

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

IMPLICIT, LLC,
Appellant

v.

SONOS, INC.,
Appellee

**ANDREI IANCU, Under Secretary of Commerce for
Intellectual Property and Director of the United
States Patent and Trademark Office,**
Intervenor

2020-1173, -1174

Appeals from the United States Patent and Trademark
Office, Patent Trial and Appeal Board in Nos. IPR2018-
00766 and IPR2018-00767.

ON MOTION

Before PROST, *Chief Judge*, LOURIE and CHEN, *Circuit
Judges.*

LOURIE, *Circuit Judge.*

O R D E R

Implicit, LLC moves to vacate the decisions of the Patent Trial and Appeal Board and to remand for further proceedings in light of *Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (Fed. Cir. 2019), *cert. granted*, 2020 WL 6037208 (U.S. Oct. 13, 2020). Sonos, Inc. and the Director of the United States Patent and Trademark Office separately oppose the motion. Implicit replies. Sonos moves to stay the appeals pending the Supreme Court of the United States' resolution of *Arthrex*. Implicit opposes the motion to stay. Sonos replies.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) Implicit's motion to vacate and remand is granted to the extent that the Patent Trial and Appeal Board's decisions are vacated, and the cases are remanded to the Board for proceedings consistent with this court's decision in *Arthrex*.

(2) Sonos' motion to stay is denied.

(3) Each side shall bear its own costs.

FOR THE COURT

December 23, 2020
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court