

In R 3/10 the Enlarged Board took signed declarations of persons who had attended the oral proceedings into account.

In T 915/12 the board considered that there was not sufficient evidence to prove that D16 – an extract from the encyclopedia- was made available to the public before the priority date (5 February 2001). The printing (2000) and copyright (1999) years indicated in D16 could **not alone** prove accessibility before early 2001. The hand-written annotation made by Ms S. – Head of Collections Department University – on the cover page did not fulfil the requirements of form and content which usually apply for affidavits or similar documents.

2.5.2 Relationship between witness and party

The board may consider an affidavit to be admissible evidence even if it is signed by the general manager of the appellant (see T 327/91). In T 2003/08 of 31 October 2012 (reported in this chapter) the board observed that relations with the appellant's (opponent's) company could possibly have influenced Dr W's and Dr K's objectivity concerning their declarations ("Eidesstattliche Versicherung"). The board considered that its reservations concerning declarations E1 (declaration of Dr W, lecturer) and E2 (declaration of Dr K, member of the audience) could possibly be dispelled by hearing the authors of declarations E1 and E2 themselves.

In T 523/14 the appellant (patent proprietor) objected to the credibility of statements written by two **employees** of the respondents concerning alleged prior publication D11 (an advertising newsletter sent by e-mail). In the board's view, while the written statements of independent persons would tend to carry more weight, the statements of employees of parties to the proceedings were not objectionable per se.

In T 558/95 the board held that the fact that the statutory declarations produced by the opponent partly used the same wording and had been drawn up by employees of the opponent did not necessarily mean they should be excluded as inadmissible. The opposition division had discretion to decide whether to examine them, and to **determine whether or not** the evidence in them was **sufficient**.

See also in this chapter III.G.2.4.1 b) "Relationship between witness and party" and III.G.4.2.2 a) "Credibility of allegedly linked witnesses".

2.5.3 Statutory declarations and hearing witnesses

In T 674/91 the board pointed out that according to the practice of the boards of appeal, affidavits or statutory declarations, whether in original or copy form, are considered as possible means of providing evidence. One purpose of written declarations is to avoid the need to hear the undersigning person as a witness. Where such declarations consist of answers to questions put forward by legal experts several declarations may have certain **stereotyped formulations** in common.