

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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In the Matter of	)	File No.: EB-10-IH-4016
	)	
	)	Acct. No.: 201232080005
	)	
NobelTel, LLC	)	FRN: 0008760928

**CONSENT DECREE**

The Enforcement Bureau of the Federal Communications Commission and NobelTel, LLC, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into whether NobelTel, LLC violated section 214 of the Communications Act of 1934, as amended,<sup>1</sup> relating to transfers of control, and sections 63.03, 63.04, 63.18, and 63.24 of the Commission's rules ("Rules"),<sup>2</sup> relating to streamlined applications for transfer of control and assignment of section 214 authorizations.

**I. DEFINITIONS**

1. For the purposes of this Consent Decree, the following definitions shall apply:
  - a. "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
  - b. "Adopting Order" or "Order" means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion or modification.
  - c. "Applicants" means NobelTel, LLC, and Aries Network, Inc.
  - d. "Aries" means Aries Network, Inc., and its predecessors-in-interest and successors-in-interest.
  - e. "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
  - f. "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
  - g. "Compliance Officer" means the individual designated in paragraph 12 of this Consent Decree as the person responsible for administration of the Compliance Plan.

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<sup>1</sup> 47 U.S.C. § 214.

<sup>2</sup> 47 C.F.R. §§ 63.03, 63.04, 63.18, 63.24.

- h. “Compliance Plan” means the plan described in this Consent Decree at paragraph 12.
- i. “Effective Date” means the date on which the Bureau, by delegated authority, releases the Adopting Order.
- j. “Investigation” means the investigation commenced by the Bureau’s November 29, 2010, letter of inquiry<sup>3</sup> (“LOI”) regarding whether NobelTel may have violated section 214(a) of the Act, 47 U.S.C. § 214, and sections 63.03, 63.04, 63.18, and 63.24 of the Rules, 47 C.F.R. §§ 63.03, 63.04, 63.18, 63.24, by consummating a substantial transfer of control of a section 214 blanket domestic and international authorization prior to the end of the streamlined pleading cycle established pursuant to the Applicants’ filings.
- k. “NobelTel” or the “Company” means NobelTel, LLC and its predecessors-in-interest and successors-in-interest.
- l. “Parties” means NobelTel, LLC and the Enforcement Bureau of the Federal Communications Commission, each of which is a “Party.”
- m. “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- n. “Special Temporary Authority” or “STA” means the special provisions relating to temporary or emergency services under a section 214 authorization pursuant to section 63.25 of the Rules, 47 C.F.R. § 63.25.
- o. “Telecommunications Service” or “Telecommunications” have the meanings set forth in sections 3(43) and 3(46) of the Act, 47 U.S.C. §§ 153(43), 153(46), respectively.

## II. BACKGROUND

2. Section 214 of the Act requires telecommunications carriers to obtain a certificate of public convenience and necessity from the Commission before constructing, acquiring, operating, or engaging in transmission over lines of communications, or before discontinuing, reducing or impairing service to a community.<sup>4</sup> The Commission has granted all carriers blanket operating authority under section 214 to provide domestic interstate services, and to construct, acquire, or operate any domestic transmission line.<sup>5</sup> Part 63 of the Rules sets forth the requirements for obtaining and transferring section 214 authorizations, and for discontinuing service.

3. In accordance with section 63.03 of the Rules, any domestic carrier seeking to transfer an authorization to operate pursuant to section 214 of the Act must obtain prior approval from the

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<sup>3</sup> Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission to Joan M. Griffin, Counsel to NobelTel, LLC (dated Nov. 29, 2010).

<sup>4</sup> 47 U.S.C. § 214(a).

<sup>5</sup> See *Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996; Petition for Forbearance of the Independent Telephone & Telecommunications Alliance*, Report and Order and Second Memorandum Opinion and Order, 14 FCC Rcd 11364 (1999); 47 C.F.R. § 63.01.

Commission.<sup>6</sup> The application filing procedures are set forth in section 63.04 of the Rules.<sup>7</sup> Pursuant to section 63.03(a) of the Rules, an applicant, unless otherwise notified, may transfer control of a domestic section 214 authorization on the 31<sup>st</sup> day after the date the Commission issues a Public Notice listing the application for transfer of control as accepted for filing as a streamlined application.<sup>8</sup> Pursuant to section 63.24, a transfer of control of an international section 214 authorization requires application to and prior approval from the Commission,<sup>9</sup> with such application to include the contents set forth in section 63.18 of the Rules.<sup>10</sup> With regard to substantial transactions, section 63.24(e) requires that the proposed transferee apply to the Commission for approval prior to the consummation of the proposed transfer of control.<sup>11</sup> A carrier may also request an STA to provide temporary or emergency services under an international section 214 authorization pursuant to section 63.25 of the Rules.<sup>12</sup>

4. Aries was a non-dominant carrier that provided intrastate and interstate telecommunications services on a resale basis. Aries held section 214 authority to provide facilities-based and resold international services.<sup>13</sup> Until April 5, 2010, Aries was wholly-owned by Ms. Kulait Khalaf. NobelTel is a non-dominant carrier that provides intrastate interexchange, interstate, and international telecommunications services, including prepaid and postpaid card services, to residential and business end users in the United States and other countries. NobelTel also holds section 214 authority to provide facilities-based and resold international services.<sup>14</sup>

5. On April 2, 2010, Applicants NobelTel and Aries filed a joint transfer of control application, pursuant to sections 63.04 and 63.24 of the Rules, requesting approval to transfer control of the domestic and international section 214 authorizations held by Aries from Ms. Khalaf to NobelTel.<sup>15</sup> Concurrently, the Applicants filed an application for an STA to consummate the proposed transfer of control pending grant of permanent authority from the Wireline Competition Bureau (“WCB”) and the International Bureau (“IB”).<sup>16</sup> The Applicants’ STA request stated that the parties expected to close the transaction on or about April 5, 2010, because of concerns about preserving assets and the continued availability of suitable financing.<sup>17</sup>

6. On April 9, 2010, the Applicants filed an amended STA notifying WCB and IB that they had consummated the proposed transaction on April 5, 2010, *before* receiving the requisite approval from

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<sup>6</sup> 47 C.F.R. § 63.03.

<sup>7</sup> 47 C.F.R. § 63.04.

<sup>8</sup> 47 C.F.R. § 63.03(a).

<sup>9</sup> 47 C.F.R. § 63.24.

<sup>10</sup> 47 C.F.R. § 63.18.

<sup>11</sup> 47 C.F.R. § 63.24(e).

<sup>12</sup> 47 C.F.R. § 63.25.

<sup>13</sup> See IB File No. ITC-214-20010409-00181, DA 01-1131 (rel. May 3, 2001).

<sup>14</sup> See IB File No. ITC-214-20011021-00532, DA 01-2833 (rel. Dec. 6, 2001). The original section 214 authorization was granted in the name of Nobel Limited Company d/b/a NobelTel.

<sup>15</sup> See WC Docket No. 10-85, File No. ITC-T/C-20100402-00148.

<sup>16</sup> See WC Docket No. 10-85, File No. ITC-STA-20100402-00147.

<sup>17</sup> *Id.*

either WCB or IB.<sup>18</sup> WCB did not grant the STA authorizing NobelTel to assume control of Aries's blanket domestic section 214 authorization until April 12, 2010, and did so subject to possible enforcement action.<sup>19</sup> Similarly, IB did not grant an STA permitting NobelTel to assume control of Aries's international section 214 authorization until April 12, 2010, also subject to possible subsequent enforcement action.<sup>20</sup>

7. On November 29, 2010, the Bureau issued an LOI to NobelTel.<sup>21</sup> The LOI directed NobelTel, among other things, to submit a sworn, written response to a series of questions relating to the transfer of control of Aries to NobelTel. NobelTel responded to the LOI on December 17, 2010,<sup>22</sup> and supplemented its response on February 3, 2011.<sup>23</sup>

### III. TERMS OF AGREEMENT

8. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

9. **Jurisdiction.** NobelTel agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

10. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission order.

11. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, NobelTel agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against NobelTel concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the

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<sup>18</sup> Letter from Joan M. Griffin, Counsel for NobelTel, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-85, (dated Apr. 9, 2010).

<sup>19</sup> On April 12, 2010, William A. Dever, Chief, Policy Division, Wireline Competition Bureau, granted the request by date-stamping the letter request. NobelTel LOI Response No. 9, Schedule 9.

<sup>20</sup> On April 12, 2010, James L. Ball, Chief, Policy Division, International Bureau granted the request by date-stamping the letter request. *See* NobelTel LOI Response No. 9 at Schedule 9.

<sup>21</sup> *Supra*, note 3.

<sup>22</sup> Letter from Joan M. Griffin, Counsel to NobelTel, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (dated Dec. 17, 2010).

<sup>23</sup> Letter from Joan M. Griffin, Counsel to NobelTel, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (dated Feb. 3, 2011).

Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against NobelTel with respect to NobelTel's basic qualifications, including its character qualifications, to be a Commission licensee or hold Commission authorizations.

12. **Compliance Plan.** NobelTel agrees that it will implement a comprehensive Compliance Plan for purposes of ensuring its compliance with the Act, the Rules, and the Commission's orders. The Compliance Plan shall include, at a minimum, the following components:

- a) **Compliance Officer.** NobelTel shall designate a Compliance Officer, as defined in paragraph 1 of this Consent Decree, within thirty (30) calendar days after the Effective Date. The Compliance Officer shall administer the Compliance Plan, supervise NobelTel's compliance with the Act, the Rules and the Commission's Orders, and serve as the point of contact on behalf of NobelTel for all FCC-related compliance matters.
- b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to NobelTel employees and others who perform NobelTel's federal regulatory reporting and compliance-related tasks, all of whom shall follow the procedures detailed in the Compliance Manual. The Compliance Manual will include at a minimum (i) an overview of the Commission's requirements, including the need for prior approval for license assignments and substantial transfers of control of section 214 authorizations; (ii) a description of the regulatory requirements applicable to the accurate and timely reporting of information in FCC applications; and (iii) instructions regarding due diligence for FCC applications.
- c) **Compliance Training Program.** Within ninety (90) calendar days after the Effective Date, and annually thereafter, NobelTel shall implement and conduct a training program for all employees who perform duties at NobelTel that trigger or may trigger compliance-related responsibilities. NobelTel shall ensure that training and compliance materials are provided to new and reassigned employees who are responsible for fulfilling those obligations within the first thirty (30) calendar days of employment or reassignment.
- d) **Review and Monitoring.** NobelTel shall review the Compliance Manual and Compliance Training Program at least annually to ensure they are maintained in a proper manner and continue to address NobelTel's compliance with federal regulatory reporting obligations. NobelTel shall update the Compliance Manual and Compliance Training Program in the event of changes and/or additions to the relevant Rules and related Commission orders.
- e) **Compliance Reports.** NobelTel shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and upon expiration of this Compliance Plan, *i.e.*, three (3) years after the Effective Date. Each compliance report shall include a compliance certificate from the Compliance Officer, as an agent of and on behalf of the Company, stating that the Compliance Officer has personal knowledge that the Company: (i) has established operating procedures intended to ensure compliance with the terms and conditions of this

Consent Decree and section 214 of the Act and sections 63.03, 63.04, 63.18, and 63.24 of the Rules,<sup>24</sup> together with an accompanying statement explaining the basis for the Compliance Officer's certification; (ii) has been utilizing those procedures since the previous Compliance Report was submitted; and (iii) is not aware of any instances of non-compliance. The certification must comply with section 1.16 of the Rules<sup>25</sup> and be subscribed to as true under penalty of perjury in substantially the form set forth therein. If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Company, shall provide the Commission with a detailed explanation of: (i) any instances of non-compliance with this Consent Decree and section 214 of the Act and sections 63.03, 63.04, 63.18, and 63.24 of the Rules;<sup>26</sup> and (ii) the steps that the Company has taken or will take to remedy each instance of non-compliance and ensure future compliance, and the schedule on which proposed remedial actions will be taken. All compliance reports shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Room 4-C330, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Theresa Z. Cavanaugh at terry.cavanaugh@fcc.gov, and to Joy M. Ragsdale at joy.ragsdale@fcc.gov.

- f) Reporting Non-Compliance. NobelTel shall report any non-compliance with this Consent Decree, or section 214 of the Act, Part 63 of the Rules, or related Commission orders to the Bureau within 30 calendar days after the discovery of non-compliance.
- g) Termination Date of Compliance Plan. The requirements relating to the Compliance Plan shall expire three (3) years after the Effective Date, unless stated otherwise.

13. **Section 208 Complaints: Subsequent Investigations**. Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to section 208 of the Act against the Company or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by the Company of the Act, the Rules, or the Order.

14. **Voluntary Contribution**. NobelTel agrees that it will make a voluntary contribution to the United States Treasury in the total amount of \$13,000 (thirteen thousand dollars) within 30 days of the Effective Date. The payment shall be made by check or similar instrument, payable to the Order of the Federal Communications Commission. The payment shall include the Account Number and FRN referenced in the caption to the Adopting Order. Payment by check or money Order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payments by wire transfer may be made to ABA Number

<sup>24</sup> 47 U.S.C. § 214; 47 C.F.R. §§ 63.03, 63.04, 63.18, 63.24.

<sup>25</sup> 47 C.F.R. § 1.16.

<sup>26</sup> *Supra*, note 24.

021030004, receiving bank Federal Reserve Bank of New York, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). NobelTel will also send an electronic mail notification to Joy Ragsdale at Joy.Ragsdale@fcc.gov on the date said payment is made.

15. **Waivers.** NobelTel waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Bureau issues an Order adopting the Consent Decree without change, addition, modification, or deletion. NobelTel shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither NobelTel nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and NobelTel shall waive any statutory right to a trial *de novo*. NobelTel hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

16. **Invalidity.** In the event this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

17. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which NobelTel does not expressly consent) that provision will be superseded by such Commission rule or order.

18. **Successors and Assigns.** NobelTel agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

19. **Modifications.** This Consent Decree cannot be modified without the written consent of both Parties.

20. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute and shall not be construed as (1) an adjudication on the merits, or (2) a factual or legal finding or determination, or an admission by NobelTel, regarding any compliance, or noncompliance with the requirements of the Act or the Rules and/or the Commission's orders.

21. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

22. **Counterparts.** This Consent Decree may be signed in counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

23. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

By: \_\_\_\_\_  
P. Michele Ellison  
Chief, Enforcement Bureau  
Federal Communications Commission

By: \_\_\_\_\_  
Richard L. Mahfouz  
President  
NobelTel, LLC

Date: \_\_\_\_\_

Date: \_\_\_\_\_