

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SONOS, INC.,  
Petitioner,

v.

IMPLICIT, LLC,  
Patent Owner.

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

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Record of Oral Hearing  
Held: June 17, 2019

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

IPR2018-00766 (Patent 7,391,791 B2)

IPR2018-00767 (Patent 8,942,252 B2)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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ON BEHALF OF THE PATENT OWNER:

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The above-entitled matter came on for hearing on Monday, June 17, 2019, commencing at 1:00 p.m., at the U.S. Patent and Trademark Office, USPTO Madison Building, 600 Dulany Street, Alexandria, Virginia.

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PROCEEDINGS

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JUDGE McSHANE: You may be seated. Thank you.  
Just bear with us one minute. Thank you.

Okay. Good morning or good afternoon rather everyone. We're here to conduct an oral hearing in the Sonos v. Implicit case. It's IPR 2018-00766 and 2018-00767. We are going to hear both these cases in a combined manner at this hearing. Can we have appearances please? Petitioner?

MR. SHEA: Yes, Your Honor. Rory Shea from Lee Sullivan Shea & Smith, LLP on behalf of Petitioner Sonos, Inc. Also with me is Cole Richter from Lee Sullivan firm as well.

JUDGE McSHANE: Thank you, Mr. Shea.  
And for Patent Owner?

MR. VOSS: Kirk Voss, Davis Firm, on behalf of Implicit, Patent Owner.

JUDGE McSHANE: Thank you. Okay. We included the general order of arguments for today's hearing in the trial order. To briefly review what we're going to do is Petitioner will have -- will present its case. You will have one hour to do so. You may reserve rebuttal time. Patent Owner will then argue its opposition. You'll have one hour total as well and you may reserve surrebuttal time. Then we're going to have Petitioner's rebuttal and Patent Owner's surrebuttal.

A couple of reminders. If you're using

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1 demonstratives or if you're referring to demonstratives, which  
2 you likely probably will be, if you could call out the sheet  
3 number, the page number for that demonstrative it would be  
4 greatly appreciated. It will help the reporter keep the  
5 record correct and also Judge Khan is here remotely and it  
6 will help him to be able to follow the slides. He doesn't see  
7 a real -- I don't believe Judge Khan sees a real time of the  
8 slides. He's got a slide deck on his computer. So please try  
9 to remember the callouts. I know it's difficult particularly  
10 when you get in the heat of the moment. So thank you for  
11 that.

12         And if you could please remember, use the  
13 microphone at the podium. Again, Judge Khan needs to hear it  
14 and, again, it helps the court reporter. And also, when the  
15 other party is on their feet please don't interrupt them with  
16 objections. When you get up for your argument time you can  
17 present your objections. Understood or no?

18         MR. SHEA: Yes, Your Honor.

19         JUDGE McSHANE: Okay. Thank you. And with  
20 that we may proceed. Petitioner, Mr. Shea, when you're ready.

21         MR. SHEA: Thank you, Your Honor.

22         JUDGE McSHANE: Do you reserve rebuttal time?

23         MR. SHEA: Yes, I'm going to reserve 20 minutes for  
24 rebuttal time, Your Honor.

25         JUDGE McSHANE: What I'm going to do, Mr. Shea,  
26 is I'm going to just run this clock which you should be able

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1 to see here, I think, somewhere. Do you see the clock?

2 MR. SHEA: The only clock I see is back here.

3 JUDGE McSHANE: All right. Well, let me start  
4 it. Let me see how we go. And I'll keep track and when  
5 you're done I'll just note how much rebuttal time you have  
6 remaining. Okay?

7 MR. SHEA: Okay. Thank you, Your Honor.

8 JUDGE McSHANE: Thank you.

9 MR. SHEA: Good morning, Your Honors. Sonos' IPR  
10 petitions in this case establish that every challenged claim  
11 of Implicit's patents were unpatentable. Specifically the IPR  
12 petition for the 791 Patent established that Janevski  
13 anticipates every claim of that patent and the  
14 petition for the 252 Patent establishes that Janevski in  
15 combination with one of the clock sync references or any of  
16 the clock sync references establishes unpatentability of every  
17 challenged claim of the 252 Patent. And I apologize. I'm  
18 looking at Slide 2 right now on the screen which highlights  
19 that issue.

20 Sonos -- both those petitions rely on expert  
21 declarations, and we're looking at Slide 3 now, from Dr. Roman  
22 Chertov who provided testimony that a person of  
23 ordinary skill in the art, how they would interpret the  
24 disclosure of the prior art and the claims in this case and he  
25 concluded that every challenged claim of both patents was  
26 unpatentable.

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