

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of

Rubard LLC d/b/a Centmobile

Streamlined International Section 214
Application

File No. ITC-214-20120518-00134

OPPOSITION TO PETITION TO DENY

I. Background

On May 18, 2012, Rubard LLC (doing business as “Centmobile”) filed an application for authority to provide international global facilities-based and resale services to all international points, pursuant to 47 U.S.C. § 214.¹ At the time of filing, Centmobile had been providing international telecommunications services without prior authorization for approximately fourteen months. Centmobile regrets this error, and is committed to meeting its past and present obligations—indeed, this is the reason for its present application. The application that Centmobile submitted did not hide this fact, and was in all respects truthful.

Nevertheless, on June 20, 2012, a Centmobile competitor named Stanacard, LLC filed a Petition to Deny Centmobile’s Section 214 application.² With only the barest outline of proof,

¹ *In the Matter of Rubard LLC d/b/a Centmobile*, International Section 214 Application, File No. ITC-214-20120518-00134 (Jun. 20, 2012) (“Centmobile Application”).

² *In the Matter of Rubard LLC d/b/a Centmobile*, Petition to Deny International Section 214 Application of Rubard LLC d/b/a Centmobile, File No. ITC-214-20120518-00134 (May 18, 2012) (“Stanacard Petition”).

Stanacard attempted to show that Centmobile had (1) misrepresented its ownership in its application, (2) misrepresented its address in its application, and (3) failed to comply with its regulatory obligations for two and a half years. None of these allegations are true, and the conclusions to which Stanacard has leapt suggest that Stanacard's motives are suspect. As the Stanacard Petition notes, there is a history between the two companies.³ The Commission should ignore Stanacard's assertions, and grant Centmobile's Section 214 application to further the public interest in competitively-provided international calling services to consumers.

II. Centmobile Did Not Misrepresent its Ownership.

47 U.S.C. § 63.18(h) requires applicants for Section 214 international authorization to list all persons who hold a 10% or greater interest in the applicant. Centmobile's Section 214 application states that the only person who owns 10% or more of Centmobile is Alexander Dzerneyko. This is accurate.⁴

To challenge this statement, Stanacard submitted with its Petition a document dated January 25, 2011, showing that a man named Artur Zaytsev—who previously worked for Stanacard and now works for Centmobile—had full ownership of Centmobile as of January 2011.⁵ The document that Stanacard submitted accurately reflects Centmobile's ownership as of January 2011. However, the conclusion to which Stanacard leaps from this document—that Zaytsev remains a 10% or greater owner of Centmobile or that there was an unsanctioned transfer of control—is wrong.

³ See Stanacard Petition at 5.

⁴ See Declaration of Alexander Dzerneyko ("Declaration"), ¶ 2.

⁵ See Stanacard Petition at Ex. 1.

On February 17, 2011, Zaytsev transferred 90.1% of his interest in Centmobile to Dzerneyko.⁶ Since then, Dzerneyko has remained the only owner of 10% or more of Stanacard.⁷ Stanacard correctly surmises that Centmobile did not seek approval from the Commission for this transfer—but this is because Centmobile was not yet authorized to provide international common carrier telecommunications services.⁸ It was not until two months after the transfer, in April 2011, that Centmobile was approved for a merchant account and began providing common carrier telecommunications services through that account.⁹

Centmobile's representations with regard to its ownership are accurate, and the Commission should ignore Stanacard's unsupported suggestions to the contrary.

III. Centmobile Did Not Misrepresent its Address.

Section 63.18(a) and (c) also require Section 214 applicants to provide an address for the applicant and for its contact point. The address that Centmobile provided for both of these was a post office box in Sioux Falls, South Dakota, where Centmobile has regularly received correspondence since early 2011.¹⁰ This address is associated with a commercial provider who opens Centmobile's mail, scans it, and transfers the images electronically to Centmobile.¹¹

⁶ See Declaration at Ex. A.

⁷ *Id.* at ¶ 2.

⁸ See 47 C.F.R. § 63.24(a), which provides “an international section 214 *authorization* may be assigned, or control of such an *authorization* may be transferred... only upon application to and prior approval by the Commission” (emphasis added).

⁹ Declaration at ¶ 7.

¹⁰ Centmobile Application at 1–2; Declaration at ¶ 6.

¹¹ *Id.* at ¶ 6.

Stanacard accurately identifies the South Dakota address as not being the physical address for Centmobile—it is, after all, a post office box. However, Stanacard then asserts that providing this address was “a clear misrepresentation designed to conceal,” with the purpose of “making Centmobile difficult to reach,” and “leav[ing] the public at large without recourse for any future problems with the Applicant.”¹²

Stanacard’s assertion is misleading. First, Centmobile regularly receives correspondence at the South Dakota address,¹³ and in fact received notice of Stanacard’s Petition to Deny at that address. The South Dakota address is a good working address for Centmobile, and Stanacard identifies nothing in the regulations or the Commission’s precedent suggesting that it is inappropriate to list a valid remote address in a Section 214 petition.¹⁴ Nevertheless, Stanacard attempts to show Centmobile’s alleged bad intent in listing the South Dakota address by *citing to the address listed on the contact page of Centmobile’s public website*. If it were Centmobile’s intent to hide from the Commission or the public, it would not provide an address on its website. Moreover, Centmobile’s website has a function for consumers to contact them, providing the public with means to reach Centmobile on future problems. Stanacard’s assertions are baseless, and the Commission should ignore them.

¹² Stanacard Petition at 7.

¹³ See Declaration at ¶ 6.

¹⁴ Ironically, Stanacard itself uses a similar P.O. Box address on its FCC Form 499-A Telecommunications Reporting Worksheet despite its argument that the P.O. Box is inappropriate and misleading (*see* <http://apps.fcc.gov/cgb/form499/499detail.cfm?FilerNum=827594> (“Customer Inquiries Address: Box 119386536 Sioux Falls, SD 57186”).

IV. Centmobile Does Not Have a “Longstanding Pattern” of Violating the Commission’s Rules.

Finally, Stanacard maintains that Centmobile has provided telecommunications service “for over two years” without meeting its regulatory obligations.¹⁵ To be clear, Centmobile has made no secret of the fact that it provided international telecommunications for approximately fourteen months before filing for Section 214 authorization. To ensure it becomes compliant with its obligations, Centmobile has retained counsel, and obtained a Filer 499 ID before Stanacard filed its Petition. But based on only two data points—the date of formation for Rubard LLC and the copyright date on Centmobile’s website—Stanacard concludes that Centmobile has been providing telecommunications services for twice this time.¹⁶ Of course, formation of an entity does not equate with the provision of telecommunications services, nor does the listing of a copyright date on a website. As noted above, Centmobile was not even approved until April 2011¹⁷ for a merchant account, a practical pre-requisite for broad sales to the general public. Here, as throughout its Petition, Stanacard reaches a conclusion that is unsupported by its factual submissions. Stanacard’s allegation is false, and the Commission should ignore it.

V. Centmobile Has the Necessary Character and Citizenship Qualifications to Hold an International Authorization.

The Commission requires that applicants for international authorization certify that they would not be subject to a denial of Federal benefits under the Anti-Drug Abuse Act. Mr. Dzerneyko accurately so certified. Centmobile has not engaged in “willful and repeated violations of Commission rules”, as Stanacard has stated without support. Centmobile has the

¹⁵ Stanacard Petition at 9.

¹⁶ *Id.* at 8.

¹⁷ *See* Declaration at ¶ 7.

requisite character qualifications to hold a Section 214 authorization. Moreover, Commission precedent and policy provide a presumption in favor of licensing international providers, in order to increase the number of competitors and to provide more choice to consumers.

Stanacard states it is “highly possible” – without any attempt of substantiation – that Mr. Zaytsev is a non-U.S. citizen and that his ownership may have been deliberately withheld from the Commission to evade review.¹⁸ Both Mr. Dzerneyko and Mr. Zaytsev, who continues to serve as an officer for Centmobile, are United States citizens.¹⁹ As noted above, at the time of filing the application, Zaytsev’s interest was below 10% and the Commission’s Rules do not require information on such minor interests.²⁰ The attempt to foment an additional, time-consuming review by other federal agencies is a classic example of “raising rivals’ costs”. Such anticompetitive behavior should not be countenanced, especially at a time when all federal agencies are facing reductions in their operating budgets.

VI. Conclusion

Centmobile has been forthright in its Section 214 application—and it has been likewise forthright in its commitment to remediate its compliance with the Commission’s Rules. By contrast, Stanacard has taken advantage of this proceeding to scrape together bits of documentary evidence and use them to make false allegations against Centmobile. As a Commission licensee, Stanacard has a duty of candor to make truthful statements to the Commission in adjudicatory

¹⁸ Stanacard Petition at n. 17. Since Mr. Zaytsev is a former employee of Petitioner, Stanacard would presumably know that he is a U.S. citizen.

¹⁹ Declaration at ¶¶ 3-5.

²⁰ See §63.18(h).

matters.²¹ Rule 63.20, under which Stanacard filed its Petition, itself has a requirement for truthfulness, requiring that allegations be supported by “an affidavit of a person with personal knowledge thereof.” Stanacard’s assertions against Centmobile do not meet this requirement, and themselves violate the Commission’s Rules. Stanacard has misrepresented facts relating to Centmobile in an attempt to exact retribution against a would-be competitor. Stanacard should not be allowed to waste the Commission’s resources by dragging it into a commercial rivalry. That misuse of Commission resources does not further the public’s interest in competitively-provided, affordable international calling services. The Commission should deny Stanacard’s petition, and approve Centmobile’s Section 214 application.

Respectfully Submitted,

RUBARD LLC D/B/A CENTMOBILE



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July 5, 2012

²¹ See §1.17(a)(2) and (b)(2) of the Commission’s Rules.

DECLARATION OF ALEXANDER DZERNEYKO

I, Alexander Dzerneyko, do hereby declare as follows:

1. I am the majority owner and manager of Rubard LLC d/b/a Centmobile ("Centmobile"), a limited liability company organized under the laws of the State of Delaware.

2. I am the only owner of Centmobile with an ownership interest of 10% or greater. This has been the case since February 17, 2011, when Artur Zaytsev and I executed a purchase agreement transferring a 90.1% interest in Centmobile from Mr. Zaytsev to me. A true and accurate copy of that purchase agreement is attached hereto as Exhibit A.

3. I am a U.S. citizen and have not been convicted of any felonies.

4. I have attached hereto as Exhibit B a true and correct copy of my United States passport.

5. I have attached hereto as Exhibit C a true and correct copy of Artur Zaytsev's United States passport showing he is a U.S. citizen. Mr. Zaytsev has told me he has not been convicted of any felonies.

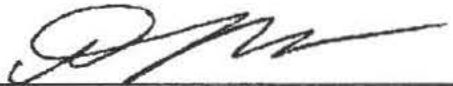
6. The address provided on Centmobile's May 2012 application for authorization to provide international telecommunications services has been used by Centmobile since January 2011. Centmobile has previously received, and continues to receive, bills and financial statements, as well as other mail, at that address. The address is associated with a company that opens Centmobile's mail, scans it to electronic format, and forwards that electronic scan to Centmobile.

7. Centmobile began providing international common carrier telecommunications service in approximately April 2011. On April 4, 2011, Centmobile was first approved for a

merchant account with Chase Bank, which was a practical prerequisite for the broad sale of telecommunications services to the general public.

8. I have attached hereto as Exhibit D copies of the merchant account statements for Centmobile's account that reflect no activity in March 2011, and then initial submissions in April 2011 and additional, increasing submissions in May 2011. The attached statements are true copies of Centmobile's merchant account statements.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.



Alexander Dzemeyko
Executed on July 5, 2012

EXHIBIT A

REDACTED FOR PUBLIC INSPECTION

EXHIBIT B

REDACTED FOR PUBLIC INSPECTION

EXHIBIT C

REDACTED FOR PUBLIC INSPECTION

EXHIBIT D

REDACTED FOR PUBLIC INSPECTION

CERTIFICATE OF SERVICE

I, Berkeley Hirsch, a legal assistant at the Law Offices of Wiltshire & Grannis LLP, do hereby certify that on this 5th day of July, 2012, a copy of the foregoing "Opposition to Petition to Deny International Section 214 Application of Rubard LLC dba Centmobile" was served, by the method described below, upon the following:

By first class U.S. Mail, postage prepaid:

ATTN: Mr. Cheng-Yi Liu
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