UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD
SIRIUS XM RADIO INC., Petitioner,
r cutioner,
V.
FRAUNHOFER-GESELLSCHAFT ZUR FÖRDERUNG DER ANGEWANDTEN FORSCHUNG E.V.,
Patent Owner.
Case IPR2018-00690
Patent No. 6,314,289

PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO DISMISS THE PETITION UNDER 35 U.S.C. § 315(b)



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#### **TABLE OF AUTHORITIES**

Pag	ge(s)
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Apple Inc. v. Whitserve, LLC, IPR2014-00268, Paper 16 (PTAB Feb. 5, 2014)	4, 10
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Oracle Corp. v. Maz Encryption Techs. LLC, IPR2014-00472, Paper 9 (PTAB May 1, 2014)	10
Terremark North America LLC et al. v. Joao Control & Monitoring Sys., LLC, IPR2015-01482, Paper 10 (PTAB Dec. 28, 2015)	6
Teva Pharms. USA, Inc. v. Monosol RX, LLC, IPR2016-00281, Paper 21 (PTAB May 23, 2016)	5
Statutes	
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Other Authorities	
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## **PETITIONER'S EXHIBIT LIST**

EXHIBIT No.	DESCRIPTION
Exhibit-1013	Declaration of Jonathan S. Caplan
Exhibit-1014	Screenshot of IPR Petition documents filed in AIA Review IPR2018-00690 from June 14, 2018
Exhibit-1015	Screenshot of Documents for AIA Review IPR2018-00690
Exhibit-1016	Docket for AIA Review IPR2018-00690 and payment information from June 15, 2018
Exhibit-1017	<i>Inter Partes</i> Review for Patent No. 6,314,289 mailing receipts to Counsel, postmarked February 22, 2018
Exhibit-1018	February 23, 2018 E-mail from Jonathan Caplan to <u>Trials@uspto.gov</u> regarding filing fees for IPR2018-00690
Exhibit-1019	Proposed Protective Order



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