

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD**

SONOS, INC.
Petitioner

v.

IMPLICIT, LLC
Patent Owner

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

**PATENT OWNER'S RESPONSE TO INSTITUTION OF *INTER PARTES*
REVIEW OF U.S. PATENT NO. 8,942,252**

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NFC Tech., LLC v. Matal,
871 F.3d 1367 (Fed. Cir. 2017) 15

Slip Track Sys. v. Metal-Lite, Inc.,
304 F.3d 1256 (Fed. Cir. 2002) 14

Transocean Offshore Deepwater Drilling, Inc. v. Maersk Drilling USA, Inc.,
699 F.3d 1340 (Fed. Cir. 2012) 35

I. INTRODUCTION

The Board should conclude that the Challenged Claims in this proceeding are patentable. The Petition hinges on a reference, Janevski, that is not prior to the '252 Patent. Implicit can swear behind Janevski, which concludes these proceedings in Implicit's favor. But, even if Janevski is prior art, the Petition has failed to show that it invalidates the Challenged Claims because the Petition does not make out a *prima facie* showing of obviousness and Implicit has presented objective evidence of nonobviousness that further preclude a finding of obviousness here. For these reasons and the reasons below, Implicit respectfully requests that the Board find patentable the '252 Patent claims.

II. BACKGROUND

A. Implicit and its Development of the Inventions of the '252 Patent

The inventions in this proceeding flow from work that lead inventor Edward Balassanian conducted at the company he founded, BeComm (now Implicit). In 1995, Mr. Balassanian, then in his 20s, left a secure job at Microsoft to start his own company. Ex. 2001, at ¶ 8. He founded BeComm in 1996. *Id.*

Mr. Balassanian founded BeComm to build a new type of operating system that could allow any application or device to interact with any other application or device. Ex. 2001, at ¶ 9. That goal led Mr. Balassanian to re-define how computing devices operated, which required re-architecting a new type of operating system from the ground up. *Id.* He called the new operating system Portal (which then

became Strings), and his work relating to BeComm resulted over 25 U.S. Patents.

Id. at ¶¶ 10, 14. This proceeding involves one of those patents.

In the traditional systems in the 1990s, the operating system interacted with the drivers for the hardware and then, using fixed, defined pathways, relayed the data for an application to use. Ex. 2001, at ¶¶ 11–13. Strings was a fundamentally different architecture. *Id.* at ¶ 14. It could, on-the-fly, provide a data flow from any source to any destination and provide the data in a format that the destination could consume or use. *Id.*

The operating system accomplished that result by utilizing “beads” to process information instead of the fixed processing pathways. Ex. 2001, at ¶ 15. A “bead” was a routine or set of routines that could manipulate computer information, *id.*, such as decoding mp3 audio, Ex. 2076, displaying RGB video on a display device, Ex. 2050, or sending audio to a speaker for playback, Ex. 2051. The system worked by “stringing” together these “beads” to process data from a source to a destination. Ex. 2001, at ¶¶ 11–13; *see, e.g.*, Ex. 2002, at 6–9.

BeComm had an internal prototype of some Strings functionalities by the fall of 1998. Ex. 2001, at ¶ 18. Mr. Balassanian demonstrated various multimedia functionalities of Strings in February 2000 at the DEMO 2000 conference, including using Strings to stream video from a VCR cassette onto a handheld device. *Id.* at ¶¶ 18–20. Strings won Best in Show at DEMO 2000. *Id.* at ¶ 18.

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