

In T 690/09 the appellant had not questioned the correctness of the minutes; the board held that the correctness of the minutes was therefore not formally in doubt and it had to consider the minutes as correctly reflecting the course of the oral proceedings. See also T 162/09, T 1138/12, T 1227/14, T 320/15.

In T 1005/08 the board held that, according to the consistent jurisprudence of the boards of appeal, it was in principle the department before which oral proceedings had been held which was competent to correct its minutes of the oral proceedings (see also T 2150/15). Where parties consider the minutes of oral proceedings to be incomplete or wrong because essential submissions are not or inaccurately reflected, it is their own responsibility to ensure their rights are safeguarded by asking the department that issued them to correct them accordingly (T 1481/19).

In T 231/99 it was held that the board's responsibility for the decision on the validity of the patent did not extend to deciding on the accuracy of the minutes of first instance proceedings (see also T 1198/97, T 162/09, T 2150/15). In T 508/08 the board stated that if the department of first instance (opposition division) saw fit to ignore its obligations (to respond to a request for correction of the minutes) there was nothing the board could do; it had no power to compel the division to fulfil them (see also T 803/12, T 2150/15).

In T 212/97 the board explained that only decisions could be contested. Since the minutes of oral proceedings were neither a decision nor part of the decision, they could not be "annulled" by the board of appeal (see also T 838/92, T 68/02). A procedural violation could be said to have occurred if the limits of the minute-writer's discretion as to what he considered "essential" or "relevant" were overstepped, e.g. if a party's unambiguous statement of surrender were omitted from the minutes.

In T 1063/02 the board held that it could not order the amendment of the opposition division's minutes of oral proceedings unless they manifestly and definitely differed from the actual course of the proceedings.

In T 740/00 the appellant informed the opposition division of its opinion that the minutes did not reflect the actual conduct of the proceedings. Instead of examining whether the minutes actually fulfilled the requirements of R 76(1) EPC 1973 and then deciding whether or not to correct them, the opposition division argued in essence that the minutes were correct because the minutes said so. The board considered such a reasoning circular and thus as not fulfilling the requirements of R 68(2) EPC 1973, which required decisions of the EPO to be reasoned. This constituted a procedural violation (cf. T 819/96).

In T 4/00 the board held that the decisions on the correction could not be taken by the formalities officer as that would be contrary to the requirements of R 76(3) EPC 1973 (R 124(3) EPC), from which it was clear that only members of the opposition division bore responsibility for the minutes.

In T 1721/07 the board refused the appellants' request that a summary they had drawn up of the parties' various arguments and the board's conclusions be added to the minutes of the oral proceedings. It observed that preparation of the minutes of oral proceedings was