

**UNITED STATES  
PATENT AND TRADEMARK OFFICE**



# Patent Trial and Appeal Board (PTAB) update

Scott R. Boalick, Chief Administrative Patent Judge  
Jacqueline W. Bonilla, Deputy Chief Administrative Patent Judge  
Janet A. Gongola, Vice Chief Administrative Patent Judge  
Scott C. Weidenfeller, Vice Chief Administrative Patent Judge  
Michael W. Kim, Vice Chief Administrative Patent Judge  
Kalyan K. Deshpande, Senior Lead Administrative Patent Judge  
Linda E. Horner, Senior Advisor and Administrative Patent Judge  
August 5, 2021  
Patent Public Advisory Committee quarterly meeting

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# Agenda

- *Arthrex*
- § 325(d) case studies
- Cross-collaboration of training
- Inventor outreach efforts
- Improving the process—data sharing with Patents

# Arthrex

- U.S. Supreme Court issued *United States v. Arthrex, Inc.*, on June 21, 2021.
- Consistent with *Arthrex*, the Office has implemented an interim procedure for Director review.
  - See webpage for useful information regarding implementation of an interim Director review process
    - [www.uspto.gov/patents/patent-trial-and-appeal-board/procedures/uspto-implementation-interim-director-review](https://www.uspto.gov/patents/patent-trial-and-appeal-board/procedures/uspto-implementation-interim-director-review)
  - See *Arthrex* Q&As
    - [www.uspto.gov/patents/patent-trial-and-appeal-board/procedures/arthrex-qas](https://www.uspto.gov/patents/patent-trial-and-appeal-board/procedures/arthrex-qas)
  - See July 1, 2021, Boardside Chat presentation
    - [www.uspto.gov/about-us/events/learn-about-interim-director-review-process-following-us-v-arthrex-inc](https://www.uspto.gov/about-us/events/learn-about-interim-director-review-process-following-us-v-arthrex-inc)



# § 325(d) case studies

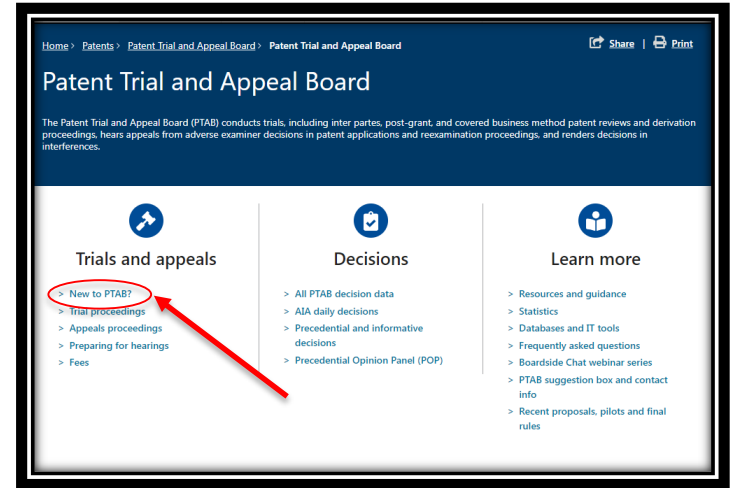
- **Goals**
  - Provide insight as to how panels are applying the *Advanced Bionics* framework;
  - Show how the framework requires a case-specific and fact-intensive inquiry; and
  - Answer questions regarding PTAB's current approach.
- **Case studies**
  - *BALT USA v. MicroVention*, IPR2020-01259, Paper 10 (Jan. 21, 2021);
  - *Roku, Inc. v. Universal Elecs., Inc.*, IPR2019-01615, Paper 12 (Apr. 17, 2020);
  - *NXP USA, Inc. v. Impinj, Inc.*, IPR2020-00544, Paper 8 (Sept. 1, 2020); and
  - *GlaxoSmithKline v. Cipla Limited*, IPR2020-00371, Paper 7 (July 31, 2020).

# Cross-collaboration of training

- PTAB and Patents partner in several ways to provide judges and examiners with training opportunities.
  - PTAB provides training to Patents.
    - Quality Chat webinars
      - April 2021: How to strengthen Examiner Answers; >1,000 total examiner attendees
      - July 2021: Reversals of PTAB decisions by Federal Circuit
    - Detail assignments
      - 20 examiner detailees started in April 2021 for a term of 3 months
    - Hearing viewing
      - April 2021: Examiner viewing day for an ex parte appeal and AIA trial hearings
  - Patents provides training to PTAB.
    - Patent Training Academy: legal training for examiners is made available to PTAB
    - Technical training is made available to PTAB

# Inventor outreach efforts

- New to PTAB website
  - Features appeal brief tool to guide preparation of an appeal brief
- Inventor Digest articles
- Invention-Con workshop
  - Thursday, August 19, at 2 pm ET
- Inventor Hour webinar series
  - Debut on Thursday, August 26
  - Monthly, with content to cover all aspects of PTAB



# Improving the process – data sharing with Patents

- Phase 1: PTAB-Patents have worked, and will continue to work, together to improve the process (via training coordination, data sharing, and communication, including surveys)
- Phase 2: PTAB accounts for Patents' work
  - III. § 325(d) Overview
  - IV. § 325(d) Case Studies
- Phase 3: Patents accounts for PTAB's work



# Questions and comments

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