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November 4, 2003

35934.00002

ELECTRONICALLY FILED

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

Re: *Ex Parte* Communication
ET Docket No. 03-122, Revision of Parts 2 and 15 of the Commission's Rules to
Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5
GHz Band

Dear Ms. Dortch:

On October 31, 2003, the undersigned, on behalf of Atheros Communications, Inc. ("Atheros"), had a discussion by telephone with Julius Knapp, Deputy Chief of the Office of Engineering and Technology, concerning issues in the above-referenced proceeding.

The discussion was consistent with filings submitted by Atheros in this proceeding dated October 17 and October 22. Specifically, we discussed (1) modifications proposed by Atheros to the draft test plan submitted by the National Telecommunications and Information Administration ("NTIA") on October 1, 2003; (2) the need to allow independent laboratories to test for DFS and TPC, noting that U.S. laboratories already test for conformance with the European DFS and TPC requirements and therefore have the equipment and expertise; and (3) given the fluidity of the draft test plan and uncertainty as to when equipment authorization may be attainable as a practical matter, the transition period for equipment operating in the 5.25-5.35 GHz band should begin to run when devices actually can be authorized. This time should be designated to be when the first device is approved.¹

¹ Industry Comments and Reply Comments overwhelmingly support keying the transition period to the availability of Commission-approved test procedures rather than publication of the Report and Order in the Federal Register. Approval of the first device would signify workable test procedures in a concrete and readily-determined manner. *See* Comments of Cisco at 10, Airespace at 1, Agere at 7, TIA at 4, WiFi Alliance at 13, and IEEE 802 at 19; Reply Comments of Atheros at 6, Microsoft at 2-3, Intel at 2-3; Motorola at 6-7.

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In accordance with Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1206, this letter is being filed electronically and a copy sent to each named FCC participant.

Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,

A handwritten signature in black ink that reads "DR Siddall". The letters are cursive and somewhat stylized.

David R. Siddall

Attachment

cc: Julius Knapp
Alan Scime
Rashmi Doshi
Karen Rackley
Ahmed Lahjouji
Ted Ryder