

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SIRIUS XM RADIO INC.,

Petitioner

v.

FRAUNHOFER-GESELLSCHAFT ZUR FORDERUNG DER
ANGEWANDTEN E.V.,

Patent Owner

Case IPR2018-00690
U.S. Patent No. 6,314,289 B1

**PATENT OWNER'S OBJECTIONS TO EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(b)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Fraunhofer-Gesellschaft Zur Forderung der Angewandten Forschung E.V. (“PO” or “Fraunhofer”), submits the following objections to evidence accompanying the Petitioner’s Reply. These objections are timely under 37 C.F.R. § 42.64(b)(1) because they are being filed within five (5) business days of the February 18, 2020 service of evidence to which the objections are directed.

Fraunhofer reserves the right to present further objections to these or additional Exhibits submitted by Petitioner, as allowed by the applicable rules or other authority, including without limitation upon conclusion of any depositions taken of Petitioner’s witnesses.

Evidence	F.R.E.	Objection(s)
Exhibit 1025	401, 402, 403	At least paragraphs 1-4, 6-8, 12, 13, 16, 35, 36, 42, and 62-110 are improper as they are cited nowhere in the Reply. Moreover, at least paragraphs 3-108 include conclusory statements and/or mischaracterizations of the patent and/or cited art and address new arguments and/or new grounds of alleged invalidity not previously raised in the Petition or Institution Order. Accordingly, these are not relevant to any issue in the case and/or any probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. Nor are these paragraphs properly responsive to the Patent Owner Response.
	701, 702, 703	At least paragraphs 3-108 include conclusory statements and/or mischaracterizations of the

		patent and/or cited art, which are not based on sufficient facts or data, are irrelevant, are not based on a reliable foundation, and/or constitute conclusory opinions without sufficient support. <i>See also Daubert v. Merrell Dow Pharms, Inc.</i> , 509 U.S. 579 (1993).
Exhibit 1026	401, 402, 403	Not relevant to any issue in the case and/or any probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. The exhibit is only used in support of new arguments and/or new grounds of alleged invalidity not previously raised in the Petition or Institution Decision. Moreover, the exhibit is not properly responsive to the Patent Owner Response.
Exhibit 1027	401, 402, 403	Not relevant to any issue in the case and/or any probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. The exhibit is only used in support of new arguments and/or new grounds of alleged invalidity not previously raised in the Petition or Institution Decision. Moreover, the exhibit is not properly responsive to the Patent Owner Response.
Exhibit 1028	401, 402, 403	Not relevant to any issue in the case and/or any probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. The exhibit is only used in support of new arguments and/or new grounds of alleged invalidity not previously raised in the Petition or Institution Decision. Moreover, the exhibit is not properly responsive to the Patent Owner Response.
Exhibit 1031	401, 402, 403	Not relevant to any issue in the case and/or any probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. The

	106	<p>exhibit is cited nowhere in the Petition or Reply. Moreover, the exhibit appears to be an improper attempt to present new, previously undisclosed excerpts from the reference originally cited as Ex. 1008.</p> <p>The exhibit, excerpting from a book, is an incomplete part of a writing.</p>
Exhibit 1032	401, 402, 403	<p>Not relevant to any issue in the case and/or any probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. The exhibit is cited nowhere in the Petition or Reply.</p>

Dated: February 25, 2020

Respectfully submitted,

By: /Ben J. Yorks/

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on February 25, 2020, a copy of the foregoing document **PATENT OWNER'S OBJECTIONS TO EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)** was served, by electronic mail, as agreed to by the parties, upon the following:

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