

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

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

Plaintiff,

V.

SIRIUS XM RADIO INC.,

Defendant.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

C.A. No. 17-184-JFB-SRF

NOTICE OF APPEAL

Notice is hereby given that Plaintiff Fraunhofer in the above named case hereby appeals to the United States Court of Appeals for the Federal Circuit from the order and final judgment entered by Judge Bataillon in this action on August 22, 2018 (D.I. 175), granting Defendant Sirius XM's motion to dismiss under Rule 12(b)(6) (D.I. 10, 11) and ruling that Fraunhofer cannot file an amended complaint (*see* D.I. 156, 157). Fraunhofer further appeals from any and all underlying and/or interlocutory decisions, orders, rulings on objections, findings, and conclusions, whether oral or written, including but not limited to Magistrate Judge Fallon's report and recommendation regarding Sirius XM's motion to dismiss and memorandum opinion and order denying Fraunhofer's motion to amend. *See* D.I. 146, 154, 171, 172, 173.

Dated: September 17, 2018

Respectfully submitted,

By: /s/ Brian E. Farnan

Brian E. Farnan (Bar No. 4089)
Michael J. Farnan (Bar No. 5165)
FARNAN LLP
919 N. Market Street, 12th Floor
Wilmington, Delaware 19801
Telephone: (302) 777-0300
Facsimile: (302) 777-0301
bfarnan@farnanlaw.com
mfarnan@farnanlaw.com

Ben J. Yorks (admitted pro hac vice)
David McPhie (admitted pro hac vice)
IRELL & MANELLA, LLP
840 Newport Center Drive, Suite 400
Newport Beach, CA 92660
Telephone: (949) 760-0991
Facsimile: (949) 760-5200
byorks@irell.com
dmcphie@irell.com