



## Discussion

On July 10, 2007, iPass filed a license application for blanket authority to operate 4,000 BGAN terminals with the uncoordinated Inmarsat 4F2 satellite at 52.75°W.<sup>1</sup> Shortly thereafter, on July 16, 2007, iPass filed an STA application to begin operating the 4,000 BGAN terminals on September 1, 2007.<sup>2</sup>

As MSV has demonstrated in filings opposing other parties' applications to operate BGAN terminals, interference will result from (i) use of Inmarsat 4F2 to operate on the loaned frequencies Inmarsat has refused to return,<sup>3</sup> (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;<sup>4</sup> and (iii) Inmarsat's claim that it is entitled to operate on each and every frequency in the L band.<sup>5</sup> Indeed, Industry Canada has recognized in similar proceedings that the unrestricted operation of the uncoordinated Inmarsat 4F2 satellite has a negative impact on the L band coordination process and increases potential interference to North American L band operators.<sup>6</sup> The Bureau's conclusions should be no different here, and it should consequently deny the *iPass STA Request*.

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<sup>1</sup> See Application, File No. SES-LIC-20070712-00933 (Call Sign E070144) (July 10, 2007).

<sup>2</sup> See iPass Request for STA, File No. SES-STA-20070716-00944 (Call Sign E070144) (July 16, 2007) ("*iPass STA Request*").

<sup>3</sup> See MSV Petition to Hold in Abeyance MVS Application, File No. SES-MFS-20051123-01634 (January 13, 2006) ("*MSV Petition*"), at 11-12; MSV 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.

<sup>4</sup> See *MSV Petition* at 13-17; *MSV Reply* at 7-13.

<sup>5</sup> See *MSV Petition* at 17; *MSV Reply* at 13-14.

<sup>6</sup> See, e.g., Letter from Chantel Beaumieur, Director, Space and International Regulatory Activities, Industry Canada, to Lieutenant-Colonel J.J. F La Boissonnière, Director Information Management Technologies, Products and Services 5, National Defence Headquarters (December 6, 2006) (authorizing the Canadian National Defence Headquarters to operate ten BGAN terminals).

In any event, there are no “extraordinary circumstances” justifying a grant of an STA, as required by Section 25.120(b)(1) of the Commission’s rules, 47 C.F.R. § 25.120(b)(1), and iPass does not seek a waiver of this rule. iPass claims that a grant of its STA request is justified because “the Bureau will be unable to complete its review”<sup>7</sup> of its application for permanent authority in time to satisfy the iPass business decision to commence BGAN service by September 1, 2007, less than two months after it submitted its STA application. However, the Commission’s rules specifically state that mere “[c]onvenience to the applicant” is not sufficient to demonstrate “extraordinary circumstances.”<sup>8</sup> Additionally, the contention that the Commission’s evaluation of an application in the ordinary course, in and of itself, creates an “extraordinary circumstance” justifying the grant of an STA is simply absurd.

iPass claims that the public interest will be served by a grant of the STA because its BGAN service will allegedly permit “faster” MSS service to the public.<sup>9</sup> However, the Bureau has already authorized 30,000 BGAN terminals, and iPass fails to provide any evidence that the number of currently authorized BGAN terminals is insufficient to meet current demands. In contrast, publicly available information shows that, as of June 2007, all of Inmarsat’s BGAN distributors combined have activated only approximately 11,782 BGAN terminals worldwide,<sup>10</sup> undermining iPass’s claim that the public interest would be served by the authorization of an additional 4,000 BGAN terminals to an Inmarsat distributor. Moreover, grant of the STA would result in harm to the public interest by allowing satellite operators, such as Inmarsat, to bypass

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<sup>7</sup> See *iPass STA Request* narrative at 1.

<sup>8</sup> 47 C.F.R. § 25.120(b)(1); see also *Public Notice*, DA 87-1311 (September 25, 1987) (party seeking STA must demonstrate “circumstances beyond its control”).

<sup>9</sup> See *iPass STA Request* narrative at 1.

<sup>10</sup> See *Inmarsat Group Limited*, 2007 Form 6-K (August 7, 2007), at 2.

effectively the frequency coordination process and undermine the Commission's application process.<sup>11</sup>

To the extent the Bureau nevertheless grants the *iPass STA Request* 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,<sup>12</sup> along with the clarifications requested by MSV.<sup>13</sup> These conditions are essential to help mitigate the harmful interference that will result to MSV's customers from uncoordinated BGAN operations in the United States, and the clarifications requested by MSV are vital to improve the effectiveness of these conditions.

In addition, as MSV has previously shown, any STA terminal grant should be limited to those issued to "first responders" because the only plausible "extraordinary circumstance" that could justify a grant of the STA is the claim that BGAN terminals would be used to support first responders during an emergency.<sup>14</sup> Indeed, Industry Canada, as a result of concerns regarding the negative impact on the L band coordination process and increases in potential interference to North American L band operators, essentially has adopted just such a restricted approach to the temporary authorization of BGAN service by permitting the operation of only a very few number of terminals and only for critical operations.<sup>15</sup> For the foregoing reasons, MSV submits that if

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<sup>11</sup> See, e.g., MSV Comments, File No. SES-STA-20070619-00833 (Call Sign E050284) (July 6, 2007) *et al.*; MSV, Supplement to Petitions to Hold in Abeyance or to Grant with Conditions, File No. SES-LFS-20050930-01352 (Call Sign E050276) *et al.* (June 18, 2007).

<sup>12</sup> 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).

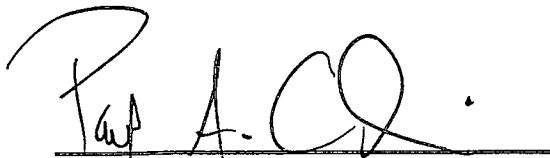
<sup>13</sup> See Letter from Ms. Jennifer A. Manner, MSV, to Ms. Marlene H. Dortch, FCC, File No. SES-STA-20060310-00419 *et al.* (May 26, 2006) (attached as Exhibit A).

<sup>14</sup> See, e.g., MSV Comments, File No. SES-STA-20070619-00833 (Call Sign E050284) (July 6, 2007) *et al.*; MSV, Supplement to Petitions to Hold in Abeyance or to Grant with Conditions, File No. SES-LFS-20050930-01352 (Call Sign E050276) *et al.* (June 18, 2007).

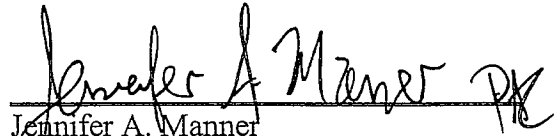
<sup>15</sup> See, e.g., Letter from Chantel Beaumieur, Director, Space and International Regulatory Activities, Industry Canada, to Lieutenant-Colonel J.J. F La Boissonnière, Director Information Management

the Bureau grants the *iPass STA Request*, it should impose similar restrictions because that would best serve the public interest.

Respectfully submitted,



Bruce D. Jacobs  
Tony Lin  
Paul Cicelski  
**PILLSBURY WINTHROP  
SHAW PITTMAN LLP**  
2300 N Street, NW  
Washington, DC 20037-1128  
(202) 663-8000



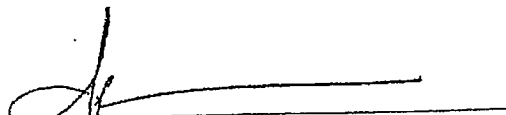
Jennifer A. Manner  
Vice President, Regulatory Affairs  
**MOBILE SATELLITE VENTURES  
SUBSIDIARY LLC**  
10802 Parkridge Boulevard  
Reston, Virginia 20191  
(703) 390-2700

Dated: August 20, 2007

**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 August 20, 2007

**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)**

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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 12<sup>th</sup> 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 12<sup>th</sup> 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 12<sup>th</sup> 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 12<sup>th</sup> 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 12<sup>th</sup> 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

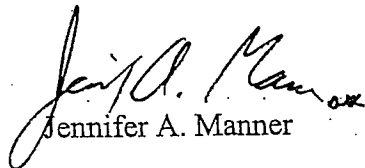
May 26, 2006

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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 Davis, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that on this August 20, 2007, served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

Helen Domenici\*  
International Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Roderick Porter\*  
International Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Gardner Foster\*  
International Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Cassandra Thomas\*  
International Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Scott Kotler\*  
International Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Stephen Duall\*  
International Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Howard Griboff\*  
International Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Andrea Kelly\*  
International Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

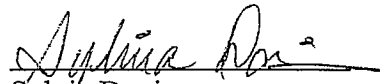
Robert Nelson\*  
International Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Kathryn Medley\*  
International Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Brad Jones  
Legal Counsel  
iPass, Inc.  
3800 Bridge Parkway  
Redwood Shores, CA 94065

Diane J. Cornell  
Vice President, Government Affairs  
Inmarsat, Inc.  
1101 Connecticut Avenue N.W.  
Suite 1200  
Washington, DC 20036

John P. Janka  
Jeffrey A. Marks  
Latham & Watkins LLP  
555 Eleventh Street, N.W.  
Suite 1000  
Washington, DC 20004  
Counsel for Inmarsat, Inc.

  
Sylvia Davis

\*By hand-delivery