

ECHELON CORP  
Form SC TO-I  
September 21, 2004

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**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**SCHEDULE TO**  
**(Rule 13e-4)**

*Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)*  
*of the Securities Exchange Act of 1934*

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**Echelon Corporation**

(Name of Subject Company (Issuer) and Filing Person (Offeror))

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**Options to Purchase Common Stock, \$0.01 par value**

(Title of Class of Securities)

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**27874N105**

(CUSIP Number of Class of Securities Underlying Options to Purchase Common Stock)

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**Kathleen B. Bloch, Esq.**

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**General Counsel**

**Echelon Corporation**

**550 Meridian Avenue**

**San Jose, California 95126**

**(408) 938-5382**

**(Name, address and telephone number of person authorized to receive notices and  
communications on behalf of filing person)**

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*Copies to:*

**Larry W. Sonsini, Esq.**

**Page Mailliard, Esq.**

**John E. Aguirre, Esq.**

**Wilson Sonsini Goodrich & Rosati,**

**Professional Corporation**

**650 Page Mill Road**

**Palo Alto, California 94304-1050**

**(650) 493-9300**

**CALCULATION OF FILING FEE**

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<b>Transaction Valuation*</b>	<b>Amount of Filing Fee</b>
\$33,869,448	\$4,292

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\* Calculated solely for purposes of determining the filing fee. This amount assumes that options to purchase 7,908,347 shares of common stock of Echelon Corporation having an aggregate value of \$33,869,448 as of September 17, 2004 will be exchanged or cancelled pursuant to this offer. The aggregate value of such options was calculated based on the Black-Scholes option pricing model. The amount of the filing fee, calculated in accordance with the Securities Exchange Act of 1934, as amended, equals \$126.70 for each \$1,000,000 of the value of the transaction.

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Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid:	Not applicable.
Form or Registration No.:	Not applicable.
Filing party:	Not applicable.
Date filed:	Not applicable.

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- third party tender offer subject to Rule 14d-1.
- issuer tender offer subject to Rule 13e-4.
- going-private transaction subject to Rule 13e-3.
- amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

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This Tender Offer Statement on Schedule TO relates to an offer by Echelon Corporation, a Delaware corporation ( *Echelon* or the *Company* ), to exchange (the *Exchange Offer* ) options to purchase an aggregate of 7,908,347 shares of the Company's common stock, whether vested or unvested, that have been granted under its 1997 Stock Plan (the *Eligible Options* ) and that are held by eligible employees. These Eligible Options may be exchanged for new options that will be granted under the Company's 1997 Stock Plan (the *New Options* ), upon the terms and subject to the conditions set forth in (i) the Offer to Exchange Certain Outstanding Options for New Options, dated September 21, 2004 (the *Offer to Exchange* ), (ii) the related letter from Ken Oshman dated September 21, 2004; (iii) the Election Form; and (iv) the Withdrawal Form. These documents, as they may be amended or supplemented from time to time, together constitute the *Disclosure Documents* and are attached to this Schedule TO as Exhibits (a)(1)(a) through (a)(1)(d), respectively. An *eligible employee* refers to all persons who are employees of Echelon or one of its subsidiaries and remain employees through the date on which the New Options are granted. The Company's Chairman of the Board and Chief Executive Officer, President and Chief Operating Officer, Executive Vice President and Chief Financial Officer, and the non-employee members of the Company's Board of Directors are ineligible to participate in the Exchange Offer.

The information in the Disclosure Documents, including all schedules and annexes to the Disclosure Documents, is incorporated by reference in answer to the items required in this Schedule TO.

**Item 1. Summary Term Sheet.**

The information set forth under the caption *Summary Term Sheet* in the Offer to Exchange is incorporated herein by reference.

**Item 2. Subject Company Information.**

(a) *Name and Address.*

Echelon is the issuer of the securities subject to the Exchange Offer. The address of the Company's principal executive office is 550 Meridian Avenue, San Jose, California 95126 and the telephone number at that address is (408) 938-5200. The information set forth in the Offer to Exchange in the section under the caption *The Offer* entitled *Information concerning Echelon* is incorporated herein by reference.

(b) *Securities.*

The subject class of securities consists of the Eligible Options. The actual number of shares of common stock subject to the New Options to be issued in the Exchange Offer will depend on the number of shares of common stock subject to the unexercised options tendered by eligible employees and accepted for exchange and cancelled. The information set forth in the Offer to Exchange under the captions *Summary Term Sheet*, *Risks of Participating in the Offer*, and under the caption *The Offer* in the sections entitled *Number of options; expiration date*, *Acceptance of options for exchange and issuance of new options*, and *Source and amount of consideration; terms of new options* is incorporated herein by reference.

(c) *Trading Market and Price.*

The information set forth in the Offer to Exchange under the caption *The Offer* in the section entitled *Price range of shares underlying the options* is incorporated herein by reference.



**Item 3. Identity and Background of Filing Person.**

(a) *Name and Address.*

The filing person is the issuer. The information set forth under Item 2(a) above is incorporated by reference.

Pursuant to General Instruction C to Schedule TO, the information set forth on Schedule A to the Offer to Exchange is incorporated herein by reference.

**Item 4. Terms of the Transaction.**

(a) *Material Terms.*

The information set forth in the Offer to Exchange under the caption Summary Term Sheet, the sections under the caption The Offer entitled Eligibility, Number of options; expiration date, Procedures for electing to exchange options, Withdrawal rights and change of election, Acceptance of options for exchange and issuance of new options, Conditions of the offer, Source and amount of consideration; terms of new options, Price range of shares underlying the options, Status of options acquired by us in the offer; accounting consequences of the offer, Legal matters; regulatory approvals, Material U.S. federal income tax consequences, and Extension of offer; termination; amendment and Schedules C through L of the Offer to Exchange is incorporated herein by reference.

(b) *Purchases.*

The information set forth in the Offer to Exchange under the caption The Offer in the section entitled Interests of directors and officers; transactions and arrangements concerning the options is incorporated herein by reference.

**Item 5. Past Contacts, Transactions, Negotiations and Arrangements.**

(a) *Agreements Involving the Subject Company's Securities.*

The information set forth in the Offer to Exchange under the caption The Offer in the section entitled Interests of directors and officers; transactions and arrangements concerning the options is incorporated herein by reference. The eligible option plan and related option agreements and addendums attached hereto as Exhibits (d)(1) and (d)(2) contain information regarding the subject securities.

**Item 6. Purposes of the Transaction and Plans or Proposals.**

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(a) *Purposes.*

The information set forth in the Offer to Exchange under the caption "Summary Term Sheet" and under the caption "The Offer" in the section entitled "Purpose of the offer" is incorporated herein by reference.

(b) *Use of Securities Acquired.*

The information set forth in the Offer to Exchange under the caption "The Offer" in the sections entitled "Acceptance of options for exchange and issuance of new options" and "Status of options acquired by us in the offer; accounting consequences of the offer" is incorporated herein by reference.

(c) *Plans.*

The information set forth in the Offer to Exchange under the caption "The Offer" in the sections entitled "Purpose of the offer" and "Information concerning Echelon" is incorporated herein by reference.

**Item 7. Source and Amount of Funds or Other Consideration.**

(a) *Source of Funds.*

The information set forth in the Offer to Exchange under the caption "The Offer" in the section entitled "Source and amount of consideration; terms of new options" is incorporated herein by reference.

(b) *Conditions.*

Not applicable.

(d) *Borrowed Funds.*

Not applicable.

**Item 8. Interest in Securities of the Subject Company.**

(a) *Securities Ownership.*

The information set forth in the Offer to Exchange under the caption "The Offer" in the section entitled "Interests of directors and officers; transactions and arrangements concerning the options" is incorporated herein by reference.

(b) *Securities Transactions.*

The information set forth in the Offer to Exchange under the caption "The Offer" in the section entitled "Interests of directors and officers; transactions and arrangements concerning the options" is incorporated herein by reference.

**Item 9. Person/Assets, Retained, Employed, Compensated or Used.**

(a) *Solicitations or Recommendations.*

Not applicable.

**Item 10. Financial Statements.**

(a) *Financial Information.*

The information set forth in Schedule B to the Offer to Exchange and in the Offer to Exchange under the caption "The Offer" in the sections entitled "Information concerning Echelon," "Financial statements," and "Additional information" is incorporated herein by reference. Echelon's Annual Report on Form 10-K and Quarterly Report on 10-Q for the Quarter ended June 30, 2004 can also be accessed electronically on the Securities and Exchange Commission's website at <http://www.sec.gov>.

(b) *Pro Forma Information.*

Not applicable.

**Item 11. Additional Information.**

(a) *Agreements, Regulatory Requirements and Legal Proceedings.*

The information set forth in the Offer to Exchange under caption "The Offer" in the section entitled "Legal matters; regulatory approvals" is incorporated herein by reference.

(b) *Other Material Information.*

Not applicable.

**Item 12. Exhibits.**

<u>Exhibit Number</u>	<u>Description</u>
(a)(1)(a)	Offer to Exchange Certain Outstanding Options for New Options, dated September 21, 2004.
(a)(1)(b)	Letter from M. Kenneth Oshman, dated September 21, 2004.
(a)(1)(c)	Election Form.
(a)(1)(d)	Withdrawal Form.
(a)(1)(e)	Form of Promise to Grant Stock Options.
(a)(1)(f)	Form of Option Summary E-mail Communication to Employees.

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- (a)(1)(g) Forms of Reminder E-mail Communication to Employees.
- (a)(1)(h) Form of Confirmation E-mail to Employees who Elect to Participate in the Stock Option Exchange Program and Form of Confirmation E-mail to Employees who Withdraw their Stock Options from the Stock Option Exchange Program.
- (a)(5) Press Release issued by Echelon Corporation.
- (b) Not Applicable.

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- (d)(1) Amended and Restated 1997 Stock Plan (filed as Appendix A to Echelon's Definitive Proxy Statement filed on April 12, 2004, and incorporated herein by reference). \*
- (d)(2) Form of 1997 Stock Plan Stock Option Agreement. \*\*
- (g) Not Applicable.
- (h) Not Applicable.

\* As described in the Offer to Exchange, option grants made to certain employees outside the United States may be made pursuant to a sub-plan under the 1997 Stock Plan.

\*\* The form of 1997 Stock Plan Option Agreement may vary for certain employees outside the United States as described in the Offer to Exchange.

**Item 13. Information Required by Schedule 13E-3.**

- (a) Not applicable.

**SIGNATURE**

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this Schedule TO is true, complete and correct.

**ECHELON CORPORATION**

/s/ M. KENNETH OSHMAN

M. Kenneth Oshman

Chairman of the Board and Chief Executive Officer

Date: September 21, 2004

**INDEX TO EXHIBITS**

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(a)(1)(f)	Form of Option Summary E-mail Communication to Employees.
(a)(1)(g)	Forms of Reminder E-mail Communication to Employees.
(a)(1)(h)	Form of Confirmation E-mail to Employees who Elect to Participate in the Stock Option Exchange Program, and Form of Confirmation E-mail to Employees who Withdraw their Stock Options from the Stock Exchange Program.
(a)(5)	Press Release issued by Echelon Corporation.
(d)(1)	Amended and Restated 1997 Stock Plan (filed as Appendix A to Echelon's Definitive Proxy Statement filed on April 12, 2004, and incorporated herein by reference). *
(d)(2)	Form of 1997 Stock Plan Stock Option Agreement. **
(g)	Not Applicable.
(h)	Not Applicable.

\* As described in the Offer to Exchange, option grants made to certain employees outside the United States may be made pursuant to a sub-plan under the 1997 Stock Plan.

\*\* The form of 1997 Stock Plan Option Agreement may vary for certain employees outside the United States as described in the Offer to Exchange.