

Responding to a Notice of Hearing of the Patent Trial and Appeal Board

Types of Oral Hearing

Oral hearings before the Board are conducted by presenting oral argument in person before the Board, via telephone, or by video appearance. The Notice of Hearing provides a mechanism for parties to select one of these three options. A party can choose the type of hearing that most conveniently fits the party's circumstances or geographical location, or can waive the hearing when a party is no longer interested in presenting oral argument.

When a party is not interested in having an oral hearing, filing a waiver of oral hearing with the Board is required. This waiver allows the panel to promptly act on the appeal without having to wait for the oral hearing date. Information regarding the types of hearings is provided below to assist parties in making their choice of hearing.

- **In-Person Hearings** – A party appears before a panel of at least three judges at the designated Board Hearing facilities. Due to space and occupancy limitations, the number of people appearing in person is required to be provided in the form. The Board reserves the right to limit the number of attendees.
- **Telephonic Hearings** – A party participates in the oral hearing via a telephonic connection. Once a telephonic hearing is requested, the Board will provide the party with call-in instructions in advance of the hearing. The call-in instructions include the telephone number and specific time when the party must call. Any time change set forth in the call-in instructions will supersede the time stated in the original Notice of Hearing.
 - The cost of the telephone call is borne by the party requesting the telephonic hearing.
- **Video Hearings** – A party participates via an audio-visual connection. Once a video hearing is requested, the Board will provide a party with further contact instructions for contacting the Board to coordinate an electronic setup. Any time change set forth in the contact instructions will supersede the time stated in the original Notice of Hearing.
 - All arrangements to be made and the expenses involved with the Electronic Hearing, such as the selection of the facility to be used and the cost of the call, must be borne by party requesting the video hearing.
 - If a video connection cannot be achieved with the Electronic Hearing Room, the hearing will proceed as a telephonic hearing with the party then calling the voice telephone number that will be provided in the contact instructions.

Options for Responding to the Notice of Oral Hearing

Parties may submit their response to the Notice of Hearing by any one of the following manners:

1. **E-File**

Complete the bottom of the Notice of Hearing by selecting one of the following alternatives:

- In-Person hearing - ATTENDANCE CONFIRMED
- Telephonic hearing - ATTENDANCE CONFIRMED
- Video hearing - ATTENDANCE CONFIRMED
- HEARING ATTENDANCE WAIVED

Indicate the number of visitors accompanying counsel. A party may use electronic signatures according to the USPTO e-signature protocols set forth at 37 CFR 1.4(d)(2).

Electronically submit the response through the USPTO's Electronic Filing System (EFS) at <http://www.uspto.gov/patents/process/file/efs/index.jsp>. When filing through EFS, one of the following document descriptions: "Confirmation of Hearing By Appellant" or "Waiver of Hearing by Appellant" should be selected in the window for PTAB (or BPAI) filings (see figure below).



For parties' convenience, the corresponding EFS-Web document description is shown below next to the hearing selections that appear in the Notice of Hearing:

- () In-Person hearing - ATTENDANCE CONFIRMED
(EFS-Web selection: Confirmation of Hearing by Appellant)
- () Telephonic hearing - ATTENDANCE CONFIRMED
(EFS-Web selection: Confirmation of Hearing by Appellant)
- () Video hearing - ATTENDANCE CONFIRMED
(EFS-Web selection: Confirmation of Hearing by Appellant)
- () HEARING ATTENDANCE WAIVED
(EFS-Web selection: Waiver of Hearing by Appellant)

2. **FAX**

Complete the bottom of the Notice of Hearing by selecting one of the following alternatives:

- In-Person hearing - ATTENDANCE CONFIRMED
- Telephonic hearing - ATTENDANCE CONFIRMED
- Video hearing - ATTENDANCE CONFIRMED
- HEARING ATTENDANCE WAIVED

Indicate the number of visitors accompanying counsel. Sign and facsimile transmit the form.

When responding by fax, please fax the completed Notice of Hearing to both:

(a) the USPTO Central fax number (official copy) at (571) 273-8300, and

(b) the Patent Trial and Appeal Board fax number (courtesy copy) at (571) 273-9797.

3. **MAIL**

Complete the bottom of the Notice of Hearing by selecting one of:

- In-Person hearing - ATTENDANCE CONFIRMED
- Telephonic hearing - ATTENDANCE CONFIRMED
- Video hearing - ATTENDANCE CONFIRMED
- HEARING ATTENDANCE WAIVED

Indicate the number of visitors accompanying counsel. Sign and submit the form by mail at the PTAB mailing address:

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

Decisions to NOT Go Forward with the Appeal

Should a party desire to abandon the application from which the appeal has been taken, file a Request for Continued Examination (RCE), or otherwise not pursue the appeal, the party should promptly notify the Board. This notification is required regardless of whether the appellant has requested a hearing or has already confirmed or waived attendance at the requested hearing. Such notification allows the appeal to be removed from the panel's docket and thereby conserves judicial resources. Prompt notification also increases the likelihood that the assigned panel already will not have started working on the appeal, and, therefore, not refuse the party's request that the appeal be withdrawn or dismissed without a decision.