

LEAP WIRELESS INTERNATIONAL INC

Form 10-Q

November 09, 2009

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**FORM 10-Q**

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the quarterly period ended September 30, 2009**

**OR**

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the transition period from \_\_\_\_\_ to \_\_\_\_\_**

**Commission File Number: 0-29752**

**Leap Wireless International, Inc.  
(Exact name of registrant as specified in its charter)**

**Delaware  
(State or other jurisdiction of  
incorporation or organization)  
5887 Copley Drive, San Diego, CA  
(Address of principal executive offices)**

**33-0811062  
(I.R.S. Employer  
Identification No.)  
92111  
(Zip Code)**

**(858) 882-6000  
(Registrant's telephone number, including area code)**

**10307 Pacific Center Court, San Diego, CA 92121  
(Former name, former address and former fiscal year, if changed since last report)**

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

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Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company   
(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Sections 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes  No

The number of shares outstanding of the registrant's common stock on October 30, 2009 was 77,402,588.

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**LEAP WIRELESS INTERNATIONAL, INC.**

**QUARTERLY REPORT ON FORM 10-Q  
For the Quarter Ended September 30, 2009**

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**Table of Contents****PART I****FINANCIAL INFORMATION****Item 1. Financial Statements.****LEAP WIRELESS INTERNATIONAL, INC.****CONDENSED CONSOLIDATED BALANCE SHEETS****(In thousands, except share amounts)**

	<b>September 30, 2009 (Unaudited)</b>	<b>December 31, 2008</b>
<b>Assets</b>		
Cash and cash equivalents	\$ 222,961	\$ 357,708
Short-term investments	391,148	238,143
Restricted cash, cash equivalents and short-term investments	3,248	4,780
Inventories	88,380	99,086
Deferred charges	36,238	27,207
Other current assets	62,077	51,948
Total current assets	804,052	778,872
Property and equipment, net	2,092,954	1,842,718
Wireless licenses	1,919,294	1,841,798
Assets held for sale	4,015	45,569
Goodwill	430,101	430,101
Intangible assets, net	25,749	29,854
Other assets	92,878	83,945
Total assets	\$ 5,369,043	\$ 5,052,857
<b>Liabilities and Stockholders Equity</b>		
Accounts payable and accrued liabilities	\$ 244,162	\$ 325,294
Current maturities of long-term debt	7,000	13,000
Other current liabilities	217,963	162,002
Total current liabilities	469,125	500,296
Long-term debt	2,752,779	2,566,025
Deferred tax liabilities	242,463	217,631
Other long-term liabilities	88,614	84,350
Total liabilities	3,552,981	3,368,302
Redeemable noncontrolling interests	75,792	71,879

Commitments and contingencies (Note 10)

Stockholders' equity:

Preferred stock authorized 10,000,000 shares, \$.0001 par value; no shares issued and outstanding

Common stock authorized 160,000,000 shares, \$.0001 par value; 77,410,189 and 69,515,526 shares issued and outstanding at September 30, 2009 and

December 31, 2008, respectively

	8	7
Additional paid-in capital	2,134,348	1,835,468
Accumulated deficit	(394,672)	(216,877)
Accumulated other comprehensive income (loss)	586	(5,922)
 Total stockholders' equity	 1,740,270	 1,612,676
 Total liabilities and stockholders' equity	 \$ 5,369,043	 \$ 5,052,857

See accompanying notes to condensed consolidated financial statements.

**Table of Contents****LEAP WIRELESS INTERNATIONAL, INC.****CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS****(Unaudited and in thousands, except per share data)**

	<b>Three Months Ended</b>		<b>Nine Months Ended</b>	
	<b>September 30,</b>		<b>September 30,</b>	
	<b>2009</b>	<b>2008</b>	<b>2009</b>	<b>2008</b>
Revenues:				
Service revenues	\$ 541,268	\$ 434,523	\$ 1,596,858	\$ 1,250,595
Equipment revenues	58,200	62,174	187,005	189,344
Total revenues	599,468	496,697	1,783,863	1,439,939
Operating expenses:				
Cost of service (exclusive of items shown separately below)	156,707	129,708	455,618	359,735
Cost of equipment	133,502	113,057	419,073	332,405
Selling and marketing	111,702	77,407	311,913	209,783
General and administrative	87,077	87,522	274,192	240,662
Depreciation and amortization	107,876	86,033	297,230	254,839
Impairment of assets	639	177	639	177
Total operating expenses	597,503	493,904	1,758,665	1,397,601
Gain (loss) on sale or disposal of assets	(591)	(402)	1,436	559
Operating income	1,374	2,391	26,634	42,897
Equity in net income (loss) of investee	996	230	2,990	(1,127)
Interest income	727	4,072	2,314	11,439
Interest expense	(59,129)	(45,352)	(150,040)	(109,110)
Other income (expense), net	(17)	1,115	(126)	(3,228)
Loss on extinguishment of debt			(26,310)	
Loss before income taxes	(56,049)	(37,544)	(144,538)	(59,129)
Income tax expense	(9,358)	(9,726)	(29,412)	(29,683)
Net loss	(65,407)	(47,270)	(173,950)	(88,812)
Accretion of redeemable noncontrolling interests, net of tax	834	(1,992)	(3,670)	(5,825)
Net loss attributable to common stockholders	\$ (64,573)	\$ (49,262)	\$ (177,620)	\$ (94,637)
Loss per share attributable to common stockholders:				
Basic	\$ (0.85)	\$ (0.72)	\$ (2.49)	\$ (1.39)
Diluted	\$ (0.85)	\$ (0.72)	\$ (2.49)	\$ (1.39)

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Shares used in per share calculations:

Basic	75,598	68,071	71,469	67,999
Diluted	75,598	68,071	71,469	67,999

See accompanying notes to condensed consolidated financial statements.



**Table of Contents****LEAP WIRELESS INTERNATIONAL, INC.****CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS****(Unaudited and in thousands)**

	<b>Nine Months Ended September 30,</b>	
	<b>2009</b>	<b>2008</b>
Operating activities:		
Net cash provided by operating activities	\$ 194,825	\$ 271,269
Investing activities:		
Acquisition of a business, net of cash acquired		(31,201)
Purchases of property and equipment	(577,542)	(528,333)
Change in prepayments for purchases of property and equipment	5,377	(4,867)
Purchases of and deposits for wireless licenses and spectrum clearing costs	(34,311)	(74,698)
Return of deposit for wireless licenses		70,000
Proceeds from sale of wireless licenses and operating assets	2,965	
Purchases of investments	(640,193)	(446,590)
Sales and maturities of investments	487,270	341,239
Purchase of membership units of equity method investment		(1,033)
Change in restricted cash	706	(1,980)
Net cash used in investing activities	(755,728)	(677,463)
Financing activities:		
Proceeds from issuance of long-term debt	1,057,474	535,750
Repayment of long-term debt	(880,904)	(7,750)
Payment of debt issuance costs	(15,094)	(7,507)
Proceeds from issuance of common stock, net	265,907	7,068
Other	(1,227)	(12,900)
Net cash provided by financing activities	426,156	514,661
Net increase (decrease) in cash and cash equivalents	(134,747)	108,467
Cash and cash equivalents at beginning of period	357,708	433,337
Cash and cash equivalents at end of period	\$ 222,961	\$ 541,804
Supplementary disclosure of cash flow information:		
Cash paid for interest	\$ 133,379	\$ 107,924
Cash paid for income taxes	\$ 2,490	\$ 1,916

See accompanying notes to condensed consolidated financial statements.

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**LEAP WIRELESS INTERNATIONAL, INC.**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)**

**Note 1. The Company**

Leap Wireless International, Inc. ( Leap ), a Delaware corporation, together with its subsidiaries, is a wireless communications carrier that offers digital wireless services in the United States under the Cricket® brand. Cricket service offerings provide customers with unlimited wireless services for a flat rate without requiring a fixed-term contract or a credit check. The Company's primary service is Cricket Wireless, which offers customers unlimited wireless voice and data services for a flat monthly rate. Leap conducts operations through its subsidiaries and has no independent operations or sources of income other than interest income and through dividends, if any, from its subsidiaries. Cricket service is offered by Cricket Communications, Inc. ( Cricket ), a wholly owned subsidiary of Leap, and is also offered in Oregon by LCW Wireless Operations, LLC ( LCW Operations ), a wholly owned subsidiary of LCW Wireless, LLC ( LCW Wireless ), and in the upper Midwest by Denali Spectrum Operations, LLC ( Denali Operations ), an indirect wholly owned subsidiary of Denali Spectrum, LLC ( Denali ). LCW Wireless and Denali are designated entities under Federal Communications Commission ( FCC ) regulations. Cricket owns an indirect 70.7% non-controlling interest in LCW Operations through a 70.7% non-controlling interest in LCW Wireless, and owns an indirect 82.5% non-controlling interest in Denali Operations through an 82.5% non-controlling interest in Denali. Leap, Cricket and their subsidiaries and consolidated joint ventures, including LCW Wireless and Denali, are collectively referred to herein as the Company.

**Note 2. Basis of Presentation and Significant Accounting Policies**

***Basis of Presentation***

The accompanying interim condensed consolidated financial statements have been prepared without audit, in accordance with the instructions to Form 10-Q and therefore do not include all information and footnotes required by accounting principles generally accepted in the United States of America ( GAAP ) for a complete set of financial statements. These condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 2008. In the opinion of management, the unaudited financial information for the interim periods presented reflects all adjustments necessary for a fair presentation of the Company's results for the periods presented, with such adjustments consisting only of normal recurring adjustments. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities and the reported amounts of revenues and expenses. By their nature, estimates are subject to an inherent degree of uncertainty. Actual results could differ from management's estimates and operating results for interim periods are not necessarily indicative of operating results for an entire fiscal year.

On January 1, 2009, the Company adopted the authoritative guidance for noncontrolling interests, which defines a noncontrolling interest in a consolidated subsidiary as the portion of the equity (net assets) in a subsidiary not attributable, directly or indirectly, to a parent and requires noncontrolling interests to be presented as a separate component of equity in the consolidated balance sheet subject to the provisions of the authoritative guidance for distinguishing liabilities from equity. The guidance for noncontrolling interests also modifies the presentation of net income by requiring earnings and other comprehensive income to be attributed to controlling and noncontrolling interests. The cumulative impact to the Company's financial statements as a result of the adoption of the guidance for noncontrolling interests resulted in a \$9.2 million reduction to stockholders' equity, a \$5.8 million reduction to deferred tax liabilities and a \$15.0 million increase to redeemable noncontrolling interests (formerly referred to as

minority interests) as of December 31, 2008. The Company has retrospectively applied the guidance for noncontrolling interests to all prior periods. See Note 9 for a further discussion regarding the Company's adoption of the guidance for noncontrolling interests.

Handsets shipped to third-party dealers have been reclassified from inventory to deferred charges in the condensed consolidated balance sheet for the year ended December 31, 2008 to conform to the presentation of such amounts for the nine months ended September 30, 2009.

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***Principles of Consolidation***

The condensed consolidated financial statements include the operating results and financial position of Leap and its wholly owned subsidiaries as well as the operating results and financial position of LCW Wireless and Denali and their wholly owned subsidiaries. The Company consolidates its non-controlling interests in LCW Wireless and Denali in accordance with the Financial Accounting Standards Board's (FASB's) authoritative guidance for the consolidation of variable interest entities because these entities are variable interest entities and the Company will absorb a majority of their expected losses. All intercompany accounts and transactions have been eliminated in the condensed consolidated financial statements.

***Subsequent Events***

Effective June 15, 2009, the Company adopted the authoritative guidance for subsequent events, which establishes general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued. The adoption of the guidance did not impact the Company's financial position or results of operations. The Company evaluated all events or transactions that occurred after September 30, 2009 up through November 6, 2009, the date it issued these financial statements. During this period, the Company did not have any material recognizable or nonrecognizable subsequent events.

***Segment and Geographic Data***

The Company operates in a single operating segment and a single reporting unit as a wireless communications carrier that offers digital wireless services in the United States. During 2008, the Company introduced two new product offerings to complement its Cricket Wireless service. Cricket Broadband, the Company's unlimited mobile broadband service, allows customers to access the internet through their computers for a flat monthly rate with no long-term commitment or credit check. Cricket PAYGo™ is a pay-as-you-go unlimited prepaid wireless service. Revenue for the Cricket Broadband service approximated 7% and 6% of consolidated revenues for the three and nine months ended September 30, 2009, respectively. Revenue for the Cricket PAYGo service approximated 1% of consolidated revenues for each of the three and nine months ended September 30, 2009. Revenue for the Cricket Broadband service approximated 1% of consolidated revenues for each of the three and nine months ended September 30, 2008. Since the Company began its introductory launch of Cricket PAYGo during October 2008, it did not record revenues for this service during the three and nine months ended September 30, 2008. As of and for the nine months ended September 30, 2009, all of the Company's revenues and long-lived assets related to operations in the United States.

***Revenues***

Cricket's business revenues principally arise from the sale of wireless services, handsets and accessories. Wireless services are generally provided on a month-to-month basis. In general, new and reactivating customers are required to pay for their service in advance, while customers who first activated their service prior to May 2006 pay in arrears. Because the Company does not require customers to sign fixed-term contracts or pass a credit check, its services are available to a broader customer base than many other wireless providers and, as a result, some of its customers may be more likely to have service terminated due to an inability to pay. Consequently, the Company has concluded that collectibility of its revenues is not reasonably assured until payment has been received. Accordingly, service revenues are recognized only after services have been rendered and payment has been received.

When the Company activates a new customer, it frequently sells that customer a handset and the first month of service in a bundled transaction. Under the authoritative guidance for revenue arrangements with multiple deliverables, the sale of a handset along with a month of wireless service constitutes a multiple element arrangement. Under the

guidance, once a company has determined the fair value of the elements in the sales transaction, the total consideration received from the customer must be allocated among those elements on a relative fair value basis. Applying the guidance to these transactions results in the Company recognizing the total consideration received, less one month of wireless service revenue (at the customer's stated rate plan), as equipment revenue.

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Equipment revenues and related costs from the sale of handsets are recognized when service is activated by customers. Revenues and related costs from the sale of accessories are recognized at the point of sale. The costs of handsets and accessories sold are recorded in cost of equipment. In addition to handsets that the Company sells directly to its customers at Cricket-owned stores, the Company also sells handsets to third-party dealers. These dealers then sell the handsets to the ultimate Cricket customer, and that customer also receives the first month of service in a bundled transaction (identical to the sale made at a Cricket-owned store). Sales of handsets to third-party dealers are recognized as equipment revenues only when service is activated by customers, since the level of price reductions ultimately available to such dealers is not reliably estimable until the handsets are sold by such dealers to customers. Thus, handsets sold to third-party dealers are recorded as deferred equipment revenue and the related costs of the handsets are recorded as deferred charges upon shipment by the Company. The deferred charges are recognized as equipment costs when the related equipment revenue is recognized, which occurs when service is activated by the customer.

Through a third-party provider, the Company's customers may elect to participate in an extended handset warranty/insurance program. The Company recognizes revenue on replacement handsets sold to its customers under the program when the customer purchases a replacement handset.

Sales incentives offered without charge to customers and volume-based incentives paid to the Company's third-party dealers are recognized as a reduction of revenue and as a liability when the related service or equipment revenue is recognized. Customers have limited rights to return handsets and accessories based on time and/or usage, and customer returns of handsets and accessories have historically been negligible.

Amounts billed by the Company in advance of customers' wireless service periods are not reflected in accounts receivable or deferred revenue since collectibility of such amounts is not reasonably assured. Deferred revenue consists primarily of cash received from customers in advance of their service period and deferred equipment revenue related to handsets sold to third-party dealers.

Universal Service Fund, E-911 and other fees are assessed by various governmental authorities in connection with the services that the Company provides to its customers. The Company reports these fees, as well as sales, use and excise taxes that are assessed and collected, net of amounts remitted, in the condensed consolidated statements of operations.

***Fair Value of Financial Instruments***

The Company has adopted the authoritative guidance for fair value measurements, which defines fair value for accounting purposes, establishes a framework for measuring fair value and expands disclosure requirements regarding fair value measurements. The guidance defines fair value as an exit price, which is the price that would be received upon sale of an asset or paid upon transfer of a liability in an orderly transaction between market participants at the measurement date. The degree of judgment utilized in measuring the fair value of assets and liabilities generally correlates to the level of pricing observability. Assets and liabilities with readily available, actively quoted prices or for which fair value can be measured from actively quoted prices in active markets generally have more pricing observability and require less judgment in measuring fair value. Conversely, assets and liabilities that are rarely traded or not quoted have less pricing observability and are generally measured at fair value using valuation models that require more judgment. These valuation techniques involve some level of management estimation and judgment, the degree of which is dependent on the price transparency of the asset, liability or market and the nature of the asset or liability. The Company has categorized its assets and liabilities measured at fair value into a three-level hierarchy in accordance with the guidance for fair value measurements. See Note 5 for a further discussion regarding the Company's measurement of assets and liabilities at fair value.

The Company's adoption of the guidance for fair value measurements for its financial assets and liabilities did not have a material impact on its consolidated financial statements. Effective January 1, 2009, the Company adopted the guidance for fair value measurements for its non-financial assets and liabilities that are remeasured at fair value on a non-recurring basis. The adoption of the guidance for the Company's non-financial assets and liabilities that are remeasured at fair value on a non-recurring basis did not have a material impact on its financial condition and results of operations; however, the guidance could have a material impact in future periods.

**Table of Contents*****Property and Equipment***

Property and equipment are initially recorded at cost. Additions and improvements are capitalized, while expenditures that do not enhance the asset or extend its useful life are charged to operating expenses as incurred. Depreciation is applied using the straight-line method over the estimated useful lives of the assets once the assets are placed in service.

The following table summarizes the depreciable lives for property and equipment (in years):

	<b>Depreciable Life</b>
Network equipment:	
Switches	10
Switch power equipment	15
Cell site equipment and site improvements	7
Towers	15
Antennae	5
Computer hardware and software	3-5
Furniture, fixtures, retail and office equipment	3-7

The Company's network construction expenditures are recorded as construction-in-progress until the network or other asset is placed in service, at which time the asset is transferred to the appropriate property or equipment category. The Company capitalizes salaries and related costs of engineering and technical operations employees as components of construction-in-progress during the construction period to the extent time and expense are contributed to the construction effort. The Company also capitalizes certain telecommunications and other related costs as construction-in-progress during the construction period to the extent they are incremental and directly related to the network under construction. In addition, interest is capitalized on the carrying values of both wireless licenses and equipment during the construction period and is depreciated over an estimated useful life of ten years. During the three and nine months ended September 30, 2009, the Company capitalized interest of \$1.3 million and \$20.5 million, respectively, to property and equipment. During the three and nine months ended September 30, 2008, the Company capitalized interest of \$12.5 million and \$38.6 million, respectively, to property and equipment.

In accordance with the authoritative guidance for accounting for costs of computer software developed or obtained for internal use, certain costs related to the development of internal use software are capitalized and amortized over the estimated useful life of the software. During the three and nine months ended September 30, 2009, the Company capitalized internal use software costs of \$23.3 million and \$48.5 million, respectively, to property and equipment, and amortized internal use software costs of \$5.3 million and \$15.4 million, respectively. During the three and nine months ended September 30, 2008, the Company capitalized internal use software costs of \$5.7 million and \$14.6 million, respectively, to property and equipment, and amortized internal use software costs of \$4.1 million and \$12.6 million, respectively.

***Wireless Licenses***

The Company, LCW Wireless and Denali operate broadband Personal Communications Services ( PCS ) and Advanced Wireless Services ( AWS ) networks under PCS and AWS wireless licenses granted by the FCC that are specific to a particular geographic area on spectrum that has been allocated by the FCC for such services. Wireless



licenses are initially recorded at cost and are not amortized. Although FCC licenses are issued with a stated term (ten years in the case of PCS licenses and fifteen years in the case of AWS licenses), wireless licenses are considered to be indefinite-lived intangible assets because the Company expects its subsidiaries and consolidated joint ventures to provide wireless service using the relevant licenses for the foreseeable future, PCS and AWS licenses are routinely renewed for either no or a nominal fee, and management has determined that no legal, regulatory, contractual, competitive, economic or other factors currently exist that limit the useful life of the Company's or its consolidated joint ventures' PCS and AWS licenses. On a quarterly basis, the Company evaluates the remaining useful life of its indefinite-lived wireless licenses to determine whether events and circumstances, such as legal, regulatory, contractual, competitive, economic or other factors, continue to support an indefinite useful life. If a

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wireless license is subsequently determined to have a finite useful life, the Company would first test the wireless license for impairment and the wireless license would then be amortized prospectively over its estimated remaining useful life. In addition, on a quarterly basis, the Company evaluates the triggering event criteria outlined in the authoritative guidance for the impairment or disposal of long-lived assets, to determine whether events or changes in circumstances indicate that an impairment condition may exist. In addition to these quarterly evaluations, the Company also tests its wireless licenses for impairment in accordance with the authoritative guidance for goodwill and other intangible assets on an annual basis. As of September 30, 2009 and December 31, 2008, the carrying value of the Company's and its consolidated joint ventures' wireless licenses was \$1.9 billion and \$1.8 billion, respectively. Wireless licenses to be disposed of by sale are carried at the lower of their carrying value or fair value less costs to sell. As of September 30, 2009 and December 31, 2008, wireless licenses with a carrying value of \$4.0 million and \$45.6 million, respectively, were classified as assets held for sale.

Portions of the AWS spectrum that the Company and Denali Spectrum License Sub, LLC ( Denali License Sub ) (an indirect wholly owned subsidiary of Denali) hold are currently used by U.S. federal government and/or incumbent commercial licensees. FCC rules require winning bidders to avoid interfering with these existing users or to clear the incumbent users from the spectrum through specified relocation procedures. The Company's and Denali's spectrum clearing costs are capitalized to wireless licenses as incurred. During the three and nine months ended September 30, 2009, the Company and Denali incurred approximately \$2.4 million and \$7.1 million, respectively, in spectrum clearing costs. During the three and nine months ended September 30, 2008, the Company and Denali incurred approximately \$2.0 million and \$4.7 million, respectively, in spectrum clearing costs.

***Goodwill and Other Intangible Assets***

Goodwill primarily represents the excess of reorganization value over the fair value of identified tangible and intangible assets recorded in connection with fresh-start reporting as of July 31, 2004. Certain of the Company's other intangible assets were also recorded upon adoption of fresh-start reporting and now consist of trademarks which are being amortized on a straight-line basis over their estimated useful lives of fourteen years. Customer relationships acquired in connection with the Company's acquisition of Hargray Wireless, LLC ( Hargray Wireless ) in 2008 are amortized on an accelerated basis over a useful life of up to four years.

***Impairment of Indefinite-Lived Intangible Assets***

The Company assesses potential impairments to its indefinite-lived intangible assets, including wireless licenses and goodwill, on an annual basis or when there is evidence that events or changes in circumstances indicate that an impairment condition may exist. In addition, and as more fully described below, on a quarterly basis, the Company evaluates the triggering event criteria outlined in the authoritative guidance for goodwill and other intangible assets to determine whether events or changes in circumstances indicate that an impairment condition may exist. The annual impairment test is conducted during the third quarter of each year. Accordingly, the Company performed its annual impairment test during the three months ended September 30, 2009.

***Wireless Licenses***

The Company's wireless licenses in its operating markets are combined into a single unit of account for purposes of testing impairment because management believes that utilizing these wireless licenses as a group represents the highest and best use of the assets, and the value of the wireless licenses would not be significantly impacted by a sale of one or a portion of the wireless licenses, among other factors. The Company's non-operating licenses are tested for impairment on an individual basis. As of September 30, 2009, the carrying values of the Company's operating and non-operating wireless licenses were \$1,889.3 million and \$30.0 million, respectively. An impairment loss is

recognized on the Company's operating wireless licenses when the aggregate fair value of the wireless licenses is less than their aggregate carrying value and is measured as the amount by which the licenses' aggregate carrying value exceeds their aggregate fair value. An impairment loss is recognized on the Company's non-operating wireless licenses when the fair value of a wireless license is less than its carrying value and is measured as the amount by which the license's carrying value exceeds its fair value. Any required impairment loss is recorded as a reduction in the carrying value of the relevant wireless license and charged to results of operations. As a result of the annual impairment test of wireless licenses, the Company recorded an impairment charge of

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\$0.6 million during the three and nine months ended September 30, 2009 and an impairment charge of \$0.2 million during the three and nine months ended September 30, 2008 to reduce the carrying values of certain non-operating wireless licenses to their estimated fair values. No impairment charges were recorded for the Company's operating wireless licenses as the aggregate fair values of these licenses exceeded the aggregate carrying value.

The valuation method the Company uses to determine the fair value of its wireless licenses is the market approach. Under this method, the Company determines fair value by comparing its wireless licenses to sales prices of other wireless licenses of similar size and type that have been recently sold through government auctions and private transactions. As part of this market-level analysis, the fair value of each wireless license is evaluated and adjusted for developments or changes in legal, regulatory and technical matters, and for demographic and economic factors, such as population size, composition, growth rate and density, household and disposable income, and composition and concentration of the market's workforce in industry sectors identified as wireless-centric (e.g., real estate, transportation, professional services, agribusiness, finance and insurance).

*Goodwill*

Management assesses the Company's goodwill for impairment at the reporting unit level by applying a fair value test. This fair value test involves a two-step process. The first step is to compare the book value of the Company's net assets to the Company's fair value. If the fair value is determined to be less than book value, a second step is performed to measure the amount of the impairment, if any.

The Company conducts its annual impairment testing during the third quarter of each year. In connection with this annual test, the Company bases its determination of fair value primarily upon the Company's average market capitalization for the month of August, plus an assumed control premium. Average market capitalization is calculated based upon the average number of shares of Leap common stock outstanding during such month and the average closing price of Leap common stock during such month. Management believes that it is preferable to determine market capitalization using an average calculated over a one-month period, rather than on a single day at the end of a period, to account for fluctuations in the trading price of Leap common stock. In addition, management considers the month of August to be an appropriate period over which to measure average market capitalization for purposes of the third quarter test because trading prices during the period reflect market reaction to the Company's most recently announced financial and operating results, typically announced early in the month of August. Moreover, measuring the average market capitalization over the month of August provides the Company with sufficient time to complete its impairment assessment and report the results in the Company's third quarter financial statements.

In conducting the annual impairment test during the third quarter of 2009, management applied an assumed control premium of 30% to the Company's average market capitalization. Management believes that consideration of an assumed control premium is customary in determining fair value, and the Company utilized an assumed control premium as contemplated by applicable accounting guidance. Management believes that its consideration of a control premium was appropriate because it believes that the Company's market capitalization does not fully capture the fair value of the Company's business as a whole or the additional amount an assumed purchaser would pay to obtain a controlling interest in the Company. Management determined the amount of the assumed control premium as part of its third quarter 2009 testing based upon its relevant transactional experience, a review of recent comparable telecommunications transactions and an assessment of market, economic and other factors. The actual amount of any control premium realized in any transaction involving the Company, however, could be higher or lower than the assumed control premium depending on the circumstances.

As of September 30, 2009, the carrying value of the Company's goodwill was \$430.1 million. Based upon its annual impairment test conducted during the third quarter of 2009, management determined that no impairment condition

existed. As of August 31, 2009, the book value of the Company's net assets was \$1,758.5 million and the fair value of the Company, based upon its average market capitalization during the month of August and an assumed control premium of 30%, was \$1,850.7 million.

Although the average closing price of Leap common stock for the month of September was higher than the average closing price for the month of August, since September 30, 2009, the competition in markets in which the Company operates has intensified and the trading price of Leap common stock has been highly volatile, declining significantly below the level the Company considered in performing its annual impairment test. Since

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September 30, 2009, the closing price of Leap common stock has ranged from a high of \$17.42 per share to a low of \$13.03 per share, and the closing price of Leap common stock was \$13.03 per share on November 5, 2009. If the trading price of Leap common stock were to continue to be adversely affected for a sustained period of time due to competition in the wireless telecommunications industry, significant changes in the Company's financial or operating performance, unfavorable economic conditions or other factors, this decline could constitute a triggering event which would require the Company to perform an interim goodwill impairment test prior to the Company's next annual impairment test during the third quarter of 2010 and possibly as soon as during the fourth quarter of 2009. If the first step of the interim impairment test were to indicate that a potential impairment existed, the Company would be required to perform the second step of the goodwill impairment test, which would require the Company to determine the fair value of its net assets and could require the Company to recognize a material non-cash impairment charge that could reduce all or a portion of the carrying value of its goodwill of \$430.1 million.

### ***Derivative Instruments and Hedging Activities***

The Company historically entered into interest rate swap agreements with respect to the senior secured credit facilities under its former amended and restated credit agreement (the "Credit Agreement"). The Company entered into these derivative contracts to manage its exposure to interest rate changes by achieving a desired proportion of fixed rate versus variable rate debt. The Company did not use derivative instruments for trading or other speculative purposes. In connection with its issuance of \$1,100 million of senior secured notes due 2016 on June 5, 2009, the Company terminated the Credit Agreement and repaid all amounts outstanding thereunder and, in connection therewith, unwound its associated interest rate swap agreements, as more fully described in Note 6. Accordingly, the Company no longer held interest rate swaps as of September 30, 2009.

The Company recorded all derivatives in other assets or other liabilities on its condensed consolidated balance sheets at fair value. If the derivative was designated as a cash flow hedge and the hedging relationship qualified for hedge accounting, the effective portion of the change in fair value of the derivative was recorded in other comprehensive income (loss) and was recorded as interest expense when the hedged debt affected interest expense. The ineffective portion of the change in fair value of the derivative qualifying for hedge accounting and changes in the fair values of derivative instruments not qualifying for hedge accounting were recognized in interest expense in the period of the change.

At inception of the hedge and quarterly thereafter, the Company performed a quantitative and qualitative assessment to determine whether changes in the fair values or cash flows of the derivatives were deemed highly effective in offsetting changes in the fair values or cash flows of the hedged items. If at any time subsequent to the inception of the hedge, the correlation assessment indicated that the derivative was no longer highly effective as a hedge, the Company discontinued hedge accounting and recognized all subsequent derivative gains and losses in results of operations.

### ***Investments in Other Entities***

The Company uses the equity method to account for investments in common stock of corporations in which it has a voting interest of between 20% and 50% or in which the Company otherwise has the ability to exercise significant influence, and in limited liability companies that maintain specific ownership accounts in which it has more than a minor but not greater than a 50% ownership interest. Under the equity method, the investment is originally recorded at cost and is adjusted to recognize the Company's share of net earnings or losses of the investee. The carrying value of the Company's equity method investee, in which it owns approximately 20% of the outstanding membership units, was \$20.4 million and \$17.4 million as of September 30, 2009 and December 31, 2008, respectively. During the three and nine months ended September 30, 2009, the Company's share of its equity method investee income was \$1.0 million and \$3.0 million, respectively. During the three months ended September 30, 2008, the Company's share of its equity

method investee income was \$0.2 million. During the nine months ended September 30, 2008, the Company's share of its equity method investee losses was \$1.1 million.

The Company regularly monitors and evaluates the realizable value of its investments. When assessing an investment for an other-than-temporary decline in value, the Company considers such factors as, among other things, the performance of the investee in relation to its business plan, the investee's revenue and cost trends,

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liquidity and cash position, market acceptance of the investee's products or services, any significant news that has been released regarding the investee and the outlook for the overall industry in which the investee operates. If events and circumstances indicate that a decline in the value of these assets has occurred and is other-than-temporary, the Company records a reduction to the carrying value of its investment and a corresponding charge to the consolidated statements of operations.

***Concentrations***

The Company generally relies on one key vendor for billing services, a limited number of vendors for handset logistics, a limited number of vendors for its voice and data communications transport services and a limited number of vendors for payment processing services. Loss or disruption of these services could materially adversely affect the Company's business.

The Company does not have a national network, and it must pay fees to other carriers who provide it with roaming services which allow the Company's customers to roam on such carriers' networks. Currently, the Company relies on roaming agreements with several carriers for a majority of its roaming needs. If the Company were unable to obtain cost-effective roaming services for its customers in geographically desirable service areas, the Company's competitive position, business, financial condition and results of operations could be materially adversely affected.

***Share-Based Compensation***

The Company accounts for share-based awards exchanged for employee services in accordance with the authoritative guidance for share-based payments. Under the guidance, share-based compensation expense is measured at the grant date, based on the estimated fair value of the award, and is recognized as expense, net of estimated forfeitures, over the employee's requisite service period.

Total share-based compensation expense related to all of the Company's share-based awards for the three and nine months ended September 30, 2009 and 2008 was allocated to the condensed consolidated statements of operations as follows (in thousands, except per share data):

	<b>Three Months</b>		<b>Nine Months</b>	
	<b>Ended September 30,</b>		<b>Ended September 30,</b>	
	<b>2009</b>	<b>2008</b>	<b>2009</b>	<b>2008</b>
Cost of service	\$ 865	\$ 628	\$ 2,510	\$ 2,145
Selling and marketing expense	1,866	871	4,915	3,406
General and administrative expense	8,276	6,967	25,644	19,951
Share-based compensation expense	\$ 11,007	\$ 8,466	\$ 33,069	\$ 25,502
Share-based compensation expense per share:				
Basic	\$ 0.15	\$ 0.12	\$ 0.46	\$ 0.38
Diluted	\$ 0.15	\$ 0.12	\$ 0.46	\$ 0.38

***Income Taxes***



The computation of the Company's annual effective tax rate includes a forecast of the Company's estimated ordinary income (loss), which is its annual income (loss) from continuing operations before tax, excluding unusual or infrequently occurring (discrete) items. Significant management judgment is required in projecting the Company's ordinary income (loss). The Company's projected ordinary income tax expense for the full year 2009, which excludes the effect of discrete items, consists primarily of the deferred tax effect of the Company's investments in joint ventures that are in a deferred tax liability position and the amortization of wireless licenses and goodwill for income tax purposes. Because the Company's projected 2009 income tax expense is a relatively fixed amount, a small change in the ordinary income (loss) projection can produce a significant variance in the effective tax rate, and therefore it is difficult to make a reliable estimate of the annual effective tax rate. As a result and in accordance with the authoritative guidance for accounting for income taxes in interim periods, the Company has

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computed its provision for income taxes for the three and nine months ended September 30, 2009 and 2008 by applying the actual effective tax rate to the year-to-date income.

The Company calculates income taxes in each of the jurisdictions in which it operates. This process involves calculating the actual current tax expense and any deferred income tax expense resulting from temporary differences arising from differing treatments of items for tax and accounting purposes. These temporary differences result in deferred tax assets and liabilities. Deferred tax assets are also established for the expected future tax benefits to be derived from net operating loss ( NOL ) carryforwards, capital loss carryforwards and income tax credits.

The Company must then periodically assess the likelihood that its deferred tax assets will be recovered from future taxable income, which assessment requires significant judgment. Included in the Company's deferred tax assets as of September 30, 2009 were federal NOL carryforwards of approximately \$1.4 billion (which will begin to expire in 2022) and state NOL carryforwards of approximately \$1.4 billion (\$32.2 million of which will expire at the end of 2009), which could be used to offset future ordinary taxable income and reduce the amount of cash required to settle future tax liabilities. To the extent the Company believes it is more likely than not that its deferred tax assets will not be recovered, it must establish a valuation allowance. As part of this periodic assessment for the three and nine months ended September 30, 2009, the Company weighed the positive and negative factors with respect to this determination and, at this time, does not believe there is sufficient positive evidence and sustained operating earnings to support a conclusion that it is more likely than not that all or a portion of its deferred tax assets will be realized, except with respect to the realization of a \$2.4 million Texas Margins Tax credit. The Company will continue to closely monitor the positive and negative factors to assess whether it is required to continue to maintain a valuation allowance. At such time as the Company determines that it is more likely than not that all or a portion of the deferred tax assets are realizable, the valuation allowance will be reduced or released in its entirety, with the corresponding benefit reflected in the Company's tax provision. Deferred tax liabilities associated with wireless licenses, tax goodwill and investments in certain joint ventures cannot be considered a source of taxable income to support the realization of deferred tax assets because these deferred tax liabilities will not reverse until some indefinite future period.

In accordance with the authoritative guidance for business combinations, which became effective for the Company on January 1, 2009, any reduction in the valuation allowance, including the valuation allowance established in fresh-start reporting, will be accounted for as a reduction of income tax expense.

The Company's unrecognized income tax benefits and uncertain tax positions have not been material in any period. Interest and penalties related to uncertain tax positions are recognized by the Company as a component of income tax expense; however, such amounts have not been material in any period. All of the Company's tax years from 1998 to 2008 remain open to examination by federal and state taxing authorities. In July 2009, the federal examination of the Company's 2005 tax year, which was limited in scope, was concluded and the results did not have a material impact on the consolidated financial statements.

***Comprehensive Loss***

Comprehensive loss consisted of the following (in thousands):

	<b>Three Months</b>		<b>Nine Months</b>	
	<b>Ended September 30,</b>		<b>Ended September 30,</b>	
	<b>2009</b>	<b>2008</b>	<b>2009</b>	<b>2008</b>
Net loss	\$ (65,407)	\$ (47,270)	\$ (173,950)	\$ (88,812)

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Other comprehensive loss:

Net unrealized holding gains (losses) on investments, net of tax	(219)	(123)	389	683
Unrealized losses on interest rate swaps				(1,470)
Reclassification of losses included in earnings, including tax effect			6,119	
Comprehensive loss	\$ (65,626)	\$ (47,393)	\$ (167,442)	\$ (89,599)

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Components of accumulated other comprehensive income (loss) consisted of the following (in thousands):

	<b>September 30, 2009</b>	<b>December 31, 2008</b>
Net unrealized holding gains on investments, net of tax	\$ 586	\$ 197
Unrealized losses on interest rate swaps, net of tax and swaplet amortization		(6,119)
Accumulated other comprehensive income (loss)	\$ 586	\$ (5,922)

***Recent Accounting Pronouncements***

In June 2009, the FASB revised the authoritative guidance for the consolidation of variable interest entities, which will be effective for all variable interest entities and relationships with variable interest entities existing as of January 1, 2010. The revised authoritative guidance requires an enterprise to determine whether its variable interest or interests give it a controlling financial interest in a variable interest entity. The primary beneficiary of a variable interest entity is the enterprise that has both (1) the power to direct the activities of a variable interest entity that most significantly impact the entity's economic performance and (2) the obligation to absorb losses of the entity that could potentially be significant to the variable interest entity or the right to receive benefits from the entity that could potentially be significant to the variable interest entity. The revised guidance requires ongoing reassessments of whether an enterprise is the primary beneficiary of a variable interest entity. The Company is currently evaluating what impact, if any, the revised guidance will have on its consolidated financial statements.

In September 2009, the FASB revised the authoritative guidance for revenue arrangements with multiple deliverables, which will be effective for fiscal years beginning after June 15, 2010 and may be applied retrospectively or prospectively for new or materially modified arrangements. The revised guidance addresses how to determine whether an arrangement involving multiple deliverables contains more than one unit of accounting, and how the arrangement consideration should be allocated among the separate units of accounting. The revised guidance retains the criteria of the superseded guidance for when delivered items in a multiple-deliverable arrangement should be considered separate units of accounting, but eliminates the requirement that all undelivered elements must have objective and reliable evidence of fair value before a company can recognize the portion of the overall arrangement revenue that is attributable to items that already have been delivered. In addition, the revised guidance requires companies to allocate revenue in arrangements involving multiple deliverables based on the estimated selling price of each deliverable, even though the selling price of such deliverables may not be sold separately. As a result, the revised guidance may allow some companies to recognize revenue on transactions that involve multiple deliverables earlier than under the previous requirements. The Company is currently evaluating what impact, if any, the revised guidance will have on its consolidated financial statements.

**Note 3. Supplementary Balance Sheet Information (in thousands):**

	<b>September 30, 2009</b>	<b>December 31, 2008</b>
Other current assets:		
Accounts receivable, net(1)	\$ 28,649	\$ 31,177

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Prepaid expenses	31,038	19,367
Other	2,390	1,404
	\$ 62,077	\$ 51,948
Property and equipment, net(2):		
Network equipment	\$ 2,626,509	\$ 1,911,173
Computer hardware and software	228,424	203,720
Construction-in-progress	297,936	574,773
Other	93,949	60,972
	3,246,818	2,750,638
Accumulated depreciation	(1,153,864)	(907,920)
	\$ 2,092,954	\$ 1,842,718

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	<b>September 30, 2009</b>	<b>December 31, 2008</b>
Intangible assets, net:		
Customer relationships	\$ 7,347	\$ 7,347
Trademarks	37,000	37,000
	44,347	44,347
Accumulated amortization customer relationships	(4,943)	(2,820)
Accumulated amortization trademarks	(13,655)	(11,673)
	\$ 25,749	\$ 29,854
Accounts payable and accrued liabilities:		
Trade accounts payable	\$ 112,975	\$ 201,843
Accrued payroll and related benefits	59,574	50,462
Other accrued liabilities	71,613	72,989
	\$ 244,162	\$ 325,294
Other current liabilities:		
Deferred service revenue(3)	\$ 72,334	\$ 62,998
Deferred equipment revenue(4)	25,545	20,614
Accrued sales, telecommunications, property and other taxes payable	33,964	32,799
Accrued interest	79,147	38,500
Other	6,973	7,091
	\$ 217,963	\$ 162,002

- (1) Accounts receivable, net consists primarily of amounts billed to third-party dealers for handsets and accessories net of an allowance for doubtful accounts.
- (2) As of September 30, 2009 and December 31, 2008, approximately \$8.7 million of assets were held by the Company under capital lease arrangements. Accumulated amortization relating to these assets totaled \$3.7 million and \$3.2 million as of September 30, 2009 and December 31, 2008, respectively.
- (3) Deferred service revenue consists primarily of cash received from customers in advance of their service period.
- (4) Deferred equipment revenue relates to handsets sold to third-party dealers.

**Note 4. Basic and Diluted Earnings (Loss) Per Share**

Basic earnings (loss) per share is computed by dividing net income (loss) by the weighted-average number of common shares outstanding during the period. Diluted earnings per share is computed by dividing net income by the sum of the weighted-average number of common shares outstanding during the period and the weighted-average number of

dilutive common share equivalents outstanding during the period, using the treasury stock method and the if-converted method, where applicable. Dilutive common share equivalents are comprised of stock options, restricted stock awards, employee stock purchase rights and convertible senior notes.

Since the Company incurred losses for the three and nine months ended September 30, 2009 and 2008, 9.4 million common share equivalents were excluded in the computation of diluted earnings (loss) per share for each of the three and nine months ended September 30, 2009, and 8.8 million common share equivalents were excluded in the computation of diluted earnings (loss) per share for each of the three and nine months ended September 30, 2008, as their effect would be antidilutive.

**Note 5. Fair Value of Financial Instruments**

The Company has categorized its assets and liabilities measured at fair value into a three-level hierarchy in accordance with the authoritative guidance for fair value measurements. Assets and liabilities measured at fair value using quoted prices in active markets for identical assets or liabilities are generally categorized as Level 1; assets and

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liabilities measured at fair value using observable market-based inputs or unobservable inputs that are corroborated by market data for similar assets or liabilities are generally categorized as Level 2; and assets and liabilities measured at fair value using unobservable inputs that cannot be corroborated by market data are generally categorized as Level 3. The lowest level input that is significant to the fair value measurement of an asset or liability is used to categorize that asset or liability, as determined in the judgment of management. Assets and liabilities presented at fair value in the Company's condensed consolidated balance sheets are generally categorized as follows:

- Level 1 Quoted prices in active markets for identical assets or liabilities. The Company did not have any Level 1 assets or liabilities as of September 30, 2009 or December 31, 2008.
- Level 2 Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities, quoted prices in markets that are not active or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities. The Company's Level 2 assets and liabilities as of September 30, 2009 and December 31, 2008 included its cash equivalents, its short-term investments in obligations of the U.S. government and government agencies, a majority of its short-term investments in commercial paper and, as of December 31, 2008, its interest rate swaps.
- Level 3 Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities. Such assets and liabilities may have values determined using pricing models, discounted cash flow methodologies, or similar techniques, and include instruments for which the determination of fair value requires significant management judgment or estimation. The Company's Level 3 asset as of September 30, 2009 and December 31, 2008 comprised its short-term investment in asset-backed commercial paper.

The following table sets forth by level within the fair value hierarchy the Company's assets and liabilities that were recorded at fair value as of September 30, 2009 and December 31, 2008 (in thousands). As required by the guidance for fair value measurements, financial assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. Thus, assets and liabilities categorized as Level 3 may be measured at fair value using inputs that are observable (Levels 1 and 2) and unobservable (Level 3). Management's assessment of the significance of a particular input to the fair value measurement requires judgment and may affect the valuation of assets and liabilities and their placement within the fair value hierarchy levels.

	<b>At Fair Value as of September 30, 2009</b>			
	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>	<b>Total</b>
Assets:				
Cash equivalents	\$	\$ 177,649	\$	\$ 177,649
Short-term investments		388,798	2,350	391,148
Total	\$	\$ 566,447	\$ 2,350	\$ 568,797

	<b>At Fair Value as of December 31, 2008</b>			
	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>	<b>Total</b>



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Assets:			
Cash equivalents	\$	\$ 175,280	\$ 175,280
Short-term investments		236,893	1,250 238,143
Total	\$	\$ 412,173	\$ 1,250 \$ 413,423
Liabilities:			
Interest rate swaps	\$	\$ (11,045)	\$ (11,045)
Total	\$	\$ (11,045)	\$ (11,045)

Cash equivalents in the tables above are reported as a component of cash and cash equivalents on the condensed consolidated balance sheets.

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The following table provides a summary of the changes in the fair value of the Company's Level 3 assets (in thousands):

	<b>Three Months</b>		<b>Nine Months</b>	
	<b>Ended September 30, 2009</b>	<b>2008</b>	<b>Ended September 30, 2009</b>	<b>2008</b>
Beginning balance	\$ 2,550	\$ 9,933	\$ 1,250	\$ 16,200
Total losses (realized/unrealized):				
Included in net loss	\$	\$ 1,162	\$	\$ (3,763)
Included in comprehensive loss	(200)	(933)	1,100	
Settlements		(5,062)		(7,337)
Transfers in (out) of Level 3				
Ending balance	\$ 2,350	\$ 5,100	\$ 2,350	\$ 5,100

The unrealized gains included in comprehensive loss in the table above are presented in accumulated other comprehensive income (loss) in the condensed consolidated balance sheets. The realized losses included in net loss in the table above are presented in other expense, net in the condensed consolidated statements of operations.

***Cash Equivalents and Short-Term Investments***

As of September 30, 2009 and December 31, 2008, all of the Company's short-term investments were debt securities with contractual maturities of less than one year and were classified as available-for-sale. The fair value of the Company's cash equivalents, short-term investments in obligations of the U.S. government and government agencies and a majority of its short-term investments in commercial paper is determined using observable market-based inputs for similar assets, which primarily include yield curves and time to maturity factors. Such investments are therefore considered to be Level 2 items. The fair value of the Company's investment in asset-backed commercial paper is determined using primarily unobservable inputs that cannot be corroborated by market data, primarily consisting of indicative bids from potential purchasers.

***Interest Rate Swaps***

As of December 31, 2008, the Company's interest rate swaps effectively fixed the London Interbank Offered Rate (LIBOR) interest rate (subject to a LIBOR floor of 3.0% per annum under the Credit Agreement) on a portion of its floating rate debt under the Credit Agreement. The fair value of the Company's interest rate swaps was primarily determined using LIBOR spreads, which are significant observable inputs that can be corroborated, and therefore such swaps were considered to be Level 2 items. The guidance for fair value measurements states that the fair value measurement of a liability must reflect the nonperformance risk of the entity. Therefore, the impact of the Company's creditworthiness was considered in the fair value measurement of the interest rate swaps.

As more fully described in Note 6, the Company repaid all amounts outstanding under its Credit Agreement on June 5, 2009 and, in connection therewith, unwound its associated interest rate swap agreements. As of September 30, 2009, the Company had no interest rate swap agreements.

***Long-Term Debt***

The Company continues to report its long-term debt obligations at amortized cost; however, for disclosure purposes, the Company is required to measure the fair value of outstanding debt on a recurring basis. The fair value of the Company's outstanding long-term debt is determined using quoted prices in active markets and was \$2,745.4 million and \$2,201.2 million as of September 30, 2009 and December 31, 2008, respectively.

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Long-term debt as of September 30, 2009 and December 31, 2008 was comprised of the following (in thousands):

	<b>September 30, 2009</b>	<b>December 31, 2008</b>
Term loans under senior secured credit facilities	\$ 35,096	\$ 916,000
Unamortized deferred lender fees		(4,527)
Unsecured senior notes due 2014 and 2015	1,400,000	1,400,000
Unamortized premium on \$350 million unsecured senior notes due 2014	15,740	17,552
Senior secured notes due 2016	1,100,000	
Unamortized discount on \$1,100 million senior secured notes due 2016	(41,057)	
Convertible senior notes due 2014	250,000	250,000
	2,759,779	2,579,025
Current maturities of long-term debt	(7,000)	(13,000)
	\$ 2,752,779	\$ 2,566,025

***Senior Secured Credit Facilities******Cricket Communications***

In connection with its issuance of \$1,100 million of senior secured notes due 2016 on June 5, 2009, as more fully described below, the Company repaid all principal amounts outstanding under its Credit Agreement, which amounted to approximately \$875.3 million, together with accrued interest and related expenses, a prepayment premium of \$17.5 million and a payment of \$8.5 million in connection with the unwinding of associated interest rate swap agreements. In connection with such repayment, the Company terminated the Credit Agreement and the \$200 million revolving credit facility thereunder. As a result of the termination of the Company's Credit Agreement, it recognized a \$26.3 million loss on extinguishment of debt during the nine months ended September 30, 2009, which was comprised of the \$17.5 million prepayment premium, \$7.5 million of unamortized debt issuance costs and \$1.3 million of unamortized accumulated other comprehensive loss associated with the Company's interest rate swaps.

***LCW Operations***

LCW Operations has a senior secured credit agreement consisting of two term loans for \$40 million in the aggregate. The loans bear interest at LIBOR plus the applicable margin (ranging from 2.70% to 6.33%). At September 30, 2009, the effective interest rate on the term loans was 4.4%, and the outstanding indebtedness was \$35.1 million. LCW Operations has entered into an interest rate cap agreement which effectively caps the three-month LIBOR interest rate at 7.0% on \$20 million of its outstanding borrowings through October 2011. The obligations under the loans are guaranteed by LCW Wireless and LCW Wireless License, LLC (a wholly owned subsidiary of LCW Operations) and are non-recourse to Leap, Cricket and their other subsidiaries. The obligations under the loans are secured by substantially all of the present and future assets of LCW Wireless and its subsidiaries. Outstanding borrowings under the term loans must be repaid in varying quarterly installments, which commenced in June 2008, with an aggregate

final payment of \$24.1 million due in June 2011. Under the senior secured credit agreement, LCW Operations and the guarantors are subject to certain limitations, including limitations on their ability to: incur additional debt or sell assets, with restrictions on the use of proceeds; make certain investments and acquisitions; grant liens; pay dividends; and make certain other restricted payments. In addition, LCW Operations will be required to pay down the facilities under certain circumstances if it or the guarantors issue debt, sell assets or generate excess cash flow. The senior secured credit agreement requires that LCW Operations and the guarantors comply with financial covenants related to earnings before interest, taxes, depreciation and amortization ( EBITDA ), gross additions of subscribers, minimum cash and cash equivalents and maximum capital expenditures, among other things. LCW Operations was in compliance with these covenants as of September 30, 2009.

**Table of Contents*****Senior Notes******Unsecured Senior Notes Due 2014***

In 2006, Cricket issued \$750 million of 9.375% unsecured senior notes due 2014 in a private placement to institutional buyers, which were exchanged in 2007 for identical notes that had been registered with the Securities and Exchange Commission ( SEC ). In June 2007, Cricket issued an additional \$350 million of 9.375% unsecured senior notes due 2014 in a private placement to institutional buyers at an issue price of 106% of the principal amount, which were exchanged in June 2008 for identical notes that had been registered with the SEC. These notes are all treated as a single class and have identical terms. The \$21 million premium the Company received in connection with the issuance of the second tranche of notes has been recorded in long-term debt in the condensed consolidated financial statements and is being amortized as a reduction to interest expense over the term of the notes. At September 30, 2009, the effective interest rate on the \$350 million of senior notes was 9.0%, which includes the effect of the premium amortization.

The notes bear interest at the rate of 9.375% per year, payable semi-annually in cash in arrears, which interest payments commenced in May 2007. The notes are guaranteed on an unsecured senior basis by Leap and each of its existing and future domestic subsidiaries (other than Cricket, which is the issuer of the notes, and LCW Wireless and Denali and their respective subsidiaries) that guarantee indebtedness for money borrowed of Leap, Cricket or any subsidiary guarantor. The notes and the guarantees are Leap s, Cricket s and the guarantors general senior unsecured obligations and rank equally in right of payment with all of Leap s, Cricket s and the guarantors existing and future unsubordinated unsecured indebtedness. The notes and the guarantees are effectively junior to Leap s, Cricket s and the guarantors existing and future secured obligations, including those under the senior secured notes described below, to the extent of the value of the assets securing such obligations, as well as to existing and future liabilities of Leap s and Cricket s subsidiaries that are not guarantors, and of LCW Wireless and Denali and their respective subsidiaries. In addition, the notes and the guarantees are senior in right of payment to any of Leap s, Cricket s and the guarantors future subordinated indebtedness.

Prior to November 1, 2010, Cricket may redeem the notes, in whole or in part, at a redemption price equal to 100% of the principal amount thereof plus the applicable premium and any accrued and unpaid interest, if any, thereon to the redemption date. The applicable premium is calculated as the greater of (i) 1.0% of the principal amount of such notes and (ii) the excess of (a) the present value at such date of redemption of (1) the redemption price of such notes at November 1, 2010 plus (2) all remaining required interest payments due on such notes through November 1, 2010 (excluding accrued but unpaid interest to the date of redemption), computed using a discount rate equal to the Treasury Rate plus 50 basis points, over (b) the principal amount of such notes. The notes may be redeemed, in whole or in part, at any time on or after November 1, 2010, at a redemption price of 104.688% and 102.344% of the principal amount thereof if redeemed during the twelve months beginning on November 1, 2010 and 2011, respectively, or at 100% of the principal amount if redeemed during the twelve months beginning on November 1, 2012 or thereafter, plus accrued and unpaid interest, if any, thereon to the redemption date.

If a change of control occurs (which includes the acquisition of beneficial ownership of 35% or more of Leap s equity securities, a sale of all or substantially all of the assets of Leap and its restricted subsidiaries and a change in a majority of the members of Leap s board of directors that is not approved by the board), each holder of the notes may require Cricket to repurchase all of such holder s notes at a purchase price equal to 101% of the principal amount of the notes, plus accrued and unpaid interest, if any, thereon to the repurchase date.

***Convertible Senior Notes Due 2014***

In June 2008, Leap issued \$250 million of unsecured convertible senior notes due 2014 in a private placement to institutional buyers. The notes bear interest at the rate of 4.50% per year, payable semi-annually in cash in arrears, which interest payments commenced in January 2009. The notes are Leap's general unsecured obligations and rank equally in right of payment with all of Leap's existing and future senior unsecured indebtedness and senior in right of payment to all indebtedness that is contractually subordinated to the notes. The notes are structurally subordinated to the existing and future claims of Leap's subsidiaries' creditors, including under the secured and unsecured senior notes described above and below. The notes are effectively junior to all of Leap's existing and

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future secured obligations, including those under the senior secured notes described below, to the extent of the value of the assets securing such obligations.

Holder may convert their notes into shares of Leap common stock at any time on or prior to the third scheduled trading day prior to the maturity date of the notes, July 15, 2014. If, at the time of conversion, the applicable stock price of Leap common stock is less than or equal to approximately \$93.21 per share, the notes will be convertible into 10.7290 shares of Leap common stock per \$1,000 principal amount of the notes (referred to as the base conversion rate), subject to adjustment upon the occurrence of certain events. If, at the time of conversion, the applicable stock price of Leap common stock exceeds approximately \$93.21 per share, the conversion rate will be determined pursuant to a formula based on the base conversion rate and an incremental share factor of 8.3150 shares per \$1,000 principal amount of the notes, subject to adjustment.

Leap may be required to repurchase all outstanding notes in cash at a repurchase price of 100% of the principal amount of the notes, plus accrued and unpaid interest, if any, thereon to the repurchase date if (1) any person acquires beneficial ownership, directly or indirectly, of shares of Leap's capital stock that would entitle the person to exercise 50% or more of the total voting power of all of Leap's capital stock entitled to vote in the election of directors, (2) Leap (i) merges or consolidates with or into any other person, another person merges with or into Leap, or Leap conveys, sells, transfers or leases all or substantially all of its assets to another person or (ii) engages in any recapitalization, reclassification or other transaction in which all or substantially all of Leap's common stock is exchanged for or converted into cash, securities or other property, in each case subject to limitations and excluding in the case of (1) and (2) any merger or consolidation where at least 90% of the consideration consists of shares of common stock traded on NYSE, ASE or NASDAQ, (3) a majority of the members of Leap's board of directors ceases to consist of individuals who were directors on the date of original issuance of the notes or whose election or nomination for election was previously approved by the board of directors, (4) Leap is liquidated or dissolved or holders of common stock approve any plan or proposal for its liquidation or dissolution or (5) shares of Leap common stock are not listed for trading on any of the New York Stock Exchange, the NASDAQ Global Market or the NASDAQ Global Select Market (or any of their respective successors). Leap may not redeem the notes at its option.

In connection with the private placement of the convertible senior notes, the Company entered into a registration rights agreement with the initial purchasers of the notes in which the Company agreed, under certain circumstances, to use commercially reasonable efforts to cause a shelf registration statement covering the resale of the notes and the common stock issuable upon conversion of the notes to be declared effective by the SEC and to pay additional interest if such registration obligations were not performed. However, the Company's obligation to file, have declared effective or maintain the effectiveness of a shelf registration statement (and pay additional interest) is suspended to the extent and during the periods that the notes are eligible to be transferred without registration under the Securities Act of 1933, as amended (the Securities Act) by a person who is not an affiliate of the Company (and has not been an affiliate for the 90 days preceding such transfer) pursuant to Rule 144 under the Securities Act without any volume or manner of sale restrictions. The Company did not issue any of the convertible senior notes to any of its affiliates. As a result, in June 2009 following the first anniversary of the issue date, the notes became eligible to be transferred without registration pursuant to Rule 144 without any volume or manner of sale restrictions, and on July 2, 2009, the restrictive transfer legends were removed from the notes. Accordingly, the Company has no further obligation to pay additional interest on the notes.

*Unsecured Senior Notes Due 2015*

In June 2008, Cricket issued \$300 million of 10.0% unsecured senior notes due 2015 in a private placement to institutional buyers. The notes bear interest at the rate of 10.0% per year, payable semi-annually in cash in arrears, which interest payments commenced in January 2009. The notes are guaranteed on an unsecured senior basis by Leap



and each of its existing and future domestic subsidiaries (other than Cricket, which is the issuer of the notes, and LCW Wireless and Denali and their respective subsidiaries) that guarantee indebtedness for money borrowed of Leap, Cricket or any subsidiary guarantor. The notes and the guarantees are Leap s, Cricket s and the guarantors general senior unsecured obligations and rank equally in right of payment with all of Leap s, Cricket s and the guarantors existing and future unsubordinated unsecured indebtedness. The notes and the guarantees are effectively junior to Leap s, Cricket s and the guarantors existing and future secured obligations, including

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those under the senior secured notes described below, to the extent of the value of the assets securing such obligations, as well as to existing and future liabilities of Leap's and Cricket's subsidiaries that are not guarantors, and of LCW Wireless and Denali and their respective subsidiaries. In addition, the notes and the guarantees are senior in right of payment to any of Leap's, Cricket's and the guarantors' future subordinated indebtedness.

Prior to July 15, 2011, Cricket may redeem up to 35% of the aggregate principal amount of the notes at a redemption price of 110.0% of the principal amount thereof, plus accrued and unpaid interest, if any, thereon to the redemption date, from the net cash proceeds of specified equity offerings. Prior to July 15, 2012, Cricket may redeem the notes, in whole or in part, at a redemption price equal to 100% of the principal amount thereof plus the applicable premium and any accrued and unpaid interest, if any, thereon to the redemption date. The applicable premium is calculated as the greater of (i) 1.0% of the principal amount of such notes and (ii) the excess of (a) the present value at such date of redemption of (1) the redemption price of such notes at July 15, 2012 plus (2) all remaining required interest payments due on such notes through July 15, 2012 (excluding accrued but unpaid interest to the date of redemption), computed using a discount rate equal to the Treasury Rate plus 50 basis points, over (b) the principal amount of such notes. The notes may be redeemed, in whole or in part, at any time on or after July 15, 2012, at a redemption price of 105.0% and 102.5% of the principal amount thereof if redeemed during the twelve months beginning on July 15, 2012 and 2013, respectively, or at 100% of the principal amount if redeemed during the twelve months beginning on July 15, 2014 or thereafter, plus accrued and unpaid interest, if any, thereon to the redemption date.

If a change of control occurs (which includes the acquisition of beneficial ownership of 35% or more of Leap's equity securities, a sale of all or substantially all of the assets of Leap and its restricted subsidiaries and a change in a majority of the members of Leap's board of directors that is not approved by the board), each holder of the notes may require Cricket to repurchase all of such holder's notes at a purchase price equal to 101% of the principal amount of the notes, plus accrued and unpaid interest, if any, thereon to the repurchase date.

In connection with the private placement of these senior notes, the Company entered into a registration rights agreement with the initial purchasers of the notes in which the Company agreed, under certain circumstances, to use its reasonable best efforts to offer registered notes in exchange for the notes or to cause a shelf registration statement covering the resale of the notes to be declared effective by the SEC and to pay additional interest if such registration obligations were not performed. However, the Company's obligation to file, have declared effective or maintain the effectiveness of a registration statement for an exchange offer or a shelf registration statement (and pay additional interest) is only triggered to the extent that the notes are not eligible to be transferred without registration under the Securities Act by a person who is not an affiliate of the Company (and has not been an affiliate for the 90 days preceding such transfer) pursuant to Rule 144 under the Securities Act without any volume or manner of sale restrictions. The Company did not issue any of the senior notes to any of its affiliates. As a result, in June 2009 following the first anniversary of the issue date, the notes became eligible to be transferred without registration pursuant to Rule 144 without any volume or manner of sale restrictions, and on July 2, 2009 the restrictive transfer legends were removed from the notes. Accordingly, the Company has no further obligation to pay additional interest on the notes.

*Senior Secured Notes Due 2016*

On June 5, 2009, Cricket issued \$1,100 million of 7.75% senior secured notes due 2016 in a private placement to institutional buyers at an issue price of 96.134% of the principal amount. The \$42.5 million discount to the net proceeds the Company received in connection with the issuance of the notes has been recorded in long-term debt in the condensed consolidated financial statements and is being accreted as an increase to interest expense over the term of the notes. At September 30, 2009, the effective interest rate on the notes was 8.1%, which includes the effect of the discount accretion.

The notes bear interest at the rate of 7.75% per year, payable semi-annually in cash in arrears, which interest payments commence in November 2009. The notes are guaranteed on a senior secured basis by Leap and each of its direct and indirect existing domestic subsidiaries (other than Cricket, which is the issuer of the notes, and LCW Wireless and Denali and their respective subsidiaries) and any future wholly owned domestic restricted subsidiary that guarantees any indebtedness of Cricket or a guarantor of the notes. The notes and the guarantees are Leap s,

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Cricket's and the guarantors' senior secured obligations and are equal in right of payment with all of Leap's, Cricket's and the guarantors' existing and future unsubordinated indebtedness.

The notes and the guarantees are effectively senior to all of Leap's, Cricket's and the guarantors' existing and future unsecured indebtedness (including Cricket's \$1.4 billion aggregate principal amount of unsecured senior notes and, in the case of Leap, Leap's \$250 million aggregate principal amount of convertible senior notes), as well as to all of Leap's, Cricket's and the guarantors' obligations under any permitted junior lien debt that may be incurred in the future, in each case to the extent of the value of the collateral securing the senior secured notes and the guarantees.

The notes and the guarantees are secured on a *pari passu* basis with all of Leap's, Cricket's and the guarantors' obligations under any permitted parity lien debt that may be incurred in the future. Leap, Cricket and the guarantors are permitted to incur debt under existing and future secured credit facilities in an aggregate principal amount outstanding (including the aggregate principal amount outstanding of the senior secured notes) of up to the greater of \$1,500 million and 3.5 times Leap's consolidated cash flow (excluding the consolidated cash flow of LCW Wireless and Denali) for the prior four fiscal quarters through December 31, 2010, stepping down to 3.0 times such consolidated cash flow for any such debt incurred after December 31, 2010 but on or prior to December 31, 2011, and to 2.5 times such consolidated cash flow for any such debt incurred after December 31, 2011.

The notes and the guarantees are effectively junior to all of Leap's, Cricket's and the guarantors' obligations under any permitted priority debt that may be incurred in the future (up to the lesser of 0.30 times Leap's consolidated cash flow (excluding the consolidated cash flow of LCW Wireless and Denali) for the prior four fiscal quarters and \$300 million in aggregate principal amount outstanding), to the extent of the value of the collateral securing such permitted priority debt, as well as to existing and future liabilities of Leap's and Cricket's subsidiaries that are not guarantors, and of LCW Wireless and Denali and their respective subsidiaries. In addition, the notes and the guarantees are senior in right of payment to any of Leap's, Cricket's and the guarantors' future subordinated indebtedness.

The notes and the guarantees are secured on a first-priority basis, equally and ratably with any future parity lien debt, by liens on substantially all of the present and future personal property of Leap, Cricket and the guarantors, except for certain excluded assets and subject to permitted liens (including liens on the collateral securing any future permitted priority debt).

Prior to May 15, 2012, Cricket may redeem up to 35% of the aggregate principal amount of the notes at a redemption price of 107.750% of the principal amount thereof, plus accrued and unpaid interest and additional interest, if any, thereon to the redemption date, from the net cash proceeds of specified equity offerings. Prior to May 15, 2012, Cricket may redeem the notes, in whole or in part, at a redemption price equal to 100% of the principal amount thereof plus the applicable premium and any accrued and unpaid interest, and additional interest, if any, thereon to the redemption date. The applicable premium is calculated as the greater of (i) 1.0% of the principal amount of such notes and (ii) the excess of (a) the present value at such date of redemption of (1) the redemption price of such notes at May 15, 2012 plus (2) all remaining required interest payments due on such notes through May 15, 2012 (excluding accrued but unpaid interest to the date of redemption), computed using a discount rate equal to the Treasury Rate plus 50 basis points, over (b) the principal amount of such notes. The notes may be redeemed, in whole or in part, at any time on or after May 15, 2012, at a redemption price of 105.813%, 103.875% and 101.938% of the principal amount thereof if redeemed during the twelve months beginning on May 15, 2012, 2013 and 2014, respectively, or at 100% of the principal amount if redeemed during the twelve months beginning on May 15, 2015 or thereafter, plus accrued and unpaid interest, and additional interest, if any, thereon to the redemption date.

If a change of control occurs (which includes the acquisition of beneficial ownership of 35% or more of Leap's equity securities (other than a transaction where immediately after such transaction Leap will be a wholly owned subsidiary

of a person of which no person or group is the beneficial owner of 35% of more of such a person's voting stock), a sale of all or substantially all of the assets of Leap and its restricted subsidiaries and a change in a majority of the members of Leap's board of directors that is not approved by the board), each holder of the notes may require Cricket to repurchase all of such holder's notes at a purchase price equal to 101% of the principal amount of the notes, plus accrued and unpaid interest, and additional interest, if any, thereon to the repurchase date.

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In connection with the private placement of the notes, the Company entered into a registration rights agreement with the purchasers in which the Company agreed to file a registration statement with the SEC to permit the holders to exchange or resell the notes. The Company must use reasonable best efforts to file such registration statement within 150 days after the issuance of the notes, have the registration statement declared effective within 270 days after the issuance of the notes and then consummate any exchange offer within 30 business days after the effective date of the registration statement. In the event that the registration statement is not filed or declared effective or the exchange offer is not consummated within these deadlines, the agreement provides that additional interest will accrue on the principal amount of the notes at a rate of 0.50% per annum during the 90-day period immediately following any of these events and will increase by 0.50% per annum at the end of each subsequent 90-day period, but in no event will the penalty rate exceed 1.50% per annum. There are no other alternative settlement methods and, other than the 1.50% per annum maximum penalty rate, the agreement contains no limit on the maximum potential amount of consideration that could be transferred in the event the Company does not meet the registration statement filing requirements. The Company filed a Registration Statement on Form S-4 with the SEC on October 15, 2009 pursuant to this registration rights agreement, and currently intends to have the registration statement declared effective and consummate the exchange offer within these time periods. Accordingly, the Company does not believe that payment of additional interest under the registration payment arrangement is probable.

**Note 7. Significant Acquisitions and Dispositions**

In March 2009, the Company completed its exchange of certain wireless spectrum with MetroPCS Communications, Inc. ( MetroPCS ). Under the spectrum exchange agreement, the Company acquired an additional 10 MHz of spectrum in San Diego, Fresno, Seattle and certain other Washington and Oregon markets, and MetroPCS acquired an additional 10 MHz of spectrum in Dallas-Ft. Worth, Shreveport-Bossier City, Lakeland-Winter Haven, Florida and certain other northern Texas markets. The carrying values of the wireless licenses transferred to MetroPCS under the spectrum exchange agreement were \$45.6 million, and the Company recognized a net gain of approximately \$4.4 million upon the closing of the transaction.

On June 19, 2009, the Company completed its purchase of certain wireless spectrum. Under the associated license purchase agreement, the Company acquired an additional 10 MHz of spectrum in St. Louis for \$27.2 million.

**Note 8. Common Stock Offering**

On June 2, 2009, the Company completed the sale of an aggregate of 7,000,000 shares of Leap common stock in an underwritten public offering. In connection with the offering, the Company received net proceeds of approximately \$263.7 million, which were recorded in additional paid-in capital in the Company's condensed consolidated balance sheet.

**Note 9. Arrangements with Variable Interest Entities**

The Company consolidates its interests in LCW Wireless and Denali in accordance with the authoritative guidance for the consolidation of variable interest entities because these entities are variable interest entities and the Company will absorb a majority of their expected losses. LCW Wireless, Denali and their respective subsidiaries are not guarantors of the Company's secured and unsecured senior notes, and the carrying amount and classification of their assets and liabilities is presented in Note 11. Both entities offer (through wholly owned subsidiaries) Cricket service and, accordingly, are generally subject to the same risks in conducting operations as the Company.

On January 1, 2009, the Company adopted the provisions of the authoritative guidance for noncontrolling interests. The guidance changed the accounting treatment and classification with respect to certain ownership interests held by

the Company in LCW Wireless and Denali. As a result of the adoption of the guidance, the Company has not allocated losses to certain of its minority partners, but rather has recorded accretion (or mark-to-market) charges to bring its minority partners' interests to their estimated redemption values at each reporting period. In addition, the Company now classifies these accretion charges as a component of consolidated net income (loss) available to its common stockholders rather than as a component of net income (loss). Although the accounting treatment for certain of these interests has been modified, the Company continues to classify these

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noncontrolling interests in the mezzanine section of the consolidated balance sheets in accordance with the authoritative guidance for distinguishing liabilities from equity. The cumulative impact to the Company's condensed consolidated financial statements as a result of the adoption of the guidance for noncontrolling interests resulted in a \$9.2 million reduction to stockholders equity, a \$5.8 million reduction to deferred tax liabilities and a \$15.0 million increase to redeemable noncontrolling interests (formerly referred to as minority interests) as of December 31, 2008. The Company has retrospectively applied the guidance for noncontrolling interests to all prior periods.

### ***Arrangements with LCW Wireless***

The membership interests in LCW Wireless are held as follows: Cricket holds a 70.7% non-controlling membership interest; CSM Wireless, LLC (CSM) holds a 23.9% non-controlling membership interest; WLPCS Management, LLC (WLPCS) holds a 1.9% controlling membership interest; and the remaining membership interests are held by employees of LCW Wireless. As of September 30, 2009, Cricket's equity contributions to LCW totaled \$51.8 million.

### ***Limited Liability Company Agreement***

Under the amended and restated limited liability company agreement of LCW Wireless, LLC (LCW LLC Agreement), WLPCS has the option to put its entire membership interest in LCW Wireless to Cricket for a purchase price not to exceed \$3.8 million during a 30-day period commencing on the earlier to occur of August 9, 2010 and the date of a sale of all or substantially all of the assets, or the liquidation, of LCW Wireless. If the put option is exercised, the consummation of this sale will be subject to FCC approval. The Company has recorded this obligation to WLPCS, including related accretion charges using the effective interest method, as a component of redeemable noncontrolling interests in the condensed consolidated balance sheets. As of September 30, 2009 and December 31, 2008, this noncontrolling interest had a carrying value of \$2.8 million and \$2.6 million, respectively.

Under the LCW LLC Agreement, CSM also has the option, during specified periods, to put its entire membership interest in LCW Wireless to Cricket in exchange for either cash, Leap common stock, or a combination thereof, as determined by Cricket at its discretion, for a purchase price calculated on a pro rata basis using either the appraised value of LCW Wireless or a multiple of Leap's enterprise value divided by its EBITDA and applied to LCW Wireless adjusted EBITDA to impute an enterprise value and equity value to LCW Wireless. The Company has recorded this obligation to CSM, including related accretion charges to bring the underlying membership units to their estimated redemption value, as a component of redeemable noncontrolling interests in the condensed consolidated balance sheets. As of September 30, 2009 and December 31, 2008, this noncontrolling interest had a carrying value of \$26.5 million and \$26.0 million, respectively.

Effective as of August 31, 2009, CSM exercised this put right. Under the terms of the LCW LLC Agreement, the purchase price for the put will be calculated on a pro rata basis using the appraised value of LCW Wireless, subject to certain adjustments. In September 2009, each of CSM and Cricket appointed an appraiser to conduct an appraisal of LCW Wireless, which appraisals were completed in October 2009. As the two appraisals were not within 10% of one another, the two appointed appraisers are in the process of selecting a third appraiser as required under the LCW LLC Agreement, and the appraisal of this third appraiser will be deemed to be the enterprise value of LCW Wireless. The Company intends to satisfy the put price in cash and completion of this transaction is subject to customary closing conditions.

### ***Management Agreement***

Cricket and LCW Wireless are party to a management services agreement, pursuant to which LCW Wireless has the right to obtain management services from Cricket in exchange for a monthly management fee based on Cricket's costs



of providing such services plus a mark-up for administrative overhead.

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*Other*

LCW Wireless' working capital requirements have been satisfied to date through the members' initial equity contributions, third party debt financing and cash provided by operating activities. Leap, Cricket and their wholly owned subsidiaries are not required to provide financial support to LCW Wireless.

***Arrangements with Denali***

Cricket and Denali Spectrum Manager, LLC ( DSM ) formed Denali as a joint venture to participate (through a wholly owned subsidiary) in FCC Auction #66. Cricket owns an 82.5% non-controlling membership interest and DSM owns a 17.5% controlling membership interest in Denali. As of September 30, 2009, Cricket's equity contributions to Denali totaled \$83.6 million.

***Limited Liability Company Agreement***

Under the amended and restated limited liability company agreement of Denali, DSM may offer to sell its entire membership interest in Denali to Cricket in April 2012 and each year thereafter for a purchase price equal to DSM's equity contributions in cash to Denali, plus a specified return, payable in cash. If exercised, the consummation of the sale will be subject to FCC approval. The Company has recorded this obligation to DSM, including related accretion charges using the effective interest method, as a component of redeemable noncontrolling interests in the condensed consolidated balance sheets. As of September 30, 2009 and December 31, 2008, this noncontrolling interest had a carrying value of \$46.5 million and \$43.3 million, respectively.

***Senior Secured Credit Agreement***

Cricket entered into a senior secured credit agreement with Denali and its subsidiaries to fund the payment to the FCC for the AWS license acquired by Denali in Auction #66 and to fund a portion of the costs of the construction and operation of the wireless network using such license. As of September 30, 2009, total borrowings under the license acquisition sub-facility totaled \$223.4 million and total borrowings under the build-out sub-facility totaled \$297.5 million. During January 2009, the build-out sub-facility was increased to a total of \$394.5 million, approximately \$97.0 million of which was unused as of September 30, 2009. The Company does not anticipate making any future increases to the size of the build-out sub-facility. Additional funding requests would be subject to approval by Leap's board of directors. Loans under the credit agreement accrue interest at the rate of 14% per annum and such interest is added to principal quarterly. All outstanding principal and accrued interest is due in April 2021.

***Management Agreement***

Cricket and Denali Spectrum License, LLC, a wholly owned subsidiary of Denali ( Denali License ), are party to a management services agreement, pursuant to which Cricket is to provide management services to Denali License and its subsidiaries in exchange for a monthly management fee based on Cricket's costs of providing such services plus overhead.

***Values of Redeemable Noncontrolling Interests***

The following table provides a summary of the changes in value of the Company's redeemable noncontrolling interests (in thousands):

	<b>Nine Months Ended September 30,</b>	
	<b>2009</b>	<b>2008</b>
Beginning balance, January 1	\$ 71,879	\$ 61,868
Accretion of redeemable noncontrolling interests, before tax	3,913	6,572
Ending balance, September 30	\$ 75,792	\$ 68,440

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**Note 10. Commitments and Contingencies**

As more fully described below, the Company is involved in a variety of lawsuits, claims, investigations and proceedings concerning intellectual property, securities, commercial and other matters. Due in part to the growth and expansion of its business operations, the Company has become subject to increased amounts of litigation, including disputes alleging intellectual property infringement.

The Company believes that any damage amounts alleged in the matters discussed below are not necessarily meaningful indicators of its potential liability. The Company determines whether it should accrue an estimated loss for a contingency in a particular legal proceeding by assessing whether a loss is deemed probable and can be reasonably estimated. The Company reassesses its views on estimated losses on a quarterly basis to reflect the impact of any developments in the matters in which it is involved.

Legal proceedings are inherently unpredictable, and the matters in which the Company is involved often present complex legal and factual issues. The Company vigorously pursues defenses in legal proceedings and engages in discussions where possible to resolve these matters on favorable terms. The Company's policy is to recognize legal costs as incurred. It is possible, however, that the Company's business, financial condition and results of operations in future periods could be materially adversely affected by increased litigation expense, significant settlement costs and/or unfavorable damage awards.

***Patent Litigation***

***Freedom Wireless***

On December 10, 2007, the Company was sued by Freedom Wireless, Inc. ( Freedom Wireless ), in the United States District Court for the Eastern District of Texas, Marshall Division, for alleged infringement of U.S. Patent No. 5,722,067 entitled Security Cellular Telecommunications System, U.S. Patent No. 6,157,823 entitled Security Cellular Telecommunications System, and U.S. Patent No. 6,236,851 entitled Prepaid Security Cellular Telecommunications System. Freedom Wireless alleged that its patents claim a novel cellular system that enables subscribers of prepaid services to both place and receive cellular calls without dialing access codes or using modified telephones. The complaint sought unspecified monetary damages, increased damages under 35 U.S.C. § 284 together with interest, costs and attorneys' fees, and an injunction. On September 3, 2008, Freedom Wireless amended its infringement contentions to assert that the Company's Cricket unlimited voice service, in addition to its Jump<sup>®</sup> Mobile and Cricket by Week<sup>™</sup> services, infringes claims under the patents at issue. On January 19, 2009, the Company and Freedom Wireless entered into an agreement to settle this lawsuit and agreed to enter into a license agreement which will provide Freedom Wireless with royalties on certain of the Company's products and services. Pursuant to the terms of the settlement, arbitration has been scheduled for December 15, 2009 to finalize the terms of the settlement and license agreements.

***Electronic Data Systems***

On February 4, 2008, the Company and certain other wireless carriers were sued by Electronic Data Systems Corporation ( EDS ) in the United States District Court for the Eastern District of Texas, Marshall Division, for alleged infringement of U.S. Patent No. 7,156,300 entitled System and Method for Dispensing a Receipt Reflecting Prepaid Phone Services and U.S. Patent No. 7,255,268 entitled System for Purchase of Prepaid Telephone Services. EDS alleged that the sale and marketing by the Company of prepaid wireless cellular telephone services infringed these patents, and the complaint sought an injunction against further infringement, damages (including enhanced damages)

and attorneys' fees. In July 2009, the parties settled this matter.

*DNT*

On May 1, 2009, the Company was sued by DNT LLC ( "DNT" ) in the United States District Court for the Eastern District of Virginia, Richmond Division, for alleged infringement of U.S. Reissued Patent No. RE37,660 entitled "Automatic Dialing System." DNT alleges that the Company uses, encourages the use of, sells, offers for sale and/or imports voice and data service and wireless modem cards for computers designed to be used in conjunction with cellular networks and that such acts constitute both direct and indirect infringement of DNT's

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patent. DNT alleges that the Company's infringement is willful, and the complaint seeks an injunction against further infringement, unspecified damages (including enhanced damages) and attorneys' fees. On July 23, 2009, the Company filed an answer to the complaint as well as counterclaims.

*Digital Technology Licensing*

On April 21, 2009, the Company and certain other wireless carriers (including Hargray Wireless, a company which Cricket acquired in April 2008 and which was merged with and into Cricket in December 2008) were sued by Digital Technology Licensing LLC (DTL) in the United States District Court for the Southern District of New York, for alleged infringement of U.S. Patent No. 5,051,799 entitled "Digital Output Transducer." DTL alleges that the Company and Hargray Wireless sell and/or offer to sell Bluetooth® devices or digital cellular telephones, including Kyocera and Sanyo telephones, and that such acts constitute direct and/or indirect infringement of DTL's patent. DTL further alleges that the Company and Hargray Wireless directly and/or indirectly infringe its patent by providing cellular telephone service and by using and inducing others to use a patented digital cellular telephone system by using cellular telephones, Bluetooth devices, and cellular telephone infrastructure made by companies such as Kyocera and Sanyo. DTL alleges that the asserted infringement is willful, and the complaint seeks a permanent injunction against further infringement, unspecified damages (including enhanced damages), attorneys' fees, and expenses. On August 14, 2009, the Company filed a motion to dismiss the complaint or, in the alternative, for a more definite statement.

*On The Go*

On July 9, 2009, the Company and certain other wireless carriers were sued by On The Go, LLC (OTG) in the United States District Court for the Northern District of Illinois, Eastern Division, for alleged infringement of U.S. Patent No. 7,430,554 entitled "Method and System For Telephonically Selecting, Addressing, and Distributing Messages." OTG's complaint alleges that the Company directly and indirectly infringes OTG's patent by making, offering for sale, selling, providing, maintaining, and supporting the Company's PAYGo prepaid mobile telephone service and system. The complaint seeks injunctive relief and unspecified damages, including interest and costs. On October 8, 2009, the Company filed an answer to the complaint as well as counterclaims.

*American Wireless Group*

On December 31, 2002, several members of American Wireless Group, LLC (AWG) filed a lawsuit against various officers and directors of Leap in the Circuit Court of the First Judicial District of Hinds County, Mississippi, referred to herein as the Whittington Lawsuit. Leap purchased certain FCC wireless licenses from AWG and paid for those licenses with shares of Leap stock. The complaint alleges that Leap failed to disclose to AWG material facts regarding a dispute between Leap and a third party relating to that party's claim that it was entitled to an increase in the purchase price for certain wireless licenses it sold to Leap. In their complaint, plaintiffs seek rescission and/or damages according to proof at trial of not less than the aggregate amount paid for the Leap stock (alleged in the complaint to have a value of approximately \$57.8 million in June 2001 at the closing of the license sale transaction), plus interest, punitive or exemplary damages in the amount of not less than three times compensatory damages, plus costs and expenses. Plaintiffs contend that the named defendants are the controlling group that was responsible for Leap's alleged failure to disclose the material facts regarding the third party dispute and the risk that the shares held by the plaintiffs might be diluted if the third party was successful with respect to its claim. The defendants in the Whittington Lawsuit filed a motion to compel arbitration or, in the alternative, to dismiss the Whittington Lawsuit. The court denied defendants' motion and the defendants appealed the denial of the motion to the Mississippi Supreme Court. On November 15, 2007, the Mississippi Supreme Court issued an opinion denying the appeal and remanded the action to the trial court. The defendants filed an answer to the complaint on May 2, 2008.

In a related action to the action described above, in June 2003, AWG filed a lawsuit in the Circuit Court of the First Judicial District of Hinds County, Mississippi, referred to herein as the AWG Lawsuit, against the same individual defendants named in the Whittington Lawsuit. The complaint generally sets forth the same claims made by the plaintiffs in the Whittington Lawsuit. In its complaint, plaintiff seeks rescission and/or damages according to proof at trial of not less than the aggregate amount paid for the Leap stock (alleged in the complaint to have a value

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of approximately \$57.8 million in June 2001 at the closing of the license sale transaction), plus interest, punitive or exemplary damages in the amount of not less than three times compensatory damages, and costs and expenses. An arbitration hearing was held in early November 2008, and the arbitrator issued a final award on February 13, 2009 in which he denied AWG's claims in their entirety. On March 20, 2009, defendants filed a motion to confirm the final award in the Circuit Court. On March 30, 2009, plaintiffs filed an opposition to that motion, as well as a motion to vacate the final award. Defendants filed an opposition to the motion to vacate on April 10, 2009.

Although Leap is not a defendant in either the Whittington or AWG Lawsuits, several of the defendants have indemnification agreements with the Company. Insurers under the Company's directors' and officers' liability insurance policy for these matters asserted that the Company was required to contribute to the payment of litigation costs and to any damages or settlement costs, which the Company disputed. The AWG and Whittington Lawsuits were settled on October 29, 2009, and the matters have been dismissed.

***Securities and Derivative Litigation***

Leap is a nominal defendant in two shareholder derivative suits purporting to assert claims on behalf of Leap against certain of its current and former directors and officers. One of the shareholder derivative lawsuits was filed in the California Superior Court for the County of San Diego on November 13, 2007 and the other shareholder derivative lawsuit was filed in the United States District Court for the Southern District of California on February 7, 2008. The state action was stayed on August 22, 2008 pending resolution of the federal action. The plaintiff in the federal action filed an amended complaint on September 12, 2008 asserting, among other things, claims for alleged breach of fiduciary duty, gross mismanagement, waste of corporate assets, unjust enrichment, and proxy violations based on the November 9, 2007 announcement that the Company was restating certain of its financial statements, claims alleging breach of fiduciary duty based on the September 2007 unsolicited merger proposal from MetroPCS and claims alleging illegal insider trading by certain of the individual defendants. The derivative complaints seek a judicial determination that the claims may be asserted derivatively on behalf of Leap, and unspecified damages, equitable and/or injunctive relief, imposition of a constructive trust, disgorgement, and attorney's fees and costs. Leap and the individual defendants have filed motions to dismiss the amended federal complaint. On September 29, 2009, the district court granted Leap's motion to dismiss the derivative complaint for failure to plead that a presuit demand on Leap's board was excused. Based on a stipulated order, the plaintiff has until November 30, 2009 to file an amended complaint.

Leap and certain current and former officers and directors, and Leap's independent registered public accounting firm, PricewaterhouseCoopers LLP, also have been named as defendants in a consolidated securities class action lawsuit filed in the United States District Court for the Southern District of California which consolidated several securities class action lawsuits initially filed between September 2007 and January 2008. Plaintiffs allege that the defendants violated Section 10(b) of the Exchange Act and Rule 10b-5, and Section 20(a) of the Exchange Act. The consolidated complaint alleges that the defendants made false and misleading statements about Leap's internal controls, business and financial results, and customer count metrics. The claims are based primarily on the November 9, 2007 announcement that the Company was restating certain of its financial statements and statements made in its August 7, 2007 second quarter 2007 earnings release. The lawsuit seeks, among other relief, a determination that the alleged claims may be asserted on a class-wide basis and unspecified damages and attorney's fees and costs. On January 9, 2009, the federal court granted defendants' motions to dismiss the complaint for failure to state a claim. On February 23, 2009, defendants were served with an amended complaint which does not name PricewaterhouseCoopers LLP or any of Leap's outside directors. Leap and the remaining individual defendants have moved to dismiss the amended complaint.



Due to the complex nature of the legal and factual issues involved in these derivative and class action matters, their outcomes are not presently determinable. If either or both of these matters were to proceed beyond the pleading stage, the Company could be required to incur substantial costs to defend these matters and/or be required to pay substantial damages or settlement costs, which could materially adversely affect the Company's business, financial condition and results of operations.

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***Department of Justice Inquiry***

On January 7, 2009, the Company received a letter from the Civil Division of the United States Department of Justice (the DOJ). In its letter, the DOJ alleges that between approximately 2002 and 2006, the Company failed to comply with certain federal postal regulations that required the Company to update customer mailing addresses in exchange for receiving certain bulk mailing rate discounts. As a result, the DOJ has asserted that the Company violated the False Claims Act ( FCA ) and is therefore liable for damages, which the DOJ estimates at \$80,000 per month (which amount is subject to trebling under the FCA), plus statutory penalties of up to \$11,000 per mailing. The DOJ has also asserted as an alternative theory of liability that the Company is liable on a basis of unjust enrichment for estimated single damages in the same of amount of \$80,000 per month. Due to the complex nature of the legal and factual issues involved with the alleged FCA claims, the outcome of this matter is not presently determinable.

***Other Litigation***

In addition to the matters described above, the Company is often involved in certain other claims, including disputes alleging intellectual property infringement, which arise in the ordinary course of business and seek monetary damages and other relief. Based upon information currently available to the Company, none