

example). The language to be used for taking evidence and writing the minutes is governed by Art. 14(3) EPC (language of the proceedings) and R. 4 EPC (derogations from the provisions on use of the language of the proceedings in oral proceedings) (Guidelines E-IV, 1.3 "Taking of evidence" – March 2022 version; see also chapter III.F.2. "Language of the proceedings"). Compare with T.1787/16, which touches upon the language of the proceedings and the wording of decisions in its detailed reasons while also making a number of references to the language of evidence.

Lastly, see T.2165/18 for a case involving a – highly unusual – request for a transcription of a witness's testimony in the language he had spoken (Polish), the minutes of the hearing being in the language of the proceedings (French). The board refused the request for transcription – and a request for correction of the minutes – as unfounded.

Cross-references: evidential matters permeate all aspects of patent law; it is thus recommended to refer also to the following chapters, which deal specifically with these matters: I.C.3.2.3 "Internet disclosures"; I.C.3.2.2 "Lectures and oral disclosure"; I.C.3.5. "Evidence"; I.C.3.5.1 "Burden of proof"; I.C.3.5.2 "Standard of proof"; I.C.3.5.2 c) "Internet – proof of the date of availability"; I.D.4.3. "Solving a technical problem"; II.A.2.2.2 "Burden of proof"; II.C.6.6.7 "Experiments"; II.C.6.8 "Post-published documents"; II.C.9. "Evidence"; II.E.5. "Evidence and standard of proof for allowing amendments and corrections"; III.A.2.3. "Causal link and the requirement of proof"; III.B.2.3. "Surprising grounds or evidence"; III.B.2.4.5 "Failure to consider evidence"; III.B.2.6.4 "Hearing witnesses"; III.B.2.7.1 "Facts and evidence put forward for the first time during oral proceedings in inter partes cases"; III.C.6.3. "Final date for written submissions in the preparation for oral proceedings and late submission of new facts and evidence – Rule 116 EPC"; III.E.4.4. "Substantiation of the request for re-establishment"; IV.B.2.6.5 "Fresh argument based on grounds and evidence communicated beforehand"; IV.C.4.6.2 "No legal basis for disregarding late-filed arguments in opposition proceedings"; V.A.4.4.6 g) "Late-filed evidence of a public prior use – not admitted"; V.A.4.5.11 a) "Late submission of new facts and evidence contrary to the principle of fair proceedings and procedural economy"; V.A.5.5.3 "Late-filed documents and evidence"; V.A.5.13.6 "Public prior use"; III.O.2.6. "Evidence for and effect of a transfer"; IV.C.2.2.8 "Indication of facts, evidence and arguments – substantiation of grounds for opposition"; IV.C.2.2.8 i) "Alleged public prior use"; IV.C.3.4.5 "Examination of fresh facts and evidence related to a fresh ground"; V.A.9.8. "Remittal for hearing of witness"; V.B.3.6.4 "Minutes as evidence that the objection was raised". See also Guidelines E-IV "Taking and conservation of evidence" – March 2022 version.

2. Admissible evidence

2.1. Non-exhaustive list of admissible means of evidence

Art. 117(1) EPC does not contain an exhaustive list of admissible evidence, only mere examples. Parties to the proceedings are thus free in their choice of evidence. **Any kind of evidence** is admissible during proceedings before the EPO (T.482/89, OJ 1992, 646).