

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.

IPR2018-00690
Patent 6,314,289 B1

Before JEFFREY S. SMITH, STACEY G. WHITE, and
MICHELLE N. WORMMEESTER, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

ORDER
Petitioner's Motion for Admission
Pro Hac Vice of Mark A. Baghdassarian
37 C.F.R. § 42.10

Petitioner filed a Motion for *Pro Hac Vice* Admission of Mark A. Baghdassarian in this proceeding. Paper 49 (“Motion”). Patent Owner filed an Opposition to the Motion. Paper 51 (“Opp.”). Petitioner filed a Reply to the Opposition. Paper 55 (“Reply”). The Motion is *granted*.

In its Motion, Petitioner states that there is good cause for the Board to recognize Mr. Baghdassarian during this proceeding because “Mr. Baghdassarian . . . has extensive experience litigating patent infringement cases,” and because “Mr. Baghdassarian has familiarity with the subject matter at issue in this proceeding.” Motion 2. The Motion includes an Affidavit made by Mr. Baghdassarian, attesting to and sufficiently explaining these facts. Ex. 1033. In addition, Mr. Baghdassarian acknowledges that he will be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.* and to disciplinary jurisdiction under 37 C.F.R. § 11.19(a). *Id.*

Upon consideration, Petitioner has demonstrated sufficiently that Mr. Baghdassarian has sufficient legal and technical qualifications to represent Petitioner in this proceeding.

In its Opposition, Patent Owner contends that Petitioner could have filed the Motion twenty-six months earlier, and does not explain the delay. Opp. 2–3 (citing *American Megatrends, Inc. v. Kinglite Holdings, Inc.*, IPR2015-01079, Paper 49 at 27 (Oct. 27, 2016)). Patent Owner also contends that Petitioner will not be prejudiced by denial of the Motion. *Id.*

In its Reply, Petitioner contends that the Motion in *American Megatrends* was filed two days before the subject deposition, thereby precluding the 10 day window during which the petitioner could have opposed the Motion. Reply 1–2. In contrast, Petitioner contends that in this

case, Petitioner filed its Motion with sufficient time for Patent Owner to oppose it and for the Board to rule on it. *Id.* at 2. Petitioner also contends that Patent Owner does not allege any prejudice as a result of the Motion, nor as a result of the timing of the same. *Id.*

In this case, the absence of prejudice to Patent Owner as a result of the Motion, and the absence of prejudice to Patent Owner as a result of the timing of the Motion, lead us to conclude that the Motion should be granted.

It is

ORDERED that Petitioner's motion for *pro hac vice* admission of Mark A. Baghdassarian is granted; Mr. Baghdassarian is authorized to represent Petitioner only as back-up counsel in the instant proceeding;

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner represent it as lead counsel for the instant proceeding;

FURTHER ORDERED that Mr. Baghdassarian is to comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations; and

FURTHER ORDERED that Mr. Baghdassarian is to be subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 et seq.

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