

Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street 11th floor
Arlington VA 22209
703-812-0400 (voice)
703-812-0486 (fax)

MITCHELL LAZARUS
703-812-0440
LAZARUS@FHHLAW.COM

October 12, 2001

Ms. Magalie Salas, Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

**Re: ET Docket No. 98-153 -- Revision of Part 15 of the Commission's Rules Regarding
Ultra-Wideband Transmission Systems
*Ex Parte Communication***

Dear Ms. Salas:

Pursuant to Section 1.1206(a)(2) of the Commission's Rules, on behalf of XtremeSpectrum, Inc., I am filing this letter electronically to report an oral ex parte communication in the above-referenced proceeding.

Yesterday, Martin Rofheart of XtremeSpectrum, Inc., Michele Farquhar, Esq., and Ari Q. Fitzgerald, Esq., of Hogan & Hartson, L.L.P., and I met with Julius P. Knapp, Michael J. Marcus, Karen Rackley, and John A. Reed of the Office of Engineering and Technology.

We distributed copies of a presentation substantially identical to that filed in the docket on August 15, 2001, and reiterated positions XtremeSpectrum has previously stated in this proceeding.

We emphasized the following points:

- ***Prompt action needed.*** Prompt Commission action is necessary if consumers are to enjoy the benefits of ultra-wideband. One U.S. company (of four) has already folded due to regulatory delay. Others are unable to attract new investment until rules are adopted.
- ***Permit peer-to-peer operations.*** OET personnel asked whether a ban on peer-to-peer communications would be an appropriate means of enforcing a restriction to indoor operations. The answer is an emphatic no. A peer-to-peer ban would eliminate much of the market by impermissibly constraining the manufacturers of devices that will incorporate UWB radios. This in turn would eliminate much

indoor use, and greatly restrict the development of consumer markets. A far better solution is a ban on outdoor infrastructure, which will limit any outdoor use to casual, short-term communications at ground level, where propagation is poor. Alternatively, the Commission can simply set emission limits below 3.1 GHz that are compatible with outdoor operation.

- ***Offer regulatory options.*** To encourage competition and innovation, the Commission should allow manufacturers to choose among two or more regulatory approaches, each of which fully protects other users, but each of which accommodates differing UWB technologies. This will allow both consumers and public safety agencies to benefit from diverse technological approaches.
- ***Let good technology succeed.*** XtremeSpectrum has expended substantial resources to perfect a technology that coexists harmlessly with other spectrum users. XtremeSpectrum also has made the technology flexible enough for nearly all of the regulatory proposals now under consideration. It would be a perverse outcome for the Commission to refrain from adopting workable rules simply because other ultra-wideband proponents may not be able to manufacture a safe product.

A copy of our meeting outline is attached.

If there are any questions about this submission, please call me at the number above.

Respectfully submitted,

Mitchell Lazarus
Counsel for XtremeSpectrum, Inc.

cc: Meeting participants

XtremeSpectrum -- Meeting with OET, October 11, 2001, 10-11 am

1. Introduction
2. No result is the worst possible result
3. Do not limit to public safety
4. If OET and NTIA do not reach agreement . . .
5. Two-option regulatory scheme
6. Do not block good technology.