

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONOS, INC.,
Petitioner,

v.

IMPLICIT, LLC,
Patent Owner.

Case IPR2018-00767
Patent 8,942,252 B2

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

KHAN, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)

I. INTRODUCTION

A. Background

Sonos, Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) to institute an *inter partes* review of claims 1–3, 8, 11, and 17 (the “challenged claims”) of U.S. Patent No. 8,942,252 B2 (Ex. 1001, “the ’252 Patent”). Implicit, LLC (“Patent Owner”) timely filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). On September 19, 2018, upon consideration of the Petition, the Preliminary Response, and the evidence cited by the parties, we determined that Petitioner established a reasonable likelihood that it would prevail with respect to at least one of the claims challenged in the Petition and instituted review to determine the patentability of the challenged claims on all grounds. Paper 8 (“Dec. Inst.”), 1.

Subsequent to institution, Patent Owner filed a Patent Owner Response (Paper 9, “PO Resp.”). Petitioner filed a Reply (Paper 17, “Pet. Reply”) thereto, and Patent Owner filed a Sur-Reply (Paper 22, “PO Sur-Reply”). Petitioner supports its challenge with the Declaration and Rebuttal Declaration of Roman Chertov, Ph.D. (Exs. 1009, 1022). Patent Owner supports its Response with the Declarations of Edward Balassanian (Ex. 2001), and Atif Hashmi, Ph.D. (Ex. 2080).

Further, Petitioner filed a Motion to Exclude. Paper 30. Patent Owner filed a Response to Petitioner’s Motion to Exclude (Paper 33) and Petitioner filed a Reply in support of its Motion to Exclude (Paper 34). We address these papers below.

An oral hearing was held on June 17, 2019, and the hearing transcript is included in the record. Paper 39 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision, issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73, addresses issues and evidence raised during the *inter partes* review. For the reasons that follow, Petitioner demonstrates by a preponderance of the evidence that claims 1–3, 8, 11, and 17 of the '252 Patent are unpatentable.

B. Related Proceedings

The parties inform us that the '252 Patent is asserted in *Implicit, LLC v. Sonos, Inc.*, No. 1:17-cv-00259-LPS (D. Del.). Pet 2; Paper 5, 2. Additionally, Patent Owner identifies *Implicit, LLC v. D&M Holdings U.S. Inc.*, No. 1:17-cv-00258-LPS (D. Del) as a related matter. Paper 5, 2.

C. The '252 Patent

The '252 Patent is generally directed to “rendering of content at multiple rendering devices in a synchronized manner.” Ex. 1001, 1:18–19. The '252 Patent explains that a multimedia presentation may include different types of content, such as video, audio, and text, that are rendered on different devices (e.g., a video display and a stereo system). *Id.* at 1:23–25. However, their rendering often needs to occur in a synchronized manner because the video, audio, and text content may correspond with each other. *Id.* at 1:25–31. Rendering content on different devices in a synchronized manner may be difficult, however, because the devices may each have different time domains or system clocks that operate at slightly different frequencies. *Id.* at 1:40–44. This can lead video and audio content to gradually appear to be out of synchronization with each other. *Id.* at 1:44–46.

The '252 Patent provides a method and system for “synchronizing the rendering of content at various rendering devices.” *Id.* at 2:17–18. In this

method, “each device has a device time and a rendering time.” *Id.* at 2:18–20. “The device time is the time as indicated by a designated clock (e.g., system clock) of the rendering device. The rendering time is the time represented by the amount of content that has been rendered by that rendering device.” *Id.* at 2:20–23. For example, if a rendering device is displaying 30 frames a second, then after 450 frames have been rendered, the rendering time will be 15 seconds. The corresponding device time may be 30 minutes and 15 seconds, if the device was initialized 30 minutes before rendering began. *Id.* at 2:23–32. “The synchronization system designates one of the rendering devices as a master rendering device and designates all other rendering devices as slave rendering devices. Each slave rendering device adjusts the rendering of its content to keep it in synchronization with the master rendering device.” *Id.* at 2:33–38. The master rendering device sends messages with its device and rendering time to the slave devices, which determine whether they are synchronized with the master device and determine the differential if they are not synchronized. *Id.* at 2:38–43. This determination can be made in a variety of ways that involve comparisons between the rendering times of the master and slave and the device times of the master and slave. *Id.* at 2:46–65. The time differentials between master device time and slave device time can be smoothed using various techniques such as averaging the last few time differentials using a decaying function to limit the impact of the oldest time differential. *Id.* at 7:16–26. Once the device and rendering time differentials are known, the slave rendering devices may adjust their rendering of content as appropriate to compensate for the difference. *Id.* at 4:24–40.

D. Illustrative Claim

Of the challenged claims, claims 1 and 11 are independent claims. Claims 2, 3, and 8 depend from claim 1 and claim 17 depends from claim 11.

Claim 1, reproduced below, is illustrative:

1. A method comprising:

a master rendering device rendering a first content stream; and

sending, from the master rendering device to a first one of a plurality of slave devices, a plurality of master rendering times indicative of statuses of the rendering the first content stream at the master rendering device at different times;

wherein the first slave device is configured to smooth a rendering time differential that exists between the master rendering device and the first slave device in order to render a second content stream at the first slave device synchronously with the rendering of the first content stream at the master rendering device, wherein smoothing the rendering time differential includes calculations using the plurality of master rendering times.

E. Asserted Grounds of Unpatentability

Petitioner challenges claims 1–3, 8, 11, and 17 of the '252 Patent on the following grounds:

Ground	Basis	Challenged Claims	Reference(s)
1	§ 103(a)	1–3, 8, 11, and 17	Janevski ¹

¹ Janevski, U.S. Patent No. 7,269,338, issued Sept. 11, 2007 (Ex. 1007, “Janevski”).

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