

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of)
)
Thrane & Thrane Airtime Ltd.) SES-STA-20060522-00857 (Call Sign E060179)

PETITION TO DENY

Mobile Satellite Ventures Subsidiary LLC (“MSV”) hereby files this Petition to Deny the above-referenced application of Thrane & Thrane Airtime Ltd. (“Thrane & Thrane”) for Special Temporary Authority (“STA”) to operate 5000 Broadband Global Area Network (“BGAN”) terminals using an Inmarsat satellite, Inmarsat 4F2 at 52.75°W, for which coordination is not complete. The application should be denied because operation of additional BGAN terminals will result in harmful interference to MSV’s customers, including critical public safety users, and because there are no “extraordinary circumstances” justifying grant.

Discussion

In the above-referenced application, Thrane & Thrane seeks an STA to operate 5000 BGAN terminals with the uncoordinated Inmarsat 4F2 satellite at 52.75°W beginning on June 2, 2006.¹ On the same day it filed its STA request, Thrane & Thrane filed a request for permanent authority to operate 25,000 BGAN terminals.² MSV has opposed previous applications to operate BGAN terminals because of the interference that will result both to MSV and to Inmarsat from operation of BGAN terminals prior to a coordination agreement. The interference will result from (i) use of Inmarsat 4F2 to operate on the loaned frequencies Inmarsat has refused to

¹ See Thrane & Thrane Airtime Ltd., Request for STA, File No. SES-STA-20060522-00857 (Call Sign E060179) (May 22, 2006) (“*Thrane & Thrane STA Request*”).

² See, e.g., Thrane & Thrane Airtime Ltd., Application, File No. SES-LFS-20060522-00852 (Call Sign E060179) (May 22, 2006).

return;³ (ii) the technically different parameters of Inmarsat's new satellite and services relative to the satellites and services it has coordinated previously, such as the use of wideband carriers, higher aggregate EIRP, and increase in number of co-channel reuse beams;⁴ and (iii) Inmarsat's claim that it is entitled to operate on each and every frequency in the L band.⁵

There are no "extraordinary circumstances" justifying grant of the STA request.⁶ The only justifications provided are "marketing considerations," which the Commission's rules specifically preclude as grounds for granting an STA.⁷ Thrane & Thrane does not seek a waiver of this rule. In fact, Thrane & Thrane provides nothing to justify its STA request other than marketing considerations, such as permitting foreign users of BGAN terminals to also use those terminals in the United States.⁸ Thrane & Thrane claims that an STA is justified because "the Bureau will not be able to complete review" of its application for permanent authority in time for Thrane & Thrane to offer BGAN service immediately.⁹ The statutory thirty-day Public Notice requirement and the Commission's obligation to determine whether grant of an application will serve the "public interest, convenience, and necessity," however, does not create an "extraordinary circumstance" justifying the grant of an STA. 47 U.S.C. § 309(a), (b). Moreover, the Bureau has specifically stated that an applicant must demonstrate that an STA is necessary

³ See Mobile Satellite Ventures Subsidiary LLC, Petition to Hold in Abeyance MVS Application, File No. SES-MFS-20051123-01634 (January 13, 2006) ("*MSV Petition*"), at 11-12; Mobile Satellite Ventures Subsidiary LLC, Reply, File No. SES-MFS-20051123-01634 (February 7, 2006) ("*MSV Reply*"), at 2-7. MSV hereby incorporates by reference these filings in the above-referenced proceeding.

⁴ See *MSV Petition* at 13-17; *MSV Reply* at 7-13.

⁵ See *MSV Petition* at 17; *MSV Reply* at 13-14.

⁶ 47 U.S.C. § 309(f); 47 C.F.R. § 25.120(b)(1).

⁷ The Commission's rules specifically state that "[c]onvenience to the applicant, such as marketing considerations or meeting scheduled customer in-service dates" is not sufficient to demonstrate "extraordinary circumstances." 47 C.F.R. § 25.120(b)(1).

⁸ See *Thrane & Thrane STA Request* at 4.

⁹ See *Thrane & Thrane STA Request* at 2.

“due to circumstances beyond its control.”¹⁰ Thrane & Thrane provides no explanation for why it could not have filed an application to operate BGAN terminals earlier, as five other entities have done.¹¹

Indeed, the only public interest claim Thrane & Thrane makes is that BGAN service will permit higher speed MSS than what is currently available.¹² In fact, the Bureau has already authorized 25,000 BGAN terminals for use in the United States.¹³ Any demand for BGAN service that might exist will be easily met by the currently authorized terminals. Thrane & Thrane has failed to provide any evidence that the number of currently authorized BGAN terminals is insufficient to meet demand. Even if higher speed MSS was not available, it would not outweigh the harm that will result from permitting satellite operators such as Inmarsat to bypass the frequency coordination process and from undermining the Commission’s application process.

To the extent the Bureau grants this STA despite the overwhelming evidence demonstrating that it will not serve the public interest and is not otherwise justified, the Bureau should apply the same conditions it imposed on other BGAN STA grants, along with the clarifications requested by MSV.¹⁴ These conditions are essential to help mitigate the harmful interference that will result to MSV’s customers from uncoordinated BGAN operations in the

¹⁰ See *Public Notice*, DA 87-1311 (September 25, 1987).

¹¹ See, e.g., Stratos Communications, Inc., Application, File No. SES-LFS-20050826-01175 (August 26, 2005); Telenor Satellite, Inc., Application, File No. SES-LFS-20050930-01352 (September 30, 2005); FTMSC US, LLC, Application, File No. SES-LFS-20051011-01396 (October 11, 2005); MVS USA, Inc., Application, File No. SES-LFS-20051123-01634 (November 23, 2005); BT Americas, Inc., Application, File No. SES-LFS-20060303-00343 (March 3, 2006).

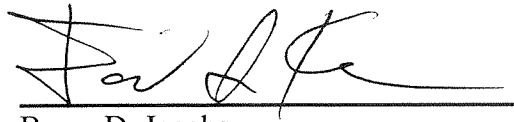
¹² *Thrane & Thrane STA Request* at 3.

¹³ See, e.g., Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20060310-00419 (filed March 10, 2006; granted with conditions on May 12, 2006).

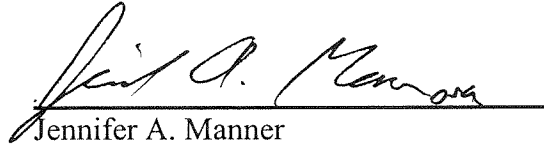
¹⁴ See Letter from Ms. Jennifer A. Manner, MSV, to Ms. Marlene H. Dortch, FCC, File No. SES-STA-20060310-00419 et al (May 26, 2006) (attached as Exhibit A).

United States. The clarifications requested by MSV are vital to improve the effectiveness of these conditions.

Respectfully submitted,



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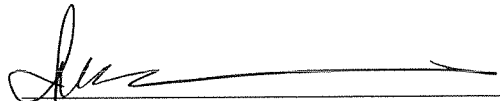
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(703) 390-2700

Dated: May 26, 2006

Declaration of Jennifer A. Manner

1. I am the Vice President, Regulatory Affairs of Mobile Satellite Ventures Subsidiary LLC.
2. I have read the foregoing Petition to Deny.
3. I have personal knowledge of the facts stated in the Petition to Deny. The facts set forth in the Petition to Deny, other than those of which official notice may be taken, are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.


Jennifer A. Manner

Executed on May 26, 2006

Exhibit A

Letter from Ms. Jennifer A. Manner, MSV, to Ms. Marlene H. Dortch, FCC,
File No. SES-STA-20060310-00419 et al (May 26, 2006)

May 26, 2006

Via Hand Delivery

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Mobile Satellite Ventures LP
***Ex Parte* Presentation**
File No. SES-STA-20060310-00419 (Call Sign E050249)
File No. SES-STA-20060313-00430 (Call Sign E050276)
File No. SES-STA-20060314-00438 (Call Sign E050284)
File No. SES-STA-20060315-00445 (Call Sign E060076)
File No. SES-STA-20060316-00454 (Call Sign E050348)

Dear Ms. Dortch:

The May 12, 2006 decisions granting the above-captioned requests for Special Temporary Authority ("STA") to operate Broadband Global Area Network ("BGAN") terminals using an uncoordinated Inmarsat satellite, Inmarsat 4F2 at 52.75°W, contain a number of very important and appropriate conditions that are essential to help mitigate the harmful interference that will result to customers of other L band Mobile Satellite Service ("MSS") operators once Inmarsat begins its uncoordinated BGAN operations. Mobile Satellite Ventures Subsidiary LLC ("MSV") requests that the International Bureau clarify certain of these conditions to improve their effectiveness.

Condition 1. The May 12th decisions require the "downlink EIRP densities" at any geographical point within the United States to not exceed the levels previously authorized in connection with operations of the Inmarsat 3F4 satellite. As it did in limiting the aggregate uplink EIRP density, the Bureau should specify that the downlink EIRP limit is an aggregate limit. The Bureau should also clarify that the aggregate uplink and aggregate downlink EIRP density limits specified in Condition 1 apply in the aggregate to all Inmarsat satellites visible over North America. The condition as written appears to address only the emissions contributed by Inmarsat 4F2 to the aggregate emissions from all of Inmarsat satellites operating over North America. At least some of the frequencies used on the Inmarsat 4F2 at 52.75°W, however, are reused by Inmarsat on its other satellites visible over North America, which operate at 15.5°W, 98°W, 142°W, 143°E, and 178°E. The Bureau should make clear that the aggregate uplink and aggregate downlink EIRP densities from all Inmarsat satellites, including Inmarsat 4F2, must not exceed the level that existed before launch of Inmarsat 4F2.

Conditions 2 and 5. The May 12th decisions impose conditions on Inmarsat's service providers which should apply to Inmarsat as well. In Condition 2, the Bureau specified that BGAN operations are permitted only on a strictly unprotected basis. Because MSV has no means of determining which of the Inmarsat BGAN service providers may be responsible for causing interference to MSV's operations, we urge the Bureau to make clear that upon MSV's notice to Inmarsat of interference, Inmarsat and its service providers are jointly and severally responsible for taking immediate action to rectify any interference. In Condition 5, the Bureau explained that any action taken or expense incurred as a result of operations pursuant to this STA by a BGAN service provider is solely at the service provider's own risk. MSV urges the Bureau to similarly explain that any action taken or expense incurred by Inmarsat as a result of operations pursuant to this STA is solely at its own risk.

Condition 3. The May 12th decisions prohibit the STA holders from operating on certain disputed frequencies. The STA holders, however, do not have access to the specific frequencies covered by this condition. To ensure that the STA holders comply with this condition, MSV urges the Bureau to require each of the STA holders to submit a certification from Inmarsat declaring that Inmarsat has not and will not assign any unauthorized frequencies for operation of the earth stations covered by the STA.

Condition 4. The May 12th decisions require "adequate guard bands" to be provided between the band edges of the carriers used by the BGAN service provider and the band edges of MSV's operations to preclude the possibility of unacceptable interference to MSV's operations. Rather than relying on Inmarsat to determine what constitutes an "adequate guard band," the Bureau should specify a guard band of at least 50 kHz between the band edges of the carriers used by the BGAN service provider and the band edges of MSV's coordinated frequencies. This specification is essential because MSV has already suffered interference from Inmarsat's assignment of inadequate guard bands on other Inmarsat wideband carriers. Based on MSV's initial observation of experimental BGAN signals, a guard band of at least 50 kHz is needed to limit interference to MSV's narrowband carriers to the levels accepted under the Operators' Agreements developed pursuant to the *Mexico City MOU*. While MSV may discover during the course of coordination or from operations pursuant to these STAs that a different guard band is required to protect MSV, specification of a 50 kHz minimum guard band now in advance of coordination will reduce the material risk of harmful interference to MSV's customers while still enabling BGAN service. Moreover, because BGAN operations are permitted only on a strictly unprotected basis, the Bureau should also clarify that the 50 MHz guard band must lie entirely within Inmarsat's coordinated frequency assignments and may not lie within the frequencies coordinated for MSV or MSV Canada.

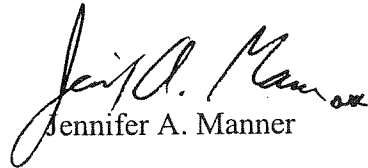
Conditions 6, 7, and 10. In Conditions 6, 7, and 10, the May 12th decisions explain that grant of the STA (i) is not based on a finding, and is without prejudice to any future determination the Commission may make, that Inmarsat's L band operations are consistent with operation on a non-interference basis, and (ii) is without prejudice to disposition of the pending applications for permanent authority to operate BGAN terminals. Consistent with these conditions, the Bureau should also explain that it expects Inmarsat to diligently conclude coordination of its Inmarsat 4F2 satellite with respect to the current and planned operations of

Ms. Marlene H. Dortch
May 26, 2006
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MSV and MSV Canada before it can make a definitive determination that operation of the Inmarsat 4F2 satellite will not result in unacceptable interference and before it can grant the pending applications for permanent authority.

Please contact the undersigned with any questions.

Very truly yours,



Jennifer A. Manner

CERTIFICATE OF SERVICE

I, Sylvia A. Davis, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that on this 26th day of May 2006, I served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

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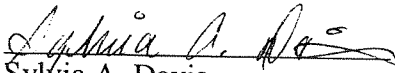
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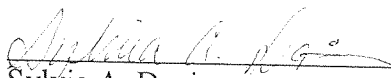
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