



Opposition Matters reloaded

Online conference

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Oral proceedings by videoconference in opposition

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Content

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- Practical tips for attorneys
- Summary, including advantages

Scope of the Pilot

- Oral proceedings before the opposition divisions **are held** by VICO (Decisions of the President of the European Patent Office (EPO) dated **14.04.2020 and 10.11.2020**). The pilot project will run **until 15 September 2021**.
- Oral proceedings **may be held** on the premises of the EPO if there are **serious reasons** against holding them by VICO
- **First ever:** Taking evidence by witness hearing (14 January 2021) and inspection (24 March 2021)

Safeguarding the Right to be Heard

In case the **technical problems** would prevent the oral proceedings by VICO from being conducted in accordance with the parties' rights under Articles 113 and 116 EPC, and which could not be overcome during the VICO, the OD will issue **new summons** to oral proceedings.

Art. 113(1) EPC

Platform in use - Zoom

Zoom is

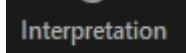
- broadly accepted and easy to use platforms,
- with low IT requirements,
- not needing acquisition of licences by users.
- Allows for simultaneous interpretation
- [EPO data protection](#) guidance provides information when using Zoom

Guidelines for Zoom

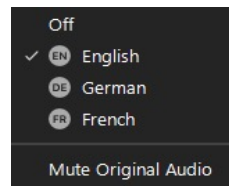
- [Technical information](#) is available on the EPO website
- Mock trial of oral proceedings by VICO (see [e-learning centre](#), EPO website)
- Headset with **microphone** is strongly recommended
- It is not advisable to use a tablet or smartphone

Simultaneous interpretation in Zoom

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**



Interpretation to English

✓ **Possibility to mute original audio**



Zoom

- Zoom is blocked by some companies for security reasons
- Where permitted, the simultaneous translation has been favourably reviewed
 - Channels for EN, FR, DE are easy to use
 - Available for all, including the public
- Opposition Division (OD) need to check translator has finished before continuing proceedings

Consideration before a VICO

- **Test call** is crucial
- **Check**
 - bandwidth,
 - webcam quality and whether movable
 - audio set-up (**headset** is highly recommended)
 - screen quality and size
- Consider attending as member of public
- Refer to the oral proceedings calendar available on the EPO website

Additional correspondence with EPO

- **Ensure that contact information is sent to EPO**

Please supply the EPO as soon as possible with the following information concerning your video-conference studio:

- email address to be used by the EPO for communicating the connection details
- name of contact person with telephone number and email address
- type and name of video-conference equipment
- telephone and fax number (if any) of the studio including country and area code

- **Check for receipt of VICO connection details**

IMPORTANT:

Please inform the EPO without delay in the event that the detailed information about the video-conference connection has not been received at least ten days before the scheduled date of the oral proceedings to be held via video-conference.

Oral proceedings – how does it work?

- Chairperson will admit the participants in the virtual OP room once all parties are present in the "lobby" (here you see the file number)
- **ID-check** will be performed, parties will be renamed (OP1, PROP)

Oral proceedings - Checking identities

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

Data protection:

No sensitive data (e.g., 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.

Oral proceedings - Checking identities

No identity check required for:

- Members of the public
- 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.

Oral proceedings - 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 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.

Oral proceedings - Access of the public

- 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 – how does it work?

After ID-check is performed the chairperson will give an introduction to the parties, explain the functionality of Zoom and the specifics of the VICO

- E-mail addresses of the opposition division are sent to the parties together with phone number of the chairperson
- Submissions are to be sent in pdf format by email to the whole division and must be signed (**Guidelines E-III, 8.5.2**)

Oral proceedings – how does it work?

- Chairperson will ask parties if they are ready to begin with the oral proceedings and will **formally open** the oral proceedings
- At the end of the VICO 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**)
- Chair pronounces the opposition division's decision and closes the OP

Communication with the OD

- The raise hand option allows you to get the attention of the chairperson (connection issues) or just **wave your hand!**
- In case you need to reach the OD during deliberation, you can do it by email. Vice versa, the chairperson can leave you a message in the chat box, that deliberation will take more time

Exchanging documents/requests

- Each party must confirm receipt of an email before proceedings can commence
- Submissions are sent via email to the opposition division
- Submissions then forwarded by OD to the parties
- Make sure you have the technology to generate the submissions

Deliberation of the OD

- The chairperson will announce a break of the oral proceedings and the complete OD will change to their non-public deliberation room
- All other participants will remain in the virtual oral proceedings room and are invited to mute their microphones and to switch off their cameras
- **Do not disconnect the video conference link**

Practical tips during VICO

- VICO can be more tiring – consider **extra breaks**
- Organise the documents you need
- Make sure you have an additional channel for discussion within your team, including client
 - while in session
 - during OD deliberations
- Keep the chat box open for communications with OD as mentioned above

epi position

- More testing is required for VICO to gain acceptance in the profession
- Presenting comments in a face-to-face setting is much more efficient – judge body language - and guarantees full right to be heard
- Essential that all parties agree to participate in VICO
- Making VICO the default is not supported

EPO commitment

The Office remains committed to providing easy access to **transparent, fair and efficient proceedings in a low-cost, safe, effective and environmentally-friendly manner**, with a view to ensuring conclusion of all possible pending opposition cases within the shortest possible time.

Further questions



Now

via chat to "All Panelists"