

UNITED STATES  
PATENT AND TRADEMARK OFFICE





# Dallas Bar Association IP Section Best Practices for Patent Trial and Appeal Board (PTAB) Appeals

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Administrative Patent Judge

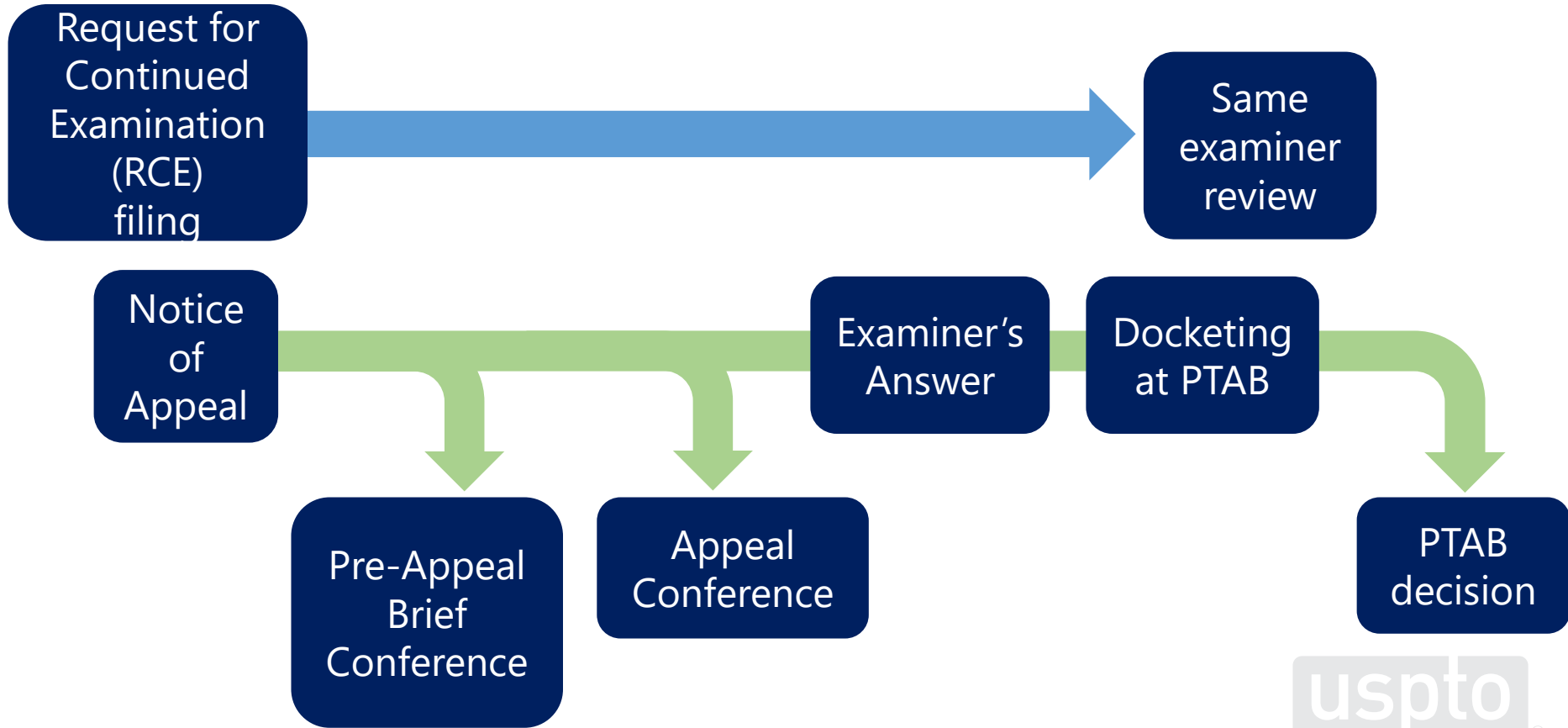
April 25, 2024



UNITED STATES  
PATENT AND TRADEMARK OFFICE ®

**Options after final rejection**

# Steps in review process



# Appeals v. RCEs: Considerations

- Decision makers;
- Scope of evidence and arguments;
- Timing;
- Costs;
- Outcomes; and
- Other

# Decision makers

- **RCEs**

- Typically, same examiner continues examination after entry of responsive submission accompanying the RCE

- **Appeals to PTAB**

- **Pre-Appeal Brief Conference Pilot Program:** An optional review by a three-examiner panel (including supervisor and examiner of record) that may be requested with filing of Notice of Appeal
- **Appeal Conference:** A review by a three-examiner conference (that includes the supervisor and examiner of record) after Appeal Brief
- **Decision:** After docketing at PTAB, typically decided by three administrative patent judges (APJs)



# Scope of evidence and arguments

- **RCEs**

- Can present new evidence, new arguments, and certain new claim amendments
- Can request an examiner interview

- **Appeals to PTAB**

- New evidence and claim amendments are limited after filing an appeal
- Appellant generally may only rely on a new argument in the appeal brief but not in a reply brief (unless a new ground of rejection in the answer)
- Can request an oral hearing



# Timing\*

- **RCEs**

- Currently examiner responds to RCE in about 1.8 months

- **Appeals to PTAB**

- PTAB issues a decision on appeal, on average, about 12 months after the appeal forwarding fee is paid
- Fast track appeals available upon request with payment of petition fee
  - Decision on appeal issued within 6 months of petition (currently under 2 months)

\*Timing reflects amount of time for decision maker to take action





# Costs\*

- **RCEs**

- 1<sup>st</sup> request: \$1,360
- 2<sup>nd</sup> and subsequent requests: \$2,000
- Costs to prepare response to final rejection

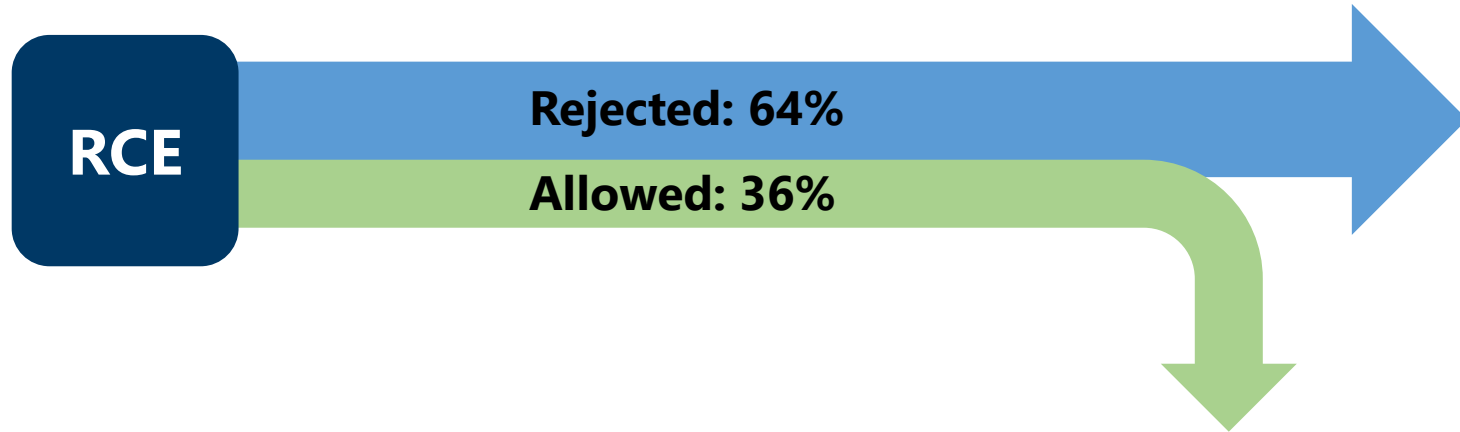
- **Appeals to PTAB**

- Notice of appeal fee: \$840
  - This fee covers three considerations from the PTO: pre-appeal conference, the appeal conference, and the examiner's answer
- Appeal forwarding fee: \$2,360
- Optional Fast-Track Appeals fee: \$420
- Optional request for oral hearing fee: \$1,360
- Costs to prepare appeal brief and reply brief

\*fees shown as undiscounted, large entity cost;  
small entity is 50% discount; micro entity is 75% discount (except Fast-Track fee)

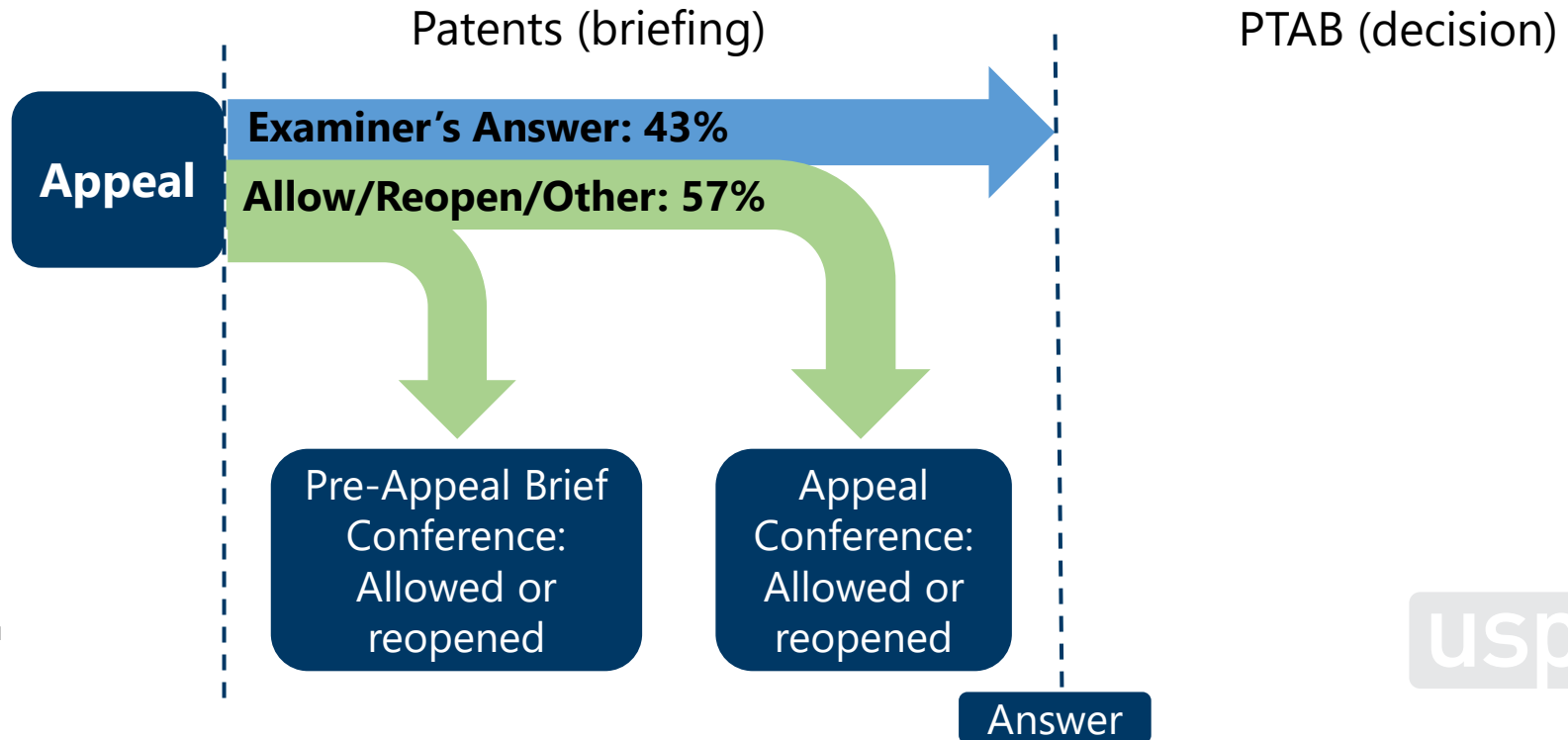


# Next action after RCE



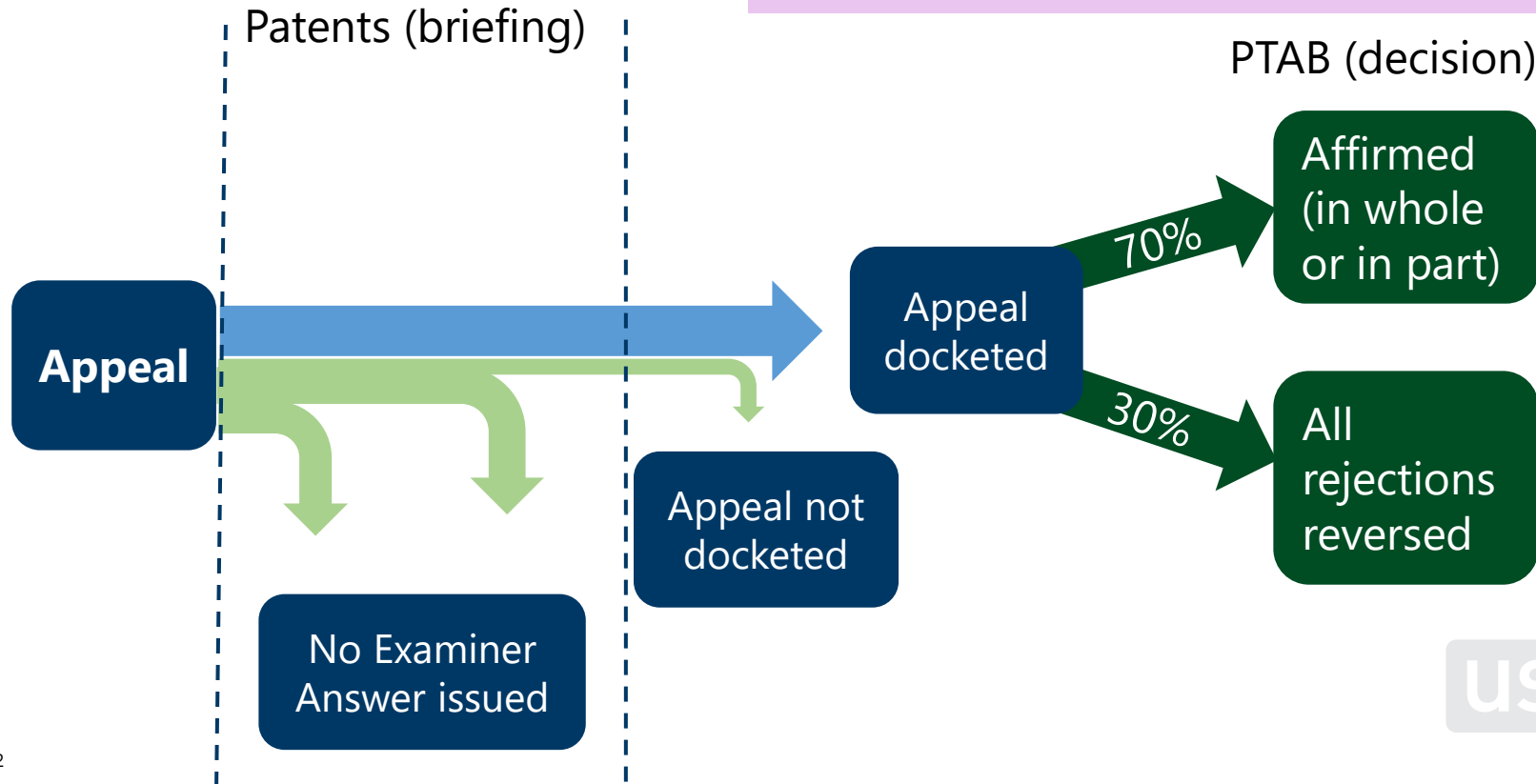
# Appeal: Pre-Board reviews

Only 43% of Appeals result in an Examiner's Answer (FY 2010-2020, +/-3%)

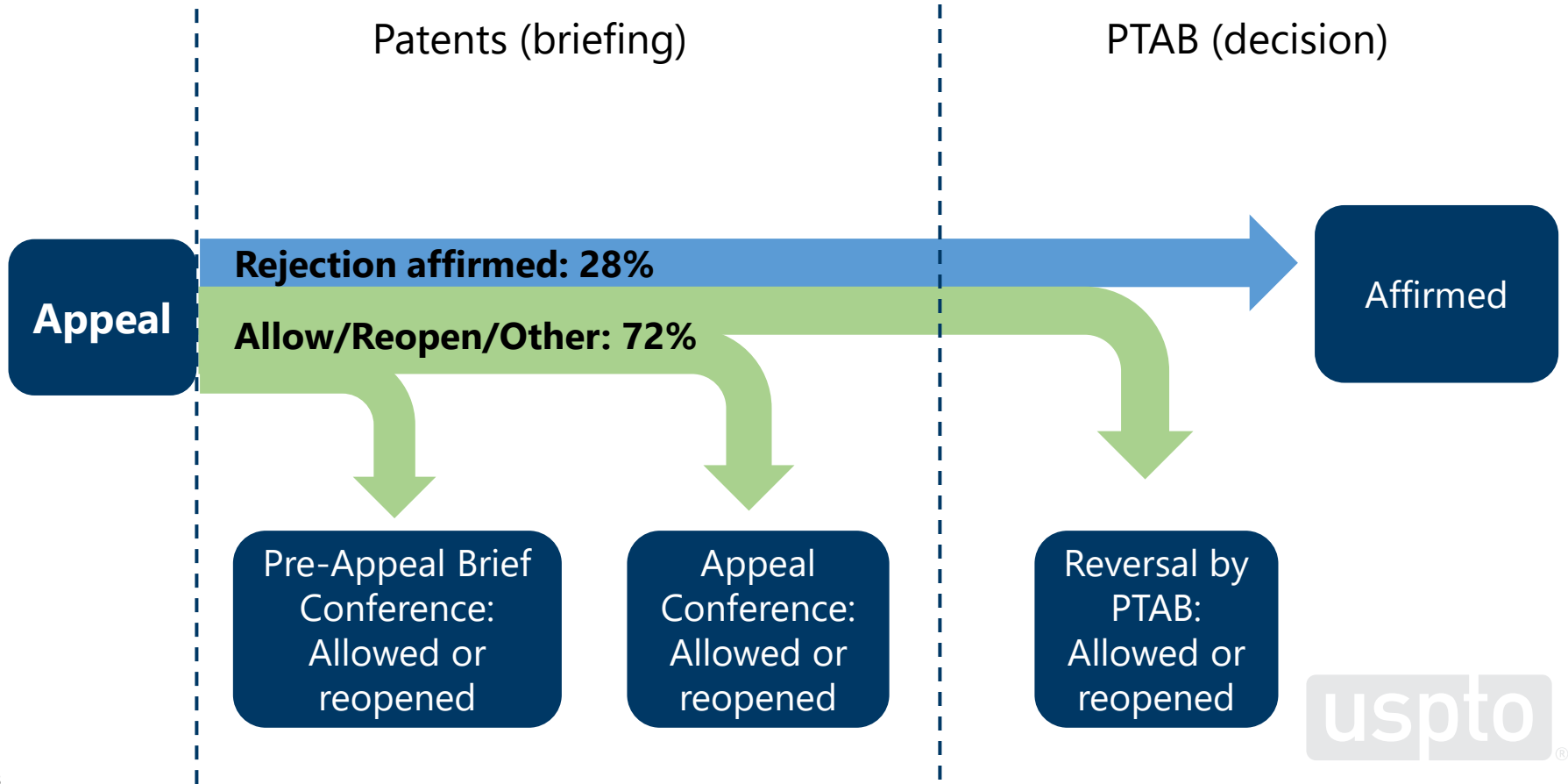


# Appeals: PTAB decision

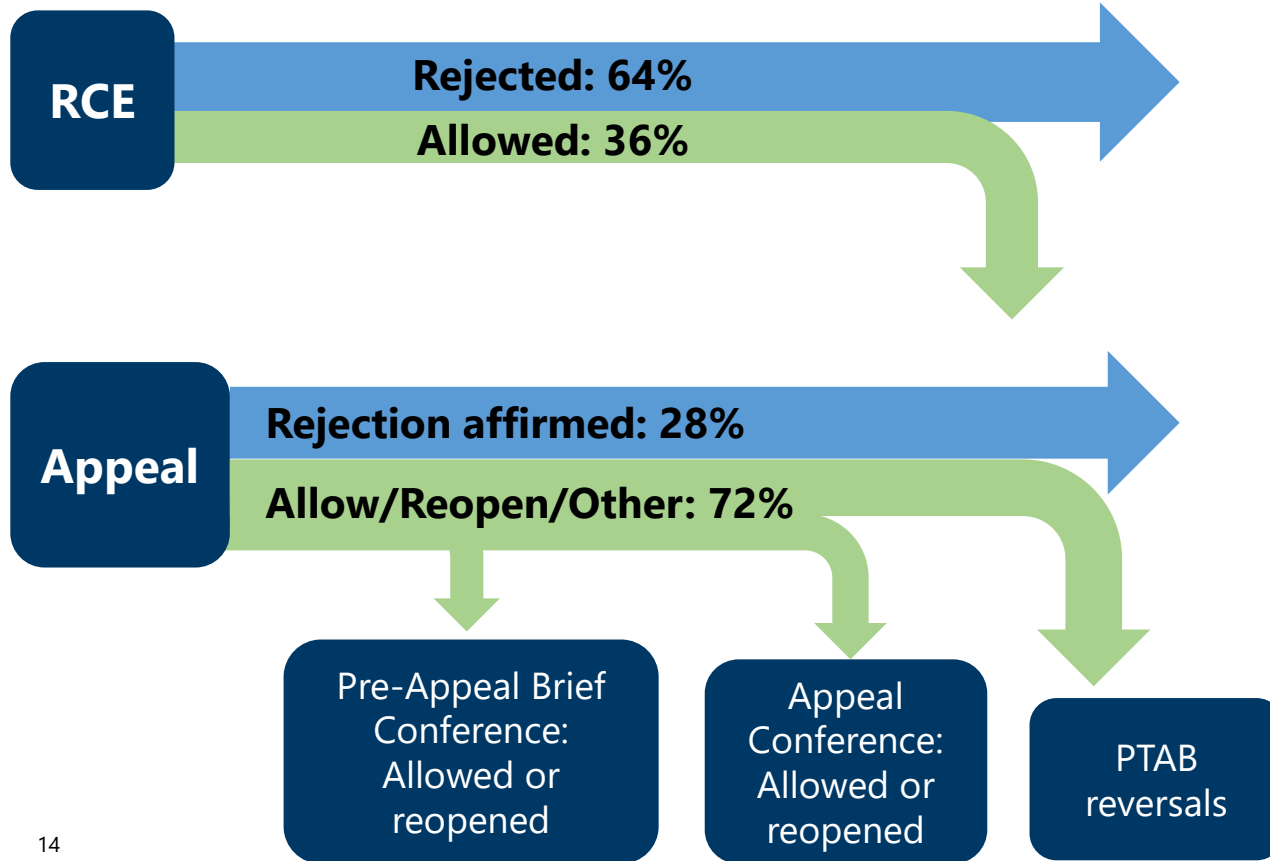
30% of docketed Appeals are fully reversed at PTAB (FY2016-2022, +/- 3.5%)



# Overall outcome after appeal



# Summary



# Other benefits of an appeal

- Unlike for RCE, for a reversal, receive patent term adjustment for entire appeal period
- May take additional issues off the table in a post grant challenge

# Takeaways

- The facts of the case are the best guide to selecting how to proceed after final rejection.
  - Same examiner for RCE versus multiple fresh reviewers for PTAB Appeal
  - Viable amendment or new evidence allowed in RCE
  - Timeframe
    - RCE is ~1.8 months
    - Appeal to PTAB ~12 months after forwarding fee paid.
    - Can be 2 months or less with Fast-Track.
  - Cost
    - Appeals are marginally more expensive compared to RCE
    - Appeal fees: lower upfront cost provides for full briefing
    - Issues may be resolved quickly during briefing for Appeal





# **What to do before an appeal**

# Review the file

- Do you have all the evidence in the record that you need to support your arguments on appeal?
- Are the claims the way you want them for appeal?
- Have all after-final amendments been entered?

# Client approval

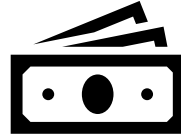


## Why appeal?

- Merits of rejection are reviewed by an independent, neutral tribunal of three administrative patent judges
- Can argue about errors of law, misapplication of law to facts, misunderstandings about the invention or prior art, or misinterpreted claim language

# Client approval

## Costs?



### – Appeal Fees


- Noticing an appeal \$840/\$336/\$168
- Filing a brief in support of an appeal \$0 (what a bargain!)
- Forwarding an appeal to the Board \$2,360/\$944/\$472
- Requesting optional oral hearing \$1,360/\$544/\$272

Source: [www.uspto.gov/learning-and-resources/fees-and-payment/uspto-fee-schedule](http://www.uspto.gov/learning-and-resources/fees-and-payment/uspto-fee-schedule), trial and appeal fees



# Client approval

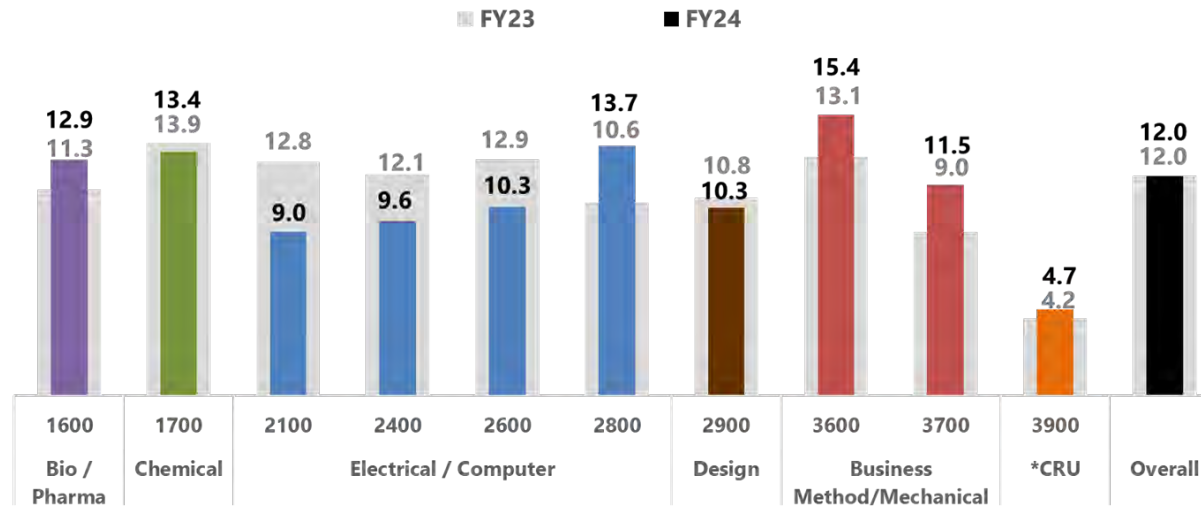
## Costs?

- Attorney Fees 
  - Preparing appeal brief
  - Preparing reply brief
  - Preparing for oral hearing (virtual or in person)
  - Preparing rehearing brief (hopefully not necessary)

# Client approval: Timing?

## Pendency of decided appeals

(Dec. 2022 - Feb. 2023 compared to Dec. 2023 - Feb. 2024)



Pendency is calculated as average months from Board receipt date to final decision.

Pendency is calculated for a three month period compared to the same period the previous year.

\*CRU (Central Reexamination Unit) decisions include *ex parte* reexams, *inter partes* reexam, supplemental examination review, and reissues from all technologies.

# Client approval

## Timing?



- Expedite briefing
  - File appeal brief and any reply brief/request for oral hearing as quickly as possible to shorten time pendency
- Fast Track Appeal Pilot Program (through July 2, 2024)
  - Average time to decide petitions 3.1 days
  - Average time from granting petition to decision on appeal: 2.54 months

Source: [www.uspto.gov/patents/ptab/fast-track-appeals-pilot-program](https://www.uspto.gov/patents/ptab/fast-track-appeals-pilot-program)



# Client approval

## Timing?

### – Fast Track Appeal Pilot Program:

- Application: Applies to ex parte appeals of original applications (no special cases, reexams, reissues)
- Timing: File petition after notice of appeal has been filed and PTAB docketing notice has been issued by the USPTO
- Petition: Fast-Track Appeals Pilot Program ([Form PTO/SB/451](#))
- Fee: \$420 fee under 37 CFR 41.20(a), filed with the petition.
- Limit: 125 petitions per quarter (last quarter only 5 petitions filed).
- Hearing: Can request hearing, but cannot reschedule date or time

Source: [www.uspto.gov/patents/ptab/fast-track-appeals-pilot-program](http://www.uspto.gov/patents/ptab/fast-track-appeals-pilot-program)

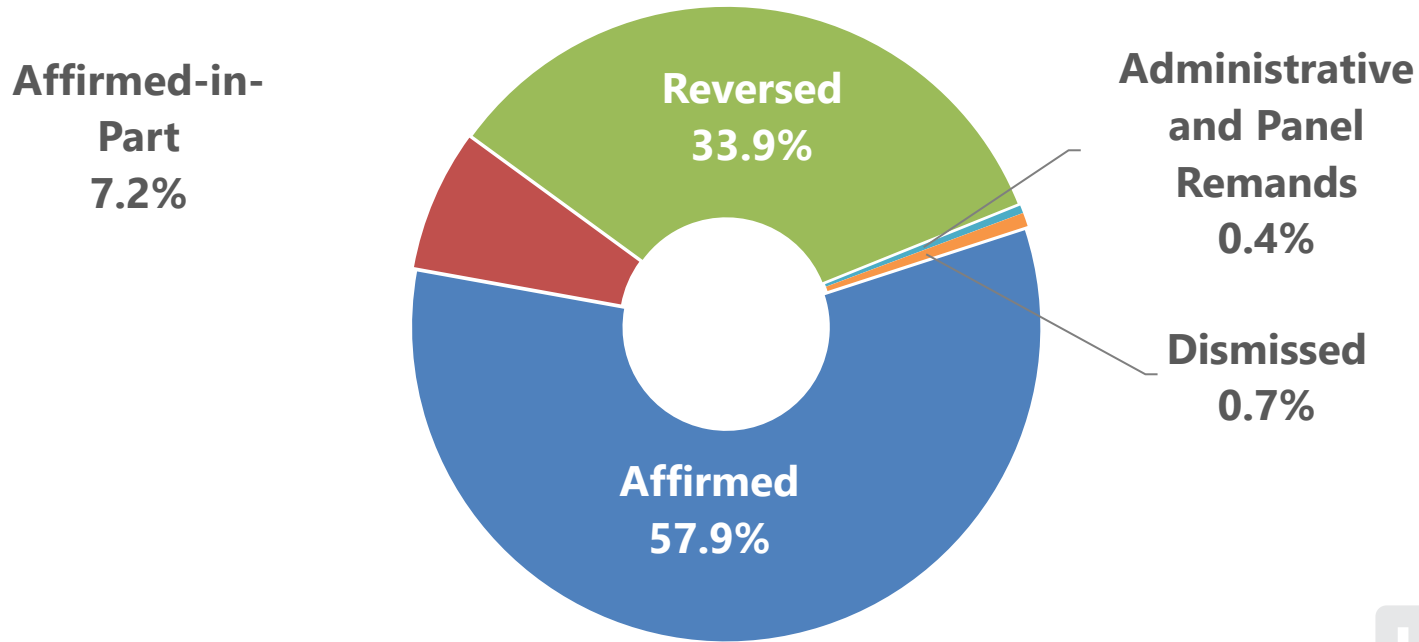




# Client approval: Outcomes?

Appeal outcomes in FY24

(Oct. 1, 2023 – Feb. 29, 2024)



Source: [www.uspto.gov/patents/ptab/statistics](http://www.uspto.gov/patents/ptab/statistics)



**PTAB resources**

# PTAB resources

## Appeals


Information about ex parte appeals conducted by the Patent Trial and Appeal Board (PTAB) from adverse decisions of examiners in patent applications, reissue applications, and reexamination proceedings.

### Appeals – General Process

The flowchart illustrates the general process for PTAB appeals, starting with 'Notice of Appeal & Fee' and 'Appeal Brief' (green), followed by 'Examiner's Answer' (blue), 'Appeal Brief Forwarding Fee' (green), and 'Decision by Board' (blue). The final stage is 'Completion of Appeal Process' (green). Optional steps include 'Reply Brief (optional)', 'Request for Oral Hearing & Fee (optional)', 'Oral Hearing (if requested)', and 'Request for Rehearing (optional)'. A small icon is visible in the top right corner of the diagram area.

Expand all | Collapse all

- > General process
- > Resources
- > Frequently asked questions (FAQs)

Please send suggestions regarding the appeals process to the Board at [PTAB Appeals Suggestions](#) .

Source: [www.uspto.gov/patents/ptab/appeals](http://www.uspto.gov/patents/ptab/appeals)



# PTAB resources

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

- ▼ General process
  - > Notice of appeal
  - > Appeal brief
  - > Examiner's Answer
  - > Reply brief and appeal brief forwarding fee
  - > Oral hearing (if requested)
  - > Decision by Board
  - > Request for rehearing (optional)

# PTAB resources


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

## ▼ General process

### > Notice of appeal

## ▼ Appeal brief

### Requirements

- An appeal brief must be filed to preserve appellant's right to the appealed claims, notwithstanding circumstances such as: (A) the filing of a petition to invoke the supervisory authority of the Director under 37 CFR 1.181; (B) the filing of an amendment, even if it is one which the examiner previously has indicated may place one or more claims in condition for allowance, unless the examiner, in acting on the amendment, disposes of all issues on appeal; (C) the receipt of a letter from the examiner stating that prosecution is suspended, without the examiner withdrawing the final rejection from which appeal has been taken.
- Within 2 months from the date of filing the Notice of Appeal: No extension of time is required even if the 2-month date falls after a 3-month shortened statutory period for reply set in the Office Action from which the appeal was taken. 37 C.F.R. 41.37(a); MPEP 1205.01.
- After 2 months from the date of filing the Notice of Appeal and prior to a 3-month shortened statutory period for reply set in the Office Action from which the appeal was taken: Must file a petition for a one month extension of time. 37 C.F.R. 41.37; MPEP 1205.01.
- Must be accompanied with the payment of any appeal brief fee set forth in 37 C.F.R. 41.20(b) (2).
- For help in preparing an appeal brief, the Board offers an [appeal brief template](#) and [instructions](#) to guide appellants; these documents are featured on the ["Preparing an Ex Parte Appeal Brief Webpage."](#) 



# PTAB Resources

## Preparing an ex parte appeal brief

Are you an independent inventor looking to appeal a patent examiner's rejection of your claims without the assistance of an attorney, which is called acting "pro se" in your appeal? If so, you're in the right place.

If any of the claims in a patent application has been twice rejected or finally rejected by a patent examiner, you may seek review as an appellant before the Patent and Trial Appeal Board (PTAB).

An appellant and the examiner may submit written papers known as "briefs" to explain their respective positions. The process begins when an appellant files a "notice of appeal" followed by an appellant's "appeal brief." The examiner usually responds with an "answer" to address the appellant's argument made in the "appeal brief." The appellant may, but doesn't have to, then file a "reply brief" to address the "answer."

Once fully briefed, your appeal will be considered by a panel of three administrative patent judges at the Board. The panel will review the briefs and render a decision, either maintaining ("affirming") or not maintaining ("reversing") all or part of the examiner's rejection.

For help creating your appeal brief, see the documents below:

- A [Word document](#) template that features the various required sections of a brief, for example, a summary of the claimed subject matter, arguments, and claim appendix
- A [PDF](#) that provides general guidance on the information required in the various sections of the brief along with helpful examples to use as models
- An [instructional video](#) on how to use these documents.

With these two documents and, if needed, the [relevant cited rules](#) and the [Manual of Patent Examining Procedure](#), you should be well on your way to drafting your appeal brief.





# PTAB resources

Expand all | Collapse all

> General process

▼ Resources

▼ Ex parte appeals

- [Board rules for ex parte appeals](#) 
- [MPEP Chapter 1200 \(appeals\)](#)
- [MPEP Chapter 2200 \(ex parte reexamination\)](#)
- [Board rules for appeals filed before January 2012](#)  [PDF]
- [Practice tips and checklists to reduce non-compliant briefs](#)  
This page includes a listing of the top eight reasons briefs are found to be non-compliant, checklists used by the Office to determine if briefs comply with the rules, and forms used by the Office to notify parties of non-compliant briefs.
- [Practice tips for writing effective appeal briefs](#)
- [EFS-Web](#)

# PTAB resources

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

> General process

▼ Resources

> Ex parte appeals

> Inter parte appeals

▼ Forms

- [AIA/31](#) Notice of Appeal
- [AIA/32](#) Request for Oral Hearing Before the Patent Trial and Appeal Board
- [Fee and payment information](#)
- [Suggestion box](#)
- [Guidance on petitions under CFR Rule 41.3 to the PTAB](#)



# PTAB resources

## Fast-track appeals pilot program (regular)

Petitions received in this quarter : 5

Available slots in this quarter: 120

Average time to decide petition: 3.8 days

Average time to decision on appeal: 2.45 months

Need an expedited decision on your appeal? Use the Fast-Track Appeals Pilot Program.

### What is the Fast-Track Appeals Pilot Program?

Under the Fast-Track Appeals Pilot Program, appellants can have their ex parte appeals advanced out of turn. Appellants simply file a petition to request fast-track review of their ex parte appeal and pay a \$420 petition fee. The Patent Trial and Appeal Board (PTAB or Board) has set a target of issuing a decision within six months from the date the petition is granted and the ex parte appeal is entered into the pilot program.

Source: [www.uspto.gov/patents/ptab/fast-track-appeals-pilot-program](http://www.uspto.gov/patents/ptab/fast-track-appeals-pilot-program)



# PTAB resources

- PTAB Boardside Chat: Improving *Ex Parte* Appeal Briefs (August 18, 2022)

## Learn about improving ex parte appeal briefs

Join the next Patent Trial and Appeal Board (PTAB) Boardside Chat webinar for a discussion about various aspects of *ex parte* appeal briefs. PTAB Judges LiLan Ren, Bill Baumeister, Linda Gaudette, and Brian Range will present ten ways to improve *ex parte* appeal briefs and share practice tips with examples for enhancing the arguments presented in your appeal briefs.

- [Presentation](#)
- [Video](#)

Source: [www.uspto.gov/about-us/events/learn-about-improving-ex-parte-appeal-briefs](https://www.uspto.gov/about-us/events/learn-about-improving-ex-parte-appeal-briefs)



# PTAB resources

## Precedential and informative decisions

Expand all | Collapse all

- › Recently designated decisions
- › Patent eligibility - 35 U.S.C. § 101
- › Anticipation - 35 U.S.C. § 102
- › Obviousness - 35 U.S.C. § 103
- › Specification and claim requirements - 35 U.S.C. § 112
- › Plant patents - 35 U.S.C. § 161
- › Design patents - 35 U.S.C. § 171
- › Reissue - 35 U.S.C. § 251
- › Claim construction
- › Issue preclusion
- › Non-functional descriptive material
- › Expert testimony
- › Expanded panels
- › Issues specific to ex parte appeals
- › Issues specific to AIA trial proceedings
- › Issues specific to inter partes reexam
- › Issues specific to interferences
- › Derivation
- › Archive (de-designated decisions)

Source: [www.uspto.gov/patents/ptab/precedential-informative-decisions](http://www.uspto.gov/patents/ptab/precedential-informative-decisions)


**Briefing**

# Appeal Brief



- Identify examiner error to argue on appeal
  - The Board reviews appealed rejections for error based upon the issues identified by appellants, and in light of the arguments and evidence produced thereon. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential) (citing *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992)).

# Appeal Brief

- Appellant's burden 
  - Appellant carries the burden to clearly explain:
    - What evidence should be reviewed
    - What the reversible error is
  - 37 CFR 41.37(c)(1)(iv): “[A]ny arguments or authorities not included in the appeal brief will be refused consideration by the Board for purposes of the present appeal.”

# Appeal Brief

- **Appealable:** Claim rejections based on grounds for patentability set forth in 35 USC 101, 102, 103, 112.
- **Not appealable:** Examiner's decisions of a discretionary, procedural or non-substantive nature (e.g., objections to drawings/spec, restriction requirements, refusal to enter an amendment). These are petitionable matters.
  - Exception: if the basis for the objection is directly connected with the merits of claim rejection (e.g., new matter objection and rejection under 35 USC 112(a) for written description). *In re Hengehold*, 440 F. 2d 1395 (CCPA 1971); *Ex parte Frye*, 94 USPQ2d 1072, 1078 (BPAI 2010) (precedential).

# Appeal Brief

- Consider claim grouping
  - Are you going to argue all the claims subject to a specific ground of rejection as a group, or present separate arguments for some claims?
    - “A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.” 37 CFR § 41.37(c)(1)(iv)
    - “Any claim(s) argued separately or as a subgroup shall be argued under a separate subheading that identifies the claims by number.” 37 CFR § 41.37(c)(1)(iv)



# Reply Brief

- Responding to Examiner's Answer
  - Appeal is taken from the Office Action's rejection—not from the Examiner's Answer.
- Potential new ground in Answer?
  - Petition under 37 CFR 1.181 for review
  - Time period for filing Reply Brief is tolled, 37 CFR § 41.40
    - If Petition granted, prosecution is reopened
    - If Petition denied, starts two-month time period to file reply brief



# Reply Brief

- Do not reiterate arguments from appeal brief
- Respond to specific arguments made in Examiner's Answer
- Address any weaknesses in your case
- Don't forget to pay the appeal briefing forwarding fee

# **Effective advocacy in an Appeal Brief**

# Example 1: Anticipation rejection

- Invention is  $A+B+C$ .
- Examiner rejected as anticipated based on Smith.
- Smith teaches  $A+B+C'$ .

# Which is the better response to an anticipation rejection?

Smith does not teach limitation C either expressly or inherently. Therefore, Smith cannot anticipate.

Argument A

The Applicants have shown the unexpected results of the present invention over the prior art. Such unexpected results are shown in the accompanying Declaration.

Argument B

# Argument A was persuasive

An anticipatory reference under 35 U.S.C. § 102 must disclose every limitation either expressly or inherently.

*Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1371 (Fed. Cir. 2008).

## Argument A

Appellant cannot overcome an anticipation rejection by showing unexpected results or teaching away in the art, which are relevant only to an obviousness rejection.

*In re Malagari*, 499 F.2d 1297, 1302 (CCPA 1974).

## Argument B

# Example 2: Obviousness rejection

- Invention includes several elements including component X.
- Jones teaches all elements except component X. Smith includes a single teaching using component Y.
- Examiner rejected as obvious in view of Smith and Jones.
- Examiner combined Smith and Jones because Smith's component Y has a similar physical structure as component X.

# Which is the better response to Examiner's reason to combine?

Although there is a limited range of choices, nothing in Smith or Jones would lead a POSA to use Smith's component Y instead of some alternative component.

Argument A

Smith's component Y does not have similar properties as component X. Nothing in Jones or Smith suggests modifying component Y to be component X. Mere structural similarity between components is not enough. There must be a reason to modify the component to make the claimed invention.

Argument B



# Argument B was persuasive

A limited range of choices, or “a finite number of identified, predictable solutions” supports a conclusion of obviousness.

*Eisai Co. Ltd. v. Dr. Reddy's Labs., Ltd.*, 533 F.3d 1353  
(Fed. Cir. 2008)

## Argument A

Absent a reason or motivation based on prior art evidence, mere structural similarity between a prior art compound and the claimed compound does not inform the lead compound selection and appear to rely on hindsight analysis.

*Otsuka Pharmaceutical Co., Ltd. v. Sandoz, Inc.*, 678 F.3d  
1280 (Fed. Cir. 2012).

## Argument B

# Example 3: Obviousness rejection based on inherency

- Invention includes component Q.
- Smith teaches using component U that often acts like component Q.
- Examiner rejected claim as obvious over Smith because component U inherently satisfies the requirement for Q.

# Which is the better response to show a lack of inherency?

At most, the Examiner has shown a possibility that component U, in some circumstances, behaves like component Q. The Examiner has not provided a factual basis or reasoning to show that component U necessarily behaves like component Q.

Argument A

The Examiner improperly includes a finding of inherent anticipation in an obviousness rejection. The rejection fails because the Examiner has made no finding that a skilled artisan would have modified component U to behave like component Q.

Argument B

# Argument A was persuasive

"Inherency ... may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient."

*Bettcher Indus., Inc. v. Bunzl USA, Inc.*,  
661 F.3d 629, 639 (Fed. Cir. 2011).

## Argument A

"[I]nherency may supply a missing claim limitation in an obviousness analysis."

*Par Pharm. v. TWI Pharm., Inc.*, 773  
F.3d 1186, 1194 (Fed. Cir. 2014).

## Argument B

# Example 4: Obviousness rejection traversed with teaching away

- Invention discloses antibiotic P with a 7 carbon R group attached.
- Smith suggests an antibiotic P with a 4 carbon R group attached.
- Examiner cites MPEP 2144.06(II) and says 7 carbon and 4 carbon R groups are obvious equivalents.

# Which argument better demonstrates a teaching away?

Smith states that "when the total carbon number exceeds 5, it becomes difficult to obtain satisfactory antibiotic activity" so the reference clearly discourages one from preparing compounds with more than 5 carbon atoms.

Argument A

Smith states that "the total carbon number is not critical to the invention, however, a lower total carbon is generally preferred."

Argument B

# Argument A was persuasive

“The prior art’s mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed.”

*In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004).

## Argument A

“We cannot accept the suggestion that one is significantly ‘taught away’ from a ‘particularly preferred embodiment’ by the suggestion (whether true or false) that something else may be even better.”

*In re Susi*, 440 F.2d 442, 446 n.3 (CCPA 1971).

## Argument B

# Example 5: Obviousness rejection traversed as art is not analogous

- Invention discloses a non-aqueous stain S for coating wood on a deck.
- Smith teaches an aqueous stain T for coating wood.
- Jones teaches a non-aqueous color V used for making bubble tea.
- The Examiner rejects the claim over a combination of Smith and Jones.



# Which argument better shows the art is not analogous?

The Examiner does not give a reason why one of ordinary skill in the art would consider Jones, a reference discussing bubble tea ingredients, when developing wood stain.

Argument A

Smith is concerned with wetting a surface with the aqueous outer phase of an oil-in-water emulsion. Appellants' application, in marked contrast, is concerned with wetting a surface with the non-aqueous outer phase.

Argument B

# Both arguments were persuasive

"[T]wo separate tests define the scope of analogous prior art: (1) whether the art is from the same field of endeavor, regardless of the problem addressed and, (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved."

*In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004).

## Arguments A & B



# Example 6: Obviousness rejection traversed by evidentiary showing

- Invention discloses a solar light system composed of a panel P and an inverter I.
- Smith teaches a solar light system composed of a panel P.
- Jones teaches a solar light system with panel L using an improved inverter I.
- The Examiner finds it would have been obvious to incorporate the improved inverter I of Jones into the solar light system using the panel P of Smith.

# Which argument has better supporting evidence?

Patent Owner presented (1) sales data from the company CFO establishing commercial success of the claimed device; (2) testimony of a university professor stating that others had tried and failed to combine panel P and inverter I and that skilled artisans were skeptical that panel P could be combined with inverter I; and (3) an industry publication stating that the invention won awards based on the claimed features.

Argument A

Patent Owner argued that the invention has been a huge commercial success and that the invention has been copied by numerous competitors.

Argument B

# Argument A was persuasive

“Our case law requires the Board to consider evidence of objective factors in any obviousness determination.”

*In re Morsa*, 713 F.3d 104, 111 (Fed. Cir. 2013).

## Argument A

“[A]ttorney argument [is] not the kind of factual evidence that is required to rebut a prima facie case of obviousness.”

*In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997).

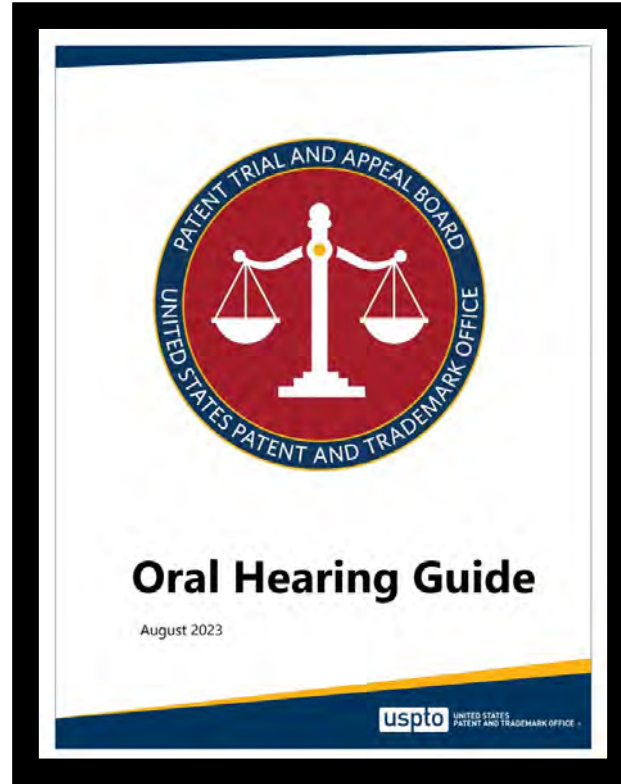
## Argument B

# Takeaways

- Avoid obviousness arguments in rebutting an anticipation rejection
- Address obviousness rejections head-on
- Teaching away requires showing **criticism or discouragement**
- Art can be analogous if from the same field of endeavor **or** if reasonably pertinent to the inventor's problem
- Objective indicia of non-obviousness must be supported with **evidence**

# Oral Hearing

# Oral hearing



Source: [www.uspto.gov/sites/default/files/documents/revised\\_ptab\\_hearing\\_guide\\_20230823\\_.pdf](http://www.uspto.gov/sites/default/files/documents/revised_ptab_hearing_guide_20230823_.pdf)





# PTAB resource: Oral hearings

- PTAB Boardside Chat: Learn about hearings before the PTAB (March 21, 2024)

## Learn about hearings before the Patent Trial and Appeal Board

Join the next Boardside Chat webinar on **Thursday, March 21, from noon to 1 p.m. ET**, for a discussion about hearings before the Patent Trial and Appeal Board (PTAB). The presentation will include a virtual tour of the hearing rooms, along with information on some of the updated technical capabilities available, as well as statistics on in-person versus remote hearings over the past year. A panel of PTAB judges will share practical tips and discuss strategies that may be effective in hearings before the Board. The panel features:

- Acting Deputy Chief Administrative Patent Judge Michael Kim
- Lead Administrative Patent Judge Stacey White
- Administrative Patent Judge Michael Astorino
- Chief Clerk Erica Swift
- Deputy Chief Clerk Kulunie Cannon

A question-and-answer session will follow the presentation. Please send questions in advance or during the webinar to [PTABBoardsideChat@USPTO.gov](mailto:PTABBoardsideChat@USPTO.gov) .

Source: [www.uspto.gov/about-us/events/learn-about-hearings-patent-trial-and-appeal-board](https://www.uspto.gov/about-us/events/learn-about-hearings-patent-trial-and-appeal-board)



# **Legal Experience and Advancement Program (LEAP)**

# Legal Experience and Advancement Program (LEAP)

- Open to practitioner with three or fewer substantive arguments in any federal tribunal
- Can conduct the entire hearing or share time
- More experienced practitioner may assist or clarify points if necessary
- Typically 15 minutes of additional time granted for hearing
- Request must be made in advance
- Available for ex parte appeals and AIA trials

[www.uspto.gov/leap](http://www.uspto.gov/leap)



