

# JSIP 2020

Court proceedings in the Covid 19 Pandemic  
The experience of the Patents Court in London

# The impact of Covid-19

- Before March 2020, almost all hearings in the Patents Court were face to face.
- However:
  - Some (very few) telephone hearings for case management
  - Partial video conferencing was quite common in large international trials
- After March 2020 (UK lockdown)
  - Social distancing meant that face to face courts are difficult
  - Access to justice critical
  - Switched quickly to video conferencing (Skype For Business)
  - Triage cases to determine appropriate mode

# Modes of hearing in 2020

- Face to face hearings
  - Some conducted but very rare
  - Need a good reason
- Fully remote hearing by video conferencing
  - Large majority of hearings in 2020
  - All case management and some full trials with witnesses
- Hybrid hearings – part video conference and part face to face
  - Popular for major trials of patent cases
  - Advocates and part of legal team in court
  - Witnesses and other participants by video link

# Practicalities

- Needed electronic filing of documents
  - had a publicly accessible digital court file since 2015
  - Email/ filesharing technology
  - Judges learn to use electronic documents
    - Reading, marking them up. I use a mixture.
- Video tech
  - Test runs in advance
  - Tolerance of problems, may turn off video for bandwidth
  - By Oct 2020, only judge and advocates have video on.
  - Hybrid hearings can have more technical problems – audio
  - Multi-cameral courts have extra issues
- Judges learn to control video hearing as they do a physical court

# Results – the future

- The Patents Court (so far) has no backlog in cases. With rare exceptions, all cases have been dealt with at the time they were scheduled to have been heard.
- Looking beyond a time when social distancing is not required, there is a clear role for greater use of video conferencing. We think we will use it far more.
- Nevertheless in the Patents Court hearings without witnesses seem to be one likely area - case management and perhaps appeals too.
- NB. take care about the digitally disadvantaged in society.
- Biggest lesson?: we have discovered that things can be changed.