Debbie McComas in Law360: Attys Prep for Phone Hearings as Fed. Circ. Braces for Virus

By Debbie J. McComas | March 13, 2020

RELATED PRACTICES Appellate

Haynes Boone Partner Debbie McComas talked with *Law360* about the Federal Circuit canceling numerous oral arguments and ordering others to be conducted over the phone due to the COVID-19 virus outbreak.

Here is an excerpt:

The appeals court announced that for now, in-person arguments will proceed as scheduled in cases where counsel for both parties are located in the Washington, D.C., area. However, in order to minimize the risk of spreading disease, the court removed some cases from the April argument calendar and will instead decide them on the briefs.

In the remaining cases where attorneys are not based in Washington, arguments will be conducted by phone at the previously scheduled time, and the court will continue its practice of posting recordings of all arguments online the same day.

Standing in front of the judges and tailoring a presentation based on how they respond is an important part of appellate advocacy, and "that's what we're going to lose" with telephone arguments, Debbie McComas of Haynes Boone said. She said she was "a little dubious that it will be successful."

"Oral arguments are a conversation with the court, where we're trying to get at if there's something that was missed in the briefs," she said. "Doing it over the phone is better than not having any opportunity at all, but it will definitely be a challenge."

She noted that in person, it's possible to see when one of the judges is about to ask a question, but on the phone, they may have to break in and interrupt the lawyers, which could make arguments more cumbersome.

An appellate argument by phone, before a panel of three judges, is therefore not something most patent attorneys have experience with.

However, McComas noted that the stakes are usually considerably lower in district court telephone conferences, while entire cases will be riding on Federal Circuit arguments conducted over the phone.

"That 15 minutes is all you get," she said. "It would be almost like having a trial or a summary judgment hearing on the phone."

Nevertheless, being forced by circumstances beyond anyone's control to do something less than the most thorough job possible is against the natural instincts of attorneys.

© 2026 Haynes and Boone, LLP

"I understand and respect the caution the court is using," McComas said. "But I personally feel that my job is to do the best I can to represent my clients, and if that means flying to D.C., I'm willing to take that risk."

To read the full article, click here.

© 2026 Haynes and Boone, LLP