

March 9, 2011

BY ELECTRONIC FILING

Joe Dichoso, Chief
Equipment Authorization Branch, Laboratory Division
Office of Engineering and Technology
Federal Communications Commission
7435 Oakland Mills Road
Columbia, MD 21046-1609

Re: Digital Receiver Technology, Inc. Revised Supplemental Request for Confidential Treatment; Application for Equipment Authorization

Dear Mr. DiChoso:

On July 28, 2009, Digital Receiver Technology, Inc. ("DRT"), through its attorneys, submitted a request that the exhibits listed below and attached to the FCC Forms 731 for XLM-1201B (Model DRT1201B) and XLM-9955B1 (Model DRT9955B) be given confidential treatment and withheld from public inspection pursuant to Section 0.459 of the Commission's Rules, 47 C.F.R. § 0.459. On August 24, 2009, after discussions with Commission staff regarding confidential treatment for the Internal Photos and the External Photos/Test Set-up Photos, DRT provide a supplemental request for confidential treatment with additional information. On July 23, 2010, pursuant to further discussions with Commission staff, DRT provided a supplement to its request for confidential treatment to further explain the restrictions imposed on disclosure of the details of the DRT1201B and DRT9955B1 by federal law.

Pursuant to a request from Commission staff, DRT below revises the list of exhibits for which it requests confidential treatment to remove the Label Location exhibit. The list of exhibits below that must remain confidential still includes all external photographs of the DRT devices. DRT is submitting revised versions of the Label Location exhibits that contain a drawing of the devices rather than an external photograph. The revised Label Location exhibits therefore remove the protected information and can be made available to the public.

The following is a list of exhibits that, for the reasons set forth herein, must be treated as confidential and withheld from public inspection:

37 OFFICES IN 17 COUNTRIES

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Tune Up Procedures
Internal Photos
External Photos
Test Set-up Photos

Pursuant to Section 0.459(b) of the Commission's Rules, 47 C.F.R. § 0.459(b), the following information is provided in support of the request for confidential treatment.

The information contained in the above-referenced exhibits is restricted from disclosure to non-U.S. persons pursuant to the International Traffic in Arms Regulations ("ITAR"). The DRT1201B is categorized as "Military Electronics" pursuant to Category XI(b) of The United States Munitions List because it is "[e]lectronic...equipment specifically designed...for intelligence, security, or military purposes for use in search, reconnaissance, collection, monitoring, direction-finding, display, analysis and production of information from the electromagnetic spectrum...."¹ The DRT9955B is an amplifier designed for the DRT1201B and is also categorized as "Military Electronics" pursuant to Category XI(c) of The United States Munitions List because it constitutes "[c]omponents, parts, accessories, attachments, and associated equipment specifically designed...for use with" the DRT1201B.²

All documentation, photographs and descriptions of the subject equipment are identified as "Technical Data" under the ITAR³ and require a U.S. Department of State Export License (DSP5 Technical Data License) specific to the receiving non-U.S. party prior to disclosure.⁴ Technical Data is defined as "[i]nformation...which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles," and includes "information in the form of blueprints, drawings, photographs, plans, instructions or documentation."⁵ The information contained in each of the exhibits listed above, including photos that show wiring connections on the outer enclosures of the devices, constitutes "Technical Data" pursuant to this definition.

¹ See 22 C.F.R. § 121.1 Category XI(b).

² See 22 C.F.R. § 121.1 Category XI(c).

³ "Technical data" for the subject equipment is itself controlled pursuant to 22 C.F.R. § 121.1 Category XI(d).

⁴ See 22 C.F.R. § 125.2(a).

⁵ 47 C.F.R. 120.10(a)(1).

Moreover, Technical Data relating to DRT's equipment is not subject to the exception in the ITAR for information in the "public domain."⁶ The information contained in the exhibits is not published or generally accessible or available to the public through any means, including through public release approved by a cognizant U.S. government department or agency. Further, the equipment is sold only to qualified government entities in the United States. Accordingly, the above referenced exhibits cannot be disclosed to the public before or after the equipment authorization is granted. Violation of these export regulations is subject to criminal penalties.

In addition, pursuant to the Freedom of Information Act ("FOIA"), public disclosure is not required for "trade secrets, commercial or financial information obtained from a person and privileged and confidential."⁷ The commercial proprietary information contained herein falls squarely within this exemption from public disclosure.

The exhibits for which confidential treatment is sought contain DRT trade secrets and proprietary information relating to two wireless signal measurement products that DRT has developed and for which it seeks certification.⁸ This information is proprietary commercial information of DRT.⁹

The market for development of these products is very competitive.¹⁰ Due to the competitive environment for such products, release of this information to its competitors would harm DRT.¹¹ DRT would lose the competitive benefit of the substantial resources it invested in the development of these products should the information contained in these exhibits be disclosed to its competitors.

It is customary for companies such as DRT not to disclose the details of its designs, technologies and products to competitors or to the public, and DRT has taken reasonable actions to keep these trade secrets confidential.¹² Specifically, the products will only be sold to the U.S. government, allies of the United States, and public safety and corrections agencies, and are not marketed to the general public. Further, access to DRT's facilities is restricted and limited to U.S. citizens. DRT employees also sign agreements restricting their ability to disclose DRT's intellectual property used to develop products such as the DRT1201B and DRT9955B.

⁶ See 22 C.F.R. § 120.11.

⁷ 5 U.S.C. § 552(b)(4); *see also* 47 C.F.R. § 0.457(d).

⁸ See 47 C.F.R. § 0.459(b)(1), (2).

⁹ See 47 C.F.R. § 0.459(b)(3).

¹⁰ See 47 C.F.R. § 0.459(b)(4).

¹¹ See 47 C.F.R. § 0.459(b)(5).

¹² See 47 C.F.R. § 0.459(b)(6).

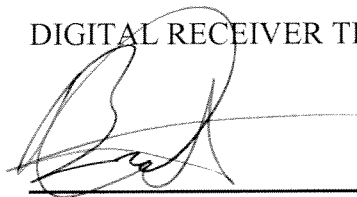
The DRT1201B and DRT9955B are marketed, sold and will be used in a manner such that technical information, including external photos, are not provided to the general public. Prospective government, public safety and corrections customers are vetted and technical information, including external photos, are only provided through secure means to properly vetted potential government, public safety and corrections customers. Trade shows where the products are displayed are restricted to appropriate government, public safety and corrections personnel. The public and press are not permitted to enter or view the products. Further, once the products are purchased they will be used inside government, public safety or corrections surveillance vehicles or facilities not accessible to the general public.

DRT has not disclosed information regarding these products to any other party.¹³ DRT requests that the subject information not be made routinely available for public inspection at any time.¹⁴ The design and technology included in the products would benefit DRT's competitors, harm DRT, and potentially harm U.S. national security if it is released for public inspection at any time.

Finally, the public interest will be served by granting this request for confidential treatment. It is in the public interest that equipment manufacturers invest in the development of new technologies and be permitted to benefit from those efforts.¹⁵

Sincerely,

DIGITAL RECEIVER TECHNOLOGY, INC.



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Its Attorneys

¹³ See 47 C.F.R. § 0.459(b)(7).

¹⁴ See 47 C.F.R. § 0.459(b)(8).

¹⁵ See 47 C.F.R. § 0.459(b)(9).