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9 Attorneys for Defendants SOFTBANK HOLDINGS, INC.  
10 SOFTBANK AMERICA, INC. and SOFTBANK  
CORPORATION

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13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**

15  
16 IN RE UTSTARCOM, INC. SECURITIES )  
LITIGATION )

Master File No. C-04-4908-JW (PVT)

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20 This Document relates to:  
ALL ACTIONS )

**[PROPOSED] ORDER GRANTING  
SOFTBANK HOLDINGS INC.,  
SOFTBANK AMERICA, INC., AND  
SOFTBANK CORPORATION'S MOTION  
TO DISMISS PLAINTIFFS' FOURTH  
AMENDED CONSOLIDATED  
COMPLAINT FOR VIOLATION OF THE  
FEDERAL SECURITIES LAWS, AND TO  
SHOW CAUSE WHY SANCTIONS  
SHOULD NOT ISSUE**

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26 Judge: Hon. James A. Ware  
Hearing: December 4, 2008  
Time: 9:00 a.m.

**PROPOSED ORDER**

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2 Before the court is Defendants Softbank Holdings Inc., Softbank America, Inc, and  
3 Softbank Corporation’s (the “Softbank Defendants”) motion and proposed order to dismiss the  
4 Plaintiffs’ Fourth Amended Consolidated Complaint (the “Complaint”) for Violation of the Federal  
5 Securities Laws without leave to amend and order for Plaintiffs to show cause why sanctions should not  
6 issue (the “Motion”). Having considered the parties’ papers in support of and opposed to the motion,  
7 papers on file, the record and all applicable authorities, and good cause appearing:

8 THE COURT HEREBY FINDS:

9 1. Plaintiffs fail to plead with the requisite particularity that defendant UTStarcom,  
10 Inc., Hong Liang Lu, Michael J. Sophie, Ying Wu, or Thomas J. Toy made false and misleading  
11 statements, and fail to raise a strong inference of scienter, with respect to the accounting allegations,  
12 demand for products, status of product development, economic forecasts, and internal control  
13 deficiencies under 15 U.S.C. § 78u-4(b)(1) and (b)(2). The allegations also fail to plead all facts on  
14 which the allegations are based.

15 2. Plaintiffs fail to plead sufficient facts to establish a control person claim under 15  
16 U.S.C. § 78t (“Section 20(a)”) as to any of the Softbank Defendants.

17 3. Plaintiffs claim under Section 20(a) is not warranted by existing law or by a non-  
18 frivolous argument for extending, modifying, or reversing existing law or for establishing new law, and  
19 Plaintiffs’ continued prosecution of this claim has unreasonably and vexatiously multiplied this  
20 proceeding.

21 IT IS HEREBY ORDERED that the Softbank Defendants’ motion to dismiss the  
22 Complaint without leave to amend is Granted in its entirety under Rules 9(b) and 12(b)(6) of the Federal  
23 Rules of Civil Procedure and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)  
24 *et seq.*

1 IT IS FURTHER ORDERED that Plaintiffs shall show cause why the conduct described  
2 in this order has not violated Rule 11(b)(2), and why this court should not, therefore, award the Softbank  
3 Defendants their excess costs, expenses, and attorneys' fees, reasonably incurred because of such  
4 conduct on or before \_\_\_\_\_.

5 Dated:

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8 The Honorable James A. Ware  
9 United States District Judge  
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