

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

**PETITIONER'S MOTION TO SEAL
CERTAIN EXHIBITS UNDER 37 C.F.R. § 42.14**

Pursuant to 37 C.F.R. § 42.14 and 42.14, Petitioner Sirius XM Radio Inc. (“Sirius XM”) hereby moves for entry of the Default Protective Order and to seal a certain Exhibit (referred to herein as the “Subject Exhibit” or “Exhibit 1018”) which is identified below:

Filing/Exhibit	Content	Confidential Information
Exhibit 1018	E-mail Correspondence with Exhibits	Bank Account Numbers, Wire Transfer Numbers

I. GOOD CAUSE EXISTS FOR SEALING CERTAIN CONFIDENTIAL INFORMATION

The Board’s standards for granting motions to seal are discussed in *Garmin International v. Cuozzo Speed Technologies, LLC*, IPR2012-00001 (Paper 34 at 4-5, Mar. 14, 2013). The standard for granting a motion to seal is “good cause.” 37 C.F.R. § 42.54(a). The moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). In particular:

The rules aim to strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.

* * *

Confidential Information: The rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.

35 U.S.C. § 316(a)(7); 37 C.F.R. § 42.54; Office Trial and Practice Guide, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

The Subject Exhibit, particularly at page 3, contains confidential financial account information of Sirius XM’s counsel, requiring that it be designated as “PROTECTIVE ORDER MATERIAL” under Default Protective Order (attached hereto as Exhibit 1019). The Subject Exhibit contains highly confidential information and, in particular, reveals confidential bank account routing numbers and wire transfer reference numbers. The confidential information disclosed in the Subject Exhibit is also outlined in the chart above.

The sealing of the Subject Exhibit is of particular importance because of the otherwise public disclosure of such “truly sensitive information” that the public has no right or interest in.

Granting this Motion will not prejudice or impact this underlying proceeding. The public’s interest in accessing the information requiring that the Subject Exhibit be sealed for the purposes of the patentability of the challenged claims is unquestionably outweighed by the prejudicial effect and competitive harm of disclosing the above described confidential business information of Sirius XM and its counsel.

II. CERTIFICATION OF NON-PUBLICATION

To the best of Sirius XM's knowledge, the confidential information contained in the Subject Exhibit has not been made publicly available.

III. CERTIFICATION OF CONFERENCE WITH OPPOSING PARTY PURSUANT TO 37 C.F.R. § 42.54

Sirius XM, in good faith, met and conferred with Patent Owner regarding the scope of the Default Protective Order. Patent Owner does not object to the entry of the Default Protective Order.

IV. PROPOSED PROTECTIVE ORDER

Sirius XM proposes that the Default Protective Order found in Appendix B of the Trial Practice Guide be entered. A copy of the Default Protective Order is concurrently filed herewith and attached hereto as Exhibit 1019. Patent Owner does not object to the entry of the Default Protective Order.

V. CONCLUSION AND RELIEF REQUESTED

Accordingly, good cause exists to warrant entry of the Default Protective Order and to seal the Subject Exhibit from public disclosure.

Respectfully submitted,

Dated: June 20, 2018

/Jonathan S. Caplan/

Jonathan S. Caplan (Reg. No. 38,094)
Mark Baghdassarian (*pro hac vice*)
Shannon Hedvat (Reg. 68,417)
Jeffrey H. Price (Reg. No. 69,141)
Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, NY 10036
Tel: 212.715.9488

(Case No. IPR2018-00690)

*Attorneys for Petitioner
Sirius XM Radio Inc.*

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