

the definition of the subject-matter to be dealt with by board. It did not form part of the essentials of the oral proceedings and was not relevant for the present decision, either.

In R 14/09 the Enlarged Board of Appeal held that an **objection under R. 106 EPC** must be recorded in the minutes since it was a relevant statement of a party (see R 17/10; see also R 2/12 of 17 October 2012 "at least at a party's request"; T 1934/14 of 8 October 2018). See chapter V.B.3.6.4 "Minutes as evidence that the objection was raised".

In T 2405/10 the appellant's request to include a statement regarding the problem-solution approach was made **after the proceedings had been closed**. As this statement was not part of the oral proceedings, there was no reason to include it in the minutes.

7.10.2 No recording of statements for use in subsequent national proceedings

According to T 928/98, T 263/05 (OJ 2008, 329), T 550/04, T 71/06, T 61/07 and T 916/09 it is not the function of the minutes to record statements which a party considers will be of use to it in any subsequent proceedings in national courts, for example in infringement proceedings as to the extent of protection conferred by the patent in suit. This is because such statements are not "relevant" to the decision which the board has to take, within the meaning of R 124(1) EPC. Such matters are within the exclusive jurisdiction of the national courts (see also T 1826/18). On this basis the board in T 550/04 concerning the opponent's request to record in the minutes that the expression "oxygen-free atmosphere" in claim 1 had the meaning of "completely oxygen-free atmosphere" stated that this statement would not have an impact on the definition of the subject-matter of the patent for the questions the board had to decide and was thus not proper subject-matter for the minutes. Concerning requests for recording statements of parties in the minutes, see also T 966/99, T 468/99, T 957/99, T 459/01, T 2009/08, T 1824/09.

7.10.3 Correction of minutes

It is the boards' settled case law that parties and their representatives are expected to check minutes carefully as soon as they receive them, especially to ensure that nothing is missing and that they are accurate, and to point out any deficiency promptly, since the minutes are the only means of ascertaining what actually occurred during the oral proceedings at first instance (T 1679/17). If a party was of the opinion that the minutes were incomplete or wrong, since essential submissions were not reflected at all in the file, it might request the opposition division to correct the minutes to preserve its rights (T 642/97, T 231/99, T 898/99, T 68/02, T 99/08). The same is true in proceedings before the examining division (T 937/07, T 2434/09). Concerning the boards of appeal, see T 1934/14 of 8 October 2018, T 888/17.

In T 162/09 the board held that the parties and their representatives could be expected to check the minutes carefully, especially to ensure that nothing was missing, immediately on receipt and to point out any deficiency promptly, since the minutes were the only means of ascertaining what had occurred during the oral proceedings. See also R 6/14.