

UNITED STATES  
PATENT AND TRADEMARK OFFICE



# 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

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# Question/comment submission

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

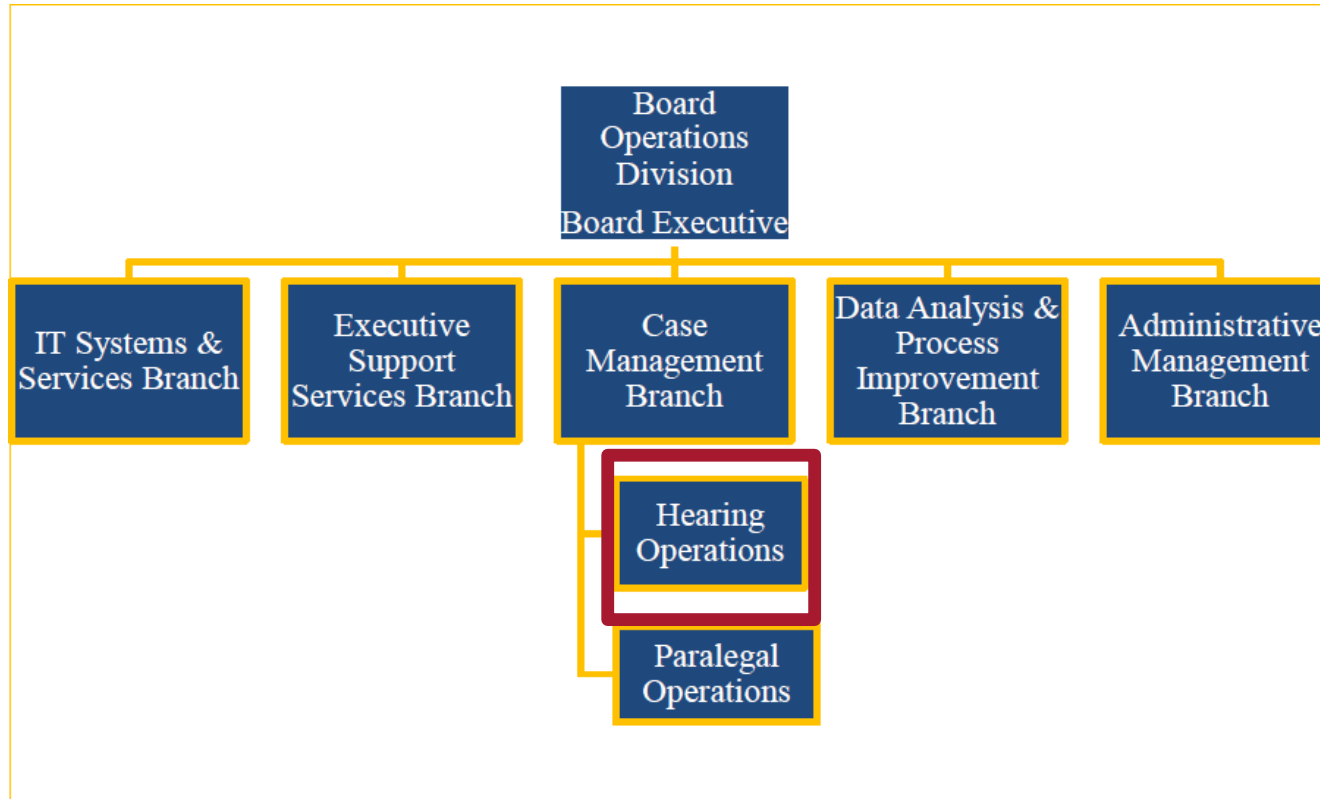
[PTABBoardsideChat@uspto.gov](mailto:PTABBoardsideChat@uspto.gov)



# Agenda

- Hearing rooms
- Hearing process
- Tips from the bench
- Hearing resources

# Board operations - hearings



# Hearing rooms

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# 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



Denver, CO



Dallas, TX



San Jose, CA



# 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

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# Request for hearing - appeals

- Parties must request an Oral Hearing
- Parties must pay a hearing fee

# Request for Oral Hearing form - appeals

<https://www.uspto.gov/sites/default/files/documents/aia0032.pdf>

FTO/AIA/32 (03-13)  
Approved for use through 11/30/2020. CMB 0851-0031  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR ORAL HEARING BEFORE THE PATENT TRIAL AND APPEAL BOARD		Docket Number (Optional)
<small>I hereby certify that this correspondence is being facsimile transmitted to the USPTO, EFS-Web transmitted to the USPTO, or deposited with the United States Postal Service with sufficient postage in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</small> on _____ Signature _____ Typed or printed name _____		<small>In re Application of</small> Application Number _____ Filed _____ For _____ Art Unit _____ Examiner _____
<small>Applicant hereby requests an oral hearing before the Patent Trial and Appeal Board in the appeal of the above-identified application.</small>		
<small>The fee for this Request for Oral Hearing is (37 CFR 41.200)(3))</small>		\$ _____
<input type="checkbox"/> Applicant asserts small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by 50%, and the resulting fee is:		\$ _____
<input type="checkbox"/> Applicant certifies micro entity status. See 37 CFR 1.29. Therefore, the fee shown above is reduced by 75%, and the resulting fee is: <small>Form PTO/SB/15A or B or equivalent must either be enclosed or have been submitted previously</small>		\$ _____
<input type="checkbox"/> A check in the amount of the fee is enclosed.		
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.		
<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.		
<input type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. _____.		
<input type="checkbox"/> Payment made via EFS-Web.		
<input type="checkbox"/> A petition for an extension of time under 37 CFR 1.136(b) (PTO/58/23 or equivalent) is enclosed. <small>For extensions of time in reexamination proceedings, see 37 CFR 1.550.</small>		
<b>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</b>		
<small>I am the</small>		
<input type="checkbox"/> applicant		
<input type="checkbox"/> attorney or agent of record <small>Registration number _____</small>		<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34 <small>Registration number _____</small>
Signature _____		
Typed or printed name _____		
Telephone Number _____		
Date _____		
<small>NOTE: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications. Submit multiple forms if more than one signature is required, see below*.</small>		
<input type="checkbox"/> * Total of _____ forms are submitted.		

This collection of information is required by 37 CFR 41.200(3). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 322 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



# 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

<https://www.uspto.gov/sites/default/files/documents/aia0032.pdf>



Appellant's Representative 123 Main Street Arlington, VA 22202	Appeal No: Appellant: Application No: Hearing Room: Hearing Docket: Hearing Date: Hearing Time: Location:	201X-XXXXXX APPELLANT XX/XX/XXXX Alexandria: Room A Electrical Tuesday July 09, 201X 09:00:00 AM EST <b>Madison Building – East Wing 600 Dulany Street, 9<sup>th</sup> Floor Alexandria, Virginia 22313 -1450</b>
----------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

## 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.

Appeal Number: 201X-XXXXXX  
Application Number: XXXXXX,XXX

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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

Appeal Number: 201X-XXXXXXX  
Application Number: XX/XXX,XXX

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## 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](mailto: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:

1. By the USPTO Electronic Filing System (EFS), available at <http://www.uspto.gov/patents/process/file/efs/>
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

Before HOWARD B. BLANKENSHIP, SALLY C. MEDLEY, and  
JENNIFER S. BISK, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

ORDER  
Trial Hearing  
35 U.S.C. § 316(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

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# 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

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# Hearings section of uspto.gov

<https://www.uspto.gov/patents-application-process/patenttrialandappealboard>

The screenshot shows the USPTO Patent Trial and Appeal Board website. The header includes the USPTO logo, the text "UNITED STATES PATENT AND TRADEMARK OFFICE", and navigation links for "About Us", "Jobs", "Contact Us", and "MyUSPTO". A search bar is also present. The main navigation menu includes "Patents", "Trademarks", "IP Policy", and "Learning and Resources". The breadcrumb trail reads: Home > Patents: Application Process > Patent Trial and Appeal Board > Patent Trial and Appeal Board. The main heading is "Patent Trial and Appeal Board". Below this, a paragraph describes the PTAB's role: "The Patent Trial and Appeal Board (PTAB) conducts trials, including inter partes, post-grant, and covered business method patent reviews and derivation proceedings; hears appeals from adverse examiner decisions in patent applications and reexamination proceedings; and renders decisions in interferences." The content is organized into several columns. The "Hearings" section, which is highlighted with a red box, includes a sub-heading "Hearings" and a description: "Review guidance, schedules, and implement weather advisories for oral arguments for appeals, interferences, and trials." Other sections include "Trials", "Appeals", "Decisions", "Statistics", "About PTAB", "Resources and guidance", "PTAB Data Tools and IT Systems", "PTAB Events", "New Precedential and Informative Decisions", "Trial Practice Guide July 2019 Update", "Notice regarding options for amendments through reissues or reexaminations", "New Pilot Program Concerning Motions to Amend", "Claim Construction Final Rule", "SOP 1 (rev. 15): Assignment of judges to panels", and "SOP 2 (rev. 10): Precedential opinion panel to decide issues of exceptional importance involving policy or procedure".

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Home > Patents: Application Process > Patent Trial and Appeal Board > Patent Trial and Appeal Board

## Patent Trial and Appeal Board

The Patent Trial and Appeal Board (PTAB) conducts trials, including inter partes, post-grant, and covered business method patent reviews and derivation proceedings; hears appeals from adverse examiner decisions in patent applications and reexamination proceedings; and renders decisions in interferences.

### Trials

Manage or review pending inter parte review, post-grant review, covered business method, derivation, and interference proceedings.

### Appeals

Manage or review proceedings directed to adverse decisions of examiners in patent applications, reissue applications, and examinations of issued patents.

### Decisions

Browse public final agency decisions of PTAB, including decisions designated as precedential or informative.

### Statistics

View performance benchmarks of the PTAB, including dispositions, pendency, inventory, and other tracking measures.

### About PTAB

Discover the history of the PTAB and map out its modern structure and mission.

### Resources and guidance

Learn about the Patent Trial and Appeal Board or find key policies, procedures, forms, and guidance.

### PTAB Data Tools and IT Systems

Stay informed regarding maintenance events, obtain direct access to PTAB automated information sharing platforms, subscribe for updates, or provide feedback.

### PTAB Events

Find where our judges are speaking and learn more about events sponsored by PTAB.

### New Precedential and Informative Decisions

**NEW**

### Trial Practice Guide July 2019 Update

**NEW**

### Notice regarding options for amendments through reissues or reexaminations

**NEW**

### New Pilot Program Concerning Motions to Amend

**NEW**

### Claim Construction Final Rule

**NEW**

### SOP 1 (rev. 15): Assignment of judges to panels

**NEW**

### SOP 2 (rev. 10): Precedential opinion panel to decide issues of exceptional importance involving policy or procedure

**NEW**


### Hearings

Review guidance, schedules, and implement weather advisories for oral arguments for appeals, interferences, and trials.

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# Hearings section of uspto.gov

<https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/hearings>



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## Hearings

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



[Expand all](#) | [Collapse all](#)

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# Hearings schedule

<https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/hearings>

\*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.

<b>SEPTEMBER 2019 PTAB Public Hearing Schedule</b>						
Proceeding No.	Serial No.	PARTY	Date	Time	Room	Location
IPR 2018-01097 IPR 2018-01099		HYPERBRANCH MEDICAL TECHNOLOGY, INC. vs CONFLUENT SURGICAL, INC.	Thursday, September 5, 2019	1:00 PM (EDT)	A	ALEXANDRIA, VA
IPR 2018-01079		GOOGLE LLC vs AGIS SOFTWARE DEVELOPMENT LLC	Thursday, September 5, 2019	10:00 AM (PDT) / 1:00 PM (EDT)	322 / B	SAN JOSE, CA / ALEXANDRIA, VA
IPR 2018-01150		UNIFIED PATENTS INC. vs MOBILITY WORKX, LLC.	Thursday, September 5, 2019	1:00 PM (EDT)	2139 / SM RM (MDE 09C28)	DETROIT, MI / ALEXANDRIA, VA
2019-004963	90013945	ADAM R. STEPHENSON, LTD. vs TASER INTERNATIONAL INC.	Friday, September 6, 2019	10:00 AM (EDT)	B	ALEXANDRIA, VA
IPR 2018-01080		GOOGLE LLC vs AGIS SOFTWARE DEVELOPMENT LLC	Friday, September 6, 2019	10:00 AM (PDT) / 1:00 PM (EDT)	322 / B	SAN JOSE, CA / ALEXANDRIA, VA
IPR 2018-01137		GARMIN INTERNATIONAL , INC. vs WISCONSIN ARCHERY PRODUCTS, LLC.	Friday, September 6, 2019	1:00 PM (EDT)	A	ALEXANDRIA, VA
2018-002713	12999224	ITW MORLOCK GMBH	Monday, September 9, 2019	1:00 PM (EDT)	B	ALEXANDRIA, VA
2018-002936	13690034	LIGONG CHEN	Monday, September 9, 2019	1:00 PM (EDT)	B	ALEXANDRIA, VA
2018-002784	14660275	WIDEX A/S	Monday, September 9, 2019	1:00 PM (EDT)	B	ALEXANDRIA, VA
2018-003114	14054556	TDK CORPORATION	Monday, September 9, 2019	1:00 PM (EDT)	B	ALEXANDRIA, VA
2018-002870	14337212	INTERSIL AMERICAS LLC	Monday, September 9, 2019	1:00 PM (EDT)	B	ALEXANDRIA, VA



# Hearings Guide

<https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/hearings>

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

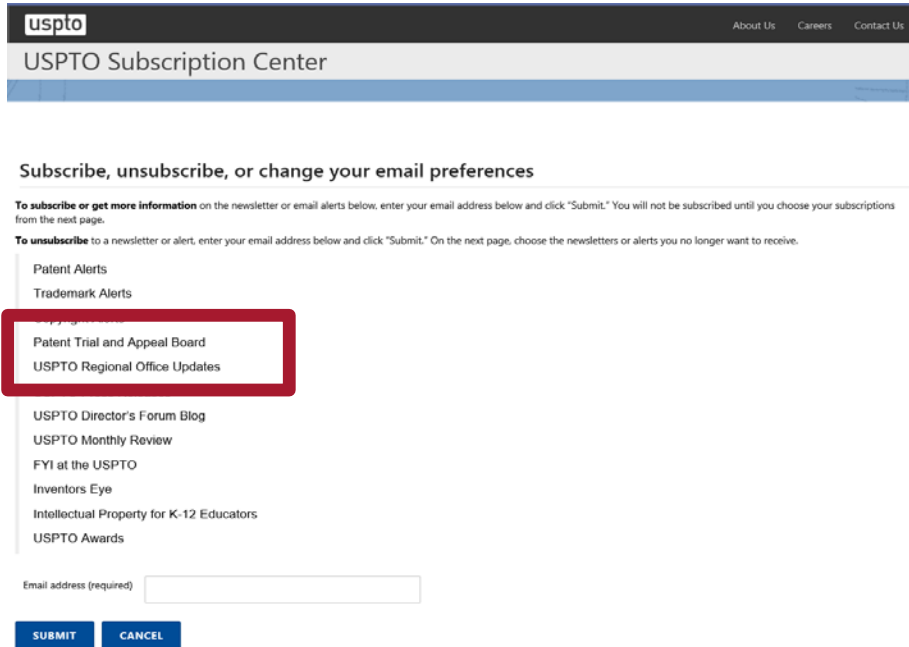
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- USPTO Regional Office Updates**
- USPTO Director's Forum Blog
- USPTO Monthly Review
- FYI at the USPTO
- Inventors Eye
- Intellectual Property for K-12 Educators
- USPTO Awards

Email address (required)

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Your contact information is used to deliver requested updates or to access your subscriber preferences.

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# Question/comment submission

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

[PTABBoardsideChat@uspto.gov](mailto:PTABBoardsideChat@uspto.gov)



# Thank you!

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