

In T 888/17 the board held that there was no provision in the EPC pursuant to which a board was under an obligation to render a decision at the end of the oral proceedings and that it lay within the discretion of the board to continue the proceedings in writing if it considers that the matter was not ripe for a decision.

Examples of cases in which the debate has been re-opened are: T 932/04, T 577/11, T 117/15.

7.10. Minutes of oral proceedings (Rule 124 EPC)

According to R 124(1) EPC, minutes of oral proceedings and of the taking of evidence shall be drawn up, containing the essentials of the oral proceedings or of the taking of evidence, the relevant statements made by the parties, the testimony of the parties, witnesses or experts and the result of any inspection. According to Art. 12(1)(a) RPBA 2020 the appeal proceedings shall be based on the decision under appeal and minutes of any oral proceedings before the department having issued that decision.

7.10.1 Content of minutes

In T 642/97 the board stated that R 76 EPC 1973 (R 124 EPC) did not require that the minutes reflect the full arguments of the parties. It was within the discretion of the minute-writer to decide what he considered "essential" or "relevant" (see T 212/97; see also T 468/99, T 2185/15, T 2370/16: the board was responsible for deciding upon what was necessary to be recorded in the minutes). Whereas minutes were required to contain the requests or similarly important procedural statements, most of the arguments concerning patentability were normally apparent from the previous written submissions or from the facts and submissions in the written decision and did not need to be contained in the minutes.

In T 263/05 (OJ 2008, 329) the board held that the minutes of oral proceedings before the boards of appeal should record the requests of the parties on which a decision of the board is required, such as the allowability or otherwise of the appeal, the form in which the patent proprietor seeks maintenance of the patent, requests for remittal of the case or relating to appeal fees or costs. The minutes should also record specific statements which have an impact on the definition of the subject-matter, such as statements of surrender or abandonment of subject-matter, where these are relevant to the decision to be taken (see also T 212/97, T 928/98, T 550/04, T 71/06, T 2351/08, T 1934/14 of 8 October 2018, T 2370/16). The arguments of the parties concerning patentability should not be recorded. They will be apparent from the facts and submissions set out in the written decision.

According to the board in T 1934/14 of 8 October 2018, a request for interruption of the oral proceedings belonged to the essentials of the oral proceedings.

In T 397/03 the board held that the **text of requests** filed by a party at oral proceedings before the opposition division was an essential element that should be contained in the minutes. In T 240/09 the board held that, as far as the parties' requests were concerned,