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October 30, 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., of Hogan & Hartson, L.L.P., Veronica Haggart, Esq., and I met with Lisa Gaisford of the Office of Engineering and Technology.

We distributed excerpts from a presentation substantially identical to that filed in the docket on August 15, 2001, and reiterated positions XtremeSpectrum has previously stated in this proceeding, with emphasis on the following points:

- ***Prompt action is needed***. Prompt Commission action is necessary if consumers and public safety users are to enjoy the benefits of ultra-wideband.

- ***All documented interference concerns have been addressed.*** Technical proposals in the docket have fully resolved all interference issues -- including GPS, PCS, and NTIA systems -- raised by parties that have documented their concerns.

- ***A ban on peer-to-peer operations is both unnecessary and harmful***. A peer-to-peer ban would deny consumers many of the most attractive applications of ultra-wideband, and would impose on manufacturers of consumer devices the unacceptable burden of configuring ultra-wideband differently for different products. XtremeSpectrum has shown that a ban on outdoor

infrastructure will fully achieve the Commission's goals of limiting interference from outdoor operations, without these disadvantages.

- ***Rules should be technology-neutral***. Rather than lock in attempted solutions to interference problems (such as a peer-to-peer ban), the Commission's Rules should state the required levels and conditions of interference protection (*e.g.*, outdoor vs. indoor), and let individual manufacturers decide how best to comply.

- ***Regulatory options are desirable***. To encourage competition and innovation, the Commission should allow manufacturers to choose among a range of regulatory plans, each of which fully protects other users, but each of which accommodates differing ultra-wideband technologies.

- ***Secrecy impairs sound decision-making***. Government agencies are apparently communicating their positions to the Commission in this proceeding without informing other parties. This practice not only undermines the transparency principles of the Administrative Procedure Act, but violates the plain language of the Commission's Rules.[*] The right of the public to participate is meaningless without access to other parties' views. In particular, secrecy impedes the industry's ability to develop practicable solutions to any Government interference concerns. The Commission should either disclose all communications intended to affect the outcome, or disregard them.

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

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[*] "Notwithstanding paragraphs (b)(1) and (b)(2) of this section [requiring disclosure generally of *ex parte* communications], in permit-but-disclose proceedings presentations made by members of Congress or their staffs *or by an agency or branch of the Federal Government or its staff* shall be treated as *ex parte* presentations only if the presentations are of substantial significance and clearly intended to affect the ultimate decision. The Commission staff shall prepare a written summary of any such oral presentations and place them in the record in accordance with paragraph (b)(2) of this section and place any such written presentations in the record in accordance with paragraph (b)(1) of this section." 47 C.F.R. Sec. 1.1206(b)(3) (emphasis added).