



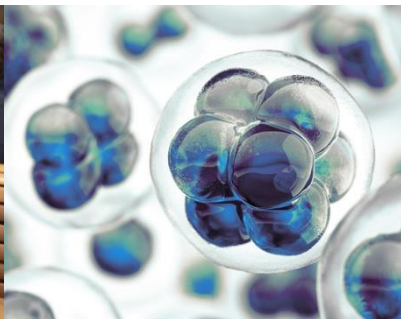
Europäisches
Patentamt
European
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des brevets

Opposition oral proceedings via videoconference

Online lecture



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Oral proceedings by VICO – **until now**

- **14 April 2020**

- Decision of the President to hold oral proceedings by VICO upon agreement of all parties
- Pilot project

- **10 November 2020**

Decision of the President to hold all oral proceedings by VICO until 15 September 2021

- **17 December 2020**

Notice from the EPO concerning the taking of evidence by VICO

Oral proceedings by VICO – **until now**

- **24 March 2021**

- Notice from the EPO concerning the conduct of oral proceedings in examination and opposition in view of referral G 1/21
- Ensure access to justice and functioning of the EPO

- **14 May 2021**

- Decision of the President concerning the further extension of the pilot project
- Oral proceedings will be held by VICO until 31 January 2022

Opposition hearings – **where do we stand now**

Since January 2021:

Opposition oral proceedings are

- held via Zoom VICO only
- applicable for multiparty hearings with/without interpretation and with/without taking evidence (amended Rules 117 & 118 EPC)
- are mandatory to be held by VICO until 31 January 2022
- may be postponed for serious reasons only

Tips & tricks (1)

- **Oral proceedings via videoconference:**

new way of working

- **Make yourself heard:**

Get ready for a new level of communication:

- Wave your hand! Indicate immediately when having sound/technical issues
- Ask for breaks
- Speak at normal pace: take your time

Tips & tricks (2)

Setting your scene for enhanced experience

Ideal setting:

- Headset with microphone
- Computer/laptop
- 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 light, e.g. sitting with the back to a window)

Tips & tricks (3)

- **Virtual background**

allowed, but be aware exceptions

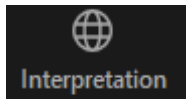
- **Submissions**

- Via email in pdf format sent to the complete opposition division
- Signature!
- To be sent with consent of the Opposition Division

Simultaneous interpretation in Zoom

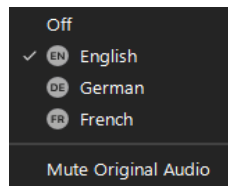
How it looks & works

- 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**



- ✓ **Possibility to mute original audio**

Interpretation to English

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?**

- 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 – **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
 - Email 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.
- After hearing the arguments of the parties, the chairperson will announce a break of the oral proceedings and the complete OD will move 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.**

Oral Proceedings – **how does it work?**

- 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

Oral Proceedings – **your feedback is valuable**



- 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 – **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 – **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

Links

Technical guidelines for videoconferencing

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

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

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

e-learning centre: Guidelines2day: Oral proceedings in opposition via videoconference

<https://e-courses.epo.org/course/view.php?id=182>

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>