

**BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION**

Joint Application of)
)
First Communications, LLC,)
)
and)
Gores FC Holdings, LLC)
)
For Approval of Transfer of Control)
)

JOINT APPLICATION

First Communications, LLC (“FCL”) and Gores FC Holdings, LLC (“Gores FC”) (collectively, “Applicants”), through their undersigned counsel and pursuant to Section 392.300, RSMo 2000 and 4 CSR 240-2.060 of the Rules of the Missouri Public Service Commission (“Commission”), and contingent on the commission accepting jurisdiction over this matter,¹ hereby respectfully request the authority necessary to consummate a transaction whereby Gores FC will obtain the right to appoint a majority of the FCI board of directors, giving it *de facto* control of First Communications, Inc. (“FCI”), the parent company of FCL and Xtension Services, Inc. (“Xtension”).² In addition, Applicants inform the Commission that Gores FC will obtain a 13.1 percent interest in FCI by converting non-voting shares of common stock to voting shares and will exercise warrants to increase its interest in FCI up to a 35.6 percent.

Applicants expect that the proposed transaction will improve business operations for FCI and ultimately, FCL and Xtension, and emphasize that the proposed transaction will not affect

¹ As described more fully below, Applicants believe that the proposed transaction may not be within the jurisdiction of the Commission. Nevertheless, Applicants file this Application out of an abundance of caution should the Commission determine otherwise.

² FCI obtained approval from the Commission to acquire FCL, pursuant to Case No. TM-2007-0202. The transfer of control of FCL to FCI was consummated on July 2, 2007.

the services provided to the customers of FCL or Xtension. As demonstrated below, Gores FC, an investment company, is financially and managerially well-qualified to take *de facto* control of FCI. Applicants therefore request that the Commission approve this Application expeditiously to allow the proposed transaction described herein to be consummated as soon as possible.

In support of their Joint Application, Applicants state as follows:

I. Description of the Applicants

A. First Communications, LLC ("FCL")

1. FCL was formed on July 1, 1998 under the laws of the State of Ohio and is a wholly owned subsidiary of FCI, a corporation listed on the Alternative Investment Market of the London Stock Exchange ("AIM").³ FCL's headquarters are located at 3340 West Market Street, Akron, Ohio 44333. FCL is authorized to provide local, private line, and/or long distance services to both business and residential customers in 49 states and holds domestic and international Section 214 authorizations from the FCC. Its services include, in addition to traditional local and long distance services, toll-free services, conference calling packages, calling cards, prepaid calling cards, Internet access and dedicated and private line services. FCL's telecommunications services are provided primarily on a resale basis using the facilities and switches that are owned and operated by other telecommunications carriers.

2. In Missouri, FCL is authorized to provide resold interexchange telecommunications services pursuant to Case No. TA-2007-0067, issued on September 25,

³ Commission rule 4 CSR 240-2.060 (C) requires an applicant that is a foreign corporation to attach a certificate from the Missouri Secretary of State's office that the applicant is authorized to do business in the State of Missouri. Applicants respectfully request that the Commission waive this requirement, pursuant to 4 CSR 240-2.015, with respect to FCI and Gores FC. Neither FCI nor Gores FC has the present intention of engaging in business in the State of Missouri. FCI serves as the holding company for FCL and Gores FC role at this time is an investor of FCI. The nature of FCI's and Gores FC's stock ownership will not require it to generally engage in any business in the state of Missouri, and its joint application here is an isolated transaction. The Applicants submit that good cause is present for the waiver.

2006. Further information regarding FCL and the services it provides has previously been submitted to the Commission and is therefore a matter of public record, and Applicants request that it be incorporated herein by reference. A copy of FCL's certificate of good standing issued by the Missouri Secretary of State is attached as Exhibit A.

B. Xtension Services, Inc. ("Xtension")

3. Xtension, a wholly owned subsidiary of FCI, is a corporation founded in 2000 under the laws of the State of Delaware. Its offices are currently located at 30 South Treasure Drive, Tampa, Florida 33609. Xtension holds domestic and international Section 214 authorizations from the FCC and is authorized to provide long distance telecommunications services in 13 states and local exchange services in New Jersey. Xtension does not provide services in Missouri.

C. Gores FC Holdings, LLC ("Gores FC")

4. Gores FC is a limited liability corporation with its principal office located at 10877 Wilshire Boulevard, Suite 1085, Los Angeles, California 90024. Gores FC is ultimately controlled by The Gores Group, LLC (the "Gores Group"), and its managing member, Alec E. Gores.⁴ The Gores Group is a preeminent private investment firm that focuses its investments on opportunities in the technology and telecommunications sectors.

5. Gores FC is well-qualified managerially, technically and financially to own and control FCI. In particular, the Gores Group has created an internal operations team which has a history of enhancing the value and operations of its investment companies by focusing on

⁴ Three limited partnerships directly own 10 percent or more of Gores FC: Gores Alternative Investment I, L.P. (44.1 percent), Gores Alternative Investments II, L.P. (20.76 percent), and Gores Co-Invest Partnership, L.P. (22.5 percent) (together the Limited Partnerships"). In addition, Gores Capital Advisors, LLC owns 10 percent of Gores FC and serves as general partner of the three Limited Partnerships. The Gores Group is the managing member of Gores Capital Advisors, LLC.

customers and employees, supporting management with operational expertise and providing access to capital. In addition, the Gores Group, through its affiliates, already holds a controlling interest in Global Tel*Link Corporation, a telecommunications services provider. Through this affiliate, the Gores Group's continuing involvement in overseeing the regulated ownership of these companies has provided it with substantial management experience in working with regulated telecommunications companies. In addition to the well-qualified management and operations teams of FCL and Xtension that remain with the companies following the transfer of control to FCI,⁵ the Gores Group and its affiliates also have an extensive background in acquiring and managing network services, software and computer hardware companies. Additional information regarding the management team assembled by the Gores Group is provided in Exhibit B.

6. Gores FC is financially qualified to take control of FCL and Xtension. The Gores Group's private equity fund has combined capital commitments of \$400 million from institutional investors and Gores Group principals. In addition to its own capital resources, through an established network of debt financing sources and investment partners, the Gores Group also provides access to working capital for its portfolio companies on favorable terms and conditions that might not otherwise be available to those companies as standalone enterprises.

II. Designated Contacts

7. For the purposes of this Joint Application, questions or any correspondence, orders, or other materials should be directed to the following contacts for the Applicants:

For FCL and Xtension:

Mark W. Comley
NEWMAN, COMLEY & RUTH P.C.

⁵ See Joint Application in Case No. TM-2007-0202.

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P.O. Box 537
Jefferson City, MO 65102
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with copies to:

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Fax: (216) 468-1680
Email: mcegelski@firstcomm.com

For Gores FC:

Brent Bradley
Vice President and Assistant General Counsel
Gores Technology Group
10877 Wilshire Boulevard, Suite 1805
Los Angeles, California 90024
Tel: (310) 209-3010
Fax: (310) 209-3310

III. Description of the Transaction

8. Gores FC currently holds a 9.9 percent voting interest in FCI, the parent of FCL and Xtension. The agreement by which Gores FC acquired its interest permits Gores FC to increase its interest to 13.1 percent by converting its non-voting shares of common stock to

voting shares upon receipt of the necessary regulatory approvals and to increase its voting interest in FCI up to 35.6 percent through certain warrants, if fully exercised. In addition, the agreement will give Gores FC the right to appoint a majority of the board of directors, thereby giving it *de facto* control of FCI. Accordingly, Applicants seek authorization for Gores FC to have the right to appoint a majority of FCI's board of directors. For the Commission's convenience, pre- and post-transaction illustrative charts are provided as Exhibit C.

9. Because the proposed transaction will be completed at the holding company level, Applicants expect that the proposed transaction will be entirely transparent to customers of FCL and Xtension. The proposed transaction will not result in any change to FCL and Xtension's day-to-day operations. Furthermore, FCL and Xtension do not anticipate that the proposed transaction will have any effect on their rates, terms or conditions of service. As a result, the proposed transaction will not directly affect any end user customers of FCL or Xtension or the services they currently receive.

IV. Public Interest Considerations

10. The proposed transaction will serve the public interest by providing FCL and Xtension access to additional financial and operational resources that will help to strengthen their position in the telecommunications marketplace. Access to additional financial resources will also allow FCL and Xtension to implement their business strategies while continuing to provide high quality services to existing consumers. Moreover, Applicants emphasize that the proposed transaction will be transparent to the customers of FCL and Xtension, and in no event will it result in the discontinuance, reduction, loss, or impairment of service to customers.

11. The public interest will also be served by expeditious consideration and approval of the transaction. For various important business and financial reasons and in order to obtain

the benefits of the proposed transaction as soon as possible, Applicants need to complete the proposed transaction expeditiously. Accordingly, Applicants respectfully request that the Commission process, consider and approve this Application as rapidly as possible.

V. Additional Information Required by Rules

12. Pursuant to the requirements of 4 CSR 240-2.060(K), Applicants state that they do not have any pending or unsatisfied final judgments or decisions against them in any state or federal agency or court which involve customer service or rates, which action, judgment or decision occurred within the last three (3) years.

13. Pursuant to the requirements of 4 CSR 240-2.060(L), Applicants state that, to the best of their knowledge, they have no annual report or assessment fees that are overdue. Pursuant to the requirements of 4 CSR 240-3.520(F), Applicants state that they do not anticipate that the proposed transaction will have any impact on tax revenues of any political subdivision in which structures, facilities or equipment of the Applicants are located.

VI. Jurisdiction of Commission Over Proposed Transaction

14. Applicants file their application for approval under Section 392.300 out of an abundance of caution in case the Commission determines that the statute applied to their transaction. Whether the Commission ultimately determines that it does have jurisdiction over this transaction is not Applicants' primary concern. Instead, Applicants are primarily concerned that such a decision is made promptly and if approval is necessary, that it be granted in an expedited fashion so that Applicants can complete their transaction in a timely fashion. As described below, Applicants believe that the Commission does not have jurisdiction over the proposed transaction, which conclusion is consistent with prior Commission decisions.

A. Applicability of Section 392.300

15. Under Section 392.300.1, the Commission must approve the sale of “any part of its franchise, facilities or system, necessary or useful in the performance of its duties to the public” or any, direct or indirect, merger of such line or system, or franchise, or any part thereof, with any corporation, person or public utility. This section would appear to apply to the transfer of assets of a telecommunications company or the merger of a telecommunications company with another entity.

16. On its face, however, Section 392.300.1 does not appear to apply to the mere transfer of an ownership interest in a company. This section would clearly apply to the transfer of assets of a telecommunications company or the merger of a telecommunications company with another entity. An acquisition of the ownership interest in a telecommunications company, therefore, falls outside the scope of Section 392.300.1.⁶

17. The Commission has, under Section 392.300.2, jurisdiction over transactions similar to Applicants’ proposed transaction. Specifically, Section 392.300.2 requires approval for the stock corporation to buy more than 10% of the capital stock issued by a telecommunications company organized or existing under or by virtue of the laws of Missouri. Neither Gores FC nor First Communications is organized or existing under or by virtue of the laws of Missouri, but under the laws of Delaware and Ohio, respectively. Section 392.300.2, therefore, does not apply to Gores FC or First Communications.

⁶ As described above, the proposed transaction involves obtaining *de facto* control by Gores FC of First Communications, Inc.

B. The Commission has Dismissed for Lack of Jurisdiction Applications for Approval of Similar Transactions

18. The Commission has dismissed for lack of jurisdiction a number of applications for approval of transaction similar to the proposed transaction of Applicants. Recently, the Commission determined that Section 392.330.1 did not apply to a transaction in which the membership interests in KMC Data LLC (“KMC Data”) were acquired by Hypercube, LLC (“Hypercube”).⁷ The Commission concluded that since KMC Data would retain all of its assets and would simply be owned by a different holding company, KMC Data was not disposing of its franchise, facilities, or system. In *KMC Data/Hypercube*, the Commission also recognized that Section 392.300.2 did not give the Commission jurisdiction over the transaction because Hypercube was not organized under Missouri law. Since the transaction proposed by Applicants has these same elements, Commission precedent would dictate that the Commission dismiss this Application for lack of jurisdiction.

19. This case cited by Applicants concluded that transfers of control not affecting the operations of the certificated entity are outside the jurisdiction of the Commission under Section 392.300. The Commission, therefore, should similarly dismiss Applicants’ Application for lack of jurisdiction.

⁷ *Joint Application of Hypercube, LLC and KMC Data LLC for Grant of the Authority to Complete a Service of Transactions Resulting in the Transfer of Control of an Authorized Carrier*, Case No. TM-2006-0289, Order Dismissing Joint Application (Feb. 23, 2006) (hereinafter *KMC Data/Hypercube*). See also, Joint Application in Docket No. TM-2007-0202.

VII. Conclusion

For the reasons stated above, Applicants respectfully submit that the public interest, convenience, and necessity would be furthered by a grant of this Application for the above-described transaction.

Respectfully submitted,

/s/ Mark W. Comley

Mark W. Comley

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danielle.burt@bingham.com

Counsel for First Communications, LLC

EXHIBITS

- Exhibit A - Certificate of Good Standing
- Exhibit B - Gores Group Management Biographies
- Exhibit C - Illustrative Charts
- Verifications

STATE OF MISSOURI



Robin Carnahan
Secretary of State

**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

I, ROBIN CARNAHAN, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

FIRST COMMUNICATIONS, L.L.C.

using in Missouri the name

**FIRST COMMUNICATIONS, L.L.C.
FL0032962**

a OHIO entity was created under the laws of this State on the 5th day of November, 1999, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 18th day of July, 2007

A handwritten signature in cursive script that reads "Robin Carnahan".

Secretary of State

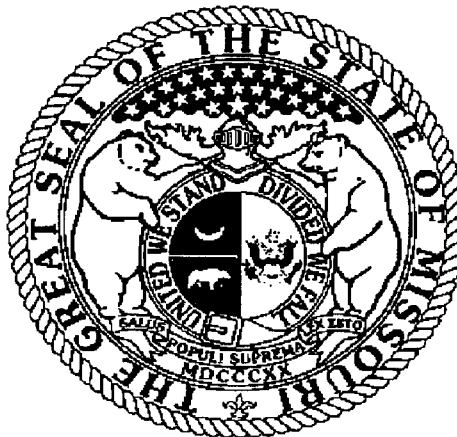


EXHIBIT B

Gores Group Management Information

Mark R. Stone, Senior Managing Director

Mr. Stone has responsibility for Gores' worldwide operations group, oversight of all Gores portfolio companies and operational due diligence efforts. Mr. Stone joined Gores in 2005 from Sentient Jet, the leading provider of private jet membership and three-time recipient of the Robb Report's "Best of the Best in Travel Services" distinction, where he served as CEO. Prior to Sentient Jet, Mr. Stone served as CEO of Narus, a global telecommunication software company and Sentex Systems, an international security and access control manufacturing company. Mr. Stone was Corporate General Manager of Citysearch (now an operating business of IAC/InterActive Corp, NASDAQ: IACI), a multi-billion dollar new media organization. Mr. Stone spent five years with the Boston Consulting Group, a global strategy and operations consulting firm, as a member of their high technology and industrial goods practices - serving in BCG's Boston, London, Los Angeles, and Seoul, Korea offices. Mr. Stone holds an MBA in Finance and Multinational Management from The Wharton School and a B.S. in Finance with Computer Science and Mathematics concentrations from the University of Maine.

Roderick Sherwood, III, Chief Financial Officer, Operations

Mr. Sherwood is responsible for leading GOG finance operations as well as working with portfolio company executive teams to achieve full operational and financial potential. Prior to joining Gores in 2005, Mr. Sherwood was Senior VP & Chief Financial Officer with Gateway, responsible for overall financial and cost structure, corporate financial control, planning and analysis, capital raising and other Treasury activities, Internal Audit and investor communications. Accomplishments include eMachines acquisition, major cost reduction programs and systematizing financial control processes and procedures. Mr. Sherwood has over 25 years experience in successful financial and operations capacities for companies such as Chrysler Corporation, Loudcloud/Opware and Hughes Electronics Corporation (including Chairman of Hughes Investment Management Company, CFO of Hughes Telecommunications and Space, EVP of DIRECTV International and President/General Manager of Spaceway-Hughes Network Systems). He earned an MBA from Harvard Graduate School of Business and received his Honors Bachelor of Arts degree, with Distinction, in Economics from Stanford University.

Brent Bradley, Vice President and Fund General Counsel

Mr. Bradley is responsible for overseeing all portfolio company legal activities and providing primary legal support to the administrative functions of Gores. From 1996 until joining Gores in May 2002, Mr. Bradley practiced corporate and securities law at Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro in Los Angeles. At that firm, he represented business organizations and investors (including Gores) in public and private securities offerings, private equity investments, mergers and acquisitions, and other financing and commercial transactions. Mr. Bradley earned his B.A. from the University of California at Riverside, and his J.D. from Loyola Law School, Los Angeles, where he was a member of law review and elected Order of the Coif.

Eric R. Hattler, Vice President & General Counsel

Mr. Hattler is responsible for all legal aspects of Gores' business, including negotiation and execution of the company's transactions. Mr. Hattler's principal background is in mergers and acquisitions, securities and corporate law. Prior to joining Gores in 1998, Mr. Hattler worked at Riordan & McKinzie, a Los Angeles-based law firm specializing in complex corporate transactions, where he represented a number of merchant banking concerns and emerging growth companies. From 1988 to 1989, Mr. Hattler served as management consultant with A.T. Kearney, focusing on operational issues. Mr. Hattler earned his B.A., magna cum laude, from Amherst College, where he was elected Phi Beta Kappa, and received his J.D. and M.B.A. degrees from the University of Chicago.

Scott M. Honour, Senior Managing Director

Mr. Honour is responsible for originating and structuring transactions and pursuing strategic initiatives at Gores. Prior to joining Gores in 2002, Mr. Honour led a career as an investment banker with a focus on creating, structuring, financing and executing financial sponsor-led transactions. From 2001 to 2002, Mr. Honour served as a Managing Director at UBS Warburg, where he was responsible for relationships with technology-focused financial sponsors, including Gores, and created the firm's Transaction Development Group, which brought transaction ideas to financial sponsors, including Gores. Prior to joining UBS Warburg, Mr. Honour was an investment banker at Donaldson, Lufkin & Jenrette where he executed a variety of mergers and acquisitions, high yield financing, equity offering and restructuring assignments. Mr. Honour also served as a Vice President in DLJ's Merchant Banking Group from 1995 to 1997. Prior to joining DLJ, Mr. Honour served as an analyst at Trammell Crow Company. Mr. Honour earned his B.S. in Business Administration and B.A. in Economics, cum laude, from Pepperdine University and his M.B.A. from the Wharton School of the University of Pennsylvania with an emphasis in finance and marketing.

Jordan W. Katz, Principal

Mr. Katz is responsible for the execution and negotiation of certain Gores acquisitions and divestitures, in addition to originating new investment opportunities and pursuing various strategic initiatives. Prior to joining Gores in 2002, Mr. Katz was an Associate Director in the Financial Sponsors Group of UBS Warburg's Los Angeles office, where he focuses on providing coverage to private equity firms and originating new transaction ideas. Prior to UBS Warburg, Mr. Katz was a founding member of eVolution Global Partners, a venture capital firm founded by Texas Pacific Group, Kleiner Perkins Caufield & Byers and Bain & Co. Mr. Katz began his career in 1996 at Colony Capital, an international private equity firm focused on real estate-related investments. Mr. Katz graduated from The Wharton School of the University of Pennsylvania with a B.S. in Economics and a concentration in Finance. Mr. Katz is a member of the board of directors of Proxicom and WStore Europe.

Kurt Hans, Vice President, Tax

Kurt W. Hans leads the tax due diligence effort at Gores focusing on legal structure optimization, tax exposure analysis, and tax accounting and efficiency modeling. Mr. Hans also oversees the tax compliance, tax audit, and tax planning functions of all portfolio companies. Prior to his employment with Gores, Mr. Hans worked for Arthur Andersen LLP

and KPMG LLP where he specialized in mergers and acquisitions, international corporate taxation, and partnership taxation while serving the venture capital, telecommunications and hi-tech industries. Mr. Hans earned his B.S. in Business Administration with concentrations in Accounting and Finance at Colorado State University. Mr. Hans earned his Masters of Taxation at the University of Denver.

Andrew Freedman, Senior Vice President, Finance

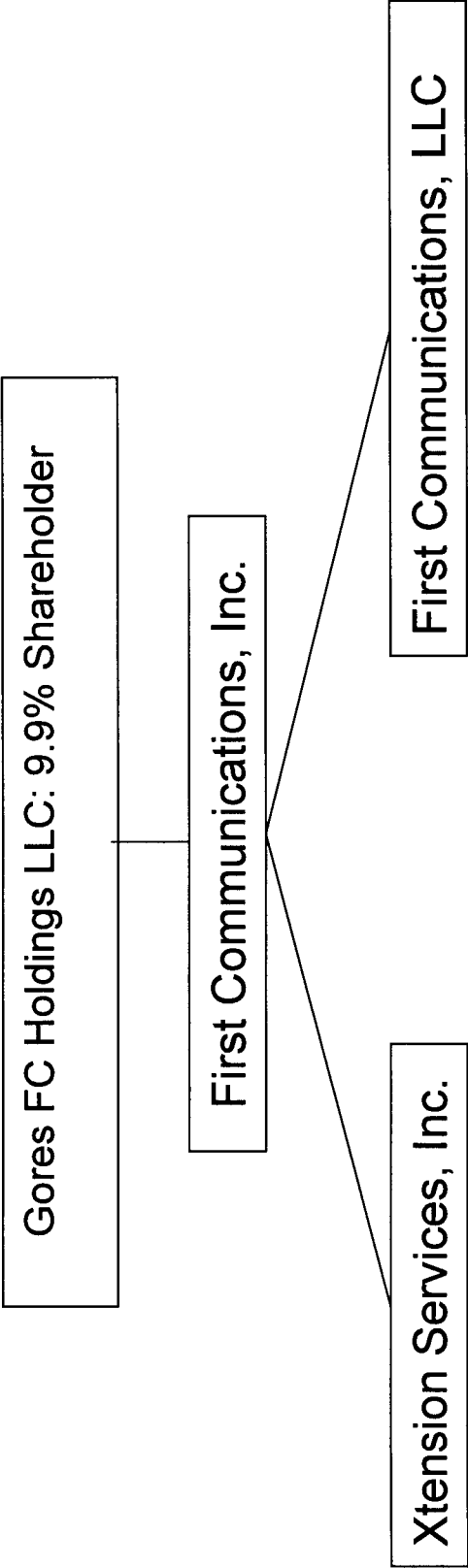
Mr. Freedman is a member of Gores' operating due diligence and portfolio management team. Mr. Freedman has over 20 years of experience in accounting and financial management. Prior to joining Gores in 2002, Mr. Freedman was CFO of The Learning Company where he helped lead a successful turnaround and sale of the company. Mr. Freedman has 8 years of experience in the consumer software industry holding various financial management roles at The Learning Company, Broderbund Inc. and Mindscape Inc. where he was involved in several successful turnarounds and divestitures from 1994 to 2002. From 1988 to 1994, Mr. Freedman held various financial management positions at Paramount Communications, including Director of Finance, where he was responsible for internal and SEC reporting for this \$4 billion company. Prior to 1988, Mr. Freedman spent 4 years in public accounting. Mr. Freedman earned a B.S. in Finance and Accounting from the State University of New York at Binghamton.

R. Britton Terrell, Vice President, Debt Financing

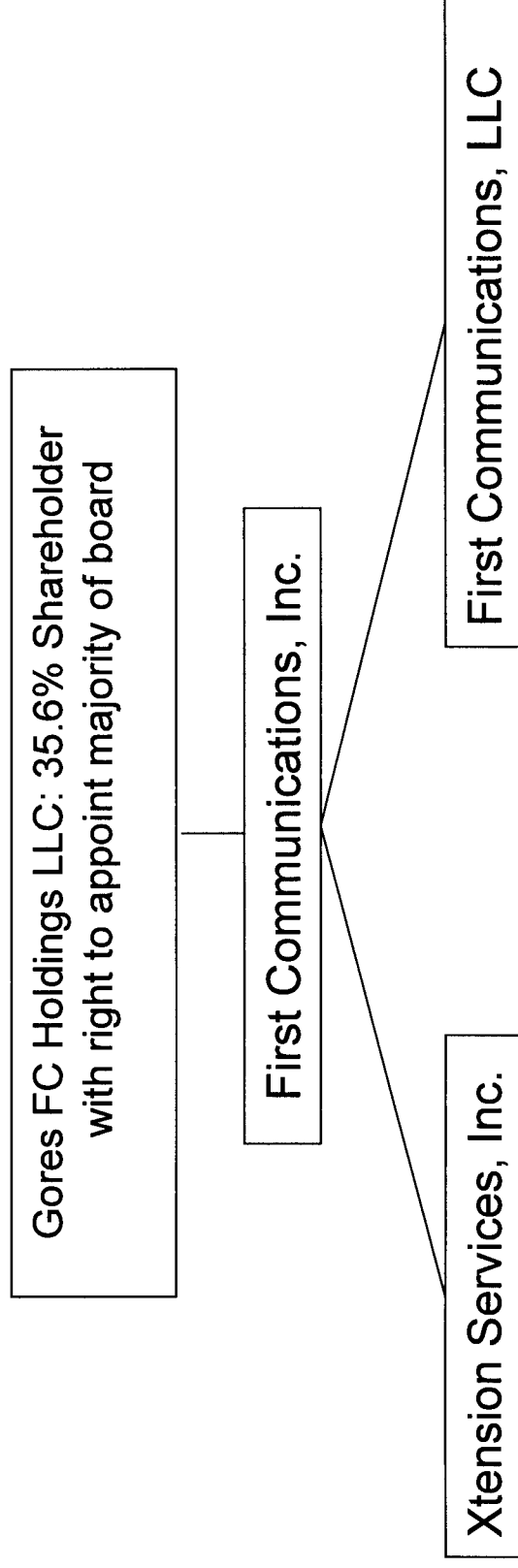
Mr. Terrell is responsible for managing relationships with debt financing sources and executing debt financings for new Gores leveraged acquisitions. Mr. Terrell joined Gores in 2002 from Foothill Capital Corporation, where he was the headquarters' Underwriting and Closing Manager. Prior to joining Foothill, Mr. Terrell was with Coast Business Credit, where he was Vice President and Team Leader of the Telecom and Technology portfolio. Mr. Terrell graduated from the University of California, Santa Barbara with a B.A. degree in Business Economics in 1986.

EXHIBIT C

Pre-Transaction Corporate Structure



Post-Transaction Corporate Structure

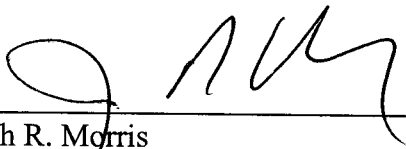


STATE OF OHIO
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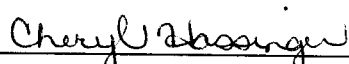
VERIFICATION

I, Joseph R. Morris, state that I am Chief Operating Officer of First Communications, Inc., the parent of First Communications, LLC; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to First Communications, Inc. are true and correct to the best of my knowledge, information, and belief.



Joseph R. Morris
Chief Operating Officer
First Communications, Inc.

Sworn and subscribed before me this 5th day of July, 2007.



Notary Public

My commission expires Cheryl L. Hassinger
~~my commission expires~~
January 8, 2008

STATE OF CALIFORNIA

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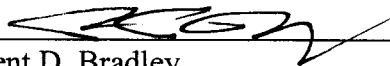
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CITY OF LOS ANGELES

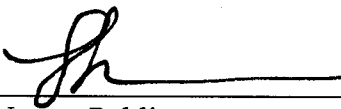
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VERIFICATION

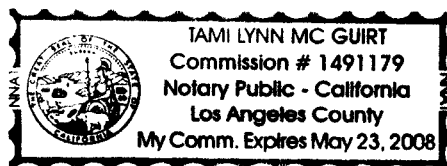
I, BRENT D. BRADLEY state that I am Vice President and Secretary; that I am authorized to make this Verification on behalf of Gores FC Holdings, LLC; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to Gores FC Holdings, LLC are true and correct to the best of my knowledge, information, and belief.


Brent D. Bradley
Vice President and Secretary
Gores FC Holdings, LLC

Sworn and subscribed before me this 10 day of July, 2007.


Notary Public

My commission expires 5/23/2008



MO