

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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IPR2018-00766 (Patent 7,391,791 B2)  
IPR2018-00767 (Patent 8,942,252 B2)<sup>1</sup>

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

McSHANE, *Administrative Patent Judge*.

ORDER  
Denying Motion to Withdraw and Substitute Counsel  
*37 C.F.R. § 42.10*

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<sup>1</sup> We exercise our discretion to issue one Order to be filed in each proceeding. The parties are not authorized to use this style heading for any subsequent papers.

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

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

Further to the Board's authorization, on April 27, 2022, Implicit, LLC ("Patent Owner") filed Motions to Withdraw and Substitute Counsel in each of the above-listed proceedings ("Motions").<sup>2</sup> Paper 55; Paper 56.

Specifically, Patent Owner requests the withdrawal of lead counsel James Hopenfeld (Paper 55), and backup counsels Christian Hurt, William E. Davis, III, and Kirk A. Voss (Paper 56). Patent Owner further requests the designation of Timothy P. McAnulty, current backup counsel, as lead counsel. Paper 55, 1. Patent Owner indicates that Petitioner does not oppose the Motions. *Id.* For the reason set forth below, we *deny* the Motions without prejudice.

We deny the Motions because Patent Owner has not identified backup counsel to replace Mr. McAnulty, who would become lead counsel if the Motions are granted. *See* 37 C.F.R. § 42.10(a) ("the party *must* designate a lead counsel and *at least one* backup counsel" (emphasis added)). We note that Patent Owner has filed a power of attorney for Mr. McAnulty (Paper 50), but no power of attorney has been filed for a new backup counsel. *See* C.F.R. § 42.10(b) ("A power of attorney must be filed with the designation of counsel").

Accordingly, we deny the Motions without prejudice. We grant leave for Patent Owner to file corrected motions for withdrawal and designations.

It is, therefore,

ORDERED that Patent Owner's Motions are *denied* without prejudice; and

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<sup>2</sup> All citations are to IPR2018-00766 because the filings in IPR2018-00767 have the same substantive content.

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FURTHER ORDERED that Patent Owner is granted leave to file corrected motions.

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

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