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May 1, 2012

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Oral Ex Parte Presentation
WT Docket No. 11-49

Dear Ms. Dortch:

On April 27, 2012, Jack Unger, FCC Committee Chair of the Wireless Internet Service Providers Association ("WISPA"), and the undersigned, as counsel to WISPA, met by telephone with Geraldine Matise of the FCC's Office of Engineering and Technology and Paul Murray of the FCC's Wireless Telecommunications Bureau to discuss issues related to the above-referenced matter. The participants focused on the test procedures employed by Progeny LMS, LLC ("Progeny") and the resulting field test report that Progeny filed.

Citing its previous filings in this proceeding,[1] WISPA stated that Progeny's test process was flawed in numerous respects, thereby creating the false impression that commercial operation of Progeny's network would not result in unacceptable levels of interference to Part 15 outdoor devices. WISPA explained that the test process that Progeny used was set up to achieve the results that Progeny desired, not to determine whether and to what extent commercial operation would, in the "real-world," result in unacceptable interference. WISPA reiterated its request that cooperative testing must be performed in order to determine the accuracy of Progeny's conclusions and the extent to which operation of its system would cause unacceptable levels of interference.

[1] On March 15, 2012, WISPA filed Comments in this proceeding. *See* Comments of the Wireless Internet Service Providers Association, WT Docket No. 11-49, filed Mar. 15, 2012 ("WISPA Comments"). WISPA also filed a written ex parte letter on April 26, 2012. *See* letter from Stephen E. Coran, Counsel to WISPA, to Marlene H, Dortch, FCC Secretary, WT Docket No. 11-49, filed Apr. 26, 2012 ("WISPA Ex Parte Letter").

In its oral presentation, WISPA discussed the following specific flaws:

- Progeny did not test the Canopy link at full throughput. Interference reduces throughput. By choosing to NOT test at full throughput, Progeny masked the throughput-reducing effects of interference caused by its WAPS transmitter. Progeny's conclusion that its WAPS transmitter did not cause interference is only conjecture on its part. Progeny's claim of non-interference is not and cannot be supported by its defective test process.

- Progeny did not test the Canopy throughput at real-world distances. By choosing to test the Canopy link at only 1/100 (0.4 miles instead of 40 miles) of its maximum real-world range, Progeny demonstrated that it was willing and able to rig the test conditions in order to reach the conclusion it desired. With such a short link distance, the Canopy signal-to-noise ratio will be so high (the Canopy signal will be uncharacteristically strong) as to mask the throughput-reducing effects from the Progeny WAPS transmitter.

- Progeny performed Canopy throughput testing in one direction only and did not test throughput from the base station to the end-user end of the link. This is a serious omission that once again demonstrates that Progeny chose the test conditions to deliver the results that it desired. In no way can Progeny's one-way test be considered to represent "real-world" conditions.

- Progeny tested for interference using only one WAPS transmitter. Progeny's test process did not account for the increased interference environment that will exist in the real world by the deployment of the many multiple Progeny WAPS transmitters that will be needed to create a functioning WAPS network in urban areas, again understating the potential for debilitating real-world interference that could render useless millions of Part 15 outdoor devices already in use around the country.

- Progeny ignored Commission requirements obligating it to undertake cooperative testing. Progeny never approached WISPA to cooperate in setting up and conducting cooperative real-world testing.

The Commission representatives stated that they would consult their engineers regarding these points.

At the conclusion of the telephone conference, WISPA reiterated its request that, in light of the defective test process, the Commission should withhold granting Progeny's request to begin commercial deployment until such time as additional, real-world, cooperative testing with WISPA can occur and the actual level of interference that

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Progeny's network would cause to outdoor Part 15 commercial operations can be determined.

Pursuant to Section 1.1206 of the Commission's Rules, this notice is being filed via ECFS in the above-referenced proceeding. Please direct any questions regarding this notice to the undersigned.

Respectfully submitted,

/s/ Stephen E. Coran
Stephen E. Coran

cc: Julius Knapp
Roger Noel
Geri Matise
Paul Murray

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