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December 3, 2008
FILED/ACCEPTED

DEC - 3 2008

Federal Communications Commission
Office of the Secretary

BY HAND

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
c/o Natek, Inc.
236 Massachusetts Avenue, N.E.
Suite 110
Washington, DC 20002

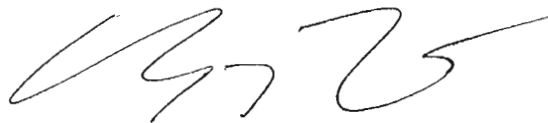
Re: Petition to Deny; File No. ITC-214-20081107-00492

Dear Secretary Dortch:

Enclosed for filing herewith is an original plus four (4) copies of a Petition to Deny the application in the above referenced proceeding.

Please acknowledge receipt of this filing by file-stamping and returning the extra copy of this filing in the envelope provided for this purpose. Please contact the undersigned should you have any questions.

Respectfully submitted,



Thomas K. Crowe
Cheng-yi Liu,
Counsel for Telwise Corporation

Enclosures

cc: David Krech (via email)
JoAnn Sutton (via email)
Janeese Parker (via email)
Raul Magallanes (via email)

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

In the Matter of)	
)	
FILKONEK CORPORATION)	
)	
Application for Authority)	File No. ITC-214-20081107-00492
Pursuant to Section 214 of the)	
Communications Act of 1934, as amended)	
To Provide Global or Limited)	
Resale Authority)	

PETITION TO DENY

Telwise Corporation (“Telwise”), by its attorneys and pursuant to Section 63.20(d) of the Federal Communication Commission’s (“FCC’s”) Rules, 47 C.F.R. § 63.20(d), respectfully petitions that the FCC International Bureau (“Bureau”) deny FILKONEK CORPORATION’s (“FILKONEK’s” or “Applicant’s”) International Section 214 Application (“Application”) which was accepted for filing on November 21, 2008.¹

I. BACKGROUND

Telwise is a private carrier that provides wholesale international telecommunications to other carriers on a contractual basis. Telwise’s principal business address is located at 73 Radford Street, Yonkers, NY 10705. On October 20, 2008 Telwise entered into a Carrier Services Agreement (“Agreement”) to provide wholesale telecommunications to Filkonek, Incorporated (“FIL INC”), a foreign telecommunications carrier organized under the laws of the Philippines with its principal offices located at 18th Floor Strata 200 Building, Emerald Avenue, Ortigas Center, Pasig City, Philippines 1600. The Agreement was executed by Alex Hawak, President and owner of FIL INC. The Application in question represents that Alex Hawak is the

¹ See File No. ITC-214-20081107-00492; see also *Streamlined International Applications Accepted for Filing*, Public Notice, Report No. TEL-01328S (November 21, 2008).

100% owner of FILKONEK, and states that its business address is located at 73 Radford Street, Yonkers, NY 10705. FILKONEK's Application also states that the Applicant has no foreign affiliations or interlocking directorates. The facts and assertions contained herein are supported by the attached Declaration of an authorized officer of Telwise.

II. THE APPLICATION SHOULD BE DENIED FOR FAILURE TO DISCLOSE FOREIGN CARRIER AFFILIATIONS AND INTERLOCKING DIRECTORATES

FILKONEK's Application should be denied because it contains apparent misrepresentations about the Applicant's interlocking directorates and foreign carrier affiliations in violation of Sections 63.18(h) and (i), respectively, of the FCC's rules.² As described above, Alex Hawak, the sole owner of FILKONEK, is also the President and owner of FIL INC, a carrier based in the Philippines. According to the signature line of the Application, Question 18, Alex Hawak is also an "Officer" of FILKONEK. Thus, FILKONEK is affiliated with FIL INC through the common ownership by Alex Hawak, and the two companies also have interlocking directorates since Hawak also serves as an officer of both.

FILKONEK clearly misrepresented its foreign affiliations and failed to disclose its interlocking directorates in the Application. In the first paragraph of Attachment 1 (labeled "Cover Letter") to the Application, FILKONEK states that "FILKONEK has no foreign affiliations."³ In Paragraph (i) of Attachment 1 Applicant states that "FILKONEK certifies that it is not affiliated with any foreign or U.S. facilities-based carrier." Further, in Paragraph (j), Applicant certifies that it does not seek to provide telecommunications services to any destination for which an entity that owns more than 25% of FILKONEK also controls a foreign carrier in that country, and in Paragraph (p), Applicant requests streamlined processing on the

² 47 C.F.R. §§ 63.18(h) & (i).

³ See *Cover Letter*, Attachment 1 to File No. ITC-214-20081107-00492.

basis that it has no affiliations with foreign carriers in a destination market in which it seeks authority to serve. Finally, Applicant fails to disclose in the Application or Attachment 1 its interlocking directorates as required by Question 14 and Section 63.18(h) of the FCC's rules.

It would be prima facie inconsistent with the public interest, convenience and necessity for the Bureau to grant the Application when FILKONEK has demonstrated a clear propensity to make blatant misrepresentations and false certifications to the FCC.

III. THE APPLICATION SHOULD BE DENIED BECAUSE IT UTILIZES TELWISE'S BUSINESS ADDRESS AND CAUSES CONFUSION IN THE MARKETPLACE

The Application should be denied because FILKONEK's use of Telwise's business address has already caused confusion in the marketplace to the detriment of Telwise. As of December 2, 2008, Telwise has directed FILKONEK to immediately cease using Telwise's business address. FILKONEK's continued use of the address for purposes of the Application will cause further harm to Telwise and create further marketplace confusion which will negatively impact the public interest, convenience and necessity.

Telwise initially allowed, through a verbal arrangement, Applicant's sole owner, Alex Hawak, to use Telwise's 73 Radford Street business address to receive mail for the purpose of setting up Hawak's U.S. based business, FILKONEK. Alex Hawak, also a citizen and current resident of the Philippines, indicated that he did not have a current U.S. address to use for business purposes but would obtain a U.S. address for FILKONEK in the near future. However, Telwise did not anticipate that there would be confusion and detriment to the company as a result of FILKONEK using the 73 Radford Street address for filing the Application. FILKONEK's use of Telwise's address has already created confusion and uncertainty in the marketplace, resulting in a lawsuit (alleging fraud and misrepresentation) against FILKONEK that also implicates Telwise as a defendant based upon an inaccurate belief by the plaintiff that the two companies

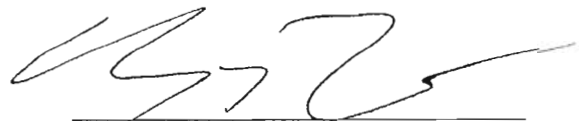
are affiliated because of the common 73 Radford Street address.⁴ This inaccurate association with FILKONEK has already impeded Telwise's ability to conduct business, and has interfered with Telwise's business relationships with its customers.

Telwise has directed FILKONEK to immediately cease using the address to avoid further confusion. Consequently, FILKONEK does not currently have a legitimate business address listed in its Application, and continued use of Telwise's address will constitute a misrepresentation to the FCC. Further, should the Application be granted, the continued use of Telwise's address will be an ongoing misrepresentation to the public and inconsistent with the public interest, convenience and necessity by creating further confusion in the marketplace.

IV. CONCLUSION

For the foregoing reasons, Telwise respectfully requests that the Bureau deny the grant of the Application.

Respectfully submitted,



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**COUNSEL FOR TELWISE
CORPORATION**

December 3, 2008

⁴ See Case Number CGC-08-481422, Superior Court of California, County of San Francisco.

DECLARATION OF JOSE MALLARI

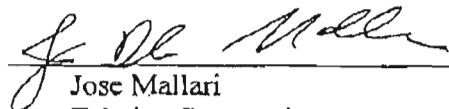
Pursuant to 47 C.F.R. § 1.16, I hereby declare as follows:

1. I am Vice President of Operations for Telwise Corporation ("Telwise"), and I am authorized to make these declarations for Telwise. I have personal knowledge of the information provided in the declarations below.
2. Telwise's principal business address is located at 73 Radford Street, Yonkers, NY 10705.
3. On October 20, 2008 Telwise entered into a Carrier Services Agreement ("Agreement") to provide wholesale telecommunications to Filkonek, Incorporated ("FIL INC").
4. FIL INC is a foreign based telecommunications carrier with its principal business address, as stated in the Agreement, of 18th Floor Strata 200 Building, Emerald Avenue, Ortigas Center, Pasig City, Philippines 1600.
5. The Agreement was executed by Alex Hawak, President of FIL INC.
6. Alex Hawak is also an owner of FIL INC.
7. Alex Hawak is also a citizen of the Philippines, and currently resides there.
8. Telwise initially allowed, through a verbal arrangement, Alex Hawak to use Telwise's business address to receive mail for the purpose of setting up Hawak's U.S. based business, FILKONEK CORPORATION ("FILKONEK").

9. As of December 2, 2008, Telwise has directed Alex Hawak and FILKONEK to immediately cease using Telwise's business address.

I hereby certify that to the best of my knowledge and belief, under penalty of perjury, the foregoing statements are true and correct.

Executed on this 3rd day of December, 2008.



Jose Mallari
Telwise Corporation

CERTIFICATE OF SERVICE

I, Conor Hanlon, a legal assistant at the Law Offices of Thomas K. Crowe, P.C., do hereby certify that on this 3rd day of December, 2008, a copy of the foregoing Petition to Deny was served via email upon the following:

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