

Precedential_Opinion_Panel_Request

From: Caplan, Jonathan S. <JCaplan@KRAMERLEVIN.com>
Sent: Friday, October 5, 2018 6:20 PM
To: Precedential_Opinion_Panel_Request
Cc: Caplan, Jonathan S.; byorks@irell.com; bredjaian@irell.com; dmcphie@irell.com; FraunhoferIPRs@irell.com; KL Sirius XM IPR Team
Subject: Request for Precedential Opinion Panel Review in IPR2018-00681, IPR2018-00682, IPR2018-00689, and IPR2018-00690
Attachments: IPR2018-00681 - Request for Rehearing.pdf; IPR2018-00682 - Request for Rehearing.pdf; IPR2018-00689 - Request for Rehearing.pdf; IPR2018-00690 - Request for Rehearing.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Your Honors,

Pursuant to Section II.C of the PTAB Standard Operating Procedure 2, Petitioner respectfully submits the following:

Petitioner Sirius XM Radio Inc. has filed Requests for Rehearing of the Board's Institution Decisions in Case Nos. IPR2018-00681 (Paper No. 12), IPR2018-00682 (Paper No. 12), IPR2018-00689 (Paper No. 11), and IPR2018-00690 (Paper No. 16) which have been filed today and are attached hereto.

Based on my professional judgment, I believe the Board panel decisions are contrary to the following decision(s) of the Supreme Court of the United States, the United States Court of Appeals for the Federal Circuit, or the precedent(s) of the Board: *Applications in Internet Time, LLC, v. RPX Corp.*, 897 F.3d 1336 (Fed. Cir. 2018), *Wi-Fi One, LLC, v. Broadcom Corp.*, 878 F.3d 1364 (Fed. Cir. 2018), and *Lumentum Holdings, Inc. v. Capella Photonics, Inc.*, IPR2015-00739, Paper 38 (PTAB Mar. 4, 2016) (precedential opinion).

Petitioner respectfully requests and submits that a Precedential Opinion Panel Review is appropriate for each of the above-referenced Decisions for at least the reasons set forth in Petitioner's Requests for Rehearing including that the Decisions fail to take into account the inquiries required under the Federal Circuit's recent precedent (*Internet Time, LLC v. RPX Corp.*).

Regards,

Jonathan S. Caplan
Lead Counsel for Petitioner, Sirius XM Radio Inc.

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