

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: February 4, 2004

In re XM Satellite Radio Inc.

Serial No. 76281215

Filed: 07/06/2001

CYNTHIA D. GREER
SHAW PITTMAN
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WASHINGTON, DC 20037-1122

Janice D. Hyman, Paralegal Specialist:

Applicant filed, on December 10, 2003, a notice of appeal and a request for reconsideration.

Action on the appeal is suspended and the file is remanded to the Trademark Examining Attorney for consideration of the request for reconsideration. The request contains a proposed amendment to the identification of goods. If the amendment is accepted and the mark is found registrable on the basis of this paper, the appeal will be moot. If the amendment is accepted but the refusal to register is maintained, the Examining Attorney should issue an Office Action so indicating, and return the file to the Board. The appeal will then be resumed and applicant allowed a sufficient time in which to file its appeal brief.

If the Examining Attorney determines that the amendment to the identification is not acceptable, the Examining Attorney should issue an Office Action to that effect, indicating the reasons why the proposed amendment is unacceptable and, if possible, advising applicant as to how to cure any deficiency in the identification. The amendment to the identification should be treated as raising a new issue, such that any refusal to accept the proposed identification cannot be made final until applicant is given an opportunity to respond.