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By Electronic Filing

Acting Secretary Lisa R. Barton
U.S. International Trade Commission
500 E Street, S.W.
Washington, DC 20436

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Re: In the Matter of Certain Two-Way Global Satellite Communication
Devices, System and Components Thereof, Docket No. 2907

Dear Acting Secretary Barton,

Non-party Iridium Satellite LLC (“Iridium”) respectfully provides the following comments in response to the Commission’s August 23, 2012 Notice soliciting comments on the public interest in connection with the Complaint and Public Interest Statement filed by BriarTek IP, Inc. *See* 77 Fed. Reg. 164 (August 23, 2012). As explained below, an exclusion or cease and desist order would have a significant impact on the personal safety of individual consumers, and attenuate the work of emergency responders, the military, and other government agencies charged with providing emergency services to the public. Iridium respectfully requests that, if the Commission institutes an investigation, it authorize the presiding administrative law judge (“ALJ”) to take evidence and make findings on the public interest.

Iridium is a subsidiary of publicly traded Iridium Communications Inc. (IRDM – NASDAQ) and has the only mobile voice and data satellite communications network that spans the entire globe. A technology innovator and market leader, Iridium is advancing the way global enterprises conduct daily mission-critical activities through reliable, near real-time, communications services.

Iridium's 66 low-Earth orbiting (LEO) cross-linked satellites – the world's largest commercial constellation – operate as a fully meshed network that is supported by multiple in-orbit spares. Reaching over oceans, through airways and across the polar regions, Iridium solutions are ideally suited for industries such as maritime, aviation, government/military, emergency/humanitarian services, mining, forestry, oil and gas, heavy equipment, transportation and utilities. Iridium provides service to subscribers from the U.S. Department of Defense, as well as other civil and government agencies around the world. Iridium sells its products and services through a network of service providers and value-added resellers including BriarTek Incorporated, and proposed respondent DeLorme Publishing Company, Inc.

With respect to the specific items raised in the Commission’s Notice, Iridium provides the following information.

- I. Explain how the articles potentially subject to the requested remedial orders are used in the United States.

The articles (or “devices”) provide the ability to send text messages and other data between private parties (consumers) or in the case of business or military/government users, between employees and their corporate or military/governmental entity. The ability to send information from any location is enhanced by the use of satellites which provide wide-area coverage.

Since such devices are sold at retail there is no exhaustive list of applications and usage scenarios. However it is reasonable to assume that the following are users of such devices:

- 1) Consumers taking part in recreational activities such as camping, climbing, and hiking in remote locations where the use would be for tracking, two-way text messaging, coordination, and providing a means of communication in the event of an emergency situation.
- 2) Recreational boat owners where the use would be for tracking, two-way text messaging, coordination, and providing a means of communication in the event of an emergency situation.
- 3) Light aircraft pilots where the use would be for tracking, two-way text messaging, coordination, and providing a means of communication in the event of an emergency situation.
- 4) Military, federal, state, local government users where the use would be for tracking, two-way text messaging, coordination, and providing a means of communication in the event of an emergency situation.
- 5) Commercial companies where the use would be for tracking, two-way text messaging, coordination, and providing a means of communication in the event of an emergency situation.

- II. Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders.

While there may be numerous motivations to purchase a device and associated service for normal or everyday/weekend use, there is at least one compelling reason that most people include their purchase decision – personal safety. Since these devices work via satellite they are ideal for remote locations far from any terrestrial communications capability. These devices can be used to summon help in the event of a medical or other emergency. Many other popular devices are one-way, meaning that they can only transmit a “Send help!” message. The devices at issue in the proposed investigation are capable of two-way communication and enable rescuers or emergency management personnel to accurately identify the nature and scope of an emergency situation, provide initial support or instructions, or indeed confirm that the initially reported emergency situation has now been mitigated or resolved. In such events, two-way communication is key, a point often taken for granted by those with cellular phones and smart phones, which require cellular tower connectivity.

An exclusion order relating to such devices would therefore directly harm the public by reducing the likelihood that consumers will purchase and hence carry such devices, as well as increasing the uncertainty and risks for the emergency management personnel in prosecuting searches with appropriate search and rescue assets and personnel.

- III. Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded.

The complainant suggests that its own device could replace the subject articles in the event of exclusion. However based on simple commercial competitive dynamics it is reasonable to assume that in the event of exclusion, the complainant would have less incentive to modify its products and services to either better meet current customer requirements or to adapt those products and services in ways that would meet the requirements of consumer, government and military users that are not currently potential customers. To be more specific, such modification could include, but not be limited to, features, functionality and price.

- IV. Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time.

BriarTek products are also known to be more expensive and are apparently only sold directly online. Conversely, it is Iridium's understanding that those products subject to the complaint have a significant number of distribution outlets currently operating and that there are significant additional outlets that will become operational in the near future.

- V. Explain how the requested remedial orders would impact United States consumers.

For all the forgoing reasons, an exclusion or cease and desist order would limit the ability of United States consumers to purchase devices providing the functionality described by requiring a significantly more expensive device to be purchased without any commensurate capabilities as the market demands. Indeed, such orders would limit consumer choice and market adoption of a capability that has existed for some time, but has only recently become affordable to the mass consumer market. More specifically, such an order would inhibit competition and potential innovation and severely reduce the availability of potentially life-saving devices to critical levels for individual consumers, military and government users. Furthermore certain governmental entity users of the devices would incur additional expense from from search and rescue operations that either need not be prosecuted in the first place or from inappropriate search and rescue assets being deployed.

It is thus Iridium's view that any exclusion or cease and desist order in this investigation would be contrary to the public interest.

Respectfully submitted,

Handwritten signature of Mark L. Whitaker in cursive, followed by the initials (MLW) in parentheses.

Mark L. Whitaker
Counsel to Iridium Satellite LLC