



## The CommLaw Group

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January 25, 2008

### VIA ECFS FILING

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

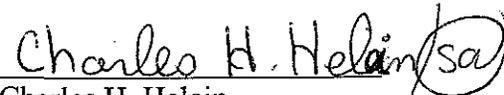
**Re: MB Docket No. 07-57**

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's Rules, this letter and its attachment is submitted ECFS for inclusion in the public record of these proceedings.

This Notice of Ex Parte is being filed because the attached standard FOIA request seeks documents that relate to or may be in the possession of various decision-making personnel in this Docket.

Respectfully submitted,

  
Charles H. Helein  
Counsel for U.S. Electronics, Inc.

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### **FREEDOM OF INFORMATION ACT REQUEST**

January 25, 2008

E-mail: [FOIA@fcc.gov](mailto:FOIA@fcc.gov)

And

Surface mail:

FOIA Public Liaison

Federal Communications Commission

445 12th Street, S.W., Room 1-A836

Washington, D.C. 20554

This FOIA request is made pursuant to 47 C.F.R. § 0.461 for the documents referenced and/or described below. Certain Offices, Bureaus/Divisions of the Commission have been specified based on the belief that these are the primary sources of the documents requested and to provide as much direction as possible so that the furnishing of the documents may be accomplished as quickly as possible. The need for these documents is extremely time sensitive because of their importance to on-going consideration of the Commission on issues in MB Docket No. 07-57.

Please take notice that this request is not limited solely to the documents that exist in the Offices, Bureaus/Divisions specified, but includes all offices, bureaus/divisions of the Commission that have or may have documents responsive to this request, whether such documents in such other Offices, Bureau/Divisions are duplicative of those in the possession of the specified Offices/Bureaus/Divisions or original to such other Offices/Bureau/Divisions.

**Office of the Chairman, Office of Commissioners, Enforcement Bureau**

1. For the period January 1, 2005 to date, each non-privileged, non-exempt document relating to the "Petition for Declaratory Ruling to Clarify the Lack of Enforcement and Implementation of the Interoperable Mandate, FCC Rule 47 CFR sec. 25.144(a)(3)(ii)" filed July 5, 2007 in MB Docket No. 07-57 ("Petition").

**International Bureau, Satellite Division -**

2. For the period 2005 to date, each non-privileged, non-exempt document relating to each document relating to the certifications required of the Satellite Digital Audio Radio Service (SDARS) operators "that their systems include a receiver that will permit end users to access all licensed SDARS systems that are operational or under construction." (See, Letter of Thomas S. Teyz, Chief, Satellite Division to Patrick Donnelly, Executive Vice President and General Counsel, Sirius Satellite Radio, January 28, 2005, a web posted copy of which is attached for reference.)

**International Bureau -**

For the period January 1, 2003 to date, each non-privileged, non-exempt document relating to -

3. Interoperable Technologies, LLC.

**Office of Engineering and Technology -**

For the period January 1, 2003 to date, each non-privileged, non-exempt document relating to -

4. Interoperable Technologies, LLC.

**Enforcement Bureau, Spectrum Enforcement Division -**

For the period January 1, 2005 to date, each non-privileged, non-exempt document relating to -

5. Sirius' and XM's compliance with the equipment authorization rules governing emission limitations for satellite radio receivers, including without limitation, those matters raised and considered in connection with File No. EB-06-SE-250.

**Office of Engineering and Technology -**

For the period January 1, 2005 to date, each non-privileged, non-exempt document relating to -

6. Sirius' and XM's compliance with the equipment authorization rules governing emission limitations for satellite radio receivers.

**Enforcement Bureau, Spectrum Enforcement Division -**

For the period January 1, 2006 to date, each non-privileged, non-exempt document relating to -

7. XM's and Sirius' compliance with their respective authorizations for terrestrial repeaters.

**International Bureau, Satellite Division -**

For the period January 1, 2006 to date, each non-privileged, non-exempt document relating to -

8. XM's and Sirius' compliance with their respective authorizations for terrestrial repeaters.

**Definitions**

For purposes of this request, "document" as used herein means documents supplied by applicants, respondents, or other non-Commission employees to the Commission, its Bureaus and/or their Divisions and the staffs of same, including without limitation, electronic records of any nature, anything reduced to tangible physical form, including, but not limited to, all emails, email attachments, text messages, records, papers and books, transcriptions, pictures, drawings or diagrams of every nature, whether transcribed by hand or by some mechanical, electronic, photographic or other means, as well as sound reproductions of oral statements or conversations by whatever means made, whether in the actual or constructive possession or under control or not, relating, evidencing, constituting or pertaining in any way to the subject matters in connection with which it is used and includes originals, all file copies, all other copies, no matter how prepared, and all drafts prepared in connections with such writing, whether used or not, including by way of illustration and not by way of limitation, the following: emails, email attachments, text messages, books, records, contracts, agreements, memoranda, correspondence, bulletins, circulars, forms, pamphlets, notices, statements, journals, postcards, letters, telegrams, reports, photostats, microfilm, and maps. If a writing and/or document differ in any way from another document including, by way of illustration and not by way of limitation, any postscripts, notation, change or addendum, it shall be considered a separate document.

For purposes of this request, "relating to" means connected with, evidencing, constituting, regarding, discussing, referring to, with respect to, concerning, purporting, consisting of, embodying, establishing, comprising, commenting on, mentioning, responding to, showing, describing, analyzing, reflecting, indicating, presenting, or in any way pertaining to the specified matter.

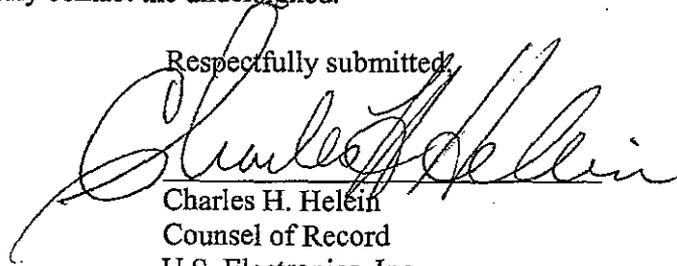
The maximum search fee at this time is \$1,000.00.

Expedited response is requested as the documents and information are relevant to the record being made in MB Docket No. 07-57.

Please identify the privilege and/or exemption relied on, if any, to withhold any document and identify by name or description and the office, Bureau/Division and staff person in whose possession such document resides.

Should any questions arise, kindly contact the undersigned.

Respectfully submitted,



Charles H. Helén  
Counsel of Record  
U.S. Electronics, Inc.  
MB Docket No. 07-57

[PAGE 1]

Federal Communications Commission  
Washington, DC

January 28, 2005

Mr. Patrick L. Donnelly  
Executive Vice President and General Counsel  
SIRIUS Satellite Radio  
1221 Avenue off the Americas  
New York, NY 10020

File Nos: IB Docket No. 95-91; SAT-MOD-20040212-00017;

....

Dear Mr. Donnelly:

As an alternative to the Commission mandating standards for receivers used in providing Satellite Digital Audio Radio Service (SDARS), SDARS operators are to certify to the Commission that their systems include a receiver that will permit end users to access all licensed SDARS systems that are operational or under construction.<sup>1</sup> The Commission authorized Sirius Satellite Radio Inc. (Sirius) in 1997 to provide SDARS in the United States subject to such a certification.<sup>2</sup> The authorization of the other SDARS licensee, XM Radio Inc. (XM Radio), is subject to an identical certification requirement.<sup>3</sup>

In our recent authorization of XM Radio for the launch and operation of replacement satellites,<sup>4</sup> we noted that Sirius and XM Radio have on file a letter dated October 6, 2000, in which the two SDARS licensees announced an agreement to develop a unified standard for satellite radios, and stated their anticipation that interoperable chips capable of receiving both services would be produced in volume in mid-2004.<sup>5</sup> The two licensees also stated their agreement to introduce interim interoperable radios, prior to the introduction of fully-interoperable chipsets, that would include a common wiring harness,

[PAGE 2]

head unit, antenna, and an interchangeable trunk-mounted box containing processing elements for both company's signals.<sup>6</sup>

In order to reflect more accurately the status of SDARS licensees' efforts in developing interoperable receivers, we are requesting that Sirius and XM Radio file an update to the October 6, 2000 Letter in pending proceedings where interoperable receivers are an issue. Although the Commission is cognizant of the differences between the two SDARS licensees' transmission technologies that initially affected the ability to develop receiver interoperability,<sup>7</sup> it is not clear, given the passage of time, that these differences still exist.

For this reason, we request that Sirius submit to the Satellite Division, within 45 days from the date of this letter, the status of Sirius' efforts to develop an interoperable receiver and its time frame for making such an interoperable receiver available to the public.<sup>8</sup>

Please contact JoAnn Lucanik, (202) 418-0873, or Stephen Duall, (202) 418-1103, of my staff if you have any questions regarding this letter.

Sincerely,

Thomas S. Tcyz  
Chief  
Satellite Division

cc: Carl R. Frank  
Counsel  
Wiley Rein & Fielding LP  
1776 K Street, NW  
Washington, DC 20006  
(202) 719-7049 (Fax)

[footnotes for page 1]

1 Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band, . . . .

2 Satellite CD Radio, Inc., Order and Authorization, 13 FCC Rcd 7971, 7995 (para. 57) (Int'l Bur. 1997) ( 1997 Sirius Authorization Order) ("IS FURTHER ORDERED that this authorization is subject to certification by [Sirius] that its final receiver design is interoperable with respect to the [XM Radio Inc.]'s Satellite Digital Audio Radio Service system final receiver design.").

3 American Mobile Radio Corporation, Order and Authorization, 13 FCC Rcd 8829, 8851 (para 54) (Int'l Bur. 1997).

4 XM Radio Inc., Order and Authorization, DA 05-180 (Int'l Bur. Sat. Div, rel. Jan. 26, 2005}

5 Letter from John R. Wormington, XM Radio Inc., and Robert D. Briskman, Sirius Satellite Radio Inc., to Magalie Roman Salas, FCC, dated Oct. 6, 2000 (October 6 Letter).

[footnotes for page 2]

6 October 6 Letter at 4.

7 1997 Sirius Authorization Order, 13 FCC Rcd at 7990 (para. 42).

8 We have also separately instructed XM Radio to file such a status report within the same time period.

[end of letter]