

Vakili, Kamran

From: Price, Jeffrey H. <JPrice@KRAMERLEVIN.com>
Sent: Thursday, February 7, 2019 2:00 PM
To: 'Trials'
Cc: Caplan, Jonathan S.; Baghdassarian, Mark; ~Hedvat, Shannon; McPhie, David; Yorks, Ben; Redjaian, Babak; Vakili, Kamran
Subject: IPR2018-00681, -00682, -00689, -00690 - Supplemental Authority
Attachments: IPR2018-00425 - Decision.PDF

Your Honors,

Petitioner, Sirius XM Radio, Inc., writes to notify the panel of supplemental authority bearing on Petitioner's outstanding Requests for Rehearing in the above-identified cases.

The attached decision, *ZTE (USA) Inc. v. Fundamental Innovation Systems Int'l LLC*, IPR2018-00425, Paper 34 (February 6, 2019), provides further legal support for Petitioner's request that, in the event the Board considers Petitioner's original identification of real parties in interest to be inadequate, the Board permit Petitioner to amend its Mandatory Notices to identify additional real parties in interest without changing the Petitions' filing dates.

This new decision fully supports Petitioner's aforementioned request first made in its Reply to Patent Owner's Preliminary Responses and repeated in each of its Requests for Rehearing. *See, e.g.*, IPR2018-00681, Paper 9 at 3-4 and Paper 13 at 7-15. In particular, after the Board found that the petitioner had failed to identified all real parties in interest, the Board concluded that "[o]n the whole, we find it in the interest of justice to allow Petitioner to update its mandatory notices, while maintaining the proceeding's original filing date. Doing so furthers the purpose of 35 U.S.C. § 312(a)(2) and avoids significant prejudice to Petitioner (i.e., dismissal of its Petition), without undue prejudice to Patent Owner." *ZTE* at 8.

Petitioner does not believe any briefing regarding this supplemental authority is necessary. However, should the Board seek briefing on this authority, Petitioner would be happy to provide such a submission. Patent Owner's counsel, copied on this communication, indicated that they object.

Best regards,
Jeff Price
Counsel for Petitioner, Sirius SM Radio, Inc.

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