

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

In the Matter of)	File No.: EB-IHD-13-00011303
)	
MARRIOTT INTERNATIONAL, INC.)	Acct. No.: 201532080001
)	FRN: 0022507859
)	
MARRIOTT HOTEL SERVICES, INC.)	FRN: 0006183511

ORDER

Adopted: October 3, 2014

Released: October 3, 2014

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (FCC or Commission), Marriott International, Inc., and Marriott Hotel Services, Inc. (collectively, Marriott) have entered into a Consent Decree for \$600,000 to settle the Bureau's investigation of allegations that Marriott interfered with and disabled Wi-Fi networks established by consumers in the conference facilities at the Gaylord Opryland Hotel and Convention Center in Nashville, Tennessee (Gaylord Opryland) in violation of Section 333 of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 333.

2. Wi-Fi is an essential on-ramp to the Internet. Wi-Fi networks have proliferated in places accessible to the public, such as restaurants, coffee shops, malls, train stations, hotels, airports, convention centers, and parks. Consumers also can establish their own Wi-Fi networks by using FCC-authorized mobile hotspots to connect Wi-Fi enabled devices to the Internet using their cellular data plans. The growing use of technologies that unlawfully block consumers from creating their own Wi-Fi networks via their personal hotspot devices unjustifiably prevents consumers from enjoying services they have paid for and stymies the convenience and innovation associated with Wi-Fi Internet access.

3. In March 2013, the Commission received a complaint from an individual who had attended a function at the Gaylord Opryland. The complainant alleged that the Gaylord Opryland was "jamming mobile hotspots so that you can't use them in the convention space."¹ Marriott has admitted that one or more of its employees used containment features of a Wi-Fi monitoring system at the Gaylord Opryland to prevent consumers from connecting to the Internet via their own personal Wi-Fi networks. The Bureau investigated this matter to assess Marriott's compliance with Section 333 of the Act and has entered into the attached Consent Decree. To resolve the Bureau's investigation, Marriott is required, among other things, (i) to pay a \$600,000 civil penalty to the United States Treasury, (ii) to develop and implement a compliance plan, and (iii) to submit periodic compliance and usage reports, including information documenting to the Bureau any use of containment functionalities of Wi-Fi monitoring systems, at any U.S.

¹ See Complaint No. 13-C00472 (Feb. 15, 2013) (on file in EB-IHD-13-00011303) (alleging that Gaylord Opryland was "jamming mobile hotspots so that you can't use them in the convention space. It happened once at [another Gaylord property and we] complained, gave them the router name and they unblocked. Now working in the property in Nashville and you can get a few minutes in the am then they jam you. Won't work in the ballrooms.").

property that Marriott manages or owns.

4. In this Order, we adopt the attached Consent Decree entered into between the Bureau and Marriott. The Consent Decree terminates the investigation initiated by the Bureau regarding Marriott's compliance with Section 333 of the Act.

5. The Bureau and Marriott have negotiated the terms of the Consent Decree that resolves these matters. A copy of the Consent Decree is attached hereto and incorporated by reference.

6. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the referenced investigation.

7. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Marriott possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

8. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Act, 47 U.S.C. §§ 154(i), 154(j), 503(b), and the authority delegated by Sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, the attached Consent Decree **IS ADOPTED**.

9. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.

10. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Marriott's counsel, Bennett L. Ross, Esq., Wiley Rein LLP, 1776 K Street NW, Washington, D.C., 22102.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Chief
Enforcement Bureau

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MARRIOTT INTERNATIONAL, INC.)	Account No.: 201532080001
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MARRIOTT HOTEL SERVICES, INC.)	FRN: 0006183511

CONSENT DECREE

The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission), Marriott International, Inc., and Marriott Hotel Services, Inc. (collectively, Marriott or Company), by their authorized representatives, hereby enter into this Consent Decree for purposes of terminating the Bureau's investigation into potential violations by Marriott of Section 333 of the Communications Act of 1934, as amended (Communications Act or Act).¹

I. DEFINITIONS

1. For purposes of this Consent Decree, the following definitions shall apply:
 - a) "Act" or "Communications Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - b) "Adopting Order" means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - c) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - d) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices."
 - e) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission.
 - f) "Compliance Plan" means the compliance obligations, programs, and procedures described in this Consent Decree at paragraphs 12-15.
 - g) "Covered Personnel" means all employees of Marriott who perform, supervise or oversee, or manage the performance of others involved with, the duties of providing, supplying, monitoring, and/or protecting Wi-Fi networks at the Gaylord Opryland.
 - h) "Effective Date" means the date on which the Bureau releases the Adopting Order.
 - i) "Gaylord Opryland" means the Gaylord Opryland Resort and Convention Center in Nashville, Tennessee.
 - j) "Investigation" means the investigation commenced by the Bureau's Letter of Inquiry dated September 25, 2013 in File No. EB-IHD-13-00011303 into possible violations by Marriott of Section 333 of the Communications Act relating to use of Wi-Fi containment

¹ 47 U.S.C. § 333.

and/or de-authentication functionalities at the Gaylord Opryland.

- k) “Marriott” means Marriott International and Marriott Hotel Services.
- l) “Marriott Hotel Services” or “MHS” means Marriott Hotel Services, Inc., and its U.S. subsidiaries, affiliates, employees, agents, predecessors-in-interest, and successors-in-interest.
- m) “Marriott International” means Marriott International, Inc., and its U.S. subsidiaries, affiliates, employees, agents, predecessors-in-interest, and successors-in-interest.
- n) “Parties” means Marriott and the Bureau, each of which is a “Party.”
- o) “Ryman” means Ryman Hospitality Properties.
- p) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations, including Part 15.

II. BACKGROUND

2. Section 333 of the Communications Act provides that “No person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government.”² The Bureau previously has indicated that the use of jammers to interfere with Wi-Fi transmissions violates Section 333.³ Wi-Fi technology enables the wireless connection of electronic devices.⁴ The term “Wi-Fi” generally refers to a class of wireless local area network (WLAN) devices manufactured in accordance with the Institute of Electrical and Electronics Engineers (IEEE) 802.11 family of standards and generally approved and authorized by the Commission under Part 15 of the Commission’s rules.⁵ Wi-Fi networks enable devices such as laptop computers, tablets, video game consoles, and smartphones to connect to the Internet and each other through a wireless network access point.

3. Although the most commonly recognized wireless network access point is the Wi-Fi router that many consumers have in their homes, a number of portable routers and mobile devices can also serve as a wireless access point that connects to the Internet.⁶ Some of these are standalone transmitting devices, typically the size of a stack of playing cards, which are referred to as “hotspot” or “MiFi”⁷ devices, which connect to the Internet through the mobile data network to which the consumer has subscribed. Additionally, many smartphones sold today come with built-in Wi-Fi hotspot

² 47 U.S.C. § 333.

³ See, e.g., *FCC Enforcement Advisory: Cell Jammers, GPS Jammers and Other Jamming Devices*, Public Notice, DA 11-250 (Enf. Bur. 2011) (“We remind consumers that it is a violation of federal law to use devices that intentionally block, jam, or interfere with authorized radio communications such as cell phones, police radar, GPS, and Wi-Fi.”).

⁴ See generally *In re Google*, Notice of Apparent Liability and Forfeiture, 27 FCC Rcd 4012, 4014, para. 7 (Enf. Bur. 2012) (“Wi-Fi is a mechanism for wirelessly connecting electronic devices.”).

⁵ See generally *In re Revision of Part 15 of the Commission’s Rules Regarding Operation in the 57-64 GHz Band*, Report and Order, 28 FCC Rcd 12517, 12520, para. 7, n.29 (2013); *In re Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993*, Fifteenth Report, 26 FCC Rcd 9664, 9873, para. 371 (2011). The term “Wi-Fi” is a registered trademark of the Wi-Fi Alliance.

⁶ See generally *In re Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993*, Sixteenth Report, 28 FCC Rcd 3700, 3846, para. 225, n.701 (2013).

⁷ Although “MiFi” is used in the literature to describe these types of devices in general, we note that the term “MiFi,” specifically, is a Novatel Wireless registered trademark brand in the United States.

capabilities. These capabilities allow consumers to create their own personal Wi-Fi network virtually anywhere. Consumers can wirelessly connect Wi-Fi-enabled devices, such as laptop computers, to these access points and, through them, access the Internet.

4. Marriott is a hospitality company with more than 4,000 managed and franchised properties around the world. Since October 2012, Marriott, through its subsidiary, MHS, has managed and controlled the day-to-day operations of the Gaylord Opryland, which is owned by Ryman. Marriott makes available various Internet-related services for meeting planners, exhibitors, and their customers to use in the Gaylord Opryland meeting rooms and convention center, although they are not required to purchase these services from Marriott but can instead use other vendors. The Internet-related services that Marriott makes available include high-speed Internet access (wired and wireless), dedicated bandwidth, custom private networks, and on-site technical assistance. The fees for these optional services include charges of \$250 to \$1,000 per wireless access point being used by exhibitors or customers, depending upon the type of access purchased.

5. Marriott operates a Wi-Fi monitoring system manufactured by a third party that was installed at the Gaylord Opryland. Among other features, the system includes a containment capability that, when activated, will cause the sending of de-authentication packets to Wi-Fi Internet access points that are not part of Marriott's Wi-Fi system or authorized by Marriott and that Marriott has classified as "rogue."⁸

6. In March 2013, the Commission received a complaint from an individual who had attended a function at the Gaylord Opryland. The complainant alleged that the Gaylord Opryland had used wireless technology to prevent him from using his Wi-Fi mobile hotspot in the hotel's conference center.⁹ The Bureau investigated the complaint in order to assess Marriott's compliance with Section 333 of the Act. In the course of its investigation, the Bureau discovered that one or more Marriott employees had used the containment capability discussed in paragraph 5 in a manner that the Bureau believes violates Section 333. Specifically, such employees had used this capability to prevent users from connecting to the Internet via their own personal Wi-Fi networks when these users did not pose a threat to the security of the Gaylord Opryland network or its guests. Subsequent to learning of the Bureau's investigation, Marriott instructed the properties under its management or control not to use this containment capability in the manner it had been used at the Gaylord Opryland.

III. TERMS OF AGREEMENT

7. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

8. **Jurisdiction.** Marriott agrees that the Bureau acting pursuant to delegated authority has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

9. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. Upon the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

⁸ The de-authentication packets directly target communications between Wi-Fi enabled devices and Wi-Fi access points, which occur over unlicensed spectrum.

⁹ See Complaint No. 13-C00472 (Feb. 15, 2013) (on file in EB-IHD-13-00011303).

10. **Admissions.** Marriott admits for the purpose of this Consent Decree and for Commission civil enforcement purposes that one or more Marriott employees engaged in the actions at the Gaylord Opryland described above in paragraph 6.

11. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Marriott agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Marriott or Ryman concerning the Gaylord Opryland.

12. **Compliance Plan.** Within thirty (30) calendar days after the Effective Date, Marriott shall establish Operating Procedures designed to ensure that Covered Personnel do not engage in activities described above in paragraph 6 in violation of the Communications Act, including Section 333, or the Commission's Rules. The Parties further agree that should there be any order, rule, enforcement advisory, clarification, rule change, or other statement issued by the Commission or any of its Bureaus or Offices concerning the subject matter described in paragraph 6 (Commission Action), the Parties will negotiate in good faith to modify this Consent Decree to require a Compliance Plan that is consistent with any such Commission Action.

13. **Reporting Noncompliance.** Marriott shall report any noncompliance with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that the Company has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that the Company has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Rm. 4C-224, Washington, DC 20554, with a copy submitted electronically to Evan.Parke@fcc.gov.

14. **Usage Information.** At the same time that it files each Compliance Report, Marriott shall identify whether in the preceding three months Marriott has used the containment capability or any similar functionality or technology described in paragraph 5 above, at any U.S. property Marriott manages or owns, to classify any access point as "rogue," to contain any access point, and/or to de-authenticate devices from connecting to any access points, and if so, (i) the approximate date and time of such use, (ii) the specific reasons for such use, (iii) the type of access point and consumer device at issue (e.g., mobile hotspot created by smartphone), (iv) the individuals involved in the decision to use the containment and/or de-authentication functionality, and (v) the identities of the persons whose devices or transmissions were contained and/or de-authenticated, if known. Marriott also will provide a list of all U.S. properties that it manages or owns that it queried to collect this Usage Information. All Usage Information shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Rm. 4C-224, Washington, DC 20554, with a copy submitted electronically to Evan.Parke@fcc.gov.

15. **Compliance Reports.** The Company shall file Compliance Reports with the Commission three (3) months after the Effective Date, and every three (3) months thereafter until the Termination Date.

- a) Each Compliance Report shall include a detailed description of the Company's efforts during the relevant period to comply with the terms and conditions of this Consent Decree.

- b) In addition, each Compliance Report shall include a certification by a Compliance Officer, acting as an agent of and on behalf of the Company, stating that the Compliance Officer has personal knowledge that the Company: (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraphs 13-14 of this Consent Decree.
- c) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with Section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth in Section 1.16.¹⁰
- d) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Company, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that the Company has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that the Company has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- e) All Compliance Reports shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Rm. 4C-224, Washington, DC 20554, with a copy submitted electronically to Evan.Parke@fcc.gov.

16. **Termination Date.** The Termination Date shall be three years after the Effective Date of this Consent Decree.

17. **Civil Penalty.** Marriott agrees to make a payment to the United States Treasury in the amount of six hundred thousand dollars (\$600,000) within thirty (30) calendar days after the Effective Date. Marriott acknowledges and agrees that upon execution of this Consent Decree, such payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).¹¹ Upon an Event of Default by Nonpayment (as described below in paragraph 18), all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. In addition, Marriott agrees that it will make the payment in United States Dollars without further demand or notice by the date specified above. Marriott shall also send electronic notification of payment on the date the payment is made to Evan.Parke@fcc.gov. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the Account Number and FRN referenced in the caption of the Adopting Order. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.¹² When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions Marriott must follow based on the form of payment selected.

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form

¹⁰ 47 C.F.R. § 1.16.

¹¹ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

¹² An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank—Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.

- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank—Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

Contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov with any questions about methods of payment.

18. **Event of Default by Nonpayment.** Marriott agrees that an Event of Default by Nonpayment shall occur upon the failure by Marriott to pay the full amount of the payment (\$600,000) to the U.S. Treasury on or before the due date specified in this Consent Decree.

19. **Interest, Charges for Collection, and Acceleration of Maturity Date.** Upon an Event of Default by Nonpayment under this Consent Decree, automatically and without further notice, the then entire unpaid amount of the payment identified in paragraph 17 shall accrue interest at a rate of 15.75% per annum from the date of the Event of Default by Nonpayment until payment in full. Upon an Event of Default by Nonpayment, the then unpaid amount, together with interest, as aforesaid, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charge(s), plus the costs of collection, litigation, and attorneys' fees, is accelerated and shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by Marriott.

20. **Waivers.** Marriott waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order or Consent Decree, neither Marriott nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Marriott shall waive any statutory right to a trial de novo. Marriott hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

21. **Severability.** The Parties agree that if any of the provisions of the Adopting Order or the Consent Decree shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Adopting Order or Consent Decree, but rather the entire Adopting Order or Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

22. **Subsequent Rule or Order.** The Parties agree that if any provision of this Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order

specifically intended to revise the terms of this Consent Decree to which Marriott does not expressly consent), such provision will be superseded by such Rule or Commission order.

23. **Successors and Assigns.** Marriott agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

24. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties to the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws.

25. **Modifications.** This Consent Decree cannot be modified or amended without the advance written consent of both Parties.

26. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

27. **Authorized Representative.** The individual signing this Consent Decree on behalf of Marriott represents and warrants that he is authorized by Marriott to execute this Consent Decree and to bind Marriott to the obligations set forth herein. The Commission signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

28. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile or by electronic means), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

For: Federal Communications Commission

Travis LeBlanc
Chief
Enforcement Bureau

Date

For: Marriott

Harvey Kellman
Vice President, Assistant General Counsel
Information Resources and eBusiness
Marriott International

Date