

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

**SIRIUS XM RADIO INC.'S MOTION FOR *PRO HAC VICE* ADMISSION
OF MARK. A BAGHDASSARIAN UNDER 37 C.F.R. § 42.10(c)**

I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c) and as authorized in the Board’s Notice of Filing Date issued April 4, 2018 (Paper 5) (the “Notice of Filing Date”) Sirius XM Radio Inc. (“Sirius XM” or “Petitioner”) respectfully requests the *pro hac vice* admission of Mark A. Baghdassarian in this proceeding.

II. GOVERNING LAWS AND RULES

Under 37 C.F.R. § 42.10(c), the Board may recognize counsel *pro hac vice* “during a proceeding upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner.” 37 C.F.R. § 42.10(c). Where lead counsel is a registered practitioner, “a motion to appear *pro hac vice* by counsel who is not registered may be granted upon a showing that counsel is an experienced litigation attorney and has an established familiarity with the subject matter at issue in the proceeding.” *Id.*

As stated in the Notice of Filing Date, any motion for *pro hac vice* admission under 37 C.F.R. § 42.10(c) must be filed in accordance with the guidance specified in the “Order – Authorizing Motion for *Pro Hac Vice* Admission” in Case IPR2013-00639, Paper 7. According to that guidance, *pro hac vice* motions can be filed “no sooner than (21) days after service of the petition.”

III. STATEMENT OF FACTS

Based on the following facts, and supported by the Affidavit of Mr. Baghdassarian (“Baghdassarian Aff.”) submitted herewith, Petitioner requests the *pro hac vice* admission of Mr. Baghdassarian in this proceeding:

1. Petitioner’s lead counsel, Jonathan S. Caplan, is a registered practitioner (Reg. No. 38,094).
2. Mr. Baghdassarian is a partner in the Intellectual Property Department in the New York office of the law firm Kramer Levin Naftalis & Frankel LLP (Baghdassarian Aff., ¶ 3).
3. Mr. Baghdassarian is an experienced litigation attorney. He has been practicing law since 1999 and has extensive experience litigating patent infringement cases in many different district courts across the United States. (*Id.*, ¶ 4). Among his experience in patent litigation matters, Mr. Baghdassarian has been trial counsel in several lawsuits, including having active roles in patent-related hearings and pleadings concerning, *inter alia*, patent validity and infringement issues. (*Id.*, ¶ 5).
4. Mr. Baghdassarian has established familiarity with the subject matter at issue in this proceeding. In particular, Mr. Baghdassarian is one of Sirius XM’s lead trial counsel in the co-pending district court litigation, *Fraunhofer-Gesellschaft Zur Forderung der angewandten Forschung e.V. v. Sirius XM Radio*

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Inc., Civil Action No. 1:17-cv-00184 (D. Del.) (the “District Court Litigation”), which involves the same patent at issue in this proceeding (U.S. Patent No. 6,314,289 (the “’289 Patent”)). As lead counsel, he has been actively involved in all aspects of the District Court Litigation including Petitioner’s factual investigation and development of its noninfringement and invalidity positions regarding the claims of the ’289 Patent being challenged in this proceeding. (*Id.*, ¶ 12).

5. Mr. Baghdassarian is a member in good standing of the State Bar of New York and Connecticut. (*Id.*, ¶ 6).

6. Mr. Baghdassarian has never been suspended or disbarred from practice before any court or administrative body. (*Id.*). However, Mr. Baghdassarian did receive an administrative suspension for a misunderstanding on the payment of fees to the State of Connecticut. Once this payment of fees was resolved, the administrative suspension was promptly lifted.

7. No application, on behalf of Mr. Baghdassarian, for admission to practice before any court or administrative body has ever been denied. (*Id.*, ¶ 7).

8. No sanctions or contempt citations have ever been imposed against Mr. Baghdassarian by any court or administrative body. (*Id.*, ¶ 8).

9. Mr. Baghdassarian has read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in part 42 of 37 of C.F.R. (*Id.*, ¶ 9).

10. Mr. Baghdassarian understands that he will be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§ 11.101 *et seq.* and disciplinary jurisdiction under 27 C.F.R. § 11.19(a). (*Id.*, ¶ 10).

11. Mr. Baghdassarian has not applied to appear *pro hac vice* before the Office within the past three years. (*Id.*, ¶ 11).

12. This motion was filed no sooner than 21 days after service of the Petition in this proceeding, which occurred on August 14, 2015.

IV. GOOD CAUSE EXISTS FOR THE *PRO HAC VICE* ADMISSION OF MR. BAGHDASSARIAN IN THIS PROCEEDING

The Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner and to any other conditions as the Board may impose. 37 C.F.R. § 42.10(c). Petitioner's lead counsel, Jonathan S. Caplan, is a registered practitioner. Based on the facts contained herein, as supported by Mr. Baghdassarian's affidavit, good cause exists to admit Mr. Baghdassarian *pro hac vice* in this proceeding.

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