

McPhie, David

From: Caplan, Jonathan S. <JCaplan@KRAMERLEVIN.com>
Sent: Thursday, June 14, 2018 2:56 PM
To: Redjaian, Babak; McPhie, David; Yorks, Ben; #FraunhoferIPRs [Int]
Cc: Caplan, Jonathan S.; KL Sirius XM IPR Team
Subject: IPR2018-00681, IPR2018-00682

Counsel,

Sirius XM intends to request the opportunity to file a reply to Patent Owner's Preliminary Responses in IPR Nos. 2018-00681 and 2018-00682 on the issues identified below. Please let us know if Patent Owner consents. If so, Sirius XM would propose to submit a reply within two weeks.

IPR2018-00681

1. Patent Owner incorrectly asserts that Sirius XM was required to identify Sirius XM Holdings and Liberty Media as real parties in interest. Sirius XM will explain through case law and company information that neither Sirius XM Holdings nor Liberty Media is a real party interest.
2. Patent Owner presents a legally erroneous proposal for the construction of the preamble of the '997 Patent. Sirius XM will explain the correct view of the law to be applied for the construction.

IPR2018-00682

1. Patent Owner incorrectly asserts that Sirius XM was required to identify Sirius XM Holdings and Liberty Media as real parties in interest. Sirius XM will explain through case law and company information that neither Sirius XM Holdings nor Liberty Media is a real party interest.
2. Patent Owner presents an erroneous view of Federal Circuit case law relating to applicant's concessions during prosecution. Sirius XM will explain the correct view of Federal Circuit case law applicable to applicant's actions during prosecution.

Please provide your response no later than close of business on Monday June 18 and provide times that you are available for a call with the Board next week. We are available for a meet and confer early next week.

Regards,

Jonathan

Jonathan S. Caplan

Partner, Co-chair, Intellectual Property

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