

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)

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

PROCEEDINGS

April 4, 2019

THE FOLLOWING PROCEEDINGS were reported telephonically in the above-styled and numbered cause on April 4, 2019, beginning at 10:02 a.m., before Michelle Propps, CSR, in and for the State of Texas, reported by machine shorthand, Houston, Texas, pursuant to the Code of Federal Regulations.

HANNA S. HANNA, INC.

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A P P E A R A N C E S

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Ms. Michelle N. Wormmeeser (via teleconference)
Mr. Nabeel U. Khan (via teleconference)

1 P R O C E E D I N G S

2 YOUR HONOR: This is Judge McShane on the
3 line. On the line as well are Judges Wormmeester and
4 Khan. And we're here on the Sonos v. Implicit matter,
5 IPR2018-00766 and -00767.

6 Who do I have on the line for petitioner?

7 MR. RICHTER: Good morning, everyone.
8 Cole Richter on behalf of petitioner, Sonos.

9 YOUR HONOR: And for patent owner?

10 MR. DAVIS: Good morning. Bo Davis and
11 Christian Hurt on behalf of the patent owner.

12 MR. HURT: Good morning, Your Honor.

13 YOUR HONOR: All right. And somebody has
14 arranged for a court reporter. Who did that?

15 MR. HURT: Patent owner did, Your Honor.

16 YOUR HONOR: Okay. And would you mind --
17 after you get a transcript and share it with petitioner,
18 would you mind entering it on the docket, please?

19 MR. HURT: Yes.

20 MR. DAVIS: Absolutely.

21 YOUR HONOR: Thank you. Well, we're here
22 this morning because we received an email from patent
23 owner on April the 2nd, where patent owner requests
24 authorization to videotape the deposition of Dr. Roman
25 Chertov. And that deposition is set for April 9th,

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1 2019. And petitioner opposes the request.

2 So its patent owner's request here, so
3 could we hear from patent owner as to why you are making
4 this request.

5 MR. DAVIS: Yes, Your Honor. This is Bo
6 Davis on behalf of the patent owner. I'd be happy to
7 address that.

8 Dr. Chertov, his testimony is relevant to
9 these proceedings. And not only is his verbal testimony
10 relevant, but we believe that all of the non-verbal
11 testimony, his demeanor and his appearance in giving
12 testimony, is relevant to credibility and is relevant
13 to -- his credibility and is relevant -- and is
14 something that a factfinder, whether it be this
15 honorable Board or another fact-finding body, should be
16 potentially able to consider and should therefore be
17 preserved as part of this deposition.

18 So we are asking that we be able only, at
19 this time, to preserve the evidence. We are not asking
20 for leave or authorization to use the evidence in this
21 proceeding. We're only asking that the evidence be
22 preserved, and a hundred percent at our expense. And so
23 that's the basis for our request.

24 YOUR HONOR: Okay. And when you say
25 you'll pay for everything, for instance, if there was a

1 video taken, you would provide a copy of that to
2 petitioner at your expense?

3 MR. DAVIS: Yes, Your Honor.

4 YOUR HONOR: Well, can I hear from
5 petitioner why you oppose this request?

6 MR. RICHTER: Yeah. Thank you, Your
7 Honor. This is Cole Richter on behalf of petitioner.
8 Yeah, so, you know, our understanding is Rule 53 states,
9 you know, that the parties may agree to video record a
10 testimony. And, you know, the final rule is
11 limitation -- states that if the nature of the testimony
12 makes direct observation of the witness' demeanor
13 necessary or desirable, then that's the situation that
14 the board would authorize testimony to be video
15 recorded.

16 So, you know, I still really haven't
17 heard, you know, the patent owner articulate why the
18 witness' demeanor -- observation of the witness'
19 demeanor is necessary or desirable in this case. I
20 mean, this is essentially just routine cross examination
21 of an independent witness on his second declaration in
22 this case.

23 You know, counsel for patent owner has
24 stated that they're just simply asking to preserve the
25 video evidence right now and that they would need to

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