

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of the Joint Application of

IXC Holdings, Inc.,
Assignor,

and

TelePacific Managed Services,
Assignee.

For Grant of Authority Pursuant to
Section 214 of the Communications Act of 1934,
as amended, and Sections 63.04 and 63.24 of the
Commission's Rules to Complete an
Assignment of Assets of an Authorized
Domestic and International 214 Carrier

WC Docket No. 11-85
(Filed May 10, 2011)
ITC-ASG-20110509-00130

**DECLARATION OF LEONARD A. GAIL
IN SUPPORT OF
COMMENTS OF STRAITSHOT RC, LLC AND
STRAITSHOT COMMUNICATIONS, INC.**

June 2, 2011

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*On Behalf of Straitshot RC, LLC and
Straitshot Communications, Inc.*

I, Leonard A. Gail, declare as follows:

1. I am counsel of record for Plaintiffs Straitshot RC, LLC and Straitshot Communications, Inc. (collectively, "Straitshot"), and I make this declaration on personal knowledge.

2. Attached hereto as Exhibit 1 is a true and correct copy of Straitshot's Fifth Amended Complaint for Damages, filed December 9, 2010, in *Straitshot RC, LLC v. Telekenex, Inc., et al.*, No. 2:10-CV00268-TSZ (W.D. Wash.) (the "Litigation").

3. Attached hereto as Exhibit 2 is a true and correct copy of the Order (Document 214), entered by Judge Thomas S. Zilly, Western District of Washington, in the Litigation, dated February 28, 2011.

4. Attached hereto as Exhibit 3 is a true and correct copy of Telekenex, Inc.'s Motion for Protective Order Quashing Subpoena to Wellington Financial USA, Inc., filed in the Western District of Washington as part of the Litigation, on October 7, 2010.

5. Attached hereto as Exhibit 4 is a true and correct copy of a letter from Greg L. Taylor to Marlene H. Dortch, Secretary, Federal Communications Commission (the "Commission"), regarding CC Docket No. 00-257, dated November 16, 2010.

6. Attached hereto as Exhibit 5 is a true and correct copy of Advice Letter No. 71 of Telekenex, Inc. (U-6647-C), dated June 3, 2010, addressed to the attention of the PAL Coordinator, Communications Division, Public Utilities Commission, from John L. Clark, obtained in discovery in the Litigation from a third party, Wellington Financial USA, Inc., WEL00000190-93.

7. Attached hereto as Exhibit 6 is a true and correct copy of the Joint Application of Telecommunications Companies for Transfer of Certificate of Public Convenience and Necessity and Informational Notice Regarding Transfer of Assets of a Telecommunications Company, received September 14, 2010, Public Utilities Commission of Nevada, Docket No. 10-09011.

8. Attached hereto as Exhibit 7 is a true and correct copy of the Minute Entry, entered by Judge Thomas S. Zilly, Western District of Washington, in the Litigation, dated December 8, 2010.

9. Attached hereto as Exhibit 8 is a true and correct copy of the Order (Document 229), entered by Judge Thomas S. Zilly, Western District of Washington, in the Litigation, dated May 9, 2011.

10. Attached hereto as Exhibit 9 is a true and correct copy of a press release on the TelePacific Communications website, dated May 5, 2011.

11. Attached hereto as Exhibit 10 are true and correct copies of excerpts from the deposition of Larry Marcus, taken December 9, 2010.

12. Straitshot learned of the IXCH-TelePacific transaction (the “Proposed Transfer”) through news reports. Even after the IXCH/Telekenex Defendants filed applications with regulators seeking approval of the transaction, they provided no notice or information to Straitshot regarding this transfer, until Straitshot sent a discovery demand to the IXCH/Telekenex Defendants in the Litigation on May 17, 2011. This failure to provide notice occurred despite outstanding discovery requests and such Defendants’ duty to supplement their discovery responses under Federal Rule of Civil Procedure 26(e)(1)(A).

13. Attached hereto as Exhibit 11 are true and correct copies of excerpts from the Commission’s website.

14. Attached hereto as Exhibit 12 is a true and correct copy of Plaintiff’s Opposition to the Telekenex Defendants’ Motion for Partial Summary Judgment, filed in the Western District of Washington as part of the Litigation, on December 13, 2010.

15. Attached hereto as Exhibit 13 is a true and correct copy of the Affidavit of Giri Durbhakula in Support of Motion to Vacate and Set Aside Default Judgment and to Quash Writ of Garnishment, in *Telekenex IXC, Inc. v. Charlotte Russe Incorporated*, No. 09-2-22535-8 SEA, Superior Court of Washington for King County, dated July 31, 2009, as downloaded from the Court’s electronic docket.

16. Attached hereto as Exhibit 14 is a true and correct copy of the Declaration of Garret D. Murai in Support of Ex Parte Motion for Temporary Restraining Order and Order to Show Cause re Preliminary Injunction, in *Eric F. Anderson, Incorporated v. Telekenex, Inc.*, No. CV 08 3319, Northern District of California, dated July 9, 2008, as downloaded from the Court's electronic docket.

17. Attached hereto as Exhibit 15 is a true and correct copy of the Declaration of Geza Paulovits, in Support of Ex Parte Motion for Temporary Restraining Order and Order to Show Cause re Preliminary Injunction, in *Eric F. Anderson, Incorporated v. Telekenex, Inc.*, No. CV 08 3319, Northern District of California, dated July 9, 2008, as listed on the Court's electronic docket and provided by counsel for Eric F. Anderson.

18. Attached hereto as Exhibit 16 is a true and correct copy of the Declaration of Susan Reich, in *Perseus Distribution, Inc., and Perseus Books, L.L.C. v. CF Communications, LLC D.B.A. Telekenex, Inc.*, No. CV 08 0044, Northern District of California, dated January 3, 2008, as downloaded from the Court's electronic docket.

19. Attached hereto as Exhibit 17 is a true and correct copy of the Declaration of Donald R. Schuck, in *Telekenex IXC, Inc. v. Restaurant Concepts II, LLC*, No. 09-2-25072-3 SEA, Superior Court of Washington in and for King County, dated March 8, 2010, as downloaded from the Court's electronic docket.

20. Attached hereto as Exhibit 18 is a true and correct copy of Advice Letter No. 314 of U.S. TelePacific Corp. (U-5721-C), dated May 6, 2011, addressed to the attention of the PAL Coordinator, Communications Division, California Public Utilities Commission ("CPUC"), from Nancy E. Lubamersky (the "TelePacific California Advice Letter").

21. Straitshot filed its Protest to the Proposed Transfer, along with a Declaration of Leonard A. Gail in support of the Protest and exhibits to such Declaration, with the CPUC, on May 27, 2011. Such Protest was based in part on the materially false statement in paragraph 6 on second page of the TelePacific California Advice Letter.

22. Attached hereto as Exhibit 19 is a true and correct copy of the Minute Order (Document 226), entered at the direction of Judge Thomas S. Zilly, Western District of Washington, in the Litigation, dated May 4, 2011.

23. The asset purchase agreement between TelePacific and IXCH/Telekenex makes clear that TelePacific knew about the Litigation when entering the agreement in April 2011. However, because IXCH/Telekenex designated the agreement as “Attorneys’ Eyes Only” in the Litigation, Straitshot is not at liberty to identify the hows and the whys without IXCH/Telekenex’s approval.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on this 2nd day of June, 2011, in Chicago, Illinois.

/s/ Leonard A. Gail _____
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