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6 Unsecured Creditors of Leap Wireless International, Inc.

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8 **UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

9 In re:  
10 LEAP WIRELESS INTERNATIONAL, INC. and  
CRICKET COMMUNICATIONS, INC., et al.,  
11 Debtors.  
12 Fed Tax Id. Nos. 33-0811062 and 33-0879924

Case Nos. 03-03470-A11 through  
03-03535-A11

Chapter 11

(Jointly Administered)

**FIRST INTERIM FEE  
APPLICATION OF KRAMER  
LEVIN NAFTALIS & FRANKEL  
LLP, ATTORNEYS FOR THE  
OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS OF  
LEAP WIRELESS  
INTERNATIONAL, INC., FOR  
THE PERIOD APRIL 13, 2003  
THROUGH SEPTEMBER 30, 2003**

Judge: Hon. Louise DeCarl Adler

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21 Kramer Levin Naftalis & Frankel LLP ("Kramer Levin"), counsel to the  
22 Official Committee of Unsecured Creditors (the "Committee") for Leap Wireless  
23 International, Inc. ("Leap") in these bankruptcy cases, for its application pursuant to 11  
24 U.S.C. §§ 330 and 331 and in accordance with (i) the Order Pursuant to Sections 331 and  
25 105 of the Bankruptcy Code Establishing Procedures for Interim Compensation and  
26 Reimbursement of Expenses of Professionals, dated May 6, 2003 (the "Compensation

1 Order”) and (ii) the Notice of Hearing Re: Fee Applications for Interim Compensation of  
2 Professionals and Deadline to File Interim Fee Applications (the “Notice of Fee Hearing”),  
3 for a First Interim Allowance of compensation for services rendered and for reimbursement  
4 of expenses incurred in connection therewith, respectfully represents as follows:

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6 INTRODUCTION

7 1. While this case was labeled as a ‘pre-negotiated’ bankruptcy case, numerous  
8 important issues were left to be resolved post-petition. Indeed, the path to confirmation was  
9 marked with extensive negotiations regarding a number of complex business and legal  
10 issues that led to five amended plans being filed with the Court. Moreover, in addition to  
11 complicated plan-related issues, these cases also featured significant opposition from MCG  
12 PCS, Inc. (“MCG”), an ‘out of the money’ shareholder which sought to derail the Plan (and  
13 delay distributions to Leap’s bona fide creditors) to extract a settlement. Kramer Levin has  
14 been closely involved with every aspect of this difficult, yet ultimately successful process.  
15 During the First Interim Fee Period, Kramer Levin was called upon to file numerous  
16 pleadings, appear and argue at several contested hearings (including, several multi-day  
17 hearings regarding MCG’s motion to appoint an equity committee, hearings on approval of  
18 the Disclosure Statement, and the beginning days of the confirmation hearing), conduct  
19 expedited and detailed discovery, engage in complex and often heated negotiations, and  
20 review and comment on countless motions and requests for relief. Kramer Levin  
21 respectfully submits that its services in this case throughout the First Interim Fee Period  
22 clearly warrant approval of its requested fees and expenses.

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25 2. Accordingly, by this Application, Kramer Levin seeks (i) an interim allowance of  
26 compensation for the professional services rendered by Kramer Levin as counsel for the  
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1 committee for the period from April 13, 2003 through September 30, 2003 (the "First  
2 Interim Period") in the aggregate amount of \$698,677.50, representing 1,746.4 hours of  
3 professional and paraprofessional services; and (ii) reimbursement of actual and necessary  
4 expenses incurred by Kramer Levin during the First Interim Period in connection with the  
5 rendition of such professional services and paraprofessional services in the aggregate  
6 amount of \$62,623.81. Such amounts reflect a voluntary and discretionary reduction of  
7 \$18,955.50 in fees and \$17,635.58 in expenses incurred by Kramer Levin during the First  
8 Interim Fee Period.  
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#### 10 BACKGROUND AND STATUS OF THE CASE

11 3. On April 13, 2003, (the "Petition Date"), Leap and Cricket Communications, Inc.,  
12 and certain of their subsidiaries (the "Debtors") filed voluntary petitions for relief under  
13 chapter 11 of the Bankruptcy Code. The Debtors continue to operate their business and  
14 manage their properties as debtors-in-possession pursuant to §§ 1107(a) and 1108 of the  
15 Bankruptcy Code. Venue of this proceeding and this application is proper in this district  
16 pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought  
17 herein are 11 U.S.C. §§ 330 and 331 and Federal Rules of Bankruptcy Procedure 2002(a)  
18 and 2016.  
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20 4. On April 25, 2003, the United States Trustee for the Southern District of California,  
21 pursuant to § 1102 of the Bankruptcy Code, appointed the Committee to represent the  
22 interests of the unsecured creditors of Leap. The Committee is comprised of Goldman  
23 Sachs, Providence Capital LLC, Qualcomm, Inc., Aspen Advisors, LLC, RBC Dominion  
24 Securities Corp. and US National Bank as Indenture Trustee. The Committee voted to retain  
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1 Kramer Levin as its general bankruptcy counsel and Irell & Manella LLP as California  
2 based co-counsel.

3 5. By application, dated May 21, 2003, Kramer Levin sought Court approval for its  
4 retention as counsel to the Committee nunc pro tunc to April 13, 2003. By order dated June  
5 18, 2003, the Court approved of the retention of Kramer Levin as counsel to the Committee.  
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7 6. This is the first Interim Application Kramer Levin has filed with the Court for an  
8 allowance of compensation and reimbursement of expenses for services rendered to the  
9 Committee. This application is submitted pursuant to the terms of the Compensation Order  
10 and Notice of Fee Hearing. This application has been reviewed by and approved by the  
11 chair of the Committee.

12 7. On July 31, 2003 an Order was entered Approving Debtors' Disclosure Statement  
13 accompanying the Fifth Amended Joint Plan of Reorganization dated as of July 30, 2003,  
14 (the "Plan") Fixing Time for Filing Acceptances or Rejections of Plan, Establishing  
15 Procedure for Counting Votes, and Approving Form and Manner of Notice and Solicitation.  
16 Creditors voted overwhelmingly in support of the Plan. On October 22, 2003, this Court  
17 entered an Order approving the Plan (the "Confirmation Order"), and on October 28, 2003,  
18 this Court denied a motion to stay effectiveness of the Confirmation Order pending appeal.  
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#### 21 SUMMARY OF SERVICES RENDERED

22 8. Since being retained by the Committee, Kramer Levin has rendered professional  
23 services to the Committee as requested and as necessary and appropriate in furtherance of  
24 the interests of the unsecured creditors of Leap. The variety and complexity of issues raised  
25 in these cases and the need to act or respond on an expedited basis in furtherance of the  
26 Committee's needs have required the expenditure of substantial time by Kramer Levin  
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1 personnel from several legal disciplines, on an as-needed basis, including on numerous  
2 occasions, working into the evening and on weekends.

3 9. Kramer Levin maintains written records of the time expended by attorneys and  
4 paraprofessionals in the rendition of their professional services to the Committee. Such time  
5 records were made contemporaneously with the rendition of the services by the person  
6 rendering such services and in the ordinary course of Kramer Levin's practice. Annexed  
7 hereto as "Exhibit A" is a "Summary Fee Application" breaking down the services rendered  
8 by the project categories indicated along with a total amount for the services rendered during  
9 the First Interim Period. Annexed hereto as Exhibit "B" are computer summaries of the  
10 actual daily time records for the First Interim Period. Annexed hereto as "Exhibit C" is a  
11 schedule of the hourly rate of each attorney and legal assistant and the resulting fees billed  
12 in this case, followed by a breakdown by category of the hours spent in this case during the  
13 First Interim Period for which Kramer Levin seeks compensation.

14 10. Kramer Levin also maintains records of all actual and necessary out-of-pocket  
15 expenses incurred in connection with the rendition of its professional services. Annexed  
16 hereto as Exhibit "D" is a schedule of disbursements indicating the form of disbursement  
17 with total amount for each category and the total amount of all disbursements during the  
18 First Interim Period. Annexed hereto as Exhibit "E" is a schedule of voluntary disbursement  
19 reductions indicating the forms of disbursement that Kramer Levin has voluntarily written  
20 off. In order to save time and expense, all Committee meetings were conducted by  
21 conference call, rather than in person. None of the travel expenses of Kramer Levin  
22 attorneys included in this Interim Fee Application were for first-class airfare, luxury  
23 accommodations or deluxe meals. In instances where Kramer Levin personnel may have  
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1 upgraded to first class or stayed in luxury accommodations, such charges were reduced to  
2 normal rates.

3 11. The following summary of the services rendered during the First Interim Period is  
4 not intended to be a detailed description of the work performed, as those day-to-day services  
5 and the time expended in performing such services are fully set forth in Exhibit "B".  
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7 Rather, in compliance with The United States Trustee Guidelines for Reviewing  
8 Applications for Compensation and Reimbursement of Expenses filed Under 11 U.S.C. §  
9 330, the following summary is merely an attempt to highlight certain of the areas in which  
10 services were rendered to the Committee, as well as to identify some of the problems and  
11 issues to which Kramer Levin was required to direct its attention.  
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13 **A. Plan of Reorganization and Disclosure Statement - Category 00013**

14 12. As this Court is aware, on the Petition Date, the Debtors filed a "draft" plan of  
15 reorganization. Although the draft plan embodied a business deal in principle with the  
16 Debtors' major creditor constituencies, significant business, legal, and practical hurdles  
17 remained unresolved. Finalizing the terms of the Plan and proceeding towards confirmation  
18 required a substantial amount of Kramer Levin's time, effort, analysis and diligence during  
19 the First Interim Fee Period. This process was rendered all the more complicated by the fact  
20 that MCG sought to undermine and delay consummation of the Plan at every turn. In  
21 connection with this matter, Kramer Levin performed the following essential functions,  
22 among others:  
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- 24 • **Negotiation of Terms of Plan and Disclosure Statement** -- Kramer  
25 Levin engaged in lengthy, in-depth, and complicated negotiations regarding  
26 the terms of the Plan and accompanying Disclosure Statement. The  
27 negotiations required extensive attention and detail, and were complicated by  
28 a number of factors, including, among others, (i) the novel legal issues and  
complicated facts involved (i.e. the validity of the intercompany transfers  
made prior to the Petition Date, the amount of such transfers and the vendors

1 purported §1111(b) claim on Leap's assets); (ii) the numerous constituencies  
2 involved in the negotiations and the varying interests of those constituencies  
3 (i.e. the vendor lenders, the Debtors, and the Committee); and (iii) the  
4 expedited time frame in which the negotiations and documentation were  
5 required to take place. Kramer Levin reviewed countless drafts of the Plan  
6 and Disclosure Statement, provided dozens of markups of drafts, performed  
7 extensive legal research, participated in numerous and often late-night  
8 conference calls with the vendor lenders and the Debtors, and, ultimately --  
9 after five different plans of reorganization had been filed with the Court, was  
10 able to negotiate a final, confirmable plan of reorganization that was accepted  
11 by an overwhelming number of the Debtors' creditor constituencies. Kramer  
12 Levin kept the Committee contemporaneously up to date with these  
13 negotiations as well as the various business and legal issues that arose as the  
14 negotiations progressed and continuously sought and utilized the input of  
15 Committee members and the Committee's financial advisor throughout this  
16 complex process.

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18 • **Plan Supplement Preparation and Negotiations** -- In addition to the  
19 Plan and Disclosure Statement, Kramer Levin played an integral role in  
20 preparing and negotiating the corporate and other documents contained in the  
21 voluminous Plan Supplement. For example, Kramer Levin took the lead role  
22 in drafting the Leap Creditor Trust, and ultimately negotiated a fully-  
23 consensual document with the Debtors and the vendor lenders. This was  
24 important to ensure that Leap's cash was expeditiously transferred to its  
25 creditors in a fair and equitable manner. In addition, because Leap's  
26 creditors will be part-owners of the reorganized Debtors, it was important for  
27 Kramer Levin to ensure that their rights were adequately protected in the  
28 various other corporate documents attached to the Plan supplement, and  
Kramer Levin spent a substantial amount of time reviewing the corporate by-  
laws, indenture and other corporate documents to ensure that the interests of  
Leap's creditors, as minority shareholders in the reorganized debtors, were  
protected.

• **Responses To Numerous MCG Objections and Pleadings** -- Given  
the tenacity of MCG throughout these proceedings and the consistent attacks  
made by MCG against the Plan, Committee responses were often necessary  
to clarify the record and/or focus on the true issues at hand. For example,  
Kramer Levin filed a response to MCG's "Counterpoint" to the Disclosure  
Statement pursuant to which the Committee noted that the allegations and  
legal conclusions contained therein were in clear error (a fact ultimately  
proven beyond a doubt at the confirmation hearing). In addition, in response  
to MCG's objection to confirmation, the Committee performed legal research  
and filed a brief which undermined many of the arguments advanced by  
MCG (arguments that were ultimately rejected by the Court). Kramer Levin  
argued against positions advanced by MCG at numerous hearings regarding  
repeated attempts by MCG to delay confirmation and consummation of the  
Plan.

• **Document Discovery In Connection with Confirmation Hearing** --  
MCG sought a substantial amount of discovery in connection with the  
confirmation. In fact, MCG subpoenaed Committee members and the  
Committee's financial advisor. Kramer Levin, on behalf of the committee,  
coordinated all discovery sought by MCG and provided documents to MCG

1 in a timely manner. In addition, Kramer Levin spent a substantial amount of  
2 time reviewing, analyzing and cataloging document productions provided by  
3 the Debtors, the vendor lenders and MCG in connection with the  
4 confirmation hearing. Kramer Levin also spent a significant amount of time  
5 reviewing and analyzing expert reports provided by the vendors, the debtors  
6 and MCG regarding the value of the Debtors' licenses, as well as the expert  
7 report provided by UBS in connection with the value of the Debtors' business  
8 as going concern.

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- **Active Preparation and Participation in Numerous Depositions --**

In preparation for the confirmation hearing, the Committee actively participated in numerous depositions, including the depositions of (i) the Debtors' CFO; (ii) the vendor lender's expert witness on license valuation; (iii) the Debtors' expert witness on license valuation; (iv) the principal of MCG; and (v) the Debtors' financial advisor. Some of these depositions took place over the course of several days and on different coasts (in California and Washington, D.C.). To avoid duplication of cost and effort, and as directed by the Court, Kramer Levin coordinated questions with those of the Debtors and vendor lenders, allowing others to take the lead where appropriate. In addition, where appropriate (and again to reduce costs and avoid duplication of effort) Kramer Levin participated in certain depositions by telephone and/or Committee local counsel attended depositions. Kramer Levin provided Committee members with contemporaneous summaries of important issues raised at these depositions and kept committee members fully-informed.

- **Pre-Trial and Trial Strategy--** During the First Interim Fee Period, in preparation for the confirmation hearing, Kramer Levin reviewed and where appropriate performed legal research in connection with the numerous objections to confirmation filed in these cases. Kramer Levin provided a detailed memorandum to the committee summarizing each objection, and discussed the issues raised by each objection with the Debtors. In addition, Kramer Levin spent a substantial amount of time coordinating trial strategy with the Debtors and vendor lenders to ensure that confirmation could take place as expeditiously as possible, thereby ensuring that all issues were covered while avoiding duplication of effort and costs. Kramer Levin attended pre-trial hearings and conferences and consistently argued to keep these cases on as fast a track possible.

13. During the First Interim Fee Period, Kramer Levin expended 627.3 hours on this category incurring aggregate fees of \$271,826.50.

**B. Motion to Appoint Equity Committee -- Category 00013**

14. Even though these Debtors were hopelessly insolvent as of the Petition Date, in early May a motion was made by Gabelli Asset Management, and subsequently joined by MCG, seeking the appointment of an official equity committee to represent their interests.



1 Concerned that an official equity committee would unnecessarily increase administrative  
2 expenses and substantially delay these cases, the Committee (along with the Debtors and the  
3 vendor lenders) took an active role in challenging this motion. In connection with this  
4 matter, Kramer Levin performed the following tasks:

- 5  
6 • **Brief in Opposition to Motion to Appoint Equity Committee**-- Kramer  
7 Levin performed extensive legal research and prepared a brief setting  
8 forth the Committee's objection to the appointment of an official equity  
9 committee. In addition to performing legal research, Kramer Levin  
10 reviewed the publicly-available dockets of numerous other large  
11 bankruptcy cases (i.e. Worldcom, Enron) and discovered that, contrary to  
12 representations made by the movants, official equity committees in those  
13 cases had actually not been appointed. After preparing its brief, Kramer  
14 Levin argued at a hearing on the motion, and the Court -- after tentatively  
15 ruling that a committee would be appointed -- decided that it needed  
16 further evidence in light of, among other things, the arguments advanced  
17 by Kramer Levin and others at the initial hearing.
- 18 • **Discovery Issues in Connection with Equity Committee Hearing** --  
19 Kramer Levin took a lead role preparing evidence in connection with the  
20 equity committee motion. Kramer Levin prepared document requests of  
21 the movant, reviewed applicable documents and deposed the movant  
22 prior to the hearing. Simultaneously, Kramer Levin responded to  
23 document requests made by the movant, and, at the direction of the Court,  
24 prepared two (2) detailed declarations (one from Kramer Levin and one  
25 from the Committee's financial advisor) outlining the bondholders' pre-  
petition investigation and analysis concerning cash and license transfers  
made by Leap to its affiliates. At the same time, Kramer Levin prepared  
its witnesses for deposition and trial, and defended the deposition of the  
Committee's financial advisor prior to the contested hearing.
- **Evidentiary Hearing on Motion for Equity Committee** -- Kramer  
Levin actively participated at the evidentiary hearing regarding the  
proposed appointment of an equity committee. Through the declarations  
prepared by Kramer Levin and the testimony of the Committee's  
financial advisor elicited by Kramer Levin, the Committee demonstrated  
to the Court's satisfaction that equityholders were, in essence, out of the  
money, and that an equity committee was therefore not warranted. In  
fact, relying substantially on the testimony of the Committee's financial  
advisor and on the arguments made by Kramer Levin attorneys at that  
hearing, this Court issued a published decision denying the motion for the  
appointment of an equity committee, thereby saving these estates  
significant costs and avoiding a potentially crippling delay that could  
have indefinitely bogged down these cases.

15. During the First Interim Fee Period, Kramer Levin expended 432.1 hours on this  
category incurring aggregate fees of \$187,416.50.

1           **C.     Motions - Category 00011**

2     16.     During the First Interim Period, Kramer Levin closely monitored all motions,  
3 stipulations and briefs filed in these case and prepared for and attended hearings as well as  
4 pre- and post-hearing conferences and discussions. All important motions were thoroughly  
5 discussed with the Committee, and often, Kramer Levin provided detailed written  
6 summaries (analyzing the factual and legal issues presented) of such motions. Set forth  
7 below are some of the more noteworthy motions which required substantial review and/or  
8 input from or by Kramer Levin during the First Interim Fee Period:  
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- 10           •     **Motions Related to Plan and Disclosure Statement**-- As more fully  
11 described above, the Committee took an active role in prosecuting  
12 confirmation of the Plan and filed pleadings and legal briefs where  
13 appropriate (including pleadings supporting confirmation and  
14 challenging MCG's counterpoint that exaggerated the value the  
15 Debtors' assets by over \$1 billion). Kramer Levin expended time  
16 reviewing and commenting on the numerous plan-related procedural  
17 motions and orders such as ballot and solicitation materials and  
18 related notices.
- 19           •     **Stipulations Regarding SAP Agreements** -- Immediately prior to  
20 the confirmation hearing, the Debtors submitted emergency motions  
21 to approve stipulations with Nortel, Ericson, and Lucent -- each of  
22 which had filed objections to the Plan. The stipulations contained  
23 objectionable provisions, including broad releases that were to take  
24 effect immediately (i.e. prior to confirmation of the Plan or the Initial  
25 Distribution Date of the Plan.) The Committee took the lead role in  
26 negotiating a reasonable scope and timing of the releases, and worked  
27 with the parties to ensure that the releases were in "plain English" as  
28 opposed to the indecipherable releases originally proposed.  
Ultimately, the Court approved each of the stipulations with the  
modifications suggested by the Committee.
- **Motion for Authority to Purchase D&O Insurance Policy** -- In an  
emergency motion to purchase director and officer insurance, the  
Debtors asserted that it was necessary for Leap to bear a portion of the  
costs to avoid substantial dislocation and the defection of officers and  
directors. Kramer Levin discussed the issues with the Debtors at  
length and, after consultation with the Committee, determined a  
reasonable allocation of the costs to be borne by Leap's estate, and  
ultimately did not object to the Motion.

- 1 • **Motion to Extend Exclusivity** -- Although the bankruptcy case was  
2 filed with a “pre-negotiated” plan, due to significant delays, the Plan  
3 was not confirmed on the original expected time frame. In order to  
4 allow the Debtors the stability to continue operations during the  
5 Chapter 11 process, the Committee reviewed, researched, and  
6 ultimately filed a brief in support of the Debtors’ request for an  
7 extension of exclusivity. This request was granted over MCG’s  
8 objection.
- 9 • **Motion to Authorize Use of Cash Collateral** -- On the first day of  
10 the bankruptcy cases, the Debtors filed a motion for authority to use  
11 the cash collateral of the vendor lenders. That motion purported to  
12 recognize the non-avoidability of all of the vendor lenders’ liens.  
13 Because such an order could have hindered the ability of the  
14 Committee to bring preference and other avoidance actions against  
15 certain beneficiaries of pre-petition transfers made by Leap, Kramer  
16 Levin negotiated numerous extensions pursuant to which the parties  
17 recognized the ability of the Committee to challenge such liens in the  
18 event that the Plan did not become effective. The Court granted the  
19 numerous extensions requested by Kramer Levin on behalf of the  
20 Committee.
- 21 • **Motion for the Appointment of an Equity Committee** -- As  
22 described above, Kramer Levin, on behalf of the Committee, spent a  
23 substantial amount of time litigating over the motion to appoint an  
24 equity committee. Ultimately, based upon the testimony elicited from  
25 Committee professionals, the Court denied the request to appoint the  
26 equity committee, saving substantial estate costs and avoiding  
27 significant delay.
- 28 • **Motion for Expedited Distribution of Cash Held in Escrow for  
Benefit of Secured Noteholders** -- One of the primary concerns of  
Leap’s creditors is the expeditious distribution of Leap’s cash to its  
creditors. Accordingly, Kramer Levin played an essential role in  
ensuring that the Debtors made a prompt motion for an Order  
Authorizing Leap to Release Funds in Pledge Accounts to Holders of  
Senior Notes, which allowed the Debtors to distribute approximately  
\$14 million in overdue interest to Leap’s creditors immediately after  
the Petition Date.
- **“First Day” Motions** -- Kramer Levin, on behalf of the Committee,  
carefully reviewed all of the “First Day” Motions and proposed forms  
of orders filed in this case and provided comments to the Debtors in  
connection therewith. Where appropriate, Kramer Levin reserved the  
right of the Committee to challenge the relief sought. In particular,  
Kramer Levin focused on the ability to monitor Leap’s use of cash  
and ensure that no orders were entered that would assist Leap in  
transferring cash or assets downstream (as it had done prepetition).  
By so doing, Kramer Levin was able to ensure that Leap’s cash would  
not significantly decrease during the bankruptcy case, and that there  
would be a substantial portion of cash to be distributed to Leap’s  
creditors on the Initial Distribution Date of the Plan.

1 17. During the First Interim Fee Period, Kramer Levin expended 210.1 hours on this  
2 category incurring aggregate fees of \$83,055.50.

3 **D. Claims Administration and Objections, (Category 00005), Financing**  
4 **(Category 00009), Other Claims Issues (Category 00014) and Endesa**  
5 **Litigation (Category 00012)**

6 18. The Leap bankruptcy case was jointly-administered with those of dozens of Leap's  
7 affiliated debtors. Although these affiliated Debtors had intertwined business and  
8 employees, the bankruptcy cases were not substantively consolidated. Accordingly, during  
9 the First Interim Fee Period, it was necessary for Kramer Levin, with the assistance of the  
10 Committee's financial advisor, to confirm which obligations were those owed by Leap (as  
11 opposed to those obligations owed by the other debtors-affiliates) to ensure the appropriate  
12 treatment of Leap's creditors and the allocation of expenses to the appropriate debtor entity.  
13 In addition, because the Plan provides that the vast majority of Leap's claims, causes of  
14 action, and other assets of Leap will be transferred to the Creditor Trust (and that the Trust  
15 assets will be used to satisfy claims against Leap), it was important for the Committee to,  
16 among other things (i) determine which assets were owned by Leap as opposed to other  
17 Debtors, (ii) identify the steps necessary to preserve the value of Leap's assets and causes of  
18 action; and (iii) evaluate the validity of certain claims against Leap. Moreover, it was  
19 necessary for the Committee to monitor Leap's ongoing expenditures and, where  
20 appropriate, suggest methods to preserve cash. Kramer Levin also performed the following  
21 tasks, among others, during the First Interim Fee Period:  
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- 24 • In conjunction with the Indenture Trustee, reviewed and discussed the  
25 proposed bar date and issues in connection therewith;
- 26 • Reviewed and analyzed the potential amount of rejection damages that  
27 were likely to result from the contracts rejected by Leap -- and negotiated  
28 a provision in the plan providing that, to the extent contracts were  
assumed, the cure costs of such assumption would be borne by Cricket;

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- Researched and reviewed the allocation of expenses incurred by Leap and examined whether such expenses were properly allocated against other debtor entities, and where appropriate, argued for different allocations;
- Analyzed numerous claims (asserted both by and against Leap's estate) to thoroughly evaluate the likelihood of recovery for Leap's constituency and researched the efficacy of pursuing (or objecting to) various claims and causes of action. Some of these claims and causes of action involved complex legal issues requiring in-depth legal research and analysis, including research regarding the purported claim of the vendor lenders arising out of 11 U.S.C. §1111(b) and the likelihood of subordinating certain claims (including but not limited to those of MCG) pursuant to section 510(b) of the Bankruptcy Code;
- Conducted extensive research regarding SEC reporting obligations and drafted a letter in support of the Debtors' request for an SEC "No-Action" letter which would have, if successful, saved Leap's estate hundreds of thousands of dollars in fees, costs and expenses related to SEC public filings being filed by Leap during its bankruptcy case;
- Discussed, negotiated, drafted and filed a Stipulation Extending Time for the Committee to Challenge Vendor Committee's Prepetition and Postposition Liens, thereby ensuring that if the Plan was not confirmed, Leap's estate would have retained the right to sue the other debtors and the vendor lenders in connection with pre-petition transfers made by Leap prior to the Petition Date;
- Continued to revise, research and refine an extensive analysis relating to transfers made by Leap to its debtor-affiliates prior to the filing of the bankruptcy, including the efficacy of challenging such transfers as fraudulent conveyances, preferences, or through equitable subordination of the vendor lenders' security interests; and
- Reviewed and analyzed the various pleadings and underlying substantive documents regarding the Endesa litigation and assessed the viability of the cause of action from a cost/benefit perspective; provided Committee members with periodic updates of the litigation and possible settlement opportunities and strategies; held numerous conferences with Debtors' in-house counsel to discuss the status of the ongoing litigation and drafted a stipulation (which was ultimately incorporated into the terms of the Plan) providing that the Endesa cause of action would be transferred to the Creditor Trust.

19. During the First Interim Fee Period, Kramer Levin expended 143.3 hours on this category incurring aggregate fees of \$58,344.00.

1           **E.       Retentions - Category 00007**

2       20.     During the First Interim Fee Period, Kramer Levin worked with the Office of the  
3     United States Trustee to insure that a representative creditors' committee at the Leap level  
4     was formed, expended time preparing appropriate retention applications for Committee  
5     professionals, and reviewed and negotiated the terms of other estate professionals. Kramer  
6     Levin conducted the following actions during the First Interim Fee Period related to this  
7     billing matter:

- 9           •       Prepared and filed Pro Hac Vice Applications and supporting  
10          documents for its attorneys, and reviewed applications of other  
11          attorneys in these cases;
- 12          •       Worked with the Office of the United States Trustee in connection  
13          with the appointment of members of the pre-petition bondholder  
14          committee as members of the Committee, reviewed and assisted  
15          members in filling out questionnaires regarding willingness to serve  
16          on the Committee, and answered numerous questions posed by the  
17          United States Trustee in connection therewith;
- 18          •       Reviewed the Debtors' key employee retention plans to ensure that  
19          payments thereunder would not reduce the bargained-for recoveries of  
20          Leap's creditors or the cash in Leap's estate;
- 21          •       Conducted a detailed conflict search; drafted Kramer Levin's  
22          retention application with supporting documents, and provided the  
23          Court with a supplemental declaration pursuant to the Court's inquiry  
24          as to why the Committee had engaged two separate law firms. (The  
25          Court was ultimately satisfied that the Committee's retention of two  
26          law firms was necessary and appropriate given the circumstances of  
27          this particular case and given the fact that adequate protections had  
28          been put into place to avoid duplication of effort);
- Reviewed all retention applications filed by the Debtors, including but  
          not limited the retention applications of Debtors' counsel, special  
          counsel, and financial advisors; and
- Engaged in extensive negotiations regarding the proper allocation of  
          the fees and expenses of the Debtors' financial advisor among Leap  
          and its affiliated Debtors, filed a response to the proposed retention,  
          and ultimately negotiated a mechanism of allocation of fees and  
          expenses among Leap and the other Debtors, thereby allowing the  
          retention to go forward on an uncontested basis.

1 21. During the First Interim Fee Period, Kramer Levin expended 118.0 hours on this  
2 category incurring aggregate fees of \$38,843.00.

3 **F. Fee Applications - Category 00008**

4 22. At the outset of these cases, this Court entered the Compensation Order pursuant to  
5 which estate professionals were authorized to file monthly fee applications and seek  
6 reimbursement from the estate. During the First Interim Fee Period, Kramer Levin spent  
7 time and resources in connection with this matter, including, among other things:  
8

- 9 • Reviewing the U.S. Trustee's guidelines with respect to Fee  
10 Applications and reviewing time and expense detail to ensure that  
11 Kramer Levin's fees and expenses were in accordance with such  
12 requirements;
- 13 • Reviewing fee applications and monthly bills submitted by estate  
14 professionals in order to determine whether an objection on behalf of  
15 the Committee was warranted;
- 16 • Negotiating a revised form of fee application of the Debtors' financial  
17 advisor which explicitly acknowledged that Leap's estate would only  
18 be liable for a portion of the monthly fee sought (the original fee  
19 applications purportedly held Leap's estate jointly liable for the full  
20 amount due); and
- 21 • Preparing and proofing Kramer Levin's monthly fee applications for  
22 the months of April through September.

23 23. During the First Interim Fee Period, Kramer Levin expended 36.3 hours on this  
24 category incurring aggregate fees of \$8,621.00.

25 **G. Case Administration (Category 00002)**

26 24. During the Interim Fee Period, Kramer Levin expended a substantial amount of time  
27 and effort keeping abreast of the tremendous flow of information, schedules, motions and  
28 other pleadings filed in the Debtors' bankruptcy cases. In that regard, Kramer Levin  
performed the following tasks, among others:

- Participated in numerous telephone conferences with claimants  
regarding status of these bankruptcy cases;

- 1 • Reviewed and organized incoming pleadings in the cases;
- 2 • Coordinated mailings to the Committee;
- 3 • Photocopied and distributed numerous pleadings and correspondence  
4 generated in these cases, internally and to the Committee;
- 5 • Coordinated conferences with Committee members and professionals;
- 6 • Prepared and bates-stamped documents in connection with document  
7 discovery (including discovery related to the motion for appointment  
8 of an equity committee and the motion to confirm the Plan);
- 9 • Reviewed all public filings, including 8k's and 10'Q's; and
- Continuously updated files in connection with monitoring the docket  
and bankruptcy cases of the Debtors.

10 25. In performing the above tasks, Kramer Levin utilized paraprofessionals whenever  
11 possible to perform administrative non-legal tasks. Given the unusually large volume of  
12 documents filed and circulated in the cases (especially during the early stages) and the  
13 extensive number of parties who receive mailings and are involved in this case, Kramer  
14 Levin required significant paralegal assistance, much of which is applicable to case  
15 administration. These paraprofessional fees are incurred directly in connection with the  
16 administration of the case and are necessary and appropriate to deal with the volume of  
17 documents involved in this case.  
18

19 26. During the First Interim Fee Period, Kramer Levin expended 155.6 hours on this  
20 category incurring aggregate fees of \$40,501.50.  
21

22 **H. Committee Meetings - Category 00015**

23 27. The ongoing Plan negotiation and documentation required the frequent input of  
24 Committee Members. To allow these Committee Members to make informed decisions, it  
25 was essential that they be provided with up-to-date information regarding the Debtors and  
26 the legal issues being raised in the bankruptcy cases. During the First Interim Fee Period,  
27



1 Kramer Levin had numerous Committee meetings where it updated Committee members  
2 and answered any questions that Committee members had in connection with the cases. In  
3 order to save time and expense (and because Committee members were located all over the  
4 country), all Committee meetings were conducted by conference call, rather than in person.  
5  
6 In addition, Kramer Levin had countless calls with individual Committee members  
7 regarding issues that arose almost daily in the case.

8 28. During the First Interim Fee Period, Kramer Levin expended 22.8 hours on this  
9 category incurring aggregate fees of \$10,070.00.

10 THE COMPENSATION AND REIMBURSEMENT SHOULD BE ALLOWED

11 29. Section 331 of the Bankruptcy Code provides for interim compensation of  
12 professionals and incorporates the substantive standards of section 330 to govern the Court's  
13 award of such compensation. 11 U.S.C. § 331. Section 330 provides that a court may  
14 award a professional employed under section 327 of the Bankruptcy Code "reasonable  
15 compensation for actual necessary services rendered . . . and reimbursement for actual,  
16 necessary expenses." 11 U.S.C. § 330(a)(1). Section 330 also sets forth the criteria for the  
17 award of such compensation and reimbursement:  
18

19 In determining the amount of reasonable compensation to be  
20 awarded, the court should consider the nature, extent, and the  
21 value of such services, taking into account all relevant factors,  
including —

- 22 (A) the time spent on such services;  
23 (B) the rates charged for such services;  
24 (C) whether the services were necessary to the administration , or  
25 beneficial at the time at which the service was rendered  
26 toward the completion of, a case under this title;

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- (D) whether the services were performed with in a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and
- (E) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title. U.S.C. § 330(a)(3)

30. In the instant case, Kramer Levin respectfully submits that the services for which it seeks compensation in this Application were necessary and beneficial for maximizing the value of the Leap estate. Kramer Levin further submits that the compensation requested herein is reasonable in light of the nature, extent, and value of such services to the Committee and Leap's estate, and all parties in interest and should be allowed in all respects. In sum, Kramer Levin respectfully submits that the services it rendered were necessary and beneficial to the Leap estate and were consistently performed in an efficient and timely manner commensurate with the complexity, importance, and nature of the issues involved.

31. Kramer Levin seeks reimbursement for \$62,623.81 of disbursements made and expenses incurred in providing professional services to the Committee that were posted during the First Interim Fee Period. This sum reflects a discretionary and voluntary write-off of \$17,635.58. In connection therewith, Kramer Levin has voluntarily reduced its charges to \$.15 per page for photocopies, and \$1.00 per page (plus applicable toll charges) for facsimile transmissions. The disbursement charges included in this Application are intended to cover Kramer Levin's direct operating costs; provided, that the disbursements reflected for certain computer aided legal research represent the hourly or transactional charges billed to Kramer Levin by such service providers even though Kramer Levin actually pays such providers a flat monthly rate for the provision of such services. Kramer

1 Levin's regular practice is not to include such charges in overhead when establishing billing  
2 rates and to charge its clients for these and all other out-of-pocket disbursements incurred  
3 during the regular course of rendering services. Only clients who actually use these services  
4 are separately charged for such services; the effect of including such expenses as part of the  
5 hourly billing rates would impose that cost upon clients who do not require such facilities  
6 and services.

7  
8 32. None of the travel expenses of Kramer Levin included herein were for first-class  
9 airfare, luxury accommodations or deluxe meals. Kramer Levin has made every effort to  
10 minimize disbursements in these cases. In instances where professionals utilized first class  
11 travel, the amount billed to the estate was reduced to non-refundable coach fare rates and the  
12 balance was written-off. The actual expenses incurred in providing professional services  
13 were necessary, reasonable and justified under the circumstances to serve the needs of the  
14 Committee, the Debtors, their estates and creditors.

15  
16 33. As set forth in the Notice of Fee Hearing, copies of this Application have been given  
17 to (i) counsel to the Debtors and (ii) the Office of the United States Trustee. In addition,  
18 notice of this Interim Fee Application has been served in compliance with Rule 2016 of the  
19 Local Rules of the United States Bankruptcy Court, Southern District of California.

20  
21 STATEMENTS BY KRAMER LEVIN

22 34. To date, Kramer Levin has not yet received any payments from the Debtors.<sup>1</sup> No  
23 agreement or understanding exists between Kramer Levin and any other person for a sharing

24  
25 <sup>1</sup> Pursuant to the terms of the Compensation Order, Kramer Levin has recently and/or is in  
26 the process of submitting to the Debtors monthly fee statements for the months of April  
27 through September 2003 (collectively, the "Monthly Fee Statements"). Taken together, the  
28 Monthly Fee Statements request reimbursement of fees and expenses in amounts equal to  
the aggregate amounts set forth in this Interim Fee Application.

1 of compensation received or to be received for services rendered in or in connection with  
2 these chapter 11 cases, nor shall Kramer Levin share or agree to share the compensation  
3 paid or allowed from the Debtors' estates for such services with any other person. No  
4 agreement or understanding prohibited by 18 U.S.C. § 155 has been or will be made by  
5 Kramer Levin.  
6


7 35. Kramer Levin's charge for professional services rendered in these cases are billed in  
8 accordance with Kramer Levin's existing billing procedures. The rates that Kramer Levin  
9 charges for the services rendered by its professionals and paraprofessionals in these chapter  
10 11 cases are the same rates Kramer Levin charges for professional and paraprofessional  
11 services rendered in comparable non-bankruptcy related matters and are reasonable based on  
12 customary compensation charged by comparably skilled practitioners in comparable non-  
13 bankruptcy cases in a competitive national legal market. As set forth above, in an exercise  
14 of billing discretion, Kramer Levin has voluntarily written off \$18,955.50 in fees and  
15 \$17,635.58 in expenses incurred during the First Interim Fee Period.  
16

17 CONCLUSION

18 WHEREFORE, Kramer Levin respectfully requests allowance of compensation for  
19 professional services rendered to the Committee during the period from April 13, 2003  
20 through and including September 30, 2003 in the amount of \$698,677.50, and the  
21 reimbursement of Kramer Levin's out-of-pocket expenses incurred in connection the  
22 rendering of such services in the amount of \$62,623.81; and requests an order (i) authorizing  
23 and directing Leap to pay, as interim compensation to Kramer Levin, such amounts and (ii)  
24 granting such other and further relief as this Court may deem just and proper.  
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26  
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1 Dated: New York, New York  
2 November 7, 2003

3 KRAMER LEVIN NAFTALIS & FRANKEL LLP

4   
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11 Counsel to the Official Committee of Unsecured  
12 Creditors of Leap Wireless International, Inc.