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February 6, 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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VIA MESSENGER

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
Office of the Secretary
236 Massachusetts Avenue, N.E., Suite 110
Washington, D.C. 20002

RE: **Notice of Ex Parte Presentation**
ET Docket 98-153

Dear Ms. Salas:

On behalf of Delphi Automotive Systems Corporation ("Delphi"), and in accordance with Section 1.1206(b) of the Commission's Rules, 47 C.F.R. §1.1206(b), undersigned counsel hereby submits the instant notice of *ex parte* presentation.

Specifically, on February 5, 2002, undersigned counsel met with Susan Steiman and Adam Krinsky of the FCC's Office of General Counsel ("OGC"). The meeting was also attended by Ari Fitzgerald, Counsel to the Short Range Automotive Radar Frequency Allocation group ("SARA"). In that meeting, undersigned counsel discussed certain of the various issues raised in Delphi's Comments, Reply Comments and Ex Parte Comments that were filed with the Commission on September 12, 2000, October 12, 2000 and July 13, 2001, respectively, as well as the issues raised in various of SARA's filings with the Commission in this proceeding. The focus of the meeting was on international footnote S5.340, and US246, the domestic footnote implementing S5.340. Delphi and SARA demonstrated that neither S5.340 nor US246 can be used to justify precluding intentional emissions into the 23.6-24.0 GHz restricted and passive bands. In this regard, in the 1983 Commission decision implementing US246, the Commission denied the request of the Committee on Radio Frequencies ("CORF") to modify the language of the footnote so as to effectively prohibit all transmissions of "low power or experimental systems" in the restricted bands specified in the footnote. By denying CORF's request and stating that the language of US246 is "consistent with adopted Commission policy" and that such language "will better serve all parties involved", the Commission confirmed Delphi's and SARA's position that US246 simply does not prohibit emissions of UWB devices in the 23.6-24.0 GHz band. See 54 RR 2d 1500, Par. 79 (1983).

In addition, if S5.340 and US246 are interpreted in a manner resulting in the prohibition of intentional emissions into *all* restricted and passive bands specified in those footnotes (an interpretation which Delphi and SARA demonstrated is erroneous), such a result would be

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Ms. Magalie Roman Salas, Secretary

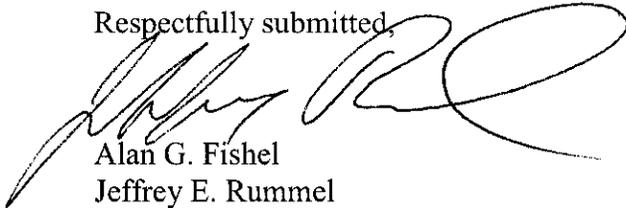
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contrary to the primary purpose of this proceeding, namely, to foster the “promise [held by UWB technology] for a vast array of new or improved devices that could have enormous benefits for public safety, consumers and businesses”.¹ In its Notice of Proposed Rulemaking in this proceeding, the Commission correctly confirmed that an “intrinsic” characteristic of ultra-wideband (“UWB”) technology is “the transmission of fundamental emission into restricted bands...which is [currently] prohibited under the Part 15 rules.” *Id.* at Par. 4. Similarly, the Commission observed that “most UWB devices cannot operate under our current regulations. *Id.* at Par. 7. If the Commission were to decide to prohibit intentional emissions into all restricted and passive bands by UWB radar devices, such a result would, for the most part, render moot the substantial benefits UWB is capable of providing to U.S. consumers. Such a result would be contrary to the public interest.

In accordance with 47 C.F.R. §1.1206(b), it is noted that an original and one (1) paper copy of this letter are being filed herewith and a copy of this letter is being delivered to Ms. Steiman and Mr. Krinsky. Please do not hesitate to contact the undersigned with any questions which may arise with respect to this filing.

Respectfully submitted,



Alan G. Fishel

Jeffrey E. Rummel

cc: Ms. Susan Steiman
Mr. Adam Krinsky

¹ ET Docket 98-153, FCC 00-163, Par. 8 (rel. May 11, 2000) (“Notice”).