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PTAB COMMITTEE  
July 5, 2021

Hundred and Twentytwo  
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## Insights on Oral Hearings

Charles R. Macedo, Partner,  
co-chair of PTAB committee

Christopher Lisiewski, Associate,  
coordinator of PTAB Committee and Co-Chair of  
Inventor of the Year Committee

**Amster, Rothstein & Ebenstein LLP**



Patent  
Trial And  
Appeal  
Board

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Additionally, the following content is presented solely for the purposes of discussion and illustration, and does not comprise, nor is to be considered, as legal advice.



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**The New York Intellectual Property Law Association<sup>®</sup>**

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**UNITED STATES  
PATENT AND TRADEMARK OFFICE**

**uspto**

# Patent Trial and Appeal Board Remote Hearings

Jessica Kaiser, Lead Administrative Patent Judge  
Erica Swift, Chief Clerk of the Board  
September 7, 2021

UNITED STATES  
PATENT AND TRADEMARK OFFICE



# Agenda

- New developments for PTAB Hearings
- PTAB procedures and statistics
- Best practices

# New Developments

- Video hearings for ex parte appeal and reexamination hearings.
- Video access to PTAB hearings for the public.
- Public may request to view a hearing by submitting a request to [PTABHearings@USPTO.gov](mailto:PTABHearings@USPTO.gov).

# Procedures

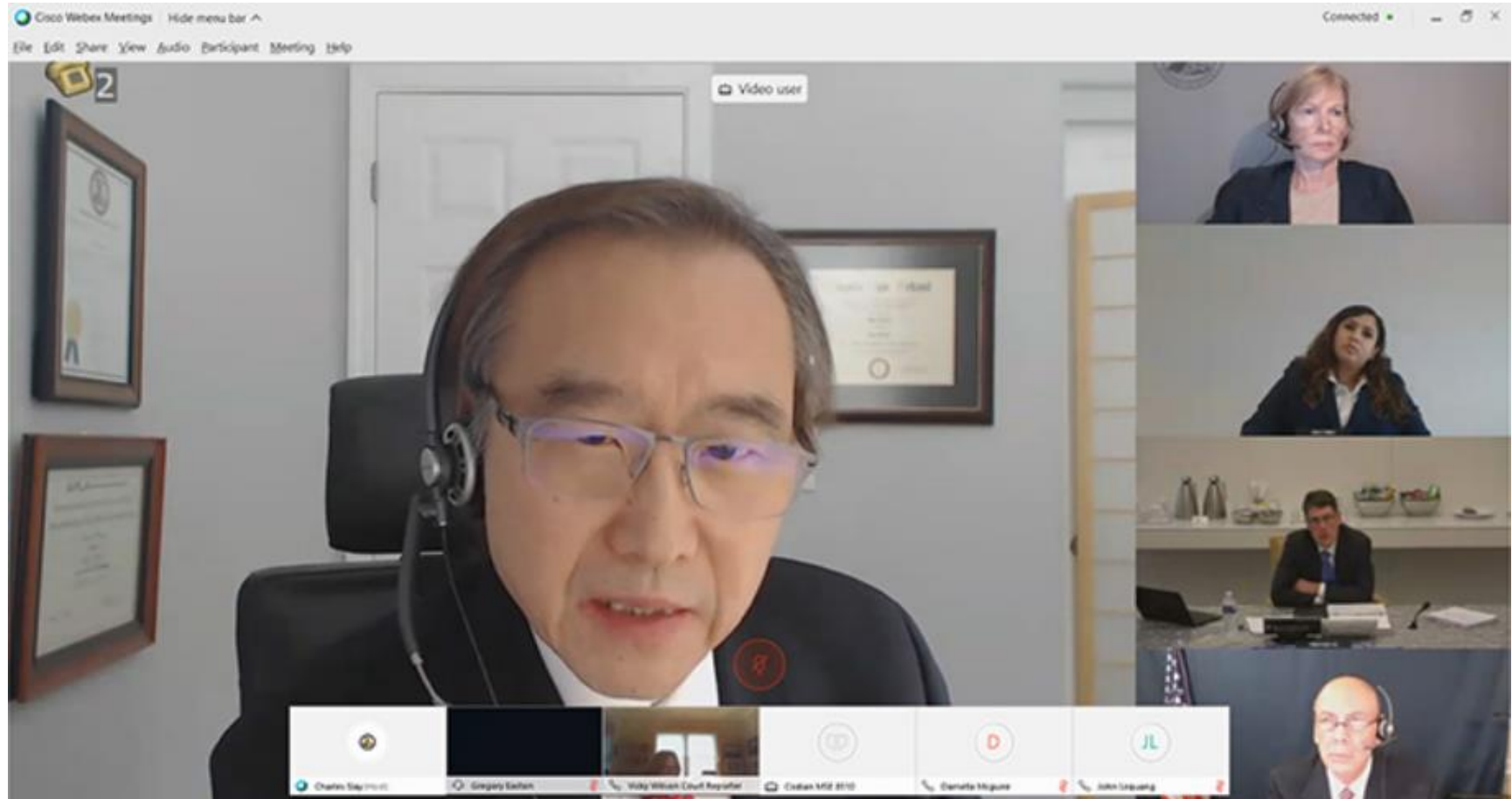
- Hearing Order (AIA) and Notice of Hearing (ex parte)
  - Sent approximately 3 weeks before hearing.
  - Outlines hearing information.
  - Contains information about submitting demonstratives.
- Public may request to view a hearing by submitting a request to [PTABHearings@USPTO.gov](mailto:PTABHearings@USPTO.gov).

# Procedures: AIA trials

- Each party must contact PTAB Hearings at [PTABHearings@uspto.gov](mailto:PTABHearings@uspto.gov) five business days prior to the oral hearing date to receive video set-up information.
- Prior to the hearing, PTAB will provide WebEx connection information and conduct a test with parties.
- On the day of the hearing, all parties are connected to the hearing 30 minutes prior to the designated start time.
  - Counsel and judges are held in separate conferences for privacy reasons until proceedings begin.



# Remote hearings



# Procedures: ex parte appeals

- Appellant can select a video or telephonic hearing upon receipt of the Notice of Hearing.
- PTAB Hearings will provide WebEx connection information to Appellant approximately one week before the hearing.
- On the day of the hearing, PTAB Hearings will call each appellant when it is time to connect to the hearing.
- PTAB will ensure the line is clear before each proceeding begins.



# Procedures: generally

- PTAB closely monitors all hearings and troubleshoots technical issues as they arise.
- If you experience any technical difficulty during your hearing, please let the panel know immediately or contact us at [PTABHearings@uspto.gov](mailto:PTABHearings@uspto.gov).
  - For example, if a party is experiencing poor video quality, the Board may provide alternate dial-in information.

# Remote hearings best practice tips

- For video, dress as you would for an in-person hearing.
- The panel will have access to all papers filed with the Board, including demonstratives.
- There will be no shared screens, so please identify clearly and specifically each demonstrative/paper referenced.

# Remote hearings best practice tips

- Please log on when instructed to allow time for any unexpected technical difficulties.
- Please mute yourself whenever not speaking.
- For best audio quality, a headset is recommended.
- Identify yourself when you speak.
- There may be audio lag. Please observe a pause prior to speaking, so as to avoid speaking over others.



# Remote hearings

- The PTAB held its first all-virtual hearing in March 2020.
- Seamless adjustment to the new format.
  - No hearings were postponed during the transition.

# Remote hearings before pandemic

March 16, 2019 to March 16, 2020

- In the year prior to mandatory remote hearings, 29.8% of appeals and less than 1% of AIA trials were conducted remotely.

Hearing Type	Number of Hearings	Number of Hearings with Remote Counsel
Ex Parte Appeal	907	271
AIA	479	2

# Remote hearings during pandemic

March 16, 2020 – August 31, 2021

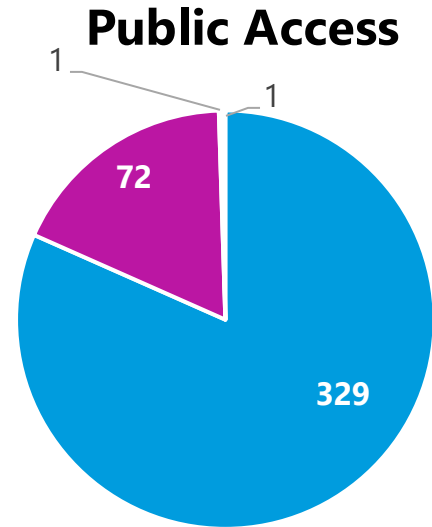
- 100% of hearings conducted remotely
  - Ex parte appeal hearings = 1013
  - AIA trial hearings = 654
  - Reexamination hearings = 27



# Remote hearings during pandemic

March 16, 2020 – August 31, 2021

- Public access provided for 403 hearings.
  - 329 AIA trials
  - 72 ex parte appeals
  - 1 reexamination
  - 1 interference



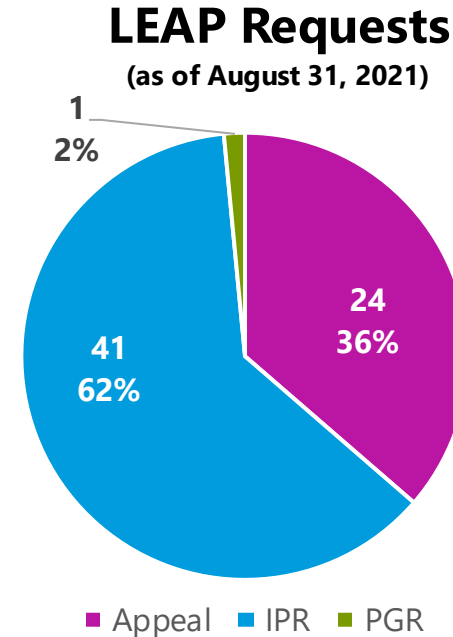
■ AIA ■ Appeal ■ Reexam ■ Interference

- Public may request to listen to a hearing by submitting a request to [PTABHearings@USPTO.gov](mailto:PTABHearings@USPTO.gov).

# Legal Experience and Advancement Program (LEAP)

March 16, 2020 – August 31, 2021

- 66 LEAP requests
- 990 minutes of additional argument time.



- Learn more about LEAP at:  
<https://www.uspto.gov/patents/ptab/leap?MURL=leap>



# CLE Code

Please make sure you include the CLE Code on your evaluation form and return it to [admin@nyipla.org](mailto:admin@nyipla.org) to qualify for NY CLE Credit.

**Questions?**