



Opposition Matters reloaded

Online conference

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Hearing of witnesses by videoconference

Doris Thums



Presenter



Doris Thums

Head of department opposition and substantive patent law in Directorate Patent Law
EPO Munich

Doctorate Degree in Law

Co-author of the Benkard EPC commentary



Hearing of witnesses by videoconference

Following the COVID-19 outbreak **to guarantee access to justice and effective legal protection**

- **Oral proceedings** before **examination** divisions are – as a rule – held by videoconference as from 2 April 2020
- **Oral proceedings** before **opposition** divisions may be held by videoconference as from 4 May 2020
- Administrative Council decides unanimously to allow for the taking of evidence by videoconference on 15 December 2020
- **First taking of evidence by hearing a witness** during oral proceedings by videoconference on 14 January 2021
- **First inspection** during oral proceedings by videoconference on 24 March 2021

[Decision](#) of the President of the EPO dated 17.12.2020 concerning oral proceedings by videoconference before examining divisions

[Decision](#) of the President of the EPO dated 10.11.2020 concerning the modification and extension of the pilot project for oral proceedings by videoconference before opposition divisions

[Decision](#) of the Administrative Council of 15.12.2020 amending Rules 117 and 118 EPC

[Notice](#) from the EPO dated 17.12.2020 concerning the taking of evidence by videoconference by examining and opposition divisions

Hearing of witnesses by videoconference

Changes to the Implementing Regulations of the EPC

- 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.
- 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.

new Rules 117, 118(2)a) EPC

new Rule 118(2)c) EPC

Hearing of witnesses by videoconference

Legal and practical considerations

- Oral proceedings by videoconference are equivalent to oral proceedings held on the premises of the EPO in the presence of the parties
- Many EPC contracting states allow the taking of evidence by videoconference
 - Only some rely on express provisions in their national laws
- Witnesses need to be informed about the way in which they will be asked to provide their testimony
- Witnesses may connect remotely regardless of whether the proceedings are held by videoconference or on the premises of the EPO

[T 1378/16](#) confirms that oral proceedings by videoconference fulfil the requirements of Art. 116 EPC

[T 2320/16](#) concludes “oral proceedings by videoconference are consistent with the right to oral proceedings pursuant to Art. 116 EPC”

[G1/21](#) the referred question addresses the issue whether oral proceedings by videoconference are compatible with the right to oral proceedings (Art. 116(1) EPC) if not all parties to the proceedings have given their consent to conduct oral proceedings by videoconference

Hearing of witnesses by videoconference

Taking of evidence can be conducted by videoconference irrespective of the form of oral proceedings

- Taking of evidence is required in about 100 cases in opposition and examination per year

Advantages of hearing of witnesses by videoconference

- Providing a possibility for taking of evidence during the pandemic
- Reduction of travel time and travel costs for all parties involved
- More flexibility in scheduling oral proceedings
- Environmental sustainability

Questions



Now

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