

## Argenti, Matthew

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**From:** Eliot.Williams@bakerbotts.com  
**Sent:** Thursday, July 09, 2015 1:27 PM  
**To:** Rosato, Michael  
**Cc:** Argenti, Matthew; hop.guy@bakerbotts.com; brad.bowling@bakerbotts.com; Torczon, Richard  
**Subject:** RE: Echostar/Hughes v. Caltech: IPR2015-00059

Mike:

We've responded to the non-objectionable portions of your inquiry. We reached out to Ms. Fradenburg's counsel promptly after receiving your request for her deposition, and learned late last week that she would not appear voluntarily. At that point, we obtained Dr. Pfister's availability. If you intend to move forward with Dr Pfister on the 22nd, please let us know today. Otherwise, he will need to release that day from his schedule to accommodate other commitments.

The remainder of your inquiry seems to be based on flawed assumptions.

Regards,

Eliot D. Williams  
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**From:** Rosato, Michael [mailto:mrosato@wsgr.com]  
**Sent:** Thursday, July 09, 2015 11:29 AM  
**To:** Williams, Eliot D.  
**Cc:** Argenti, Matthew; Guy, Hop; Bowling, Brad; Torczon, Richard  
**Subject:** RE: Echostar/Hughes v. Caltech: IPR2015-00059

Eliot,

Thank you for the comments. However, that is not fully responsive to my inquiry. When you procured Ms. Fradenburg's direct testimony on behalf of Hughes, was she instructed she would be required to appear for cross-examination if called? When did you first request she be made available for a deposition? Ms. Fradenburg is a Hughes witness, so I'm trying to understand how and why Hughes has put itself in this position. I am also trying to understand why it took you so long to bring this to my attention.

Thanks in advance.

- Mike

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**From:** [Eliot.Williams@bakerbotts.com](mailto:Eliot.Williams@bakerbotts.com) [mailto:[Eliot.Williams@bakerbotts.com](mailto:Eliot.Williams@bakerbotts.com)]  
**Sent:** Thursday, July 09, 2015 10:24 AM

**To:** Rosato, Michael  
**Cc:** Argenti, Matthew; [hop.guy@bakerbotts.com](mailto:hop.guy@bakerbotts.com); [brad.bowling@bakerbotts.com](mailto:brad.bowling@bakerbotts.com); Torczon, Richard  
**Subject:** RE: Echostar/Hughes v. Caltech: IPR2015-00059

Mike:

Ms. Fradenburg is an employee of the University of Texas, a non-party, whom we understand to be represented by the University's legal affairs office. We have requested the University of Texas, via its Legal Affairs Office, to make Ms. Fradenburg available for a deposition. Counsel for the University responded that she would not appear voluntarily, and that subpoena would be required to secure her appearance.

Please let us know if you intend to move forward with the deposition of Dr. Pfister on the 22<sup>nd</sup>. His availability is limited.

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**From:** Rosato, Michael [<mailto:mrosato@wsgr.com>]  
**Sent:** Wednesday, July 08, 2015 1:54 PM  
**To:** Williams, Eliot D.  
**Cc:** Argenti, Matthew; Guy, Hop; Bowling, Brad; Torczon, Richard  
**Subject:** RE: Echostar/Hughes v. Caltech: IPR2015-00059

Eliot,

Thank you for the response. Although I am a bit confused – did you not instruct Ms. Fradenburg at the time of obtaining her direct testimony that she would be required to appear for cross-examination if called? Also, please clarify precisely what attempts you've made to gain her appearance.

Best regards,

- Mike

**Michael T Rosato**  
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**From:** [Eliot.Williams@bakerbotts.com](mailto:Eliot.Williams@bakerbotts.com) [<mailto:Eliot.Williams@bakerbotts.com>]  
**Sent:** Tuesday, July 07, 2015 4:29 PM  
**To:** Rosato, Michael  
**Cc:** Argenti, Matthew; [hop.guy@bakerbotts.com](mailto:hop.guy@bakerbotts.com); [brad.bowling@bakerbotts.com](mailto:brad.bowling@bakerbotts.com)  
**Subject:** RE: Echostar/Hughes v. Caltech: IPR2015-00059

Michael:

We have attempted to schedule the deposition of Ms. Fradenburg, but she is unwilling to appear voluntarily. To the extent Patent Owner would like her deposition, we suggest that you request issuance of a subpoena to compel her deposition. *See Marvell v. IV*, IPR2014-00553, Paper 28 (April 8, 2015). We also question whether the authenticity and publication date of the reference at issue is genuinely in dispute in this proceeding.

Regarding Dr. Pfister's availability, we can make him available at our offices in Palo Alto on July 22<sup>nd</sup>. As that would be slightly outside the typical time for completing the deposition, we would be amenable to a slight adjustment to the due dates in the current schedule. Let us know if you would like to propose such a modification.

Regards,

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**From:** Rosato, Michael [<mailto:mrosato@wsgr.com>]  
**Sent:** Friday, June 12, 2015 3:42 PM  
**To:** Williams, Eliot D.  
**Cc:** Argenti, Matthew; Guy, Hop  
**Subject:** Echostar/Hughes v. Caltech: IPR2015-00059

Eliot,

We would like to schedule cross-examination of the witnesses who provided affidavit testimony in support of the EchoStar/Hughes petition. As you know, Rule 42.53(d)(2) prescribes that the party requesting cross-examination testimony choose the order in which the witnesses are to be cross-examined. As such, we will cross the witnesses in the following order, beginning with Ms. Fradenburg.

- Robin Fradenburg
- Dr. Pfister

Please provide us with dates on which the witnesses can be made available for cross-examination. You'll recall that the period for cross concludes on July 21<sup>st</sup> based on the scheduling order.

Best regards,

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