

FCC IBFS - Electronic Filing

Submission_id :IB2018010170

Successfully filed on :Nov 5 2018 4:56:40:850PM

[Return to Main Menu](#)

INTERNATIONAL SECTION 214 AUTHORIZATIONS FOR ASSIGNMENT OR TRANSFER OF CONTROL FCC FORM 214TC FOR OFFICIAL USE ONLY	
--	--

APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:
Clairvest - Meriplex Telecom Transfer of Control Application

1. Legal Name of Applicant			
Name:	Clairvest Group Inc.	Phone Number:	416-925-9270
DBA Name:		Fax Number:	
Street:	22 St. Clair Ave. East, Suite 1700	E-Mail:	
City:	Toronto	State:	
Country:	CAN	Zipcode:	-
Attention:	James Miller		

2. Name of Contact Representative			
Name:	Timothy J. Cooney	Phone Number:	202-783-4141
Company:	Wilkinson Barker Knauer, LLP	Fax Number:	202-783-5851
Street:	1800 M St., N.W. Suite 800N	E-Mail:	tcooney@wbklaw.com
City:	Washington	State:	DC
Country:	USA	Zipcode:	20036-
Attention:		Relationship:	Legal Counsel

CLASSIFICATION OF FILING

3. Choose the button next to the classification that best describes this filing. Choose only one.	
<input type="radio"/>	a. Assignment of Section 214 Authority An Assignment of an authorization is a transaction in which the authorization, or a portion of it, is assigned from one entity to another. Following an assignment, the authorization will usually be held by an entity other than the one to which it was originally granted. (See Section 63.24(b).)
<input checked="" type="radio"/>	b. Transfer of Control of Section 214 Authority A Transfer of Control is a transaction in which the authorization remains held by the same entity, but there is a change in the entity or entities that control the authorization holder. (See Section 63.24(c).)
<input type="radio"/>	c. Notification of Pro Forma Assignment of Section 214 Authority (No fee required)
<input type="radio"/>	d. Notification of Pro Forma Transfer of Control of Section 214 Authority (No fee required)
Date of Consummation: Must be completed if you select c or d.	

4. File Number(s) of Section 214 Authority(ies) for Which You Seek Consent to Assign or Transfer Control. Note: If the Section 214 Authorization Holder whose authority is being assigned or transferred does not have an "ITC" File No. under which it is operating, contact the Help Desk for assistance before proceeding further with this application. You cannot enter an "ITC-ASG" or "ITC-T/C" File No. in response to this question. Your response must specify one or more "ITC" File Nos. Relevant "ITC-ASG" or "ITC-T/C" File Nos. should be listed only in Attachment 1 in response to Question 10.

File	File	File	File	File	File	File	File
Number:ITC2142010080500325	Number:						

5. Name of Section 214 Authorization Holder

Name: Meriplex Telecom, LLC Phone Number: 281-404-2300
 DBA Name: Fax Number: 281-404-2294
 Street: 10111 Richmond Ave E-Mail: pucinfo@meriplex.com
 Suite 500
 City: Houston State: TX
 Country: USA Zipcode: 77042 -4216
 Attention: Matt S. Edmiston

6. Name of Assignor / Transferor

Name: Henley Investments, Ltd. Phone Number: 832-539-1485
 DBA Name: Fax Number:
 Street: 6805 Silver Mine Road E-Mail: dana@frixadvisory.com
 City: Harwood State: TX
 Country: USA Zipcode: 78632 -
 Attention: Dana Frix

7. Name of Assignee / Transferee

Name: Clairvest Group Inc. Phone Number: 416-925-9270
 DBA Name: Fax Number:
 Street: 22 St. Clair Ave. East, Suite 1700 E-Mail:
 City: Toronto State:
 Country: CAN Zipcode: -
 Attention: James Miller

8a. Is a fee submitted with this application?

If Yes, complete and attach FCC Form 159.

If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114).

Governmental Entity Noncommercial educational licensee Notification of Pro Forma (No fee required.)
 Other (please explain):

8b. You must file a separate application for each legal entity that holds one or more Section 214 authorizations to be assigned or transferred.

Fee Classification CUT - Section 214 Authority

9. Description (Summarize the nature of the application.)

Joint International and Domestic Section 214 Application to Transfer Control of Meriplex Telecom, LLC

10. In Attachment 1, please respond to paragraphs (c) and (d) of Section 63.18 with respect to the assignor/transferor and the assignee/transferee. Label your response "Answer to Question 10".

11. Does any entity, directly or indirectly, own at least ten (10) percent of the equity of the assignee/transferee as determined by successive multiplication in the manner specified in the note to Section 63.18(h) of the rules? Yes No

If you answered "Yes" to this question, provide in Attachment 1, the name, address, citizenship, and principal businesses of each person or entity that directly or indirectly owns at least ten (10) percent of the equity of the assignee/transferee, and the percentage of equity owned by each of those persons or entities (to the nearest one percent). Label your response "Answer to Question 11."

12. Does the assignee/transferee have any interlocking directorates with a foreign carrier? Yes No

If you answered "Yes" to this question, identify each interlocking officer/director in Attachment 1. (See

Section 63.09(g).) Provide the name and position/title of the individual or entity, the name of the foreign carrier, and the country in which the foreign carrier is authorized to operate. Label your response: "Answer to Question 12."

13. Provide in Attachment 1 a narrative of the means by which the proposed assignment or transfer of control will take place. In circumstances of a substantial assignment or transfer of control pursuant to Section 63.24(e), where the assignor seeks authority to assign only a portion of its U.S. international assets and/or customer base, please specify whether the assignor requests authority to continue to operate under any or all of its international Section 214 File Nos. after consummation; and, if so, please specify in Attachment 1 each File No. it seeks to retain in its own name. Label your response "Answer to Question 13."

Note: The assignor may retain any or all of its international Section 214 File Nos. In that case, the assignor will continue to hold the international section 214 authorizations that it specifies in response to this question. The ITC-ASG File No. that the Commission assigns to this application will, when granted, constitute Commission authorization of the proposed assignment of assets and /or customers from the assignor to the assignee. Unless Commission grant of the assignment application specifies otherwise, the assignee may provide the same services on the same routes as permitted under the assignor's Section 214 authorization(s), and the assignee may provide such service to any customers it may obtain in the ordinary course of business.

If this filing is not a notification of a *pro forma* assignment or *pro forma* transfer of control, please respond to Questions 14-20 below. (See Section 63.24(d).) Otherwise, you may proceed to Question 21 below.

14. Check "Yes" below if the assignee is a foreign carrier or if, upon consummation of the proposed assignment or transfer of control, the Section 214 holder would be affiliated with a foreign carrier. (See Section 63.18 (i).) The terms "foreign carrier" and "affiliated" are defined in Section 63.09 (d) & (e) of the rules respectively. Yes No

If you answered "Yes" to this question, please specify in Attachment 1 each foreign country in which the assignee is a foreign carrier or in which the Section 214 holder, upon consummation, would be affiliated with a foreign carrier. Label your response, "Answer to Question 14."

15. If this application is granted and the proposed assignment or transfer is consummated, would the Section 214 holder be authorized to provide service to any destination country for which any of the following statements is true? Yes No

- (1) The Section 214 holder is a foreign carrier in that country; or
- (2) The Section 214 holder controls a foreign carrier in that country; or
- (3) Any entity that owns more than 25 percent of the Section 214 holder, or that controls the Section 214 holder, controls a foreign carrier in that country.
- (4) Two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25 percent of the Section 214 holder and are parties to, or the beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of international basic telecommunications services in the United States.

If you answered "Yes" to this question, please specify in Attachment 1 each foreign carrier and country for which any of the above statements would be true. Label your response, "Answer to Question 15."

16. If you answered "Yes" to question 14, do you request classification of the Section 214 holder as a "non-dominant" carrier, upon consummation of the proposed transaction, between the United States and *any or all* countries listed in response to Question 14? See Section 63.10 of the rules. Yes No

If you answered "Yes" to this question, you must provide information in Attachment 1 to demonstrate that the Section 214 holder would qualify for non-dominant classification under Section 63.10 of the rules on each U.S.-destination country route where it would be a foreign carrier, or would be affiliated with a foreign carrier and for which you request non-dominant classification. Label your response, "Answer to Question 16."

17. If you answered "Yes" to question 14 and you have not provided information in response to Question 16 to demonstrate that the Section 214 holder would qualify for non-dominant classification under Section 63.10 of the rules on each U.S.-destination route where it would be a foreign carrier, or be affiliated with a foreign carrier, check "Yes" below to certify that the assignee/transferee agrees to comply with the dominant carrier safeguards in Section 63.10 (c) & (e) of the rules in the provision of international service between the United States and any foreign country(ies) for which you have not provided the required information.

Yes, I certify that I agree to comply with the dominant carrier safeguards in Section 63.10 (c) & (e) of the rules in my provision of international service between the United States and the following foreign country(ies):

No, Does not apply.

18. If you answered "Yes" to question 15, and if you have not provided information in response to question 16 to demonstrate that the

Section 214 holder would qualify for non-dominant classification under Section 63.10 of the rules in its provision of service to each of the countries identified in response to question 15, the Section 214 holder may not be eligible to provide international telecommunications service between the U.S. and each such country following consummation of the assignment or transfer. In order to determine whether the public interest would be served by authorizing service on these U.S.-destination country routes, the assignee/transferee must provide information, in Attachment 1, to satisfy one of the showings specified in Section 63.18(k) of the rules. Label your response, "Answer to Question 18."

19. *If the assignee, or the Section 214 holder that is the subject of this transfer of control application, is a provider of Commercial Mobile Radio Services, you need not answer this question.*
 If any of the Section 214 authorization(s) that would be assigned or transferred, authorize the Section 214 holder to resell the international switched services of an unaffiliated U.S. carrier for the purpose of providing international telecommunications services to a country listed in response to question 14, and unless you have provided information in response to question 16 to demonstrate that the Section 214 holder would qualify for non-dominant classification under Section 63.10(a)(3) of the rules for each country, check "Yes" below to certify that the assignee/transferee will file the quarterly traffic reports required by Section 43.61(c) of the rules; and/or state in Attachment 1 that the foreign carrier(s) for which the applicant has not made a showing under Section 63.10(c)(3) do(es) not collect settlement payments from U.S. international carriers. (See Section 63.18(l).)

Yes, I certify that I agree to comply with the quarterly traffic reporting requirements set forth in section 43.61 (c) of the rules.

20. If the applicant desires streamlined processing pursuant to Section 63.12 of the rules, provide in Attachment 1 a statement of how the application qualifies for streamlined processing. (See Section 63.18(p).) Note that, if the application is being filed in connection with a sale of assets or reorganization of a carrier or its parent pursuant to the U.S. bankruptcy laws, the application may not be eligible for streamlined processing until final bankruptcy court approval of the proposed sale or reorganization.

Applicant certifies that its responses to questions 21 through 25 are true:

21. The assignee/transferee certifies that it has not agreed to accept special concessions directly or indirectly from a foreign carrier with respect to any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market and will not enter into any such agreements in the future. Yes No

22. By signing this application, the undersigned certify either (1) that the authorization(s) will not be assigned or that control of the authorization(s) will not be transferred until the consent of the Federal Communications Commission has been given, or (2) that prior Commission consent is not required because the transaction is subject to the notification procedures for *pro forma* transactions under Section 63.24 of the rules. The assignee/transferee also acknowledges that the Commission must be notified by letter within 30 days of a consummation or of a decision not to consummate. (See Section 63.24(e)(4).) Yes No

23. If this filing is a notification of a *pro forma* assignment or transfer of control, the undersigned certify that the assignment or transfer of control was *pro forma* and that, together with all previous *pro forma* transactions, does not result in a change in the actual controlling party. Yes No Not a Pro Forma

24. The undersigned certify that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith. Yes No

25. The assignee/transferee certifies that neither it nor any other party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance. See Section 1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of "party to the application" as used in this certification. Yes No

CERTIFICATION

26. Printed Name of Assignor / Transferor Henley Investments, Ltd.	29. Printed Name of Assignee / Transferee Clairvest Group Inc.
27. Title (Office Held by Person Signing) General Manager	30. Title (Office Held by Person Signing) General Counsel & Corporate Secretary
28. Signature (Enter the name of the person who will sign the paper version of this form for retention in their files) David Henley	31. Signature (Enter the name of the person who will sign the paper version of this form for retention in their files) James Miller

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND / OR IMPRISONMENT (U.S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION AUTHORIZATION

(U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

The public reporting for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PERF, Paperwork Reduction Project (3060-0686), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND COMPLETED FORMS TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0686.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

ATTACHMENT 1

Joint International and Domestic Section 214 Application to Transfer Control of Meriplex Telecom, LLC

This joint application seeks Commission consent under Section 214 of the Communications Act of 1934, as amended (the “Act”), and Sections 63.04 and 64.24 of the Commission’s rules¹ to transfer control of Meriplex Telecom, LLC (“Meriplex Telecom”) from Henley Investments, Ltd. (“Henley” or “Transferor”) to Clairvest Group Inc. (“Clairvest” or “Transferee”). Meriplex Telecom holds an international Section 214 authorization as well as blanket Section 214 domestic operating authority. As explained further below, grant of the application serves the public interest.

I. RESPONSES TO QUESTIONS SET FORTH IN THE FCC 214 MAIN FORM

Responses to certain questions set forth in the application’s FCC 214 Main Form are as follows:

Answers to Question 10

Contact Information for Henley and Meriplex Telecom

David Henley
Managing Director
Henley Management II, LLC
10111 Richmond Avenue, Suite 500
Houston, TX 77042
281-404-2296
dhenley@meriplex.com

With copies to:

Arthur Henley
Henley Management II, LLC
6805 Silver Mine Road
Harwood, TX 78632
832-539-1485
arthur@ahenley.com

and

Dana Frix
Frix Advisory Group, LLC
6649 Sorrel Street

Transferee Contact Information

James Miller
General Counsel & Corporate Secretary
Clairvest Group Inc.
22 St. Clair Avenue East, Suite 1700
Toronto, ON M4T 2S3, Canada
Tel. 416-413-6030
Fax: 416-925-5753
jmiller@clairvest.com

With a copy to:

Timothy J. Cooney
Jennifer L. Kostyu
Wilkinson Barker Knauer, LLP
1800 M Street, N.W., Suite 800N
Washington, D.C. 20036
Tel. 202-783-4141
Fax 202-783-5851
tcooney@wbklaw.com
jkostyu@wbklaw.com

¹ 47 U.S.C. § 214; 47 C.F.R. §§ 63.04, 64.24.

McLean, VA 22101
(703) 790-5801
dana@frixadvisory.com

Place of Organization

Meriplex Telecom (FRN: 0019621796) is a limited liability company organized under the laws of the State of Texas. Henley (FRN: 0027959493) is a limited partnership organized under the laws of the State of Texas. Clairvest (FRN: 0027928340) is a corporation organized under the laws of the Provinces of Ontario and Manitoba (Canada).

Prior International Section 214 Authorizations

Meriplex Telecom holds an international Section 214 authorization to provide global facilities-based and resold services between the United States and international points pursuant to Section 63.18(e)(1) and 63.18(e)(2) of the Commission's rules (File No. ITC-214-20100805-00325). (Meriplex Telecom provides *de minimis* international telecommunications services, and such services are less than \$5,000.00 per month.) Clairvest does not hold any international Section 214 authorizations.

Answer to Question 11

Pursuant to Section 63.18(h) of the Commission's rules, the following entities will directly or indirectly hold a ten percent or greater equity interest in Meriplex Telecom upon consummation of this transaction. Charts showing the pre- and post-transaction ownership of Meriplex Telecom also are attached.

Meriplex Communications, Ltd. ("MCom"), will hold 100 percent of the ownership interest of Meriplex Telecom. MCom is a Delaware corporation located at 10111 Richmond Avenue, Suite 500, Houston, TX 77042. Its principal business is the provision of managed solutions.

Clairvest holds approximately 59.9 percent of the ownership interests of MCom indirectly through three investment funds. CEP V Co-Investment Limited Partnership ("CEP Co-Invest") holds directly approximately 18 percent of the ownership interest of MCom; Clairvest Equity Partners V Limited Partnership ("Clairvest Equity V") holds directly approximately 35.2 percent of the ownership interests of MCom; and Clairvest Equity Partners V-A Limited Partnership ("Clairvest Equity V-A") holds directly approximately 6.7 percent of the ownership interests of MCom. Clairvest General Partner V Limited Partnership ("Clairvest GP V") is a general partner of CEP Co-Invest, Clairvest Equity V, and Clairvest Equity V-A. Clairvest GP Manageco Inc. ("Clairvest Manageco") also is a general partner of Clairvest Equity V and Clairvest Equity V-A, as well as manager of Clairvest Equity V-A. Clairvest GP (GPLP) Inc. ("Clairvest GPLP") is the general partner of Clairvest GP V. Clairvest holds 100 percent of the ownership interests of Clairvest GPLP and Clairvest Manageco. Each of the preceding Clairvest entities is formed under the laws of Canada, and its principal business of each is investment company. Kenneth B. Rotman and Gerald R. Heffernan each hold approximately 50.2 percent and 13.3 percent, respectively, of the ownership interests of Clairvest. Mr. Rotman and Mr.

Heffernan are each Canadian citizens. The address for the Clairvest entities, Mr. Rotman, and Mr. Heffernan is 22 St. Clair Avenue East, Suite 1700, Toronto, ON M4T 2S3, Canada.

David Henley directly holds approximately 30 percent of the ownership interests of MCom. Mr. Henley is a U.S. citizen, and his address is 10111 Richmond Avenue, Suite 500, Houston, TX 77042.

Dusty Corning directly holds approximately 10.1 percent of the ownership interests of MCom. Mr. Corning is a U.S. citizen, and his address is 10111 Richmond Avenue, Suite 500, Houston, TX 77042.

No other entity or individual will directly or indirectly hold a 10 percent or greater ownership interest in Meriplex Telecom post-closing.

Answer to Question 13

Description of Transaction and Public Interest Statement

Meriplex Telecom is a Texas limited liability company headquartered in Houston, Texas. Meriplex Telecom is currently controlled by Henley, its general partner. Meriplex Telecom provides voice and other telecommunications services to MCom's enterprise customers. MCom is a managed solution provider specializing in delivering intelligent network solutions, cloud enablement, and managed services for the mid-enterprise market.

MCom is indirectly controlled by Clairvest, a private equity management firm headquartered in Toronto, Canada. Clairvest is a publicly listed company on the Toronto Stock Exchange (TSX: CVG). It invests its own capital and that of third parties in emerging and established companies. In addition to providing financing, Clairvest contributes strategic expertise and execution ability to support the growth and development of its partners.

A Purchase Agreement between Henley, certain investment funds controlled by Clairvest, and MCom (the "Agreement"), proposes to transfer the membership interests of Meriplex Telecom from Henley and its limited partners to MCom.² Upon receipt of FCC approval and consummation of the transaction, Meriplex will become a wholly-owned subsidiary of MCom, which in turn is majority-owned and controlled by Clairvest through various investment funds.

The transaction will serve the public interest by providing additional capital to Meriplex Telecom, which in turn will enhance its ability to maintain and improve its network and services and better compete in the telecommunications marketplace. The transaction will have no adverse impact on Meriplex Telecom's customers, and will be transparent to customers in terms of the service they now receive. Meriplex Telecom will continue to provide services at the same rates

² On October 2, 2018, Meriplex Telecom was spun off in a *pro forma* transaction from MCom, its then immediate parent company; and its membership interests were distributed to those who, immediately prior to the spin-off, were the principal owners of MCom. See Notification of the Pro Forma Transfer of Control of Meriplex Telecom, LLC, File No. ITC-T/C-INTR2018-09638 (filed Oct. 29, 2018). Under the proposed transaction, MCom, now as controlled by Clairvest, would reacquire Meriplex Telecom.

and on the same terms and conditions as are currently in effect. Moreover, the transaction poses no risk of competitive harm to the domestic or U.S.-international telecommunications markets. Meriplex Telecom holds only a *de minimis* share of each of the domestic and U.S.-international markets, and consumers will continue to have a wide range of competitive choices following consummation of the transaction. Clairvest also is not itself and is not affiliated with any U.S. telecommunications carriers, thus the transaction will not result in a reduction in competitors.

Answer to Question 20

This application qualifies for streamlined processing pursuant to Section 63.12 of the Commission's rules. Neither Meriplex Telecom nor Clairvest has any foreign carrier affiliates, and will have no such affiliates post-closing. They therefore qualify for a presumption of non-dominance under Section 63.10 of the Commission's rules on all U.S.-international routes.

II. INFORMATION REQUIRED BY SECTION 63.04 OF THE FCC'S RULES IN RELATION TO TRANSFER OF BLANKET DOMESTIC SECTION 214 AUTHORITY

In support of the applicants' request for consent to transfer control of Meriplex Telecom to Clairvest, the following information is submitted pursuant to Section 63.04 of the Commission's rules.³ Specifically, Section 63.04(b) provides that applicants submitting a joint international/domestic Section 214 application should submit in an attachment to the international Section 214 application responses to the information requested in paragraphs (a)(6) through (a)(12) of Section 63.04:

(a)(6) Description of the transaction:

A description of the transaction is set forth in Section I above.

(a)(7) Description of the geographic areas in which the applicants offer domestic telecommunications services, and what services are provided in each area:

Meriplex Telecom provides telecommunications services to enterprise customers primarily in the Southwest U.S. Neither Clairvest nor its affiliates provide telecommunications services.

(a)(8) Statement as to how the application qualifies for streamlined treatment:

This application qualifies for streamlined treatment under Section 63.03(b) of the Commission's rules because: (1) the Transferee is not a telecommunications provider; (2) Meriplex Telecom's market share of the interstate, interexchange market is significantly less than 10 percent; and (3) Meriplex Telecom provides competitive telecommunications services exclusively in geographic markets served by a dominant local exchange carrier that is not a party to this transaction. No applicant is dominant with respect to any telecommunications service offered in the United States.

³ 47 C.F.R. § 63.04.

(a)(9) Identification of all other Commission applications related to this transaction:

No other FCC applications related to this transaction are being filed.

(a)(10) Statement of whether the applicants request special consideration because either party is facing imminent business failure:

The applicants request no special consideration of this application for reasons relating to imminent business failure.

(a)(11) Identification of any separately filed waiver requests being sought in conjunction with this transaction:

The applicants seek no separately filed waiver requests in conjunction with this transaction.

(a)(12) Statement showing how grant of the Application will serve the public interest, convenience, and necessity:

A demonstration of how the grant of application serves the public interest, convenience, and necessity is set forth in Section I above.