

## b) Reliance on the professional representative

In J 7/16 the Legal Board held that, for health reasons beyond his control, the former representative had not been capable of running the case in a proper way although he had taken every effort to fulfil his duties. This finding prevented the applicant from suffering from the inappropriate procedural conduct of its former representative as it had no reason to suspect that he could not be relied on.

In T 381/93 of 12 August 1994 the board observed that the applicant was entitled to rely on his duly authorised professional representative to deal with the EPO. However, the board held that to the extent that he was on notice that a time limit had not been met and/or that instructions were required in order to meet it, an applicant had a duty to take all due care in the circumstances to meet the time limit.

In T 1954/13 the appellant (applicant) issued its US representative with an order to "stop work". It appeared to the board that the appellant could not expect that the "stop work" order would have no consequence at all, i.e. that work continued as usual. Yet, there was nothing on file which would suggest that measures had been taken by the appellant in order to somehow compensate for the issuance of the "stop work" order. If instructions had been given by the appellant to the effect that no information should be sent to it, the board found this would be an additional aspect for a finding that the appellant itself had not acted with all due care required by the circumstances.

## c) Unrepresented individual applicant

In J 5/94 the Legal Board made allowance for the fact that the appellant was an individual applicant who had not appointed a representative and who was neither familiar with the requirements of the EPC nor in possession of an established office organisation attuned to ensuring that procedural deadlines were met. The board pointed out that in such a case the **same standards** of care as those required of a professional representative or the patent department of a large firm **could not be applied**. See also T 1201/10 of 28 February 2018.

At the same time, an individual applicant was also obliged to exercise due care in the course of the procedure. Accordingly, when not using the services of a professional representative, he must himself take all possible steps to ensure that he can do, properly and punctually, whatever is required during the grant procedure to prevent any loss of rights. He is not entitled either to invoke **general ignorance of the law** or to leave undone anything which may reasonably be expected of him with a view to observing time limits (J 5/94, J 27/01, J 2/02, J 6/07, T 493/08, T 555/08, J 8/09, J 7/12, J 17/16).

In T 1444/15 the board held that an applicant who employed the services of a payment service provider for monitoring the time limits for renewal fees could not be considered to be an unrepresented individual (see also T 1477/17).

In J 23/87 the Legal Board ruled that exercising due care under Art. 122 EPC 1973 meant that an applicant, when deciding whether to pursue his application, could not rely entirely