

Kluwer Patent Blog

Video conferences are the new normal for EPO oral opposition proceedings

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Video conferences will become the default format of oral opposition proceedings in at the European Patent Office as of 2023. Only under certain circumstances, and when the opposition division permits it, will oral proceedings in opposition be conducted in person.

A decision to that effect was announced yesterday, a week after the publication of the final report on a pilot project, which showed over 77% of 357 respondents in interviews on oral proceedings by video conference (VICO) found these to be good (39%) or very good (38%).

According to the report: ‘A majority of users (57%) also declared that their most recent experience of oral proceedings by VICO was better than in the past, or at least the same (36%). Users have been very appreciative of the new practice to allow submissions by email to the opposition division (86% think this “good” or “very good”, 357 responses).’



Some quotes from the report’s conclusions:

‘Experience and feedback: through more than 6000 oral proceedings in opposition conducted by VICO, a majority of examiners and parties have not only become familiar with VICO, but also come to regard VICO as their preferred format. The high number of oral proceedings in opposition (certainly higher in 2021 than in 2019), as well as the wealth of internal and external training measures offered during the pilot, have enabled all those involved to gain more experience and confidence.’

‘Technological advancements: the way oral proceedings in opposition are conducted today clearly differs from how they were done before the pilot and, in some important details, even from how they were done last year. The state-of-the-art technological platform, the digital tools available for examiners and parties, the way evidence is taken, improvements in remote interpretation, the mastering of the technology by chairpersons, division members and other participants, and the greatly increased access for the public are among the most important features and developments

that make this format in many aspects superior to in-person proceedings.’

‘Evolving legal and procedural framework: over the course of the pilot the legal framework has been enriched with decisions of the EPO President and notices issued by the EPO, an amendment of the EPC Implementing Regulations concerning the taking of evidence by VICO (Rules 117, 118 EPC) as well as additions to the Guidelines. For oral proceedings on appeal by VICO, a specific provision was added to the Rules of Procedure of the Boards of Appeal (Art. 15a). Most importantly, in decision G 1/21 the EPO’s highest judicial authority, the Enlarged Board of Appeal, confirmed that oral proceedings in the form of a VICO are oral proceedings within the meaning of Article 116 EPC, that the rules and practices applicable to oral proceedings also apply to them, and that oral proceedings by VICO comply with the principles of fairness of proceedings and the right to be heard. As of today, more than 20 appeal decisions have applied the teachings of decision G 1/21 in individual cases (...).’

‘The achievements made over the past thirty months enable the EPO to conclude the pilot and take the next step with confidence.’

According to EPO president António Campinos: ‘The pandemic has been a catalyst for change affecting many aspects of our patent granting process. Applicants and their representatives have already found that the widespread adoption of videoconferencing is permanently changing the way they do business. Most have welcomed the way in which we have embraced new technologies and the opportunities they provide to save time and money, and reduce carbon emissions, while still allowing them to argue their case effectively. The pilot has taught us all many valuable lessons and allowed us to test various ways of working. After more than two and a half years it is right that we now provide clarity and adopt VICO as the standard format.’

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