

**EXHIBIT 3**

FCC00000139

FOR PUBLIC INSPECTION

# KIRKLAND & ELLIS

PARTNERSHIPS INCLUDING PROFESSIONAL CORPORATIONS

777 South Figueroa Street  
Los Angeles, California 90017

213 680-8400

Facsimile:  
213 680-8500

Christopher J. Heck  
To Call Writer Directly:  
(213) 680-8494  
christopher\_heck@kirkland.com

September 21, 2000

## FACSIMILE AND U.S. MAIL

Ross W. Wooten, Esq.  
T. Wade Welch & Associates  
2401 Fountainview, Suite 215  
Houston, Texas 77057

Re: EchoStar Communications Corp., et al. v. DirecTV Enterprises, Inc., et al.  
Case Number 00-K-212 (D. Colo.)

Dear Mr. Wooten:

This letter follows up on the phone call I made to you on Tuesday, September 19, 2000, which you have not returned.

We have received EchoStar's responses to DirecTV's First Set of Requests for Admission. We note that, although the Proof of Service states that the Requests were sent by mail on September 8, 2000, and are accompanied by a letter from you dated September 8, 2000, neither this office nor Featherstone DeSisto received these responses until September 15, 2000. Thomson's counsel didn't receive its copy of the responses until September 18, 2000.

In any case, EchoStar's responses to the first two requests for admission are deficient. Request for Admission Number One asks EchoStar to admit that Charlie Ergen was accurately quoted in the reference to the Denver Post article. The mere fact that the event being reported occurred approximately three years prior to the date of these requests does not justify EchoStar's failure to respond. Did anyone ask Mr. Ergen if he was quoted correctly? Rule 36 would seem to require that, at the very least, as part of the reasonable inquiry EchoStar must make before

Chicago

London

New York

Washington D.C.

FCC000000140

FOR PUBLIC INSPECTION

KIRKLAND & ELLIS

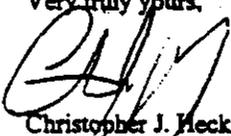
Ross W. Wooten, Esq.  
September 21, 2000  
Page 2

stating that it can neither admit nor deny a request to admit. Your response reveals no such inquiry.

EchoStar gives an evasive non-response to Request for Admission Number Two, which straightforwardly asks EchoStar to admit that it competes with cable for subscribers. EchoStar responds that it does "compete directly with cable for satellite subscribers." This response does not fairly meet the substance of the request. DirecTV asked whether or not EchoStar competes with cable for subscribers, regardless of whether the subscriber in question currently subscribes to cable or to satellite TV service. Moreover, EchoStar's objection that this request is somehow "vague and ambiguous" is not plausible. After all, Requests for Admission Three, Four, Five and Six are stated in exactly the same form as this Request for Admission, Number Two, yet, curiously, there was no "vague and ambiguous" objection to these.

Please advise me by no later than the close of business on Monday, September 25, 2000, as to whether you will supplement these responses by doing the reasonable inquiry required in response to Request for Admission Number One and by straightforwardly admitting or denying Request for Admission Number Two as it is stated. If I do not hear from you by then, DirecTV will file a motion to compel further responses before the Magistrate.

If you have any questions, please do not hesitate to call.

Very truly yours,  
  
Christopher J. Heck

CJH:lrc

FCC000000141

09/21/00 THU 14:32 FAX 1 213 880 8500

KIRKLAND & ELLIS

001

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO	4497
CONNECTION TEL	91#0062#17139524994#
SUBADDRESS	
CONNECTION ID	WELCH AND ASSOC
ST. TIME	09/21 14:51
USAGE T	00'57
PGS.	3
RESULT	OK

## KIRKLAND & ELLIS

*Fax Transmitted*

777 South Figueroa Street  
Los Angeles, CA 90017  
Phone: (213) 880-8400  
Fax: (213) 880-8500

Please notify us immediately if any pages are not received

THE INFORMATION CONTAINED IN THIS COMMUNICATION IS CONFIDENTIAL, MAY BE ATTORNEY-CLIENT PRIVILEGED, MAY CONSTITUTE INSIDE INFORMATION, AND IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE. UNAUTHORIZED USE, DISCLOSURE OR COPYING IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL.

IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR,  
PLEASE NOTIFY US IMMEDIATELY AT:  
(213) 880-8400.

<b>To:</b>	Ross W. Wooten, Esq.	<b>From:</b>	Christopher J. Heck
<b>Company:</b>	T. Wade Welch & Associates	<b>Fax #:</b>	213-880-8500
<b>Fax #:</b>	(713) 952-4994	<b>Direct #:</b>	(213) 880-8494
<b>Direct #:</b>	(713) 952-4334	<b>Date:</b>	September 21, 2000
<b>Pages:</b>	3 (including this cover sheet)		

**Message:**

FCC000000142

FOR PUBLIC INSPECTION

**EXHIBIT 4**

FCC000000143

FOR PUBLIC INSPECTION

**T. WADE WELCH & ASSOCIATES**  
ATTORNEYS AT LAW  
2401 FOUNTAINVIEW, SUITE 215  
HOUSTON, TEXAS 77057  
(713) 952-4334  
FAX (713) 952-4994

ROSS W. WOOTEN

September 14, 2000

**VIA FACSIMILE & U.S. MAIL**

John A. DeSisto, Esq.  
Featherstone DeSisto, LLP  
600 17th Street, Suite 2400  
Denver, CO 80202

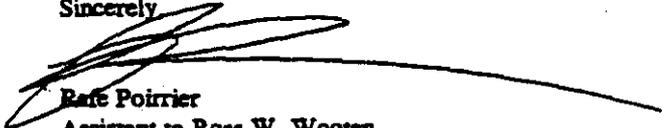
RE: Case No. 00-K-212; EchoStar Communications Corp., et al. v. DirecTV, et al.,  
United States District Court, District of Colorado.

Dear Mr. DeSisto:

Enclosed please find "Plaintiffs' First Amended Responses to DirecTV's and Hughes' First Set of Requests for Admissions".

If you have any questions, please do not hesitate to contact me.

Sincerely

  
Rafe Poirrier  
Assistant to Ross W. Wooten

/rpp

Enclosure

cc:

Bruce Featherstone  
Jeffrey S. Davidson  
Alexander F. MacKinnon  
J. Thomas Rosch

Daniel Wall  
Gregory J. Kerwin  
James R. Loftis, III

FCC000000144

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 00-K-212

**ECHOSTAR COMMUNICATIONS CORPORATION, et. al.,**

Plaintiffs,

v.

**DIRECTV Enterprises, Inc., et. al.,**

Defendants.

---

**PLAINTIFFS' FIRST AMENDED RESPONSES TO DIRECTV'S AND HUGHES'  
FIRST SET OF REQUESTS FOR ADMISSIONS**

---

In accordance with Rule 36 of the Federal Rules of Civil Procedure, Plaintiffs EchoStar Satellite Corporation ("ESC"), EchoStar Communications Corporation ("ECC"), and EchoStar Technology Corporation ("ETC") hereby serve their amended responses to Defendants DIRECTV, Inc., DIRECTV Enterprises, Inc., DIRECTV Merchandising, Inc., DIRECTV Operations, Inc., and Hughes<sup>1</sup> (collectively "DIRECTV") First Set of Requests for Admissions (the "Requests").

Plaintiffs restate their objections to DIRECTV's Requests as stated in Plaintiffs' original responses, and specifically incorporate those objections as if fully stated herein. Plaintiffs do not intend to alter their original responses to DIRECTV's First Set of Requests for Admissions, except as amended below.

---

<sup>1</sup> Plaintiffs named "Hughes Network Systems" in their Complaint. DIRECTV responded that there is no such legal entity and that "Hughes Electronics Corporation" is the proper party.

FCC000000145

FOR PUBLIC INSPECTION

**FIRST AMENDED RESPONSES TO FIRST SET OF REQUESTS FOR ADMISSIONS**

1. Admit that Charlie Ergen stated the following on or about October 5, 1997: "You can't back down when the cable bully starts demanding your lunch money," as quoted in the attached Denver Post article. (Exhibit A)

**Amended Answer:**

After conducting a reasonable investigation, Plaintiffs cannot verify that Mr. Charles Ergen made the statement that is attributed to him in the October 5, 1997 Denver Post Article, and so therefore Plaintiffs deny this request for admission.

2. Admit that EchoStar competes with cable for subscribers.

**Amended Answer:**

Plaintiffs object that this request for admission is vague, ambiguous, and contains insufficient information, such that any response given by Plaintiffs may be misleading in light of the objectionable request. Subject to the aforementioned objection, Plaintiffs respond as follows.

Plaintiffs cannot fairly respond to this request as it involves a question of fact and/or a mixed question of fact and law, which is for the Court and/or jury to decide. Whether or not Plaintiffs compete with "cable" depends on how the Court and/or jury determine the relevant product and geographical market, and can also depend on a variety of other factors, such as location, offerings, etc. There is not enough information in this request which would allow Plaintiffs to admit or deny, and so Plaintiffs deny this request for admission.

3. Admit that EchoStar competes with C-Band satellite for subscribers.

Amended Answer:

Plaintiffs object that this request for admission is vague, ambiguous, and contains insufficient information, such that any response given by Plaintiffs may be misleading in light of the objectionable request. Subject to the aforementioned objection, Plaintiffs deny this request for admission.

4. Admit that EchoStar competes with Multichannel Multipoint Distribution Service for subscribers.

Amended Answer:

Plaintiffs object that this request for admission is vague, ambiguous, and contains insufficient information, such that any response given by Plaintiffs may be misleading in light of the objectionable request. Subject to the aforementioned objection, Plaintiffs deny this request for admission.

5. Admit that EchoStar competes with Satellite Master Antenna TV for subscribers.

Amended Answer:

Plaintiffs object that this request for admission is vague, ambiguous, and contains insufficient information, such that any response given by Plaintiffs may be misleading in light of the objectionable request. Subject to the aforementioned objection, Plaintiffs deny this request for admission.

Submitted this 4 day of October 2000.

**T. WADE WELCH & ASSOCIATES**



T. Wade Welch  
2401 Fountainview, Suite 215  
Houston, Texas 77057  
(713) 952-4334  
(713) 952-4994 (fax)

**SQUIRES, SANDERS & DEMPSEY L.L.P.**

Mark A. Nadeau  
40 North Central Avenue, Suite 2700  
Phoenix, Arizona 85004  
(602) 528-4000  
(602) 253-8129 (fax)

**ATTORNEYS FOR PLAINTIFFS**

**Plaintiffs' Address:**  
David K. Moskowitz, Esq.  
General Counsel and Vice President  
EchoStar Communications Corporation  
EchoStar Satellite Corporation  
EchoStar Technologies Corporation  
5701 S. Santa Fe  
Littleton, Colorado 80120

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 4<sup>th</sup> day of October, 2000, a true and correct copy of the foregoing has been forwarded via U.S. Mail to the following attorney(s) of record, in accordance with the Federal Rules of Civil Procedure:

Bruce A. Featherstone, Esq.  
John A. Desisto, Esq.  
Featherstone Desisto LLP  
600 17th Street, Suite 2400  
Denver, Colorado 80202

Jeffrey S. Davidson  
Alexander F. MacKinnon  
Kirkland & Ellis  
777 South Figueroa  
Los Angeles, California 90017

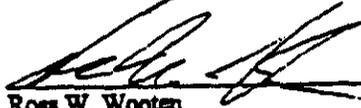
J. Thomas Rosch  
Daniel Wall  
Latham & Watkins  
505 Montgomery Street, Suite 1900  
San Francisco, California 94111-2562

**Attorneys for DIRECTV and HUGHES**

Gregory J. Kerwin, Esq.  
Gibson, Dunn & Crutcher LLP  
1801 California Street, Suite 4200  
Denver, Colorado 80202-2641

James R. Loftis, III  
Gibson, Dunn & Crutcher LLP  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036

**Attorneys for Thomson Consumer Electronics**

  
Ross W. Wooten

**EXHIBIT 5**

FCC000000150

---

FOR PUBLIC INSPECTION



**T. WADE WELCH & ASSOCIATES**  
ATTORNEYS AT LAW  
2401 FOUNTAINVIEW, SUITE 218  
HOUSTON, TEXAS 77057  
(713) 952-4334  
FAX (713) 952-4994

**FACSIMILE TRANSMITTAL COVER SHEET**

467

DATE: October 5, 2000

THE FOLLOWING TRANSMITTAL IS ADDRESSED TO:

TO	Company	Fax Number
John A. Desisto	Featherstone Desisto LLP	303-626-7101
Eric C. Liebler	Kirkland & Ellis	213-680-8500

THE TRANSMITTAL IS BEING SENT FROM:

NAME: Ross W. Wooten

RE: Echostar v. DirecTV, et al.

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET): 7

Message:

**IF YOU DO NOT RECEIVE ALL THE PAGES OR IF ANY ARE UNCLEAR, PLEASE NOTIFY THE OFFICE AS SOON AS POSSIBLE AT (713) 952-4334.**

The information contained in this facsimile is attorney privileged and confidential information intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited and will be considered as a tortious interference in our confidential business relationships. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

FCC00000151

**T. WADE WELCH & ASSOCIATES**  
ATTORNEYS AT LAW  
2401 FOUNTAINVIEW, SUITE 215  
HOUSTON, TEXAS 77057  
(713) 952-4934  
FAX (713) 952-4994

ROSS W. WOOTEN

October 5, 2000

**VIA U.S. MAIL**

John A. Desisto, Esq.  
Featherstone Desisto LLP  
600 17th Street, Suite 2400  
Denver, Colorado 80202

Gregory J. Kerwin, Esq.  
Gibson, Dunn & Crutcher LLP  
1801 California Street, Suite 4200  
Denver, Colorado 80202-2641

Eric C. Liebler, Esq.  
Kirkland & Ellis  
777 South Figueroa  
Los Angeles, California 90017

James R. Loftis, III, Esq.  
Gibson, Dunn & Crutcher LLP  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036

RE: Case No. 00-K-212 EchoStar Communications Corp., et al. v. DirecTV, et al.

Dear Counsel:

By serving their discovery responses on October 4, 2000, Plaintiffs did not intend to replace or alter their original Responses to DIRECTV's First Set of Requests for Admissions in any way. Therefore, the October 4 responses should have been labeled as supplemental responses rather than amended responses. I have enclosed a corrected copy.

If you have any questions, please do not hesitate to call.

Sincerely,

  
Ross W. Wooten

Enclosure

FCC000000152

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 00-K-212

**ECHOSTAR COMMUNICATIONS CORPORATION, et al.,**

Plaintiffs,

v.

**DIRECTV ENTERPRISES, INC., et al.,**

Defendants.

---

**PLAINTIFFS' FIRST SUPPLEMENTAL RESPONSES TO DIRECTV'S AND HUGHES'  
FIRST SET OF REQUESTS FOR ADMISSIONS**

---

In accordance with Rule 36 of the Federal Rules of Civil Procedure, Plaintiffs EchoStar Satellite Corporation ("ESC"), EchoStar Communications Corporation ("ECC"), and EchoStar Technology Corporation ("ETC") hereby serve their supplemental responses to Defendants DIRECTV, Inc., DIRECTV Enterprises, Inc., DIRECTV Merchandising, Inc., DIRECTV Operations, Inc., and Hughes<sup>1</sup> (collectively "DIRECTV") First Set of Requests for Admissions (the "Requests").

Plaintiffs restate their objections to DIRECTV's Requests as stated in Plaintiffs' original responses, and specifically incorporate those objections as if fully stated herein. Plaintiffs do not intend to alter their original responses to DIRECTV's First Set of Requests for Admissions, except as supplemented below.

---

<sup>1</sup> Plaintiffs named "Hughes Network Systems" in their Complaint. DIRECTV responded that there is no such legal entity and that "Hughes Electronics Corporation" is the proper party.

FCC000000153

**FIRST SUPPLEMENTAL RESPONSES  
TO FIRST SET OF REQUESTS FOR ADMISSIONS**

1. Admit that Charlie Ergen stated the following on or about October 5, 1997: "You can't back down when the cable bully starts demanding your lunch money," as quoted in the attached Denver Post article. (Exhibit A)

**Supplemental Answer:**

After conducting a reasonable investigation, Plaintiffs cannot verify that Mr. Charles Ergen made the statement that is attributed to him in the October 5, 1997 Denver Post Article, and so therefore Plaintiffs deny this request for admission.

2. Admit that EchoStar competes with cable for subscribers.

**Supplemental Answer:**

Plaintiffs object that this request for admission is vague, ambiguous, and contains insufficient information, such that any response given by Plaintiffs may be misleading in light of the objectionable request. Subject to the aforementioned objection, Plaintiffs respond as follows.

Plaintiffs cannot fairly respond to this request as it involves a question of fact and/or a mixed question of fact and law, which is for the Court and/or jury to decide. Whether or not Plaintiffs compete with "cable" depends on how the Court and/or jury determines the relevant product and geographical market, and can also depend on a variety of other factors, such as location, offerings, etc. There is not enough information in this request which would allow Plaintiffs to admit or deny, and so Plaintiffs deny this request for admission.

3. Admit that EchoStar competes with C-Band satellite for subscribers.

Supplemental Answer:

Plaintiffs object that this request for admission is vague, ambiguous, and contains insufficient information, such that any response given by Plaintiffs may be misleading in light of the objectionable request. Subject to the aforementioned objection, Plaintiffs deny this request for admission.

4. Admit that EchoStar competes with Multichannel Multipoint Distribution Service for subscribers.

Supplemental Answer:

Plaintiffs object that this request for admission is vague, ambiguous, and contains insufficient information, such that any response given by Plaintiffs may be misleading in light of the objectionable request. Subject to the aforementioned objection, Plaintiffs deny this request for admission.

5. Admit that EchoStar competes with Satellite Master Antenna TV for subscribers.

Supplemental Answer:

Plaintiffs object that this request for admission is vague, ambiguous, and contains insufficient information, such that any response given by Plaintiffs may be misleading in light of the objectionable request. Subject to the aforementioned objection, Plaintiffs deny this request for admission.

Submitted this 5<sup>th</sup> day of October 2000.

**T. WADE WELCH & ASSOCIATES**

*T. Wade Welch*

T. Wade Welch  
2401 Fountainview, Suite 215  
Houston, Texas 77057  
(713) 952-4334  
(713) 952-4994 (fax)

**SQUIRES, SANDERS & DEMPSEY L.L.P.**

Mark A. Nadeau  
40 North Central Avenue, Suite 2700  
Phoenix, Arizona 85004  
(602) 528-4000  
(602) 253-8129 (fax)

**ATTORNEYS FOR PLAINTIFFS**

Plaintiffs' Address:  
David K. Moskowitz, Esq.  
General Counsel and Vice President  
EchoStar Communications Corporation  
EchoStar Satellite Corporation  
EchoStar Technologies Corporation  
5701 S. Santa Fe  
Littleton, Colorado 80120

FCC000000156

CERTIFICATE OF SERVICE

I hereby certify that on this the 5<sup>th</sup> day of October, 2000, a true and correct copy of the foregoing has been forwarded via U.S. Mail to the following attorney(s) of record, in accordance with the Federal Rules of Civil Procedure:

Bruce A. Featherstone, Esq.  
John A. Desisto, Esq.  
Featherstone Desisto LLP  
600 17th Street, Suite 2400  
Denver, Colorado 80202

Jeffrey S. Davidson  
Alexander F. MacKinnon  
Kirkland & Ellis  
777 South Figueroa  
Los Angeles, California 90017

J. Thomas Rosch  
Daniel Wall  
Latham & Watkins  
505 Montgomery Street, Suite 1900  
San Francisco, California 94111-2562

**Attorneys for DIRECTV and HUGHES**

Gregory J. Karwin, Esq.  
Gibson, Dunn & Crutcher LLP  
1801 California Street, Suite 4200  
Denver, Colorado 80202-2641

James R. Loftis, III  
Gibson, Dunn & Crutcher LLP  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036

**Attorneys for Thomson Consumer Electronics**

  
Ross W. Wooten

**EXHIBIT 6**

FCC000000158

---

FOR PUBLIC INSPECTION

# KIRKLAND & ELLIS

PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

777 South Figueroa Street  
Los Angeles, California 90017

213 880-8400

Eric C. Liebler  
To Call Writer Directly:  
(213) 680-8484

Facsimile:  
213 880-8500

October 5, 2000

### Via Facsimile & U.S. Mail

T. Wade Welch, Esq.  
T. Wade Welch & Associates  
2401 Fountainview, Suite 215  
Houston, TX 77057

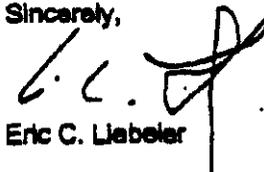
Re: EchoStar v. DIRECTV, No. 00-K-212  
and related counterclaims

Dear Wade:

This letter confirms that we have met and conferred on EchoStar's amended responses to DIRECTV's first set of requests for admission. After our discussion, you indicated that EchoStar would stand on EchoStar's current responses.

I indicated that we would move to determine the sufficiency of your objections and answer on request number two.

Sincerely,



Eric C. Liebler

ECL:cmp

Chicago

London

New York

Washington D.C.

FCC000000159

**EXHIBIT 7**

FCC000000160

FOR PUBLIC INSPECTION

**T. WADE WELCH & ASSOCIATES**

ATTORNEYS AT LAW  
2401 FOUNTAINVIEW, SUITE 215  
HOUSTON, TEXAS 77057  
(713) 952-4334  
FAX (713) 952-4994

T. WADE WELCH

October 5, 2000

**VIA U.S. MAIL AND FACSIMILE**

Eric Liebeler, Esq.  
Kirkland & Ellis  
777 South Figueroa Street  
Los Angeles, California 90017

RE: Case No. 00-WY-212-CB; EchoStar Communications Corp., et al. v. DirectTV, et al., United States District Court, District of Colorado.

Dear Eric:

I am in receipt of your October 5, 2000 letter regarding EchoStar's responses to your Requests for Admissions. To clarify the matter, I stated that as the request is currently framed it is objectionable. As we stated, it is vague, ambiguous, and over broad. Primarily because it does not identify a relevant product or geographic market. If you would like to re-word the request to make it more specific and include information necessary to make it a meaningful request, we will be happy to provide a response. Please accurately reflect our position in your certificate of conference.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

  
T. Wade Welch

cc: John A. DeSisto, Esq.

FCC000000161

**KIRKLAND & ELLIS***Fax Transmittal*

777 South Figueroa Street  
 Los Angeles, CA 90017  
 Phone: (213) 680-8400  
 Fax: (213) 680-8500

**COPY**


---

Please notify us immediately if any pages are not received

THE INFORMATION CONTAINED IN THIS COMMUNICATION IS CONFIDENTIAL, MAY BE ATTORNEY-CLIENT PRIVILEGED, MAY CONSTITUTE INSIDE INFORMATION, AND IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE. UNAUTHORIZED USE, DISCLOSURE OR COPYING IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL.

IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR,  
 PLEASE NOTIFY US IMMEDIATELY AT:  
 (213) 680-8400.

---

<b>To:</b>	T. Wade Welch, Esq.	<b>From:</b>	Eric C. Liebler
<b>Company:</b>	T. Wade Welch & Associates	<b>Fax #:</b>	(213)680-8500
<b>Fax #:</b>	(713) 962-4004	<b>Direct #:</b>	(213) 680-8484
<b>Direct #:</b>	(713) 962-4334	<b>Date:</b>	October 5, 2000
<b>Pages:</b>	2 (including this cover sheet)		

---

**Message:**

FCC000000162