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Before the  
UNITED STATES COPYRIGHT OFFICE  
LIBRARY OF CONGRESS  
Washington, D.C.

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OCT 19 2000

GENERAL COUNSEL  
OF COPYRIGHT

In Re:

Digital Performance Right  
In Sound Recordings and  
Ephemeral Recordings Rate  
Adjustment Proceeding

<sup>2000-3</sup>  
Docket [ ] CARP DTRA2 *8g*

**MOTION TO ACCEPT  
POST-OCTOBER 13, 2000  
FILING OF NOTICE OF INTENTION TO  
PARTICIPATE IN 2001-2002 CARP PROCEEDING**

iCast Corporation (“iCast”) and XACT Radio LLC (“XACT Radio”), by and through their undersigned attorneys, Weil, Gotshal & Manges LLP (WG&M), hereby make this Motion To Accept Post-October 13, 2000 Filing Of Notice of Intention to Participate in the Digital Performance Right In Sound Recordings and Ephemeral Recordings Rate Adjustment Proceeding (Docket 2000-3 CARP DTRA2) (the “CARP proceeding”). The facts in support of this motion follow.

Pursuant to 37 C.F.R. 251.45(a), an entity intending to participate in the CARP proceeding must file a Notice of Intention to Participate (“Notice”). Pursuant to Fed. Reg. 56,941 (2000), such notices were to have been filed with the Office of the General Counsel, Copyright Office, by Friday, October 13, 2000.

Concurrently with the filing of the instant motion, the aforementioned parties are filing their Notices, copies of which are attached hereto. Due to an inadvertent delay in transmitting the forms between WG&M’s New York and Washington D.C.

offices, the notice was not filed on October 13. Considering that the October 13th notices to participate in the CARP were only recently processed at the Copyright Office, no entity is or will be prejudiced in any way by the relief requested by this motion and there will be no disruption in the proceeding caused by allowing this party to participate.

In light of the above, the instant request complies in all respects with the governing standards for motions of this nature, as set forth in the Order of the Copyright Office dated November 30, 1999. Accordingly, the above identified parties respectfully request that their Motion to Accept the Post-October 13, 2000 Filing of a Notice of Intention to Participate in the CARP proceeding be granted and that iCast and XACT Radio be permitted to participate in the 2001-2002 CARP proceeding.

Dated: October 18, 2000

Respectfully submitted,

WEIL, GOTSHAL & MANGES LLP

By: Kenneth L. Steinthal  
Kenneth L. Steinthal

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New York, New York 10153  
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Attorneys for iCast Corporation and  
XACT Radio LLC

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Notice of Intent to Participate in 2001-2002 CARP Proceeding

OCT 19 2000

In accordance with 37 CFR 251.45(a), the transmission service set forth herein files with the Library of Congress, Copyright Office, a notice stating the intention to participate in the Copyright Arbitration Royalty Panel proceeding to set rates and terms for compulsory licenses in connection with digital sound recording performance (17 U.S.C. § 114) and related ephemeral recording rights (17 U.S.C. § 112).

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1. Name of Service: iCast Corporation

2. Mailing Address: 78 Dragon Court  
2nd Floor  
Woburn, MA 01801

*Note: A post office box is acceptable if it is the only address that can be used in that geographic location.*

3. Website Address of Service: [http:// www.icast.com](http://www.icast.com)

*Note: Information on how to gain access to the online website or home page of the Service, or where information may be posted under the regulations concerning the use of sound recordings must be provided.*

4. Officer or Authorized Representative of Service:

1. Name: Kenneth L. Steinthal, Esq.

2. Title: Partner – Weil, Gotshal & Manges LLP

3. Address: 767 Fifth Avenue  
New York, NY 10153

4. Telephone: 212-310-8000

5. Facsimile: 212-310-8007

6. Date: 10/18/00

7. Signature: Kenneth L. Steinthal, Esq.

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Notice of Intent to Participate in 2001-2002 CARP Proceeding

OCT 19 2000

GENERAL COUNSEL  
OF COPYRIGHT

In accordance with 37 CFR 251.45(a), the transmission service set forth herein files with the Library of Congress, Copyright Office, a notice stating the Service's intention to participate in the Copyright Arbitration Royalty Panel proceeding to set rates and terms for compulsory licenses in connection with digital sound recording performance (17 U.S.C. § 114) and related ephemeral recording rights (17 U.S.C. § 112).

1. Name of Service: XACT Radio LLC

2. Mailing Address: 240 South Broadway  
Suite 103  
Denver, Co. 80209

*Note: A post office box is acceptable if it is the only address that can be used in that geographic location.*

3. Website Address of Service: http:// www.xactradio.com

*Note: Information on how to gain access to the online website or home page of the Service, or where information may be posted under the regulations concerning the use of sound recordings must be provided.*

4. Officer or Authorized Representative of Service:

1. Name: Kenneth L. Steinthal, Esq.

2. Title: Partner – Weil, Gotshal & Manges LLP

3. Address: 767 Fifth Avenue  
New York, NY 10153

4. Telephone: 212-310-8000

5. Facsimile 212-310-8007

6. Date: 10/18/00

7. Signature: Kenneth L. Steinthal

**Proceeding to Set Rates & Terms for  
Compulsory Licenses in Connection with  
Digital Sound and Recording Performance  
(17 U.S.C. § 114)  
Docket No. 2000-3 CARP DTRA 2**


**CERTIFICATE OF SERVICE**

Pursuant to 37 CFR 251.45(a), I, Vladimir Jockovic, hereby certify that I caused a copy of a Motion To Accept Post-October 13, 2000 Filing of Notice of Intention To Participate In 2001-2002 CARP Proceeding on behalf of iCast Corporation("iCast) and XACT Radio LLC("Xact Radio")(Docket No. 2000-3 CARP DTRA 2) to be served on the parties listed below, by Facsimile Transmission, on October 19, 2000.

**SERVICE LIST**

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Gregory J. Hessinger Ann E. Chaitovitz <b>American Federation of Television and Radio Artists</b>	(212) 532-2242	(212) 532-0800	
Arthur Levine <b>Finnegan, Henderson, Farabow, Garret &amp; Dunner</b>	(202) 408-4400	(202) 408-4000	<b>American Federation of Television and Radio Artists</b>
Bruce A. Lehman	(202) 478-1955	(202) 544-6610	<b>Performing Artists Society of America</b>
Kenneth M. Kaufman <b>Davis Wright Tremain LLP</b>	(202) 508-6699	(202) 508-6600	<b>Live365.com</b>
Robert Alan Garrett Ronald A. Schechter Michele Woods Jule L. Sigall Brad R. Newbert <b>Arnold &amp; Porter</b>	(202) 942-5999	(202) 942-5000	<b>Recording Industry of America, Inc.</b>
Cary H. Sherman Steven M. Marks Linda R. Bocchi <b>Recording Industry Association of America, Inc.</b>	(202) 775-7253	(202) 775-0101	

RECEIPIENTS	FAX NOS.	TELEPHONE NOS.	COUNSEL FOR
Bruce D. Sokler Fernando R. Laguarda Amy L. Bushyeager <b>Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.</b>	(202) 434-7400	(202) 434-7300	<b>Music Choice</b>
DMX Music, Inc. c/o Mr. Frank Pet	(310) 444-1717	(310) 444-1744	
Barry H. Gottfried Cynthia D. Greer JoEllen Masters <b>Shaw Pittman</b>	(202) 663-8007	(202) 663-8000	<b>XM Satellite Radio Inc.</b>
Neal Jackson Denise Leary <b>Natioanl Public Radio</b>	(202) 414-3329	(202) 414-2000	
Douglas A. Kaplan <b>Sirius Satellite Radio Inc.</b>	(212) 584-5200	(212) 584-5100	
Seth D. Greenstein <b>McDermott, Will &amp; Emery</b>	(202) 756-8087	(202) 756-8000	<b>Yahoo! Inc.</b>
Michael A. Kahn Mary Castle <b>Folger Levin &amp; Kahn</b>	(415) 986-2827	(415) 986-2800	<b>Yahoo! Inc.</b>
Jerry Rubinstein <b>Musicplex.com Inc.</b>	(310) 253-7010	(310) 253-7000	
Bruce G. Joseph <b>Wiley, Rein &amp; Fielding</b>	(202) 719-7207	(202) 718-7000	<b>Clear Channel Communications Inc.</b>
Russell R. Hauth	(805) 384-4520	(805) 987-0400	<b>NRB Music License Committee; Salem Communications Corp.</b>
Walter F. McDonough <b>Future of Music Coalition</b>	(202) 783-5595	(202) 783-5588	
Mary Ann Lyman <b>Munger, Tolles &amp; Olson LLP</b>	(213) 687-3702	(213) 683-9100	<b>Virgin Audio Holdings LLC (Radio Free Virgin)</b>

  
 \_\_\_\_\_  
 Vladimir Jockovic