

person-specific. With regard to objection 2, the fact that Art. 24 EPC could not adequately alleviate the unspecific and speculative concerns of the appellant was a strong indication that the mechanism of Art. 24 EPC was not meant for objections that were exclusively based on such general grounds. With regard to objection 4 – which was based on the fact that the re-appointment of members of the Boards of Appeal and the Enlarged Board was inter alia dependent on a positive opinion from the President of the Boards of Appeal, who was also the Chairman of the Enlarged Board – the Enlarged Board noted that the mechanism of Art. 24 EPC was not meant for objections that were exclusively based on such general, institutional concerns and was also not capable of alleviating these concerns. The use of Art. 24 EPC for the institutional concerns expressed by the appellant, when taken to the extreme, could potentially lead to a complete paralysis of the present proceedings.

### **3.4. Objection based on an obviously wrong understanding of the board's procedural obligations, the right to be heard and the principle of a fair trial**

In T.355/13 the appellant suspected the board of partiality, inter alia because it had not provided a provisional opinion on decisive aspects of the case and because it had issued a summons to oral proceedings instead of remitting the case to the department of first instance. Referring to G.6/95 (OJ 1996, 649), the board stressed that there was no procedural obligation for the board to issue any provisional opinion, and that in inter partes proceedings it was not possible to automatically follow a party's request without giving the other parties the possibility to be heard on that request (in oral proceedings, if requested). The board considered the partiality objection inadmissible, as it was based on an obviously wrong interpretation of the board's procedural obligations, the right to be heard and the principle of a fair trial.

### **3.5. Repetition of a previous objection**

In T.281/03 of 17 May 2006 the board found that the reason for the third partiality objection was essentially the same as that already decided by the replacement board in connection with the second partiality objection. Since the new objection had been made directly upon resumption of the oral proceedings after the respondent's previous objection to partiality had been refused, no new reason for objection could exist, so that the objection was simply a repetition of the previous objection and amounted to an abuse of the proceedings. Hence, the board decided that the request was inadmissible.

### **3.6. Dual function as members of the Enlarged Board and another board of appeal**

In R.12/09 of 3 December 2009 the petitioner objected to the members of the Enlarged Board in petition for review proceedings, alleging that they inevitably had a personal interest owing to their capacity as members of a technical board or the Legal Board of Appeal. The Enlarged Board rejected this objection as inadmissible (see in this chapter III.J.6.2.1).