

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 JEFFREY H. PRICE IN RESPONSE TO PATENT
OWNER'S OBJECTIONS TO EVIDENCE**

I, Jeffrey H. Price, 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. (“Petitioner” or “Sirius XM”). I have personal knowledge of the facts stated in this Declaration and can testify competently to those facts.

2. I provide this Declaration, as Supplemental Evidence, in connection with the instant *inter partes* review proceeding and in response to Patent Owner’s Objections to Evidence (Paper No. 31, the “Objections”).

3. Patent Owner objects to Exhibits 1008 and 1012 under Federal Rule of Evidence 106 stating “[t]he exhibit, excerpting from a book, is an incomplete part of a writing.” Objections at 2.

4. Exhibit 1008 is a true and accurate copy of excerpts from J.G. Proakis, *Digital Communications*, McGraw Hill, Inc., 3rd Ed., 1995. Sirius XM has and will make available the hard copy of Exhibit 1008 for inspection at its Counsel of Record’s offices in the instant proceedings.

5. Exhibit 1012 is a true and accurate copy of excerpts from B. Sklar, *Digital Communications – Fundamentals and Applications*, P T R Prentice Hall, 1988. Sirius XM has and will make available the hard copy of Exhibit 1012 for inspection at its Counsel of Record’s offices in the instant proceedings.

6. Patent Owner objects to Exhibits 1014-1016 under Federal Rules of Evidence 901 and 902 stating “[t]here is insufficient identifying or authenticating information supplied in conjunction with Exhibits 1014-1016 to prove the items are what the proponent claims them to be.” Objections at 2-3.

7. Exhibit 1014 was submitted with Sirius XM’s Opposition to the Patent Owner’s Motion to Dismiss (Paper No. 9). Exhibit 1014 is a true and accurate print out from June 14, 2018, from a PTAB web page associated with the instant proceedings, showing that funds were debited from Petitioner’s Counsel’s USPTO deposit account on February 22, 2018. As shown on Exhibit 1014, this web page was accessed at <https://ptab.uspto.gov/#/external/proceeding/1507775/view> on June 14, 2018.

8. Exhibit 1015 was submitted with Sirius XM’s Opposition to the Patent Owner’s Motion to Dismiss (Paper No. 9). Exhibit 1015 is a true and accurate screenshot of a PTAB web page associated with the instant proceedings showing that the Petition and Exhibits thereto were filed on February 22, 2018. This web page, which now reflects additional filings, was last accessed at <https://ptab.uspto.gov/#/login> on September 13, 2019 and was accessed at the time of Sirius XM’s Opposition to Patent Owner’s Motion to Dismiss.

9. Exhibit 1016 was submitted with Sirius XM’s Opposition to the Patent Owner’s Motion to Dismiss (Paper No. 9). Exhibit 1016 is a true and

accurate print out from a PTAB web page associated with the instant proceedings.

As shown on Exhibit 1016, this web page was accessed at

<https://ptab.uspto.gov/#/external/proceeding/1507775/view> on June 15, 2018.

10. Patent Owner objects to Exhibit 1018 under Federal Rules of Evidence 901 and 902 stating “[t]here is insufficient identifying or authenticating information supplied in conjunction with Exhibit 1018 to prove the item is what the proponent claims it to be.” Objections at 3. Exhibit 1018 was submitted with Sirius XM’s Opposition to the Patent Owner’s Motion to Dismiss (Paper No. 9). Exhibit 1018 is a true and accurate print out of an e-mail correspondence from Sirius XM’s Counsel to the PTAB in connection with the instant proceedings.

Executed on September 16, 2019, in New York, New York.

/Jeffrey H. Price/
Jeffrey H. Price (Reg. No. 69,141)

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 of Jeffrey H. Price in Response to Patent Owner's Objections to Evidence was served on September 17, 2019, by filing this document through the PTAB E2E System as well as delivering via electronic mail upon the following counsel of record for Petitioner:

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