

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
Patent No. 6,314,289

**DECLARATION OF JONATHAN S. CAPLAN IN SUPPORT OF
PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION
TO DISMISS THE PETITION UNDER 35 U.S.C. § 315(b)**

I, Jonathan S. Caplan, make the following declaration under penalty of perjury:

1. I am an attorney at Kramer Levin Naftalis & Frankel LLP, counsel for Petitioner Sirius XM Radio Inc. I have personal knowledge of the facts stated in this Declaration and can testify competently to those facts. I make this Declaration in support of Petitioner's Opposition to Patent Owner's Motion to Dismiss the Petition Under 35 U.S.C. § 315(b).

2. I provide this Declaration in connection with the above-identified *Inter Partes* Review proceeding.

3. Attached hereto as Exhibit 1018 is a true and correct copy of an e-mail correspondence and all attachments thereto, dated February 23, 2018, from me to trials@uspto.gov (the "February E-mail").

4. As explained in the February E-mail, I contacted the PTAB Trial Division, via telephone, on February 23, 2018. I spoke with Mr. Kellogg and inquired regarding the filing status of the instant Petition. In particular, I requested confirmation that payment made on the evening of February 22, 2018 had completed processing. Mr. Kellogg instructed that I submit the substance of the February E-mail, and its attachments, which I promptly did as reflected in Exhibit 1018.

5. Attached hereto as Exhibit 1017 is a true and correct copy of Priority Mail Express Forms reflecting service on Patent Owner's counsel of this Petition on February 22, 2018.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the patent and any inter partes decision issuing thereon.

Executed on June 20, 2018 in New York, New York.

/Jonathan S. Caplan/
Jonathan S. Caplan (Reg. No. 38,094)

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that a true and correct copy of the foregoing Declaration in Support of Petitioner's Opposition to Patent Owner's Motion to Dismiss was served on June 20, 2018, by filing this document through the PTAB E2E System as well as delivering via electronic mail upon the following counsel of record for Patent Owner:

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