

sign on behalf of a member of an examining division to which he did not himself belong (see also T.1033/16).

3.3.3 Examples of valid signatures

a) Computer-generated communications

Under R.113(2) EPC the signature can be replaced by a seal when a computer is used to produce the decision.

In T.225/96, the board noted that the forms accompanying the decisions are never signed, because they are computer-generated and therefore, under R.70(2) EPC 1973 (R.113(2) EPC), a seal may replace the signature.

In J.14/07 a communication produced using a computer in which a request for reimbursement of 50% of the examination fee had been refused was found to constitute a decision within the meaning of Art.106(1) EPC 1973. Since it indicated the name of the formalities officer responsible and bore a seal, it complied with the requirements of the then applicable R.70(2) EPC 1973 (now R.113(2) EPC).

b) Death of examiner between oral proceedings and written decision

In T.1170/05 one of the examiners had died and so the decision of the first instance bore the signatures of only two of the three members of the division, the chairman signing on behalf of the deceased examiner. The chairman explicitly declared in a note that the written grounds reflected those which had been discussed during the deliberation of the examining division, and which had led to the decision announced at the end of the oral proceedings. This was held to comply with the case law of the boards of appeal, in particular, T.243/87 (see in this chapter III.K.1.3.2); the decision was valid.

c) Decision in written proceedings

In T.777/97, only two of the members of the opposition division had signed the contested decision refusing a request for correction, one purporting to sign on behalf of the absent chairman. According to the board, decisions T.390/86 and T.243/87 (see in this chapter III.K.1.3.2) were not directly applicable, because the case in hand concerned a decision taken in a written procedure on the basis of the evidence on file, whereas those two cases had been concerned with the opposition divisions' composition during the oral proceedings at which the decision was announced, in connection with the requirement that the subsequent written decisions giving the reasons for those oral decisions be signed by the same members. The conclusions reached in T.243/87 could nevertheless be applied by analogy. It went without saying that only those members who had taken the decision could decide on a request for its correction, but if one of the three members of the decision-making department was absent (here: the chairman), one of the others (here: the first examiner) could sign on that absent member's behalf.