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[Home](#) > [Patents](#) > [PTAB](#) > [Trials](#) > Hearing FAQ

Hearing FAQ

Hearing

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▾ Q. Where are hearings held?

A. Hearings may be held in-person at the Office’s headquarters in Alexandria, Virginia or at any of the USPTO regional offices located in Detroit, Denver, Dallas, and San Jose. The location options for the hearing depend on where the judges on the panel are located. For example, if two judges on the panel are in Alexandria, Virginia, and one judge is at the Dallas, Texas, USPTO Regional Office, then the parties may request that the hearing be held either in Alexandria, Virginia, or in Dallas, Texas.

▾ Q. How will I find out when the hearing will take place?

A. The USPTO will issue a Notice of Oral Hearing settings forth the date, time, and hearing room location. This notice typically issues a few weeks before the scheduled date of the hearing.

▾ Q. Can a hearing be rescheduled?

A. Yes, if an appellant finds it absolutely necessary to request a hearing be rescheduled, then the appellant may respond to a Notice of Hearing by: (1) confirming attendance for the originally scheduled hearing; and (2) submitting a request to reschedule the date of the hearing. The rescheduling request may be submitted either simultaneously with the response to the Notice of Hearing or submitted subsequently. Rescheduling and postponement requests are, however, discouraged.

▾ Q. If I request a hearing, can I later decide not to attend?

A. Yes. If an appellant decides that an oral hearing is no longer necessary, then the appellant

can waive the hearing. An appellant should notify the Board as soon as possible after deciding to waive a hearing. The office cannot refund the oral hearing fee in the event that the applicant choose to waive the hearing.

▼ **Q. Can I present slides at the hearing?**

A. Yes, hearing rooms are outfitted with A/V equipment for presenting slides. Appellants must request the audio visual equipment in writing and provide the slides at least five days in advance of their scheduled hearing. No new evidence is permitted.

▼ **Q. Can I bring a witness to a hearing?**

A. Witnesses are generally not permitted in appeal hearings. Witnesses may be permitted in an AIA trial hearing subject to authorization by the Board.

▼ **Q. Will a written transcript of the hearing be available?**

A. Yes, the Board provides court reporters for all hearings, and transcripts are made available to parties usually within four weeks after the hearing.

▼ **Q. Who can attend the hearing?**

A. Most hearings are open to the public and anyone may attend, subject to space limitations of the hearing room. Some hearings may be designated non-public, with only parties associated with the case allowed to observe.

▼ **Q. How do I request a hearing?**

A. Appellants must file a written request for an oral hearing within two (2) months after the date of the examiner's answer or the date of filing a reply brief, whichever is earlier. The written request should be in a separate paper captioned "REQUEST FOR ORAL HEARING." The request should be filed with the appropriate fee.

▼ **Q. Will a hearing be held in an ex parte appeal if requested?**

A. If an appellant requests a hearing, then the Board typically honors that request and schedules a hearing. However, in rare circumstances, if the Board decides that a hearing is not necessary, then the Board will notify the appellant. For example, the Board may decide that an oral hearing is not necessary if the Board has become convinced, prior to hearing, that the examiner's position cannot be sustained.

▼ Q. Will the examiner be at the hearing in an ex parte appeal?

A. Although an examiner can attend a hearing, it is rare that an examiner appears. If the examiner will appear at the hearing, the Board will notify the appellant in advance.

▼ Q. Is there a hearing in every trial?

A. The Board will typically hold a hearing if at least one party requests it.

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