



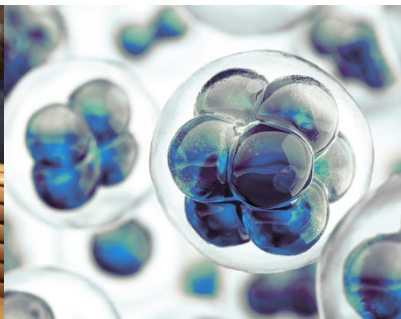
Europäisches  
Patentamt  
European  
Patent Office  
Office européen  
des brevets

# Guidelines2day

## Oral proceedings in opposition via videoconference



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# Presenter



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Doctorate Degree in Law  
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# Presenter



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Examiner in Directorate 1001 and OCFD 1051  
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PhD in nuclear chemistry  
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# Oral proceedings by VICO – situation in 2019

- Oral proceeding by VICO only possible in examination proceedings  
Introduced at the beginning of 1998 (OJ EPO 1997, 572)
- 900 oral proceedings in examination were held by VICO  
Roughly 13% of all oral proceedings in examination

**Coronavirus outbreak in early 2020 created an unprecedented need for oral proceedings by VICO**

# Oral proceedings by VICO

- **1 April 2020:** Decision of the President to hold **all** oral proceedings before **examining divisions** by VICO
- **14 April 2020:** Decision of the President to hold oral proceedings before **opposition division** by VICO upon **agreement of all parties**
- **5 May 2020:** first VICOs in opposition via Skype for Business
- **15 September 2020:** first VICO via Zoom (allowing for simultaneous translation)
- **10 November 2020:** Decision of the President to hold **all** oral proceedings before **opposition divisions** by VICO from 4 January 2021 until 15 September 2021
- **15 December 2020:** Administrative Council allows taking of evidence by VICO
- **14 January 2021:** first witness hearing by VICO in opposition proceedings

# Oral proceedings by VICO – situation in 2020

- **2.659** oral proceedings conducted by VICO
  - 2.326 in Examination
  - 333 in Opposition
- Opposition from September 2020: Zoom + simultaneous interpretation
- Focus on users: e-learning modules, live seminars, Opposition Matters, meeting User Associations, FAQs, Technical Guidelines, User Support Desk, Test calls, etc.

# Oral proceedings by VICO – situation in February 2021

- **Oral proceedings by VICO in opposition without interpretation:**

- in January: 232

- in February: 321

- **Oral proceedings by VICO in opposition with interpretation:**

- In January: 93

- In February: 106

- **Total: 752**

## Oral proceedings by VICO - question



Have you already participated in multiparty oral proceedings by VICO at the EPO or elsewhere?

yes  no



# Oral proceedings in opposition by VICO

## The new Guidelines (1)

Oral proceedings before examining divisions are generally held by videoconference, either at the request of the applicant or at the instigation of the examining division unless there are serious reasons against holding the oral proceedings by videoconference (**Guidelines E-III**, referring to the President's decision OJ EPO 2020, A134, Article 1(2); **Guidelines C-VII, 5**)

Examples of serious reasons are given in **Guidelines E-III, 1**. These examples apply to examination and opposition oral proceedings via VICO.

Remote connection of applicants/representatives and/or members of the division is foreseen (**Guidelines E-III, 8.2.2**)

# Oral proceedings in opposition by VICO

## The new Guidelines (2)

Oral proceedings by VICO are equivalent to oral proceedings held on the premises of the EPO (**Guidelines E-III, 1**, referring to the President's decisions (OJ EPO 2020, A134, Article 1(3); OJ EPO 2020, A121, Article 2(3))).

Submissions during VICO oral proceedings should be filed by email in pdf format and must be signed (**Guidelines E-III, 8.5.2**)

At the end of a VICO oral proceeding the chairperson will ask the parties if the oral proceedings have run in a technically good manner in accordance with Articles 113 and 116 EPC (**Guidelines E-III, 8.2**)

# Oral proceedings in opposition by VICO Pilot project

Pilot project (until 15 September 2021) for oral proceedings in opposition by videoconference (VICO) after **Decision of the President** of 10.11.2020



**NO consent of parties required**  
**Postponement for serious reasons only**

Beschluss des Präsidenten des Europäischen Patentamts vom 14. April 2020 über das Pilotprojekt zur Durchführung mündlicher Verhandlungen vor Einspruchsabteilungen als Videokonferenz

Die Präsident des Europäischen Patentamts, gestützt auf die Artikel 10 (2), (a) und 116 des Europäischen Patentübereinkommens (EPC), beschließt:

Artikel 1

Umfang des Pilotprojekts

1) Das Europäische Patentamt führt ein Pilotprojekt für mündliche Verhandlungen vor Einspruchsabteilungen als Videokonferenz durch.

Decision of the President of the European Patent Office dated 14 April 2020 concerning the pilot project for oral proceedings by videoconference before opposition divisions

The President of the European Patent Office, having regard to Articles 10(2)(a) and 116 of the European Patent Convention (EPC), has decided as follows:

Article 1

Scope of the pilot project

(1) The European Patent Office will conduct a pilot project for oral proceedings by videoconference before opposition divisions.

Décision du Président de l'Office européen des brevets, en date du 14 avril 2020, concernant le projet pilote relatif à la tenue de procédures orales sous forme de visioconférence devant les divisions d'opposition

Le Président de l'Office européen des brevets, vu les articles 10(2)(a) et 116 de la Convention sur le brevet européen (CBE), décide :

Article premier

Portée du projet pilote

1) L'Office européen des brevets mènera un projet pilote relatif à la tenue de procédures orales sous forme de visioconférence devant les divisions d'opposition.

**Zoom** for all oral proceedings in opposition **by default**

Applicable for multiparty hearings with/without interpretation and with/without taking evidence (amended Rules 117 & 118 EPC)

# Oral proceedings in opposition by VICO

## Checking identities

### **Data protection:**

No sensitive data (e.g. email address, telephone number, birth date, passport number) should be revealed either orally/in the chat/shown into the camera in the virtual OP room.

Instead, the dedicated non-public **ID-check room** provided in Zoom for ID card/passport check should be used.

**Have your EPO ID badge at hand**, this simplifies the procedure.

### **No identity check required for:**

Members of the public and accompanying persons, if they DO NOT intend to talk during the oral proceedings. The representative's confirmation that the persons are who they say they are is sufficient for accompanying persons who do not intend to speak.

# Oral proceedings in opposition by VICO

## A new era (1)

### Oral proceedings via videoconference:

- Up to **49 video** windows open at the same time
- You will be **renamed** by the opposition division (OP1, PROP).
- You might be following the **chairperson's view**.

### Make yourself heard:

- Indicate immediately when you have sound/technical issues.  
Wave your hand!
- Ask for a **break** if you need one.

# Oral proceedings in opposition by VICO

## A new era (2)

The screenshot shows a Zoom meeting interface with a dark background. At the top right, there is a "Gallery View" button. The main area is divided into a 2x3 grid of video thumbnails. The top row contains three thumbnails: "CHAIR OD - Ms Doslik" (a woman with short brown hair), "1st OD - Mr Chabus" (a man with a headset), and "2nd OD - Mr Bockstahl" (a man with a beard and headset). The bottom row contains three thumbnails: "Marielle Piana" (a woman with long dark hair), "A. Flores-Jiménez" (a man with glasses), and "Giovanni Arca" (a man with glasses). Below the thumbnails are two large dark rectangular areas labeled "Interpreter - EN" and "Public". At the bottom of the interface, there are icons for "Participants" (with a count of 8), "Chat", and "English". A red "Leave" button is located in the bottom right corner.

# Oral proceedings in opposition by VICO

## Tips & tricks

### Set you scene for enhanced experience (and performance):

*Ideal setting:*

- USB headset with microphone (or USB microphone) with echo-cancelling function
- Computer/notebook
- 2 screens (the bigger the better and on the table in front of you)
- Your own (adjustable camera)
- Check the light source  
(avoid too dark/too bright settings, e.g. with your back to the window)

### Virtual background

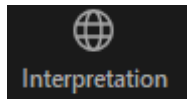
Allowed, but be aware that you might be asked to remove it (ID-check)

# Oral proceedings in opposition by VICO

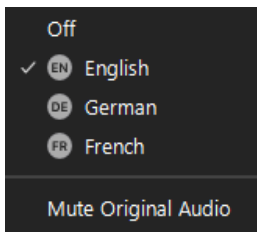
## Simultaneous Interpretation

### How it looks & works

- Multiple audio channels
- **Interpreters** are present either in booths (MU, TH) or at home (distributed). Please use a high-quality audio device, especially a high-quality microphone.



- **Easy selection of language**
- Possibility to **mute original audio**



Interpretation to English



# Oral proceedings in opposition by VICO

## Access of the public

- A request stating the requester's name and email address is to be submitted to the EPO at [support@epo.org](mailto:support@epo.org) at the latest 3 days before the day of the oral proceedings.
- The EPO will send a link by email allowing to connect to the virtual oral proceedings room.
- The link may not be forwarded to another person.
- Participation is restricted to listening.
- If requested by the chair the camera must temporarily be switched on to allow the videoconference participants to ascertain the identity of the member of the public as if they were taking part in person on the premises of the EPO.
- The oral proceedings may not be recorded/retransmitted.

# Oral proceedings in opposition by VICO

## Gathering feedback from parties



- e-form with 19 questions
- Link provided to parties at beginning of oral proceedings
- Chair will ask parties to fill in
- Main aim: to further improve system, procedures, training
- Confidential – results will not be shared with the division
- Analysis done by Quality Department

# Oral proceedings by VICO

## Taking of evidence

- The EPO indicates in the order to take evidence whether the taking of evidence will take place by videoconference, and the witness to be heard is informed accordingly.
  - Amended Rule 117, 118(2)(a) EPC
- The party, witness or expert to be heard may request to be heard by videoconference even where the oral proceedings are held on the EPO's premises.
  - Amended Rule 118(2)(c) EPC
- Inspection of an object may also be ordered and carried out in the form of VICO.

# Oral proceedings by VICO

## Taking of evidence – advantages and limits

- Possibility for taking of evidence during the pandemic
  - Taking of evidence is required in ca. 100 cases in opposition/examination per year.
- Reduction of travel time and travel costs for all parties involved
- More flexibility in scheduling oral proceedings
- Environmental sustainability
- Inspection of an object where the haptic feel or handling experience is of relevance is not possible by VICO

# Oral proceedings in opposition by VICO

## Links

Technical guidelines for videoconferencing

<https://www.epo.org/applying/online-services/proceedings/technical-guidelines.html>

e-learning centre: Oral proceedings by videoconference before oppositions divisions

<https://e-courses.epo.org/course/view.php?id=196>

FAQ – Oral proceedings held by videoconference

<https://www.epo.org/service-support/faq/procedure-law/oral-proceedings-by-videoconference.html>

Coronavirus – continually updated information (including all information regarding oral proceedings)

<https://www.epo.org/news-events/covid-19.html>

# Further questions



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Now

via chat to "All Panelists"