



## **Here's How to Listen as the Supreme Court Broadcasts Oral Arguments for First Time Ever CNBC**

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[\[Link\]](#)

The Supreme Court will broadcast an oral argument live on Monday for the first time in its 230-year history.

C-SPAN will livestream the audio on television, online and on the C-SPAN Radio app.

Monday's case is a fight over whether Booking.com can trademark its name. The format of the arguments, which will be conducted over the phone, has proven even more controversial.

For years, activists and lawmakers have pushed unsuccessfully for the court to stream its arguments live to the public. Those efforts failed, but the spreading coronavirus finally convinced the justices to make a change.

With the Covid-19 crisis forcing the court to shut its doors, the justices agreed to a live audio broadcast for 10 arguments, all via teleconference, in the first two weeks of May.

Monday's case is a relatively low-profile dispute between Booking.com and the United States Patent and Trademark Office over whether Booking.com can get a trademark for its name. Even so, the live broadcast is expected to bring the Supreme Court to a much wider audience than the court has ever had before.

The Supreme Court's historic building has just 50 seats set aside for the public, and on traditional argument days many of those who show up hours before arguments begin are turned away. The scarcity of the seats has spawned a secretive, informal economy of paid line-standers.

Subsequent cases are likely to get more attention. On Wednesday, the court will hear arguments over whether the Trump administration can allow businesses and universities to block their employees from receiving insurance coverage for contraception.

Next week, the court will hear arguments over whether Trump may shield his financial records, including tax returns, from state and congressional investigators, and two cases over whether Electoral College voters can buck the will of their state, a dispute with the potential to affect the outcome of November's presidential contest.

The financial records cases will be argued May 12, with the Electoral College cases coming the next day. In all, the court has agreed to hear 10 arguments over the first two weeks in May. It is expected that decisions in all of the cases will be delivered by the end of June, though it is possible that they could come later.

Arguments in Monday's case, known as United States Patent and Trademark Office v. Booking.com, will begin at 10 a.m. and last one hour.

Erica Ross, a Justice Department attorney, will face off against veteran Supreme Court attorney Lisa Blatt, who is representing Booking.com. Each attorney will have half an hour to speak, including rebuttals.

While the justices typically ask questions in whichever order they please, the virtual oral arguments will be done differently. Chief Justice John Roberts will ask questions first, followed by the rest of the justices in order of seniority.

The government will argue that Booking.com is not entitled to trademark its name because the word "booking" is generic and adding ".com" is not enough to make it distinctive.

The Supreme Court held in the 1985 case known as *Park N' Fly* that companies cannot receive trademarks for generic terms because that could confuse consumers. For instance, a company selling oranges cannot trademark the word "orange."

In an 1888 case known as *Goodyear*, the court held that adding the word "Company" or "Inc." to a generic name does not make it eligible for a trademark. The government has argued that the same reasoning should apply to ".com."

On the other side, Booking.com has argued that Congress effectively did away with the *Goodyear* decision in 1946 when it passed a landmark bill known as the Lanham Act.

Under that law, Booking.com argues that its name can be trademarked because its "primary significance" to consumers is as a brand. In court papers, the company said a survey showed nearly 75% of respondents thought of Booking.com as a brand name, rather than as a generic term.

Booking.com won its case before a federal district court and that decision was affirmed by the Richmond, Va.-based 4th U.S. Circuit Court of Appeals.

But Jennifer Lee Taylor, a partner at the law firm Morrison & Foerster who specializes in trademark law, said that she expected the Supreme Court to side with the government.

Unlike patent laws, trademark laws are designed exclusively to protect consumers, not businesses, she said. She said "Booking.com" is the type of generic name she has been advising clients to stay away from for years.

"The fact that Booking.com has spent hundreds of millions of dollars does not mean it has a protectable investment," Taylor said.

"Is there any benefit to consumers if Booking.com is able to register its mark and able to stop people from using CarBooking.com or HotelBooking.com?" Taylor asked. "Is that really going to benefit consumers? Or maybe it's going to be worse for consumers because they are not going to be able to find competitors of Booking.com."