

J.7/82, OJ 1982, 391; T.1039/00, T.778/98, T.1312/10). When a decision refusing an application is based on several grounds supported by respective arguments and evidence, it is of fundamental importance that the decision as a whole meets the requirements of Art.113(1) EPC (T.1034/11). A decision must show that all potentially refutative arguments adduced by a party are actually refutable (see T.246/08, T.337/17).

In T.763/04 the board held that Art.113(1) EPC is contravened if facts and arguments which, according to the appellant, are clearly central to his case and which may speak against the decision taken, are completely disregarded in that decision. See also T.1898/11, T.2227/09, T.1206/12, T.1592/13 and T.212/17. According to T.740/93, in addition to the logical chain of facts and reasons, the decision should include some motivation on the crucial points of dispute. In T.1557/07 the board held that the examining division had commented on the crucial points of dispute, giving the applicants a fair idea of why their submissions were not considered convincing. In T.2012/17 the board found that the contested decision neither explicitly nor implicitly addressed the appellant's arguments with respect to at least two crucial points of dispute.

In T.238/94 the board considered that, although the opposition division's decision indeed contained no direct reference to the appellants' submissions concerning lack of inventive step, the opposition division had considered in its decision the disclosures of all the documents cited by the appellants and respondents, and also the possible combinations of their teachings. Thus, in the board's view, the appellants' submissions had actually been taken into account, albeit indirectly, in the process of arriving at the contested decision (see also T.1004/96).

In T.1843/11 the appellant alleged that a substantial procedural violation had occurred because it had raised an argument concerning sufficiency of disclosure that had not been addressed in the decision of the opposition division. The board recalled that, according to R.111(2) EPC, decisions of the EPO which are open to appeal must be reasoned. Although the opposition division was not required to address each and every argument of a party (see in this chapter III.B.2.4.3), the important question was whether the party concerned could objectively understand whether the decision was justified or not. The decision should contain at least some reasoning on crucial points of dispute, in order to give the party concerned a fair idea of why its submissions were not considered convincing and to enable it to base its grounds of appeal on relevant issues (see T.70/02). According to the board, it was not sufficient for the requirements of Art.113(1) EPC to be met that the appellant had been given the opportunity to (and in fact had) put forward the argument. What was additionally important was that the opposition division demonstrably heard and considered this argument (see T.763/04). As this condition had not been met, a substantial procedural violation had occurred.

In the case at issue in T.1411/07, the patent proprietor had challenged the admissibility of the opposition on the ground of lack of substantiation, but the opposition division had found it admissible without stating any reasons. The board considered the opposition division's failure to make any reference to the patent proprietor's submissions a breach of R.68(2) EPC 1973 (R.111(2) EPC) and a substantial procedural violation.