

produced using a computer (see also OJ 2020, A37). The requirements for board decisions are set out in R. 102 EPC.

In J 16/17 the board held that the requirement laid down in R. 113(1) EPC, according to which decisions from the European Patent Office must be signed by and state the name of the employee responsible, is not just a mere formality but an essential procedural step in the decision-taking process. The name and the signature serve to identify the decision's authors and express that they unconditionally assume responsibility for its content. This requirement is aimed at preventing arbitrariness and abuse and ensuring that it can be verified that the competent body has taken the decision. It therefore constitutes an embodiment of the rule of law.

In T 989/19 the board held that, where the cover page of the examining division's decision had not been signed by all the division's members, this amounted to a substantial procedural violation and the decision was invalid. Under R. 113(1) EPC, EPO decisions had to be signed by the employee responsible and state their name. Since, in addition, Art. 18(2) EPC stipulated that examining divisions consisted of three examiners, the signatures of all three of those examiners were required.

### 3.3.1 Decisions to be signed

R. 113 EPC says that decisions, summonses, notices and communications from the EPO must be signed by, or bear the seal of, the employee responsible. In T 390/86 the board decided that if the decision of a particular division was to be legally valid it had to bear the signatures of the members who had been appointed to that division to decide the issue.

### 3.3.2 Examples of invalid signatures

#### a) When decision is announced in oral proceedings

The written reasons for a decision delivered during oral proceedings can only be signed by members of the deciding body who took part in the oral proceedings. The same principle applies if between the orally delivered decision and the written decision proceedings in accordance with R. 58(4) EPC 1973 (R. 82(1) EPC) have taken place (T 390/86, OJ 1989, 30). In T 390/86 the board also stated that in a case where a final substantive decision has been given orally by an opposition division during oral proceedings, if the subsequent written decision giving the reasons for such oral substantive decision is signed by persons who did not constitute the opposition division during the oral proceedings, the decision is invalid.

In T 243/87 the board declared a decision to be null and void where one of the three signatures was provided by a member who had not attended the oral proceedings.

#### b) Director's signature in place of examiner's signature

In T 211/05 the board held that a director's signature purporting to be on behalf of the second examiner was invalid because nothing in the EPC 1973 authorised a director to