

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 2253/January 23, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16033

In the Matter of

AIRTOUCH COMMUNICATIONS, INC.,
HIDEYUKI KANAKUBO, and
JEROME KAISER, CPA

ORDER REGARDING
SETTLEMENT DISCUSSIONS

The parties have requested that I help facilitate settlement negotiations between them, as I had previously offered in my September 26, 2014 prehearing order. I have decided the best approach to this form of alternative dispute resolution is to assign another Administrative Law Judge from this office (Settlement ALJ) to work with the parties toward a mutually agreeable solution. To allow for candid discussions, all communications between the parties and the Settlement ALJ will remain confidential. I will not be privy to them or their content, and I will not discuss the proceeding with the Settlement ALJ. Accordingly, the following are ORDERED:

Administrative Law Judge Jason S. Patil is designated as the Settlement ALJ.

By, January 30, 2015, the parties will file a joint motion indicating their willingness to participate in good faith in a confidential settlement process. The joint motion must reflect that:

- The parties agree that their representations and submissions, including any statement made by any party, attorney or other participant, are confidential. The parties' submissions will not be construed as an admission against interest and nothing said at such sessions may be used in court in connection with the case or any other litigation.
- The parties understand that the settlement process will be facilitated by another Administrative Law Judge (Settlement ALJ), who will not discuss any representations or submissions of the parties with the presiding Administrative Law Judge.
- The parties understand communications with the Settlement ALJ, including any submissions to him will be not be part of this case's record.
- The parties waive: (1) the right to claim bias or prejudice by the Settlement ALJ based on any views expressed during the settlement process; (2) the right to a public proceeding; (3) the right to a proceeding on the record; and (4) any objection to the Settlement ALJ conferring with either party ex parte in the course of settlement. *See* 17 C.F.R. § 201.240(c)(2).

By February 4, 2015, each party must separately submit a confidential settlement statement (CSS) by email only, directly to the Settlement ALJ, at PatilJ@sec.gov. DO NOT SEND COPIES OF THE CSS TO THE OFFICE OF THE SECRETARY, THE ASSIGNED ADMINISTRATIVE LAW JUDGE, OTHER COUNSEL/PARTIES, OR THIS OFFICE'S MAIN E-MAIL BOX (alj@sec.gov). Each party's CSS should include the following:

- Describe any settlement offers made and the current status of settlement discussions;
- Identify the acceptable range of monetary penalties or remedial actions in valuing the case for settlement purposes;
- Identify additional information or action, if any, required by the party in order to engage in meaningful settlement negotiations;
- Assuming the Settlement ALJ's familiarity with the OIP, Answer, and general arguments, having the opportunity to see the parties' prehearing briefs, describe the factual and legal support for the party's *key* claims and defenses. Factual claims should be supported by reference to evidence (such as a document or what a witness will testify to), and legal claims by reference to binding or persuasive authorities. Each party should highlight any weaknesses in its opponent's case. Each party is invited to append exhibits to its CSS.

On either February 5 or 6, 2015, the Settlement ALJ will hold a telephone call, at a mutually agreeable time, with counsel for each party privately, to clarify important issues and to allow each party to reveal in confidence the factors viewed as critical to settlement.

If necessary, on February 9, 2015, the Settlement ALJ will facilitate an in-person, confidential settlement conference with the parties, meeting with them first jointly, and then privately as required. The parties' representative at the joint confidential settlement conference must bring, or have immediately available by appropriate means, an individual with settlement authority. Additional discussions may be scheduled if appropriate.

The confidential settlement process described above is not intended to supplant the parties' independent, good faith efforts to reach a mutually agreeable settlement. If a settlement is reached, the parties should promptly notify the presiding Administrative Law Judge with a motion to stay, as the Settlement ALJ will not communicate with the presiding Administrative Law Judge any information on the status of the parties' confidential settlement negotiations.

James E. Grimes
Administrative Law Judge