

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of  
CERTAIN AUDIO PLAYERS AND  
COMPONENTS THEREOF (I)

Inv. No. 337-TA-1329

**ORDER NO. 20: GRANTING SONOS, INC.’S MOTION FOR RECEIPT OF EVIDENCE WITHOUT A SPONSORING WITNESS [DOC. ID NO. 798071]**

(June 30, 2023)

Pursuant to Ground Rule 8.7.8, Respondent Sonos, Inc. (“Sonos”) filed a motion (“Motion”) to receive into evidence without a sponsoring witness two (2) decisions of the Patent Trial and Appeal Board (“PTAB”) instituting *inter partes* review (“IPR”) proceedings. (Doc. ID No. 798071 (June 7, 2023); Mot. at 1.).

Sonos seeks to admit

- RX-1059, a decision granting institution of *inter partes* review of U.S. Patent No. 10,134,398 (“the ’398 patent”), IPR2023-00118, and
- RX-1060, a decision granting institution of *inter partes* review of U.S. Patent No. 10,593,330, (“the ’330 patent”) IPR2023-00119.

(*Id.*). Complainant Google LLC (“Google”) opposes the Motion, but has not provided a reason to withhold support of the Motion. (*Id.* at 3.).

Ground Rule 8.7.8 states that in the absence of objections and upon good cause being shown, exhibits may be admitted into evidence without a witness. (Order No. 2, Att. A at G.R. 8.7.8.). Sonos submits that good cause exists to grant this Motion because these exhibits are “[r]elevant, material and reliable evidence,” and appropriate for admission into evidence without

a sponsoring witness. (Mot. at 2 (citing 19 C.R.F. § 210.37(b)). Sonos represents that the exhibits are relevant and material because the decisions cite prior art references that are also cited in Sonos' Pre-Hearing Brief. (Mot. at 2 (citing Exs. A-C (RX-1059, RX-1060, Sonos' Pre-Hearing Brief))). Sonos submits that PTAB's holding that "there is a reasonable likelihood that at least one of the challenged claims is unpatentable" is relevant authority. (Mot. at 2 (citing Ex. A at 2, Ex. B at 2, *Certain Wearable Elec. Devices with ECG Functionality*, Inv. No. 337-TA-1266, Comm'n Op at 86-87 (Jan. 20, 2023) (suspending remedial orders pending appeal of PTAB's final written decisions of unpatentability))). Sonos represents that the decisions are reliable because they were issued by the U.S. Patent and Trademark Office and are publicly available. (*See* Attach. A (RX-1059, IPR2023-00118), Attach. B (RX-1060, IPR2023-00119)).

Pursuant to Federal Rule of Evidence 201, judicial notice may be taken for "a fact that is not subject to reasonable dispute because it: (1) is generally known within the trial court's territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b) (2011). PTAB decisions are appropriate for judicial notice. *Certain Moveable Barrier Operator Sys.*, Inv. No. 337-TA-1118, Order No. 23 (Apr. 16, 2019) (taking judicial notice of a PTAB decision as generally known and "its existence and ultimate finding, though not necessarily its analysis, as beyond dispute as part of a self-authenticating public document"); *see also Certain Composite Aerogel Insulation Materials*, Inv. No. 337-TA-1003, Order No. 37 (Apr. 6, 2017) (reopening proceedings to receive two PTAB decisions into evidence and taking judicial notice of them).

PTAB files that are a matter of public record and relevant to asserted patents are appropriate for receipt into evidence without a sponsoring witness. *Certain Computer Network Security Equipment & Sys.*, Inv. No. 337-TA-1314, Order No. 26 at 3 (Jan. 20, 2023) (granting

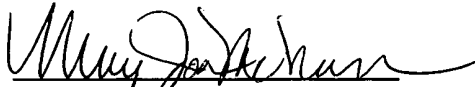
motion for receipt into evidence of exhibits taken from the record of an *inter partes* review proceeding of asserted patents).

The '398 patent and the '330 patent are asserted patents ("Asserted Patents") in the Investigation. 87 Fed. Reg. 56703 (Sept. 15, 2022). Accordingly, their corresponding decisions, attached hereto as Attachments A and B, are relevant and material. The decisions are reliable because they are PTAB files that are a matter of public record.

For good cause shown, Sonos' Motion is hereby *granted*.

This Order should not be interpreted as taking a position on the merits of the content of any of the admitted exhibits. All exhibits identified are available for use in cross-examination.

**SO ORDERED.**

  
MaryJoan McNamara  
Administrative Law Judge