

first instance has made the entry or where there is clear-cut evidence of a transfer (**J 26/95**, OJ 1999, 668; see also **T 976/97**, **T 1751/07**). In **T 393/15** the board held that evidence of a transfer could not be regarded as clear-cut if the person carrying out the transfer had not been clearly authorised to do so (see also **T 581/14**).

A transfer can be recorded in the European Patent Register even after deemed withdrawal of a patent application, if it is still possible that restitutio is available and the successor in title has taken, together with his request for registering the transfer, procedural steps suitable for restoring the application (**J 10/93**, OJ 1997, 91).

In **J 17/12** the Legal Board held that the transfer of a European patent application may not be recorded in the European Patent Register at a time when proceedings for the grant of the application are stayed under **R 14(1) EPC**. There is nothing to stop the filing, during the suspension of grant proceedings, of a request to transfer the application, but no action will be taken on the request during the suspension. While the fact of the transfer may not be apparent from the Register, it will be apparent from an inspection of the public file, as will the decision to stay the grant proceedings itself.

In **J 17/14** the Legal Board decided that the reversal of a completed transfer in the Register was not necessarily justified simply because doubts subsequently arose as to whether the claimed succession had been satisfactorily proven. There were cases where it might be more appropriate to stay the grant or opposition proceedings in favour of the party originally registered.

3. Stay of proceedings under Rule 14(1) EPC

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3.1.1 General

Under **R 14(1) EPC** (**R 13(1) EPC 1973**) the EPO must stay the proceedings for grant ex officio if a third party provides it with evidence (under the EPC 1973, 'proof') that he has instituted proceedings against the applicant seeking a decision within the meaning of **Art 61(1) EPC** (see **J 28/94**, OJ 1997, 400; **T 146/82**, OJ 1985, 267; **J 10/02**, **J 6/10**, **J 7/10**), unless the third party communicates to the EPO in writing his consent to the continuation of such proceedings, and unless the European patent application has been withdrawn or is deemed withdrawn (**T 146/82**, OJ 1985, 267; **J 28/94**, OJ 1997, 400). Suspension of proceedings during the period when the third party is seeking a judgement that he is entitled to the grant of the European patent has the objective of preserving the rights of the third party during the entitlement proceedings (**J 7/96**, OJ 1999, 443; **J 20/05**, **J 15/06**, **J 2/14**, **J 17/12**). A patent applicant who is not heard when grant proceedings are suspended at a third party's request pursuant to **R 13 EPC 1973** may still challenge the justification for that suspension (**J 28/94**, OJ 1997, 400).

In **J 14/19**, the Legal Board of Appeal summarised the previous case law as follows. A stay of grant proceedings takes effect immediately on the day the third party demonstrates that the requirements under **R 14(1) EPC** have been met (**J 9/12**); proceedings can also