

EPO: The EPO moves further towards oral proceedings via video conference

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Edward Farrington June 26, 2020



At the beginning of 1998, the EPO began allowing oral proceedings to be held as a video conference (OJ EPO 1997, 572). Video conferencing was only available for oral proceedings held before an examining division, i.e. prior to grant of the European patent. Oral proceedings before examining divisions are more suited to video conferencing as they are usually shorter and less complex than opposition oral proceedings, they are not open to the public, and only one party is present (the patent applicant).

Until now, there has not been an opportunity for oral proceedings to be held before the opposition division. However, in a Notice from the EPO dated April 14 2020, the EPO announced a pilot project in which oral proceedings could take place via video conference before opposition divisions.

Many of the requirements in the Notice for requesting and arranging oral proceedings via video conference in opposition proceedings remain the same as those established for examination oral proceedings. However, opposition oral proceedings will not be held via video conference if witnesses are to be heard, or if simultaneous interpretation between the official EPO languages is needed.

The pilot project allows examiners, parties to the proceedings and their representatives to participate from different locations. Exchange of written documents is to take place via email. Any technical problems which mean that parties cannot be adequately represented may result in a new summons to oral proceedings being issued.

Opposition oral proceedings are generally open to the public, according to Article 116(4) EPC. This, of course, poses issues when oral proceedings are held via video conference. The EPO will allow members of the public to watch opposition oral proceedings via a video link to a dedicated room at the EPO's offices. The opportunity will also be given for members of the public to connect to the video conference remotely. It remains to be seen whether these solutions are acceptable for those wishing to observe opposition oral proceedings.

This pilot project started on May 4 2020 and is due to run until April 30 2021.

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