

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

FILED/ACCEPTED
OCT - 2 2007
Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Deere & Company) SES-STA-20070924-01310

PETITION TO DENY

Mobile Satellite Ventures Subsidiary LLC (“MSV”) hereby files this Petition to Deny the above-referenced application of Deere & Company (“Deere”) for Special Temporary Authority (“STA”) to operate up to 10,000 receive-only, non-common carrier, mobile earth stations (“METs”) using an Inmarsat satellite, Inmarsat 3F4 at 142°W, for which coordination is not complete.¹ The International Bureau (“Bureau”) should deny the *Deere Application* because (i) Deere’s proposed operation of 10,000 METs using Inmarsat’s uncoordinated 3F4 satellite will likely result in harmful interference to MSV’s customers, including critical public safety users, and (ii) because Deere has demonstrated no “extraordinary circumstances” justifying grant of its STA request. If the Bureau nevertheless grants the *Deere Application*, the Bureau should (i) apply the same non-interference conditions it imposed on other entities using Inmarsat satellites, including Deere, along with the clarifications requested by MSV, and (ii) establish a firm expiration date for these STAs and provide that no further extensions will be granted without Inmarsat first having completed coordination of its satellites with the North American L band operators.

¹ See Deere & Company, Application, File No. SES-STA-20070924-01310 (September 24, 2007) (“*Deere Application*”). As one of the L band Mobile Satellite Service (“MSS”) operators in North America which could be subjected to harmful interference from grant of this application, MSV is a “party in interest” with standing to file the instant Petition. See 47 U.S.C. § 309(d)(1). Moreover, MSV has standing as a competitor in the MSS market. See *FCC v. Sanders Brothers Radio Station*, 309 U.S. 475, 477 (1940).

Discussion

The *Deere Application* seeks authority to operate 10,000 METs with the uncoordinated Inmarsat 3F4 satellite at 142°WL, which has been relocated to replace an uncoordinated Inmarsat 2 satellite at 142°WL. The Inmarsat 3F4 satellite is materially different than the Inmarsat 2 satellite and is more likely both to cause interference to and to suffer interference from other L band systems relative to the Inmarsat 2 satellite. For example, the Inmarsat 2 satellite at 142°WL has a global beam only; the Inmarsat 3F4 satellite has a global beam as well as regional beams. Assuming Inmarsat uses the regional beams on the Inmarsat 3F4 satellite at 142°W, Inmarsat will be required to use additional spectrum because Inmarsat cannot operate regional and global beams using the same frequencies. Even if Inmarsat uses only the global beam of the Inmarsat 3F4 satellite, the Inmarsat 3F4 satellite has a higher aggregate EIRP than the Inmarsat 2 satellite, greatly increasing the possibility of creating harmful interference.² It is well-established that the Bureau will not authorize uncoordinated satellites, like the Inmarsat 3F4, when there is evidence that such harmful interference might occur.³ The Bureau is compelled to follow its precedent here, and should deny the *Deere Application*.

The Bureau should also deny the *Deere Application* because there simply are no “extraordinary circumstances” justifying a grant of the STA request, as required by Section

² Inmarsat and Deere have failed to provide any technical information regarding the operation of the Inmarsat 3F4 satellite at 142°W. They are required to provide this information because the Commission has not previously authorized the operation of the foreign-licensed Inmarsat 3F4 satellite at 142°W, nor does the satellite appear on the Permitted Space Station list. See 47 C.F.R. § 25.137(b); *Amendment of the Commission’s Regulatory Policies To Allow Non-U.S.-Licensed Space Stations To Provide Domestic and International Satellite Service in the United States, Report and Order*, IB Docket No. 96-111, 12 FCC Rcd 24094 (1997), at ¶ 203.

³ See Letter from Thomas S. Tycz, FCC, to Joseph A. Godles, Counsel for PanAmSat, File No. SAT-STA-19980902-00057 (September 15, 1998); *Loral Orion Services, Inc., Order and Authorization*, DA-99-222, 14 FCC Rcd 17665 (October 18, 1999); *BT North America Inc., Order*, DA -00-162, 15 FCC Rcd 15602 (February 1, 2000).

25.120(b)(1) of the Commission's rules, 47 C.F.R. § 25.120(b)(1), and Deere does not seek a waiver of this rule. Deere instead claims that a grant of its STA is justified because "the fall harvest season is now underway."⁴ However, Deere fails to point out that its initial experimental STA to operate METs with Inmarsat 2 expired more than a year ago and Deere provides no explanation for why it waited more than a year after that expiration date to file the current STA request.⁵ The Commission's rules specifically state that mere "[c]onvenience to the applicant" is not sufficient to demonstrate "extraordinary circumstances" and Deere does not claim that the delay in filing its current request was due to "circumstances beyond its control."⁶ As a result, the *Deere Application* must be denied.

To the extent the Bureau nevertheless grants the *Deere Application*, 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 similar STA requests to use Inmarsat satellites,⁷ including Deere's previously filed STA, along with the

⁴ See *Deere Application* narrative at 1.

⁵ See Deere & Company, File No. SES-STA-20060605-00922 (granted August 7, 2006; expired September 13, 2006).

⁶ See 47 C.F.R. § 25.120(b)(1); see also *Public Notice*, DA 87-1311 (September 25, 1987).

⁷ 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). Among other things, the conditions (i) preclude operators from using the loaned frequencies; (ii) require that operations pursuant to the STA be conducted on an unprotected basis; (iii) mandate that certain EIRP densities cannot be exceeded; (iv) ensure that adequate guard bands are provided between the band edges of Inmarsat's carriers and the band edges of MSV's operations in order to preclude the possibility of unacceptable interference to MSV's operations; (v) make clear that grant of the STA is not based on a finding that Inmarsat's L band operations are consistent with operation on a non-interference basis; and (vi) specify that grant of the STA is without prejudice to any future determination that the Commission may make as to whether Inmarsat's L band operations are consistent with operation on a non-interference basis.

clarifications requested by MSV.⁸ Indeed, the Bureau applied a number of conditions on Deer's previously filed experimental STA request to use the Inmarsat 3F4 satellite.⁹

As noted, Inmarsat has not coordinated the operation of its Inmarsat 3F4 satellite at 142°W with MSV or other L band operators. The operation of the Inmarsat 3F4 satellite at 142°W is the latest in a growing number of uncoordinated satellite operations Inmarsat is conducting in North America. As shown above, absent prior coordination, the *Deere Application* poses a significant and material risk of greater interference to other L band operators, including MSV. The conditions previously imposed by the FCC, in conjunction with the implementation of MSV's requested clarifications, are essential to help mitigate the harmful interference that will otherwise result to MSV's customers, including critical public safety users.

Finally, if the Bureau grants the *Deere Application*, it should also establish a firm expiration date for the STAs and provide that no further extensions or renewals will be granted without Inmarsat having first completed coordination of its satellites with the North American L band operators. The Bureau should not countenance repeated STA requests and extensions, which essentially circumvents the normal licensing process.¹⁰ Doing so will only ensure that there are no reasonable prospects that coordination will ever be successfully completed.

⁸ 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).

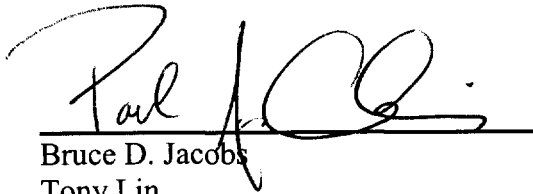
⁹ Deere, Request for Special Temporary Authority, File No. SES-STA-20060605-00922 (filed June 3, 2006; granted with conditions on August 7, 2006).

¹⁰ Indeed, some Inmarsat distributors have been operating pursuant to STAs for well over a year. See, e.g., Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20060310-00419 (Call Sign E050249) (filed March 10, 2006; granted May 12, 2006); Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20060705-01195 (Call Sign E050249) (filed July 5, 2006; granted March 2, 2007); Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20060906-01674 (Call Sign E050249) (filed September 6, 2006; granted March 2, 2007); Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20061103-01946 (Call Sign E050249) (filed November 3, 2006; granted March 2, 2007); Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20070103-00007 (Call Sign E050249) (filed January 3, 2007; granted March 13,

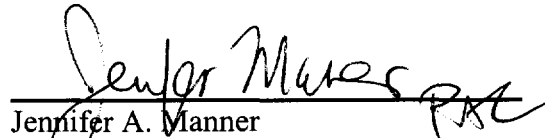
Conclusion

In light of the foregoing, MSV urges the Bureau to act consistently with the view expressed herein and deny the *Deere Application*.

Respectfully submitted,



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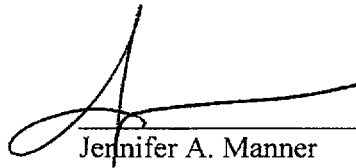
Dated: October 2 , 2007

2007); Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20070305-00295 (Call Sign E050249) (filed March 5, 2007; granted May 14, 2007); Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20070507-00572 (Call Sign E050249) (filed May 7, 2007; granted July 16, 2007); Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20070705-00899 (Call Sign E050249) (filed July 5, 2007; granted September 17, 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 September 28, 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)



Jennifer A. Manner
Vice President, Regulatory Affairs

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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.

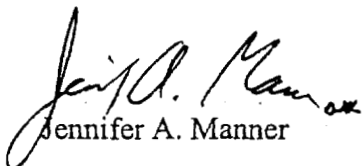
Conditions 6, 7, and 10. In Conditions 6, 7, and 10, the May 12th decisions explain that grant of the STA (i) is not based on a finding, and is without prejudice to any future determination the Commission may make, that Inmarsat's L band operations are consistent with operation on a non-interference 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, Julia Colish, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that on October 2, 2007, served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

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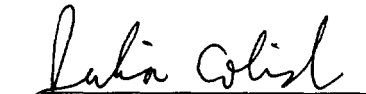
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