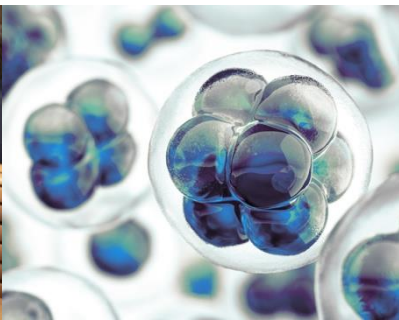




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Oral proceedings by VICO at the EPO

Legal certainty, current framework, statistics, best practice, tips & tricks



Oral proceedings by VICO – situation in 2019

- Oral proceedings by VICO only possible in examination proceedings
 - Introduced at the beginning of 1998 (OJ EPO 1997, 572)
- 900 oral proceedings in examination were held by VICO
 - (roughly 13 % of all oral proceedings in examination)

Coronavirus outbreak begin 2020 created an unprecedented need for oral proceedings by VICO

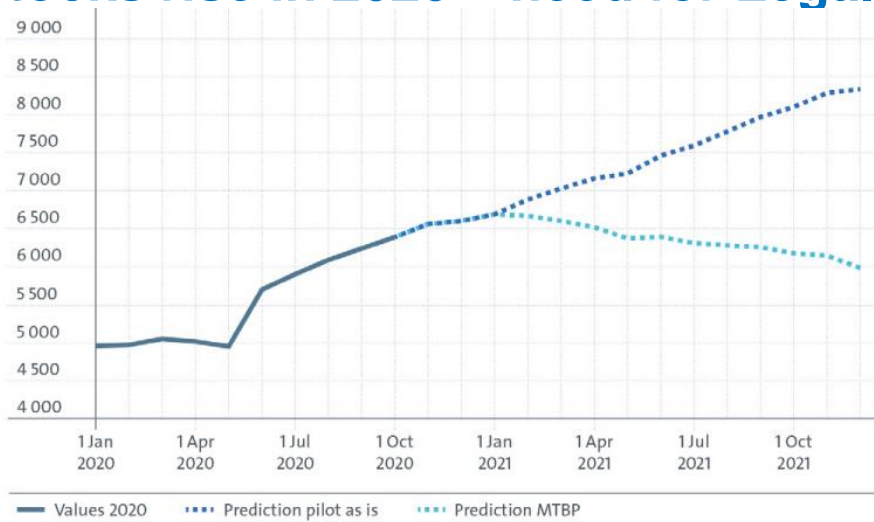
Oral proceedings by VICO – EPO Legal framework

- 1st April 2020: Decision of the President to hold all oral proceedings before examining divisions by VICO
- 14th April 2020: Decision of the President to hold oral proceedings before opposition divisions by VICO upon agreement of all parties
- 4th May 2020: Start with VICO in opposition via Skype for Business
- 15th September 2020: Start with VICO via Zoom (with simultaneous interpretation)
- 10th November 2020: Decision of the President to hold all oral proceedings before opposition divisions by VICO as from 4th January 2021

Oral proceedings by VICO – 2020

- **2.659** oral proceedings conducted by VICO
 - ✓ 2.326 in Examination
 - ✓ 333 in Opposition
- Opposition from September: Zoom + simultaneous Interpretation
- Focus on User: e-learning modules, live seminars, Opposition Matters, meeting User Associations, FAQs, Technical Guidelines, User Support Desk, Test calls, etc.

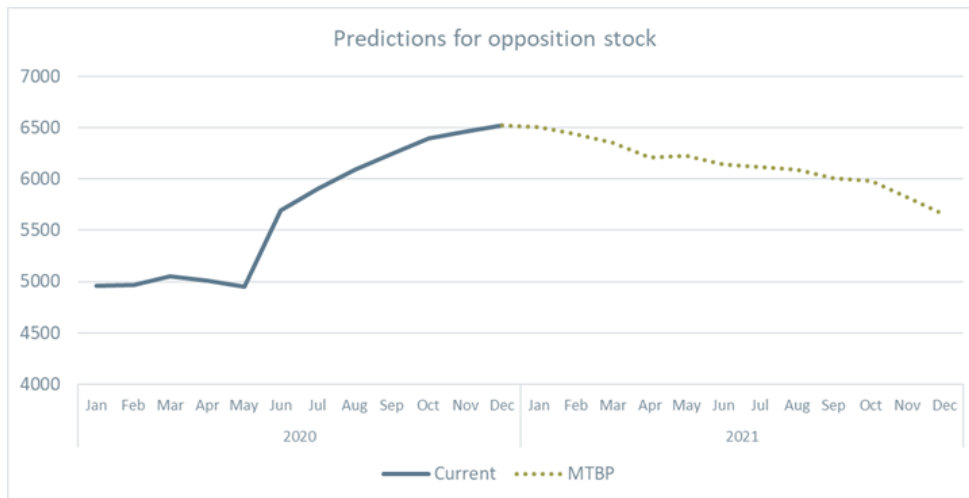
■ Opposition stocks rise in 2020 – need for Legal Certainty



[Progress Report
November 2020](#)

- 10th November 2020: Decision of the President to hold all oral proceedings before opposition divisions by VICO from 4th January until 15th September 2021
- 15th December 2020: Administrative Council allows taking of evidence by VICO

2021 – Roadmap to new normal

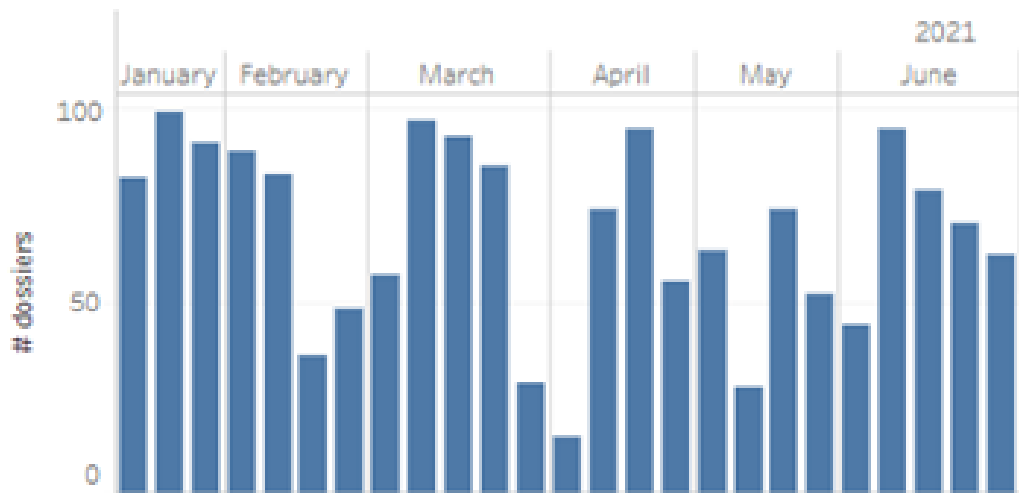


- Since 11th January, over 80 OP by VICO per week with Zoom
- Over 30% with simultaneous Interpretation
- 14th January: first-ever Taking of Evidence via VICO



Weekly scheduled OPs by VICO in Opposition

OP Overview



Opposition VICOs – working well

Year-to-date <small>(9 March 2021)</small>		
OP scheduled	804	100%
OP held	684*	85%
OP cancelled	120	15%**

- No major technical problem (100% successfully completed)
- Very positive comments from participants
- Highly complex cases done, e.g. 4 days, 8 Opponents, live Interpretation, 25 participants incl. Public

■ * *Exam=614 (74%) TOT VICO=1298* ** *Cancellation rates similar to 2019*

EPO: focus on user support

- E-learning modules and training videos
- Live seminars with hundreds of participants
- Opposition Matters (next on 23 April – register!)
- Regularly meeting Professional User Associations
- Regularly updated FAQs and Technical Guidelines
- User Support Desk
- Test calls
- E-Form for parties feedback
- Podcasts
- ...

Opposition by VICO – opportunities for users and professionals

- Costs saving
- Effective use of working time
- Easy access to training for future patent attorneys
- Easy participation of experts and clients from all over the world
- Distance from EPO sites not a factor any longer
- Easy access for the Public

Opposition by VICO - Tips & tricks (1/4)

- **Oral proceedings via videoconference:**
 - New way of working. Get ready for a new level of communication.
 - The EPO also gets ready. Internal training to >1300 colleagues has been provided in the last 3 months.

- **Make yourself heard:**
 - Wave your hand ! Indicate immediately when having sound/technical issues.
 - Ask for breaks.

Opposition by VICO - Tips & tricks (2/4)

- **Setting your scene for enhanced experience (and performance):**

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).

Opposition by VICO - Tips & tricks (3/4)

- **Virtual background:**
 - Allowed, but be aware of exceptions/limitations.
- **ID check**
 - Have your EPO ID badge at hand...
 - It can be shown to the camera in the virtual oral proceedings room.
 - ...or a National ID Card/Passport
 - To be presented in the virtual ID check room/breakout room (for reasons of data protection).
 - OR they can be sent as copy via online filing before the day of the oral proceedings (please use the non-public filing option of the online filing tool).

Opposition by VICO - Tips & tricks (4/4)

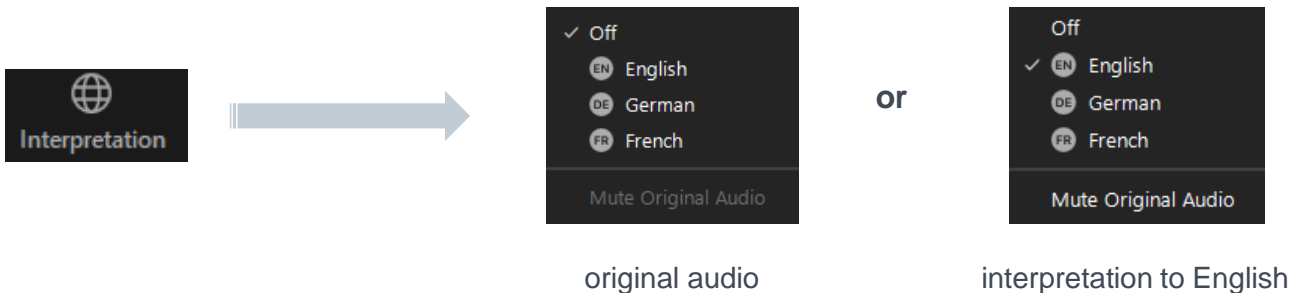
- **Submissions**

- Via email in pdf format sent to the complete opposition division.
- Signature.

- **Data protection: we are in public!**

- no sensitive data (e.g. email address/ telephone number/ birth date/ passport number) should be revealed either orally / in the chat / into the camera in the virtual OP room. If necessary, there is a non-public breakout room

Opposition by VICO – Interpretation



Opposition by VICO - Feedback

European Patent Office - Your feedback on oral proceedings in opposition by VICO

* Required

Oral proceedings in opposition by videoconference - short feedback questionnaire

You recently participated in oral proceedings in opposition by videoconference. To help the EPO to improve our services and better understand your needs, please kindly complete this short feedback form. Your feedback will be handled in a confidential manner by the Quality Department in order to improve the experience and will not be shared with the Opposition Division, nor will any of the provided answers form part of the opposition file or proceedings. Thank you.

Information on Data Protection: This survey is confidential, only the authorised staff of EPO will be able to see the application number, the date and time you opened the survey and the date and time you submitted the response.



- e-form with 13-19 questions (branching)
- Link provided to parties at beginning of OP
- After OP Chair will ask parties to fill it in
- Main aim: to further improve system, procedures and training
- Confidential – results will not be shared with the Division
- Analysis done by Quality Department

Opposition by VICO – Useful links

Technical guidelines for videoconferencing

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

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

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

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>

Taking of evidence by VICO

- 15th December 2020: the Administrative Council allows taking of evidence by VICO with effect as of 1 January 2021
- 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
 - New 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
 - New Rule 118(2)(c) EPC
- Inspection of an object may also be ordered and carried out in the form of VICO

Taking of evidence by VICO – 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



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Thank you for your attention!

Questions?