PTAB Hearing Operations

Erica Swift, Chief Clerk of the Board
Kulunie Cannon, Deputy Clerk for Hearings
Kal Deshpande, Lead Administrative Patent Judge

August 22, 2019
Question/comment submission

To send in questions or comments during the webinar, please email:

PTABBoardsideChat@uspto.gov
Agenda

• Hearing rooms
• Hearing process
• Tips from the bench
• Hearing resources
Board operations - hearings

- IT Systems & Services Branch
- Executive Support Services Branch
- Case Management Branch
- Data Analysis & Process Improvement Branch
- Administrative Management Branch

- Hearing Operations
- Paralegal Operations
Hearing rooms
PTAB Hearing Rooms

- Alexandria, VA (3)
- Dallas, TX (1)
- Denver, CO (1)
- Detroit, MI (1)
- San Jose, CA (1)
Alexandria hearings

Hearing Room A

Hearing Room B

Hearing Room D
Alexandria hearings

- In FY18, PTAB (Alexandria) conducted 1,006 proceedings
  - 591 AIA
  - 385 ex parte appeals
  - 30 ex parte reexams
Regional office hearings

Detroit, MI

San Jose, CA

Dallas, TX

Denver, CO
Regional office hearings

- In FY18, regional offices conducted 170 proceedings
  - 30 AIA
    - all had remote judges participating
  - 140 ex parte appeals
    - 131 had remote judges participating
Technical features of hearing rooms
Hearing process
Request for hearing - appeals

- Parties must request an Oral Hearing
- Parties must pay a hearing fee
Request for hearing - trials

• Parties must request an Oral Hearing
  – Due date specified in Scheduling Order
  – Usually 1 month before the scheduled Oral Hearing

• Request for Oral Hearing *may* include:
  – Requested amount of time for argument
  – Any other requests the Board should be made aware of
Notice of hearing - appeals

• A Notice of Hearing is issued to the Appellant after a hearing is scheduled upon Appellant’s request

• A Response to the Notice of Hearing is required in 21 days
Notice of Oral Hearing form - appeals


The United States Patent and Trademark Office PATENT TRIAL AND APPEAL BOARD

Appellant’s Representative
Appellant:
Application No:
Hearing Room:
Hearing Date:
Hearing Time:
Location:

201X-XXXXXX
APPELLANT
XXXXXXX
Alexandria, Room A
Tuesday July 09, 201X
09:00 AM
Madison Building – East Wing
600 Dulany Street, 9th Floor
Alexandria, Virginia 22313-1450

NOTICE OF HEARING - ALEXANDRIA, VIRGINIA
RESPONSE REQUIRED WITHIN 21 DAYS

The Patent Trial and Appeal Board (PTAB) will hear the above-identified appeal on the date indicated. The hearing will commence at the time set, and as soon as the argument in one appeal concludes, the succeeding appeal will be taken up. The time allowed for argument is 20 minutes, unless additional time is requested and approved before the argument commences. If the application involved in this appeal has been published, the hearing will be open to the public.

Hearing Attendance Confirmation or Waiver

Appellant is required to confirm attendance at the hearing or waive the hearing within 21 days of the mailing date of this notice. Appellant may confirm or waive attendance by completing the "APPELLANT RESPONSE TO NOTICE OF HEARING" and returning it to the PTAB.

Options for Hearing Attendance

If Appellant opts to attend the hearing, Appellant may appear in-person, by telephone, or by video. In Appellant’s response to the NOTICE OF HEARING, Appellant should indicate the manner in which Appellant will appear for the hearing.

In-Person Hearing Attendance

If Appellant selects in-person hearing attendance, Appellant should identify the preferred location. Specifically, Appellant may appear at a hearing room in the USPTO Alexandria headquarters or request to use a hearing room or a conference room in one of the USPTO regional offices located in (1) Detroit, Michigan; (2) Dallas, Texas; (3) Denver, Colorado; and (4) San Jose, California. The PTAB attempts to grant all hearing location requests, subject to space availability.

Usage of a hearing room or a conference room in one of the regional offices is not guaranteed until confirmed by the PTAB. In the event the request cannot be granted, then Appellant is responsible for proposing an alternate option, such as selecting a different USPTO location, by telephone, or by video, which is subject to approval by PTAB. Appellant’s selection and the PTAB’s approval to utilize a hearing room or a conference room does not guarantee that an Administrative Patent Judge assigned to the appeal will be physically present at that location.

If Appellant is no longer interested in having a hearing, then Appellant must file a waiver of the hearing with the PTAB. This allows the panel of Administrative Patent Judges assigned to the appeal to act promptly on the appeal without waiting for the hearing date.

If Appellant fails to respond to this NOTICE OF HEARING, the PTAB will issue a decision on the briefs based on the written record.

Telephonic Hearing Attendance

In lieu of in-person hearing attendance, Appellant may participate in a hearing by telephone. Appellant will receive an Order detailing the telephonic hearing instructions.

Video Hearing Attendance

In lieu of in-person hearing attendance, Appellant may participate in a hearing by video. Appellant will receive an Order detailing the video hearing instructions.

Remote Viewing Request

USPTO regional office locations in (1) Detroit, Michigan; (2) Dallas, Texas; (3) Denver, Colorado; and (4) San Jose, California are generally available for any member of the public to view a hearing, subject to room availability and advance coordination with the PTAB. For example, Appellant's in-house counsel based in Palo Alto, California may wish to view the hearing from the USPTO regional office in San Jose, California rather than travel to a hearing scheduled at the USPTO headquarters in Alexandria, Virginia. To request remote video attendance, Appellant must inform the PTAB of the USPTO regional office location and the number of people planning to attend the hearing from the remote location. The PTAB will notify Appellant if the request for remote viewing is granted. Due to the availability of resources, it may not be possible to grant the request in all instances.

Special Requests

If Appellant has any special requests related to appearing at an in-person hearing, Appellant should inform the PTAB. Special requests may include physical needs that limit mobility, or visual or hearing impairments. Additionally, Appellant may assist the PTAB by indicating ways to accommodate the special requests. The PTAB will make every effort to accommodate the special requests in the manner suggested by Appellant.
Notice of Oral Hearing form - appeals

Submission of Appellant's Demonstratives

If Appellant has any Power Point slides or other demonstratives, they must be provided to the PTAB five (5) days before the hearing date by sending them to PTABHearings@uspto.gov.

Submission of Appellant’s Response to the Notice of Hearing

To return a completed APPELLANT RESPONSE TO NOTICE OF HEARING, Appellant may use one of the following three alternative transmittal methods:


2. By facsimile transmission to:
   • The USPTO Central fax number (official copy): (571) 273-8300; and
   • The PTAB Hearing fax number (courtesy copy): (571) 273-9797.

3. By USPS first class mail to the PTAB mailing address:

   Patent Trial and Appeal Board
   United States Patent and Trademark Office
   P.O. BOX 1450
   Alexandria, Virginia 22313-1450

In all communications relating to this appeal, please identify the appeal number along with the underlying application number.

Questions

For further information about hearings, see 37 CFR § 41.73 and the Hearings section of the PTAB webpage: http://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/hearings. Also, for questions, please contact the PTAB Hearings Clerk at 571-272-9797.
Hearing order - trials

• Hearing order will specify:
  – Time and location of the oral hearing
  – Allocated time to present arguments for each party
  – Order in which arguments will be heard
  – Demonstratives procedure
Hearing order – example for trials

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SYNOPSYS, INC.
Petitioner

v.

MENTOR GRAPHICS CORPORATION
Patent Owner

Case IPR2012-00042
Patent 6,240,376 B1


MEDLEY, Administrative Patent Judge.

ORDER
Trial Hearing
35 U.S.C. § 314(a)(10)

Petitioner and Patent Owner request a hearing pursuant to 37 C.F.R. § 42.70. Papers 43 and 45. The requests are granted.

Each party will have sixty (60) minutes of total time to present arguments. Petitioner will proceed first to present its case. Thereafter,

Case IPR2012-00042
Patent 6,240,376 B1

Patent Owner will present its case. Each party may reserve rebuttal time.

The hearing will commence at 2:00 PM Eastern Time, on November 14, 2013, and it will be open to the public for in-person attendance, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. In-person attendance will be accommodated on a first-come-first-served basis.

The Board will provide a court reporter for the hearing and the reporter’s transcript will constitute the official record of the hearing.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served five business days prior to the hearing. They shall be filed at the Board two business days prior to the hearing, and the parties must initiate a conference call with the Board by two business days prior to the hearing to resolve any dispute over the propriety of each party’s demonstrative exhibits. The parties are directed to IPR2013-00033, Paper 118 (October 23, 2013) regarding the appropriate content of demonstrative exhibits.

The Board expects lead counsel for each party to be present at hearing, although any backup counsel may make the actual presentation, in whole or in part. If any lead counsel will not be in attendance at hearing, the Board should be notified via a joint telephone conference call no later than two days prior to the hearing to discuss the matter.
Party appearance - appeals

• In Person
• Telephonic
• Video from a remote location
• Video from a regional office
Party appearance - trials

• Appear at location identified in the Hearing Order
  – Anybody may request to view an oral hearing at any USPTO Regional Office
Remote viewing – appeals and trials

- Any USPTO Regional Office
  - Subject to room availability

- To request remote video attendance, contact the PTAB
  - Indicate the USPTO Regional Office
  - Indicate the number of people attending

- The PTAB will notify the requesting party if the request for remote viewing is granted
Rescheduling hearings - appeals

• A response to the Notice of Hearing indicating a request to reschedule the hearing should be submitted

• Requests will be accommodated on a case-by-case basis
Rescheduling hearings – trials

• Contact the Board as soon as possible

• The Board will work with the parties to identify an available time
Waivers – appeals and trials

• Appeals
  – Appeal hearings can be waived at any time
  – Appellant must submit a Response to a Notice of Hearing indicating waiver

• Trials
  – Party may submit a waiver or not request an oral hearing
  – Generally, an oral hearing will be held if requested by either party
General rules for hearings

• No recording devices
• Cell phones off
• No eating or drinking
• Business attire for counsel and business casual for observers
• No re-entry after hearing begins
Inclement weather policy

• One-hour delay: on time
• Two-hour delay: one hour after the originally scheduled time
• Three-hour delay: two hours after the originally scheduled time
• Government closure: hearing cancelled if office location where parties are to appear is closed
Demonstratives

- PTAB hearing rooms contain an Elmo projector and laptop projector
- Parties must provide their own laptop
- Currently, PTAB has HDMI, VGA, and Mac connections only
Demonstratives

• Visual demonstratives are permitted
• New information that is not on the record is prohibited
• Animation and video require advance approval
• Submit demonstratives 5 days before hearing
Hearings with remote judges

• Hearings clerk will identify which camera is to be used
• Understand the A/V limitations regarding demonstratives
Tips from the bench
Tips from the bench

• Practice!
• Tell a story
• Prepare effective demonstratives
• Take a deep breath
  – Don’t go too fast
Tips from the bench

• Outline your presentation – have a plan!
• Know the record
  – And stick to the record
• Anticipate questions
  – Be prepared with answers
  – Answer the question asked
Hearing resources
Hearings section of uspto.gov
https://www.uspto.gov/patents-application-process/patenttrialandappealboard
Hearings section of uspto.gov


Hearings

Information concerning presenting oral argument for appeals, interferences, and AIA trials conducted by the Patent Trial and Appeal Board.

Expand all | Collapse all

- Hearing Schedule
- Hearing Guidance
- Hearing Locations
- Forms and Samples

>> Some resources may require browser plugins
Hearings schedule


*Due to last minute cancellations or no shows, there are no guarantees that a hearing on a particular proceeding will occur, although it may be posted.

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<tr>
<th>Proceeding No.</th>
<th>Serial No.</th>
<th>PARTY</th>
<th>Date</th>
<th>Time</th>
<th>Room</th>
<th>Location</th>
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<tr>
<td>IPR 2018-01097</td>
<td></td>
<td>HYPERBRANCH MEDICAL TECHNOLOGY, INC. vs CONFLUENT SURGICAL, INC.</td>
<td>Thursday, September 5, 2019</td>
<td>1:00 PM (EDT)</td>
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<td>ALEXANDRIA, VA</td>
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<td>IPR 2018-01079</td>
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<td>GOOGLE LLC vs AGIS SOFTWARE DEVELOPMENT LLC</td>
<td>Thursday, September 5, 2019</td>
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<td>SAN JOSE, CA / ALEXANDRIA, VA</td>
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<td>UNIFIED PATENTS INC. vs MOBILITY WORKX, LLC</td>
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<td>1:00 PM (EDT)</td>
<td>2139 / SM Rm (MDE 09C28)</td>
<td>DETROIT, MI / ALEXANDRIA, VA</td>
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<td>2019-004963</td>
<td>90013945</td>
<td>ADAM R. STEPHENSON, LTD. vs TASER INTERNATIONAL INC.</td>
<td>Friday, September 6, 2019</td>
<td>10:00 AM (EDT)</td>
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<td>ALEXANDRIA, VA</td>
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<td>GARMIN INTERNATIONAL, INC. vs WISCONSIN ARCHERY PRODUCTS, LLC.</td>
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<td>1:00 PM (EDT)</td>
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<td>ALEXANDRIA, VA</td>
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<td>2018-002713</td>
<td>12999224</td>
<td>ITW MORLOCK GMBH</td>
<td>Monday, September 9, 2019</td>
<td>1:00 PM (EDT)</td>
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<td>2018-002870</td>
<td>14337212</td>
<td>INTERSIL AMERICAS LLC</td>
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<td>1:00 PM (EDT)</td>
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<td>ALEXANDRIA, VA</td>
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Hearings Guide


United States Patent and Trademark Office

The Patent Trial and Appeal Board

Guide to the administration of oral hearings before the Patent Trial and Appeal Board

March 31, 2019
Subscription center
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Question/comment submission

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Thank you!