

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SIRIUS XM RADIO, INC.,  
Petitioner

v.

FRAUNHOFER-GESELLSCHAFT ZUR FÖRDERUNG DER  
ANGEWANDTEN FORSCHUNG E.V.,  
Patent Owner.

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IPR2018-00690  
Patent 6,314,289 B1

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Record of Oral Hearing  
Held: May 19, 2020

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

IPR2018 00690  
Patent 6,314,289 B1

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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ON BEHALF OF THE PATENT OWNER:

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The above-entitled matter came on for hearing on Tuesday, May 19, 2020, commencing at 2:00 p.m. EDT, via Video Teleconference.

P-R-O-C-E-E-D-I-N-G-S

2:01 p.m.

JUDGE SMITH: Good afternoon. Welcome to the Patent Trial and Appeal Board. I'm Judge Jeffrey Smith. With me are Judges White and Wormmeester. We are here today to hear IPR 2018-00690. Sirius XM Radio is the Petitioner versus Fraunhofer-Gesellschaft, Patent Owner.

Each party will have one hour total to present its arguments. Petitioner will first present its case regarding the challenged claims. Thereafter, Patent Owner may respond to Petitioner's argument. Petitioner may reserve rebuttal time of no more than half its total argument time to respond to Patent Owner's arguments presented at the hearing. Thereafter, Patent Owner may reserve rebuttal time of no more than half its total argument time to respond to Petitioner's arguments.

Petitioner, please state your name and the names of those who are here with you.

MR. BAGHDASSARIAN: Good afternoon, Your Honor. My name is Mark Baghdassarian from the law firm Kramer Levin Naftalis & Frankel, on behalf of Petitioner Sirius XM Radio, Inc. I am here with my colleagues Jonathan Caplan, Jeffrey Price, and Shannon Hedvat.

JUDGE SMITH: Petitioner, do you wish to reserve time for rebuttal?

1 MR. BAGHDASSARIAN: Yes. Yes, Your Honor. We'd like to  
2 reserve 20 minutes for rebuttal.

3 JUDGE SMITH: Thank you.

4 Patent Owner, please state your name and the names of those you  
5 have here with you.

6 MR. YORKS: This is Ben Yorks of Irell & Manella for  
7 Fraunhofer, and it's just me in the room.

8 JUDGE SMITH: Patent Owner, do you wish to reserve time for  
9 rebuttal?

10 MR. YORKS: We do.

11 JUDGE SMITH: How much time do you want to reserve?

12 MR. YORKS: Maybe 20 minutes.

13 JUDGE SMITH: Okay. We noted that both parties object to the  
14 other party's demonstrative slides. I will mention briefly from the Trial  
15 Practice Guide that demonstrative exhibits used at the final hearing are aids  
16 to oral argument and are not evidence. Demonstrative exhibits cannot be  
17 used to advance arguments or introduce evidence not previously presented in  
18 the record. During an oral hearing, a party may rely upon appropriate  
19 demonstrative exhibits as well as evidence that has been previously  
20 submitted in a proceeding, but may only present arguments relied upon in  
21 the papers previously submitted.

1           During today's hearing, when you are presenting your case, you may  
2           also address your objections to the demonstratives. You may not interrupt  
3           the other party when the other party is presenting its case. We won't rule  
4           today on the objections. Our final decision will consider evidence and  
5           arguments relied upon in the papers previously submitted in the proceeding.

6           Petitioner, you have 60 minutes to present your case. You reserved  
7           20 minutes for rebuttal. So, you have 40 minutes. It's 2:04 right now.  
8           So, you have until 2:44. You may begin when ready.

9           MR. BAGHDASSARIAN: All right. Thank you, Your Honor.  
10           (Whereupon, the above-entitled matter went off the record at 2:04  
11           p.m. and resumed at 2:05 p.m.)

12           JUDGE SMITH: Okay. It's now 2:05. You may begin when  
13           ready. You have until 2:45.

14           MR. BAGHDASSARIAN: All right. Thank you, Your Honor,  
15           and good afternoon, Your Honors.

16           I want to start today with the '289 patent itself. And if you would,  
17           if you have our demonstrative in front of you, I'll just give you a start with a  
18           brief overview on slide No. 2, which we've labeled here as the statement of  
19           our case.

20           And what we're going to be talking about today are three basic  
21           principles. And the first principle here of what the briefing has showed

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