McPhie, David

Your Honors,

Petitioner Sirius XM respectfully requests the relief outlined herein in IPR2018-00689 and IPR2018-00690 and is available for a call with the Board, should the Board so require, to address the issues identified below.

Based on correspondence with Patent Owner, Patent Owner has indicated that it opposes Sirius XM's request. Sirius XM requested that Patent Owner insert a short description to explain its basis for opposing Sirius XM's request, but Patent Owner refused and instead demanded that the parties present briefing to the Board so that the Board may determine whether to grant the requests below. Sirius XM does not believe briefing is necessary for the Board to grant the requested relief to file replies. Counsel for both parties are available for a call on Monday, July 23rd and Tuesday, July 24th at the Board's convenience.

<u>IPR2018-00689</u> – Petitioner requests permission to submit a reply to Patent Owner's Preliminary Response to address the following:

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. In addition, Sirius XM will explain that, in circumstances such as these, the PTAB routinely grants requests to amend RPI disclosures without affecting the filing date accorded to the petition.

<u>IPR2018-00690</u> – Petitioner requests permission to submit a reply to Patent Owner's Preliminary Response to address the following:

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. In addition, Sirius XM will explain that, in circumstances such as these, the PTAB routinely grants requests to amend RPI disclosures without affecting the filing date accorded to the petition.

2. Patent Owner ignores the Board's explicit instruction, in an e-mail dated June 22, that Patent Owner may not argue any response to Sirius XM's Opposition to Patent Owner's Motion to Dismiss (Paper 9) "in its Patent Owner Response" should "the Board decide[] to institute." Sirius XM will explain and request that Patent Owner's arguments in its Preliminary Response addressing the Motion to Dismiss are incorrect and should be disregarded.

3. Patent Owner presents a legally erroneous request that Sirius XM be prohibited from relying upon its expert declaration in support of its obviousness grounds. Sirius XM will explain that there is no basis for Patent Owner's request.

4. Patent Owner incorrectly asserts that the prior art reference Smallcomb does not qualify as prior art. Sirius XM will explain that Smallcomb is entitled to the date of its provisional application thus rendering it prior art to the challenged patent.

Respectfully submitted,
Shannon Hedvat
Counsel for Petitioner

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Associate

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