foreign postal service, according to which the letter had been delivered to an authorised recipient, who, however, was not specified. The board stated that the probative value of the submissions and evidence of the appellant had to be balanced against the probative value of evidence established by the EPO. Balancing the evidence of the examining division, which consisted of the rather vague letter from the Deutsche Post, against the evidence submitted by the appellant, and taking into account the serious consequences for the appellant, the board came to the conclusion that it had not been sufficiently proven that the applicant had received the R. 69(1) EPC communication. In such a situation, where the EPO bore the burden of proof, the applicant had to be given the benefit of the doubt.

In **T 529/09** a communication pursuant to R. 82(3) EPC (invitation to parties to file observations with regard to the maintenance of patent in amended form) had been sent out on 8 September 2008 by registered letter addressed to the proprietor's representative. According to R. 126(2) EPC (see CA/D 6/14 for the revised wording) a registered letter was deemed to have been delivered to the addressee on the tenth day following its posting, unless it had failed to reach the addressee or reached him at a later date. In the board's view, "delivered to the addressee" did not mean that the notification in question had to be brought to the attention of the professional representative in person. It sufficed that the registered letter had been received by a person authorised to take delivery, e.g. an employee of the representative's office (see **T 743/05**). In the present case, the board regarded the evidence on file as sufficiently reliable and complete to prove the proper delivery of the letter. In this respect, the board highlighted a significant difference between this case and **J 9/05** and **J 18/05**, in which the appellant had filed a considerable amount of counter-evidence pointing out specific reasons why the letter might not have been received by the representative's office.

In **T 1934/16**, since the appellant denied having received the communication under R. 82(3) EPC, the EPO had to establish that it reached its destination and the date on which it was delivered (R. 126(2) EPC). The result of the enquiry initiated by the board proved that the registered letter reached its destination and, as the appellant did not submit substantiated details that were apt to demonstrate a different course of events, no doubt existed that the letter was duly received by the appellant's representative.

The inter partes decision **T 1587/17** deals in detail with the standard of proof required to establish that a **notice of appeal** has been filed, with particular reference to **T 2454/11** and **T 1200/01**. The board decided that, in view of the evidence on file, the appellant had discharged its burden of proof and the respondent had not succeeded in raising doubts that were serious enough.

See also **J 10/04**, reported above, which differed from the "ordinary" cases concerning lost mail in that the application had reached the USPTO and only some of the papers were missing, and **T 1535/10**, in which the board found that responsibility for obstacles and delays in receiving decisions having to be notified under R. 126(1) EPC had to be assigned according to spheres of risk (see chapter III.S.4. "Spheres of risk and apportioning the burden of proof").