

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONOS, INC.,
Petitioner,

v.

IMPLICIT, LLC,
Patent Owner.

IPR2018-00766 (Patent 7,391,791 B2)¹
IPR2018-00767 (Patent 8,942,252 B2)

Before MICHELLE N. WORMMEESTER, SHEILA F. McSHANE, and
NABEEL U. KHAN, *Administrative Patent Judges*.

McSHANE, *Administrative Patent Judge*.

ORDER

Trial Hearing
37 C.F.R. § 42.70

¹ This Order addresses issues that are identical in each of these cases. Therefore, we exercise our discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in any subsequent papers without prior authorization.

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Petitioner and Patent Owner request oral hearings in both these proceedings pursuant to 37 C.F.R. § 42.70(a). '766 IPR, Papers 35, 37; '767 IPR, Papers 29, 31.² Given the overlap in issues in both cases, Petitioner and Patent Owner both request that the cases be addressed in a combined hearing with 30 minutes per case allocated for each party, that is, 60 minutes total per side. *See* Papers 35, 37.

We have reviewed the issues that the parties intend to address and agree that given the overlap in issues it would be more efficient to hear the cases in a combined hearing. Each party will be permitted 60 minutes total to present its arguments for both cases in a combined hearing.

The hearing will commence at 1:00 PM Eastern Time on Monday, June 17, 2019. The oral hearing will be open to the public for in-person attendance on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. Space in the hearing room is limited, and any attendees beyond six per party (including any attorneys who may be appearing) will be accommodated on a first-come, first-served basis.

Petitioner will first present its case as to the challenged claims and grounds with respect to which we instituted trials. Petitioner may reserve rebuttal time. Thereafter, Patent Owner will argue its opposition to Petitioner's case. Petitioner then may use any time it reserved for rebuttal, responding to Patent Owner's specific arguments presented at the oral hearing. Patent Owner will be permitted the opportunity to present a brief sur-rebuttal, if requested, and if a brief time period has been reserved.

At least seven (7) business days prior to the oral arguments, each party shall serve on the other party any demonstrative exhibit(s) it intends to use during the

² Hereafter, we refer to the papers and exhibits filed in Case IPR2018-00766 as representative.

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oral arguments. *See* 37 C.F.R. § 42.70(b). The parties shall confer with each other regarding any objections to demonstrative exhibits, and file demonstrative exhibits with the Board, as a separate exhibit in accordance with 37 C.F.R. § 42.63, at least five business days prior to the hearing.

Demonstrative exhibits are not evidence, but merely are a visual aid at the oral arguments. Demonstrative exhibits may not introduce new evidence or raise new arguments, but instead should cite to evidence in the record. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, Case IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65) and *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, (PTAB Oct. 23, 2013) (Paper 118), for guidance regarding the appropriate content of demonstrative exhibits.

The parties should attempt to resolve any objections to demonstratives prior to involving the Board. For any issue that cannot be resolved after conferring with the opposing party, the parties may email jointly to Trials@uspto.gov a one-page list of objections at least five business days prior to the hearing. The list should identify with particularity which demonstrative exhibits are subject to objection and include a short statement (no more than one short sentence) of the reason for each objection. No argument or further explanation is permitted. We will consider the objections and schedule a conference call, if necessary. Otherwise, we may consider the objections at or after the hearing. Any unresolved objections to demonstrative exhibits not timely presented will be considered waived.

To aid in the preparation of an accurate transcript, each party shall provide paper copies of its demonstratives to the court reporter on the day of the oral arguments. Such paper copies shall not become part of the record of this proceeding. The parties are reminded that each presenter must identify clearly and

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specifically each demonstrative exhibit (e.g., by slide or screen number), paper, or exhibit referenced during the oral arguments to ensure the clarity and accuracy of the reporter's transcript.

We expect lead counsel for each party to be present at oral hearing, although any backup counsel may make the actual presentation, in whole or in part. If lead counsel for either party will not be in attendance at the oral hearing, we should be notified via email communications no later than two (2) business days prior to the oral hearing.

Lead counsel and back-up counsel may use portable computers in the hearing room at the counsel tables and at the hearing room lectern. The parties are reminded to direct any requests for specialized audio-visual equipment to Trials@uspto.gov. Requests for special equipment will not be honored unless presented in a separate communication directed to the above e-mail address not less than five (5) days before the oral arguments. If the request is not received timely, the equipment may not be available on the day of the oral arguments.

ORDER

It is ORDERED that oral argument for these proceedings shall take place beginning at 1:00 PM EST, on Monday, June 17, 2019 on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

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