

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SIRIUS XM RADIO INC.,
Petitioner,

v.

FRAUNHOFER-GESELLSCHAFT ZUR FÖRDERUNG DER
ANGEWANDTEN FORSCHUNG E.V.,
Patent Owner.

Case IPR2018-00681
Patent No. 7,061,997

**PETITIONER'S REPLY TO PATENT OWNER'S
PRELIMINARY RESPONSE**

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EXHIBIT LIST

EXHIBIT No.	DESCRIPTION
Exhibit 1024	Declaration of Patrick L. Donnelly

I. SIRIUS XM PROPERLY IDENTIFIED THE RPIS

Sirius XM Radio Inc. (“Radio”) named all real parties in interest (“RPIS”) in its Petition and Patent Owner’s (“PO”) contrary arguments (Paper 8 (“Resp.”) at 4-5, 18-20) should be rejected. As explained in the accompanying declaration, Sirius XM Holdings Inc. (“Holdings”) and Liberty Media Corp. (“Liberty”) are not RPIS because they (1) do not direct or control business activities and operations of Radio; and (2) have not directed, controlled, funded (e.g., PTO or legal fees) or otherwise been involved in these proceedings. Ex. 1024, ¶¶ 3-15. Holdings is a non-operational holding company and owns all the issued and outstanding capital stock of Radio, while Liberty’s connection is even more attenuated as it merely owns 70% of the outstanding common stock of Holdings. *Id.*, ¶¶ 3-4, 7-9.

These facts align squarely with *Daifuku Co., Ltd., et al. v. Murata Machinery, Ltd.*, IPR2015-01538, in which “a ‘holding company that merely holds ownership of its subsidiaries and conducts no independent operations’” was found *not* to be an RPI. *Daifuku*, Paper 11 at 8–9 (“The exercise or availability of general ‘control’ that stock ownership vests in stockholders...will not make one company a real party in interest of the other.”). Like in *Daifuku*, PO’s evidence here, at best, only “establishes a [stock ownership] relationship between parties and does not establish a relationship between Holdings and this proceeding.” *Id.* at 11.

PO’s reliance on *Galderma S.A. v. Allergan Industrie, SAS*, IPR2014-01422,

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