondence not indicate the type and functionality of the products involved.

In accordance with the FCC's Fee Schedule (Fee Type Code "EAE"), a check for \$90.00 is enclosed. The filing fee is \$45.00 for the application for license and \$45.00 for the confidentiality request.

III. CONCLUSION

Motorola submits that grant of this application will serve the public interest, convenience and necessity, as it would allow Motorola to enhance its ability to develop innovative products to support the information needs of the public.

FCC FORM 442

FOR
FCC
USE
ONLY

APPLICATION FOR NEW OR MODIFIED RADIO STATION AUTHORIZATION UNDER PART 5
OF FCC RULES - EXPERIMENTAL RADIO SERVICE (OTHER THAN BROADCAST)

SECTION I

APPLICANT NAME (Last, first, middle initial)

Motorola, Inc.

MAILING ADDRESS (Line 1) (Maximum 85 characters - refer to Instruction (2) on reverse of form)

5555 N. Beach Street

MAILING ADDRESS (Line 2) (if required) (Maximum 85 characters)

CITY

Ft. Worth

STATE OR COUNTRY (if foreign address)

Texas

ZIP CODE

76137

CALL SIGN OR FILE NUMBER

Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in FCC Fee Filing Guides. Enter in Column (B) the Fee Multiple, if applicable. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number entered in Column (B), if any.

(A)

(B)

(C)

FEE TYPE CODE

FEE MULTIPLE
(if required)

FEE DUE FOR FEE TYPE
CODE IN COLUMN (A)

FOR FCC USE ONLY

(1)

E

A

E

2

\$ 90.00

SECTION II

— To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.

(A)

(B)

(C)

FEE TYPE CODE

FEE MULTIPLE
(if required)

FEE DUE FOR FEE TYPE
CODE IN COLUMN (A)

FOR FCC USE ONLY

(2)

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(3)

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(4)

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(5)

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\$

ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (5), AND ENTER THE TOTAL HERE.
THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE.

TOTAL AMOUNT REMITTED
WITH THIS APPLICATION
OR FILING

\$ 90.00

FOR FCC USE ONLY

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
EXPERIMENTAL
RADIO STATION CONSTRUCTION PERMIT
AND LICENSE

DRAFT

EXPERIMENTAL
 (Nature of Service)

X X X X X X
 (Call Sign)

XD FX & MO
 (Class of station)

XXXX-EX-PL-97
 (File number)

NAME MOTOROLA, INC.

Within the United States

(Location of Station)

Subject to the provisions of the Communications Act of 1934, subsequent acts, and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions and requirements set forth in this license, the licensee hereof is hereby authorized to use and operate the radio transmitting facilities hereinafter described for radio communications.

Frequency (MHz)	Authorized Power (watts)	Emission Designator
806-849	500 (ERP)	(1)
851-894	500 (ERP)	(1)
896-902	500 (ERP)	(1)
1850-1910	500 (ERP)	(1)
1910-1930	(2)	(1)
1930-1990	500 (ERP)	(1)
1990-2200	500 (ERP)	(1)

Operation: In accordance with Sec. 5.202(d), (f), (g), (i), and (j) and (k) of the Commission's Rules.

This authorization is granted for the purpose of testing, demonstrating, operating, and leasing a limited number of prototype cellular service and personal communications service ("PCS") devices as described in the application.

Participants in the experiment shall be informed that permission to operate the devices is granted under experimental authority, is strictly temporary and may be cancelled at any time. The equipment must be identified as "not approved by the Federal Communications Commission" and that the device "is not, and may not be, offered for sale or sold until the approval of the FCC has been obtained." These devices may be marketed in limited quantities to entities involved in design and development.

SPECIAL CONDITIONS:

- (1) Licensee is authorized to use various modes of modulation, bandwidth and data rates. None of these modes of transmission shall extend beyond the band limits set forth above.
- (2) Licensee must comply with the FCC requirements governing experimental operation of low-power, unlicensed PCS devices. See Public Notice, Mimeo No. 61800 (Mar. 1, 1996)
- (3) The station identification requirements of Section 5.152 of the Commission's rules are waived.

WITHHOLD FROM PUBLIC

This authorization effective March XX, 1997 and
 and will expire 3:00 A.M. EST March XX, 1999.

**FEDERAL
 COMMUNICATIONS
 COMMISSION**

DRAFT

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M Street NW
Washington, DC 20554

61800

News media information: 202-418-0500. Recorded listing of releases and texts: 202-418-2222.
Releases and text also available on the Internet via anonymous FTP (<ftp://ftp.fcc.gov>) and WWW (<http://www.fcc.gov>).

March 1, 1996

Experimental Licenses in the 1910 - 1930 MHz Band

The Commission has allocated the 1910 - 1930 MHz band for exclusive use by unlicensed Personal Communications Service (UPCS) devices. Part 15, Subpart D of the Commission's rules, sets forth limits for the transmit power of these devices. In addition, the rules state that UTAM, Inc. will manage the transition from microwave use of the band to UPCS devices.

Currently, a number of experimental licenses include authorization for use of the 1910 - 1930 MHz band. Many of these licenses involve much higher power than is allowed under Part 15. For example, some license-holders of broadband PCS licenses wish to conduct propagation testing in this band, due to the lower concentration of incumbent microwave licensees.

At least one UPCS device has been certified by the FCC's laboratory in Columbia, MD and several other certification applications are pending. In its letter dated February 1, 1996 to the Commission, UTAM indicates that the sale and installation of UPCS devices is now beginning. UTAM is concerned that testing of equipment that does not conform to the spectrum etiquette developed for UPCS can shut down a properly deployed UPCS device; and that, in addition, such testing could cause interference to incumbent microwave operations in the UPCS band. UTAM states that "particularly during the early period, public perception of the utility and reliability of UPCS products is critical. Random shut-downs or microwave incumbent complaints (either of which could result from the testing of equipment other than UPCS devices) could cause irreparable harm and prevent this industry from bringing its full benefits to the public."

Accordingly, the Commission will no longer grant experimental licenses authorizing use of the 1910 - 1930 MHz band, except for applications involving low power, unlicensed PCS devices. These authorizations will be conditioned to require notification to UTAM of the intended operation. In addition, current licensees authorized to use the 1910 - 1930 MHz band must terminate any operations in this band that are not consistent with use of the spectrum for UPCS, effective immediately. Such termination of operations in the Experimental Radio Service is consistent with the provisions in Part 5 of the rules. This notice will be followed by letters to appropriate licensees.

WILEY, REIN & FIELDING

1776 K STREET, N. W.
WASHINGTON, D. C. 20006
(202) 429-7000

March 7, 1997

WRITER'S DIRECT DIAL NUMBER
(202) 429-7235

FACSIMILE
(202) 429-7049

CONFIDENTIALITY REQUESTED

Federal Communications Commission
Experimental Radio Services
P.O. Box 358320
Pittsburgh, PA 15251-5315

Re: Motorola, Inc.
Application for Authorization to Operate
Experimental Radio Facilities Under Part 5

To the Commission:

On behalf of Motorola, Inc., transmitted herewith is an application on FCC Form 442 seeking authorization to operate Experimental Radio facilities under Part 5 of the Commission's Rules. This authorization is intended in part to replace Motorola's Special Temporary Authorization issued under call sign KF2XJE, File No. S-2539-EX-96.

In accordance with the FCC's Fee Schedule (Fee Type Code "EAE"), a check for \$90.00 is enclosed. The filing fee is \$45.00 for the application for license and \$45.00 for the confidentiality request.

Please call me at (202) 429-7235 or David E. Hilliard at (202) 429-7058 should you have any questions concerning this matter.

Respectfully submitted,



Kurt E. DeSoto
Counsel for Motorola, Inc.

Enclosures

FEDERAL COMMUNICATIONS COMMISSION

Experimental Licensing Branch

2000 M Street, N.W., Suite 230

Washington, D.C. 20554

In reply refer to:

NH, Rm 264-A

MS 1300-E1

Motorola, Inc.
5555 N. Beach Street
Ft. Worth, TX 76137

**RE: Experimental Radio Services
(Part 5 of the FCC Rules)**

Dear Mr. Johnson:

The Experimental Licensing Branch hereby acknowledges receipt of your application for experimental authority filed on FCC Form 442 received 3/7/97.

The file number assigned to your application is 5677-EX-PL-97. Please allow approximately 90 days for processing of your filing.

Thank you,

Nancy Hey

**Nancy Hey,
Information Technician
Experimental Licensing Branch**

RECEIVED

APR 28 1997

Federal Communications Commission
Office of Secretary

WILEY, REIN & FIELDING

1776 K STREET, N. W.
WASHINGTON, D. C. 20006
(202) 429-7000

WRITER'S DIRECT DIAL NUMBER
(202) 429-7235

April 28, 1997

FACSIMILE
(202) 429-7049

Federal Communications Commission
Experimental Radio Services
Office of Engineering and Technology
2000 M Street, N.W., Room 230
Washington, D.C. 20554

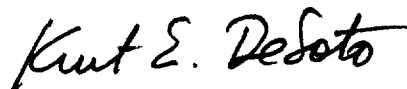
Re: Motorola, Inc.
Amendment to Application Filed March 7, 1997,
for Authorization to Operate Experimental
Radio Facilities Under Part 5

To the Commission:

On behalf of Motorola, Inc., transmitted herewith is an amendment to its application filed March 7, 1997, seeking authorization to operate Experimental Radio facilities under Part 5 of the Commission's Rules.

Please call me at (202) 429-7235 or David E. Hilliard at (202) 429-7058 should you have any questions concerning this matter.

Respectfully submitted,



Kurt E. DeSoto
Counsel for Motorola, Inc.

Enclosure

cc: Douglas Young, FCC



MOTOROLA

RECEIVED

APR 28 1997

**Federal Communications Commission
Office of Secretary**

Federal Communications Commission
Experimental Radio Services
Office of Engineering and Technology
2000 M. Street, N.W., Room 230
Washington, D.C. 20554

Re: Amendment to Application Filed March 7, 1997
for Authorization to Operate Experimental
Radio Facilities Under Part 5

April 17, 1997

To the Commission:

Motorola, Inc., hereby amends the above-referenced application to withdraw the request for confidentiality contained therein. Motorola has determined that confidentiality is not needed at this time, but reserves the right to seek such treatment should it be necessary for any additional information that may be required by the Commission.

Should you have any questions concerning this matter, please call me at (817) 245-6231 or our FCC counsel, David E. Hilliard or Kurt E. DeSoto of Wiley, Rein & Fielding at (202) 429-7000.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ronald C. Johnson'.

Ronald C. Johnson
Senior Resource Manager
Cellular Infrastructure Group
Personal Communications Division
Ft. Worth Research & Development Center
Motorola, Inc.