

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 OPPOSITION TO PETITIONER'S MOTION FOR
ADMISSION *PRO HAC VICE* OF MARK BAGHDASSARIAN**

Mail Stop: PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Patent Owner Fraunhofer-Gesellschaft zur Forderung der Angewandten E.V. (“Patent Owner” or “Fraunhofer”) hereby submits its opposition to Petitioner Sirius XM Radio, Inc.’s (“Petitioner” or “Sirius XM”) April 17, 2020 Motion for *Pro Hac Vice* Admission of Mark A. Baghdassarian Under 37 C.F.R. § 42.10(c) (Paper 49). Fraunhofer’s opposition is timely, being within one week from the filing of the underlying motion. *See Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 at 3 (Oct. 15, 2013) (“Parties seeking to oppose a motion for *pro hac vice* admission must file their opposition no later than one week after filing of the underlying motion. No reply to any opposition shall be filed unless authorized by the Board.”).

The basis for Patent Owner’s opposition is Petitioner’s unreasonable and unexplained delay in seeking Mr. Baghdassarian’s admission. Petitioner’s *pro hac vice* motion was not filed until April 17, 2020. Mr. Baghdassarian admits in the affidavit supporting his *pro hac vice* motion that he has acted as “one of Sirius XM’s lead trial counsel in the co-pending district court litigation” which has been pending for at least three years, the original complaint having been filed in 2017. In its February 22, 2018 Petition in this proceeding, Mr. Baghdassarian is listed as backup counsel with “*Pro Hac Vice* to be requested.” Pet. at 3. This IPR was instituted by an order of the Board dated August 19, 2019.

Thus, Petitioner has inexplicably waited for more than **26 months** from the

filing of the Petition and more than **eight months** from institution – after the conclusion of all principal briefing and mere weeks before the currently scheduled date for the final oral hearing – to seek *pro hac vice* admission of Mr. Baghdassarian. Neither Petitioner’s Motion nor the accompanying Affidavit by Mr. Baghdassarian in support of the Motion provides any justification whatsoever (let alone good cause) for this unreasonably long delay. The Board has previously criticized “unreasonable delay in seeking *pro hac vice* admission” where the attorney waited “over seven months” to seek admission with “no explanation for this delay.” *American Megatrends, Inc. v. Kinglite Holdings, Inc.*, IPR2015-01079, Paper 49 at 27 (Oct. 27, 2016). The unexplained delay by Petitioner in this case (over 26 months) is significantly worse.

Moreover, Petitioner will not be prejudiced in any way by denial of the motion. The Petition lists Jonathan S. Caplan as Lead Counsel and both Jeffrey H. Price and Shannon Hedvat as Backup Counsel for Petitioner. Pet. at 3. All three of these existing counsel are already admitted to practice before the U.S. Patent and Trademark Office, and there is no indication that they cannot fully and ably represent Petitioner in these proceedings.

Accordingly, for these reasons, Patent Owner opposes Petitioner’s untimely Motion for Admission *Pro Hac Vice* of Mark Baghdassarian.

Date: April 24, 2020

Respectfully submitted,

/Ben J. Yorks/

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on April 24, 2020, a copy of the foregoing document **PATENT OWNER'S OPPOSITION TO PETITIONER'S MOTION FOR ADMISSION *PRO HAC VICE* OF MARK BAGHDASSARIAN** was served, by electronic mail, as agreed to by the parties, upon the following:

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