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October 28, 2010

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Dr. Rashmi Doshi, Chief  
Laboratory Division  
Office of Engineering and Technology  
Federal Communications Commission  
7435 Oakland Mills Road  
Columbia MD 21046

**Re: FCC ID UYXRSK2010-01  
Correspondence Reference Number 91412**

Dear Dr. Doshi:

On behalf of ReconRobotics, Inc., I respond to the letter of October 14, 2010, sent to you by Christopher D. Imlay, Esq., General Counsel, ARRL ("ARRL Letter").

Most of the ARRL Letter merely repeats the same allegations raised in ARRL's October 4 letter. The arguments do not improve with repetition. ReconRobotics has already responded to the points having any bearing on the certification. We will not go over the same ground here.

ARRL raises a new matter, however. ARRL now tells us, for the first time, that it rests its challenge to the certification on Section 2.939.<sup>1</sup> That provision authorizes the Commission to revoke a certification on any of four specified grounds:

- (1) For false statements or representations made either in the application or in materials or response submitted in connection therewith . . . .

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<sup>1</sup> ARRL Letter at 2.

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- (2) If upon subsequent inspection or operation it is determined that the equipment does not conform to the pertinent technical requirements or to the representations made in the original application.
- (3) If it is determined that changes have been made in the equipment other than those authorized by the rules or otherwise expressly authorized by the Commission.
- (4) Because of conditions coming to the attention of the Commission which would warrant it in refusing to grant an original application.<sup>2</sup>

ARRL states: “Each of these circumstances exists with respect to the ReconRobotics TCB grant of equipment authorization.”<sup>3</sup> This is wrong, on all counts.

As to paragraph (1) of the quoted rule, ARRL’s statement constitutes an accusation that ReconRobotics has made false statements or representations to the Commission. ReconRobotics vehemently and unconditionally denies this. We note also that to make a “materially false, fictitious, or fraudulent statement or representation” to the Commission would be a felony under federal law,<sup>4</sup> in addition to a violation of Commission rules.<sup>5</sup> We trust ARRL does not seek to escalate this dispute into a criminal accusation.

As to paragraph (2), ARRL’s only complaint about “conform[ance] to the pertinent technical requirements” is the use of less power and less bandwidth than the waiver allows. This is entirely consistent with the waiver. Vast numbers of radio devices are certified to use less power and/or bandwidth than their respective rules permit. No one doubts their certifications on that account.

As to paragraph (3) ARRL has not alleged unauthorized changes to the equipment, and in fact there have been none.

As to paragraph (4), for the reasons spelled out in our letter of October 8, nothing that ARRL has raised would warrant refusal to grant the original application.

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<sup>2</sup> 47 C.F.R. § 2.939. The rule contemplates the Commission acting on its own motion. Nothing in the language invites input from the public.

<sup>3</sup> ARRL Letter at 2.

<sup>4</sup> 47 U.S.C. § 1001(a).

<sup>5</sup> 47 C.F.R. § 1.17.

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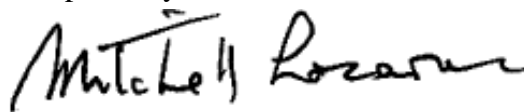
ARRL left off quoting Section 2.939 after paragraph (a), but the rule continues: “Revocation of an equipment authorization shall be made in the same manner as revocation of radio station licenses.”<sup>6</sup> Even if the Equipment Authorization Branch were to accept ARRL’s arguments as invalidating the certification, it could not simply cancel the certification, as ARRL appears to suppose, beyond thirty days after the grant.<sup>7</sup> The Commission would have to follow the hearing procedures mandated in Section 312 of the Communications Act.

ARRL mocks both ReconRobotics’ willingness to accept corrections to the certification, and also our noting that a “good-faith disagreement over the appropriate description [of bandwidth or frequency range] . . . is no reason to invalidate the certification.”<sup>8</sup> ARRL’s specific allegations, taken at face value, add up to a quest for consistency between waiver and certification. Were that in fact its motivation, ARRL should welcome a swift resolution.

But as we explained previously, ARRL has sought to derail and delay ReconRobotics at every possible stage. Having failed to persuade the Commission in the proper forum—the waiver proceeding—ARRL went on to attack the operating applications, and now the certification. Its goal here is to circumvent carefully-considered Commission policy by puffing up a minor and harmless difference on how best to describe the properties of a novel technology.

We ask the Commission to dismiss ARRL’s letters as procedurally improper, or to deny them on the merits.

Respectfully submitted,



Mitchell Lazarus

cc: Office of the Secretary, FCC (original and 4 copies)  
Andrew Leimer, FCC  
Christopher D. Imlay, Esq., General Counsel, ARRL

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<sup>6</sup> 47 C.F.R. § 2.939(b).

<sup>7</sup> 47 C.F.R. § 1.108.

<sup>8</sup> ARRL Letter at 3, 5. ARRL quotes the latter passage selectively.