

proceedings under R. 90(2) EPC 1973. The Legal Board also pointed out that in the interest of legal certainty, R. 90(1)(b) EPC 1973 could not be applied without any time restriction at all. Parties had to act in good faith and in due time and could not have an interruption of the proceedings established years after they had become aware of the facts justifying an earlier interruption. See also T 54/17.

The board in T 54/17 held as follows: if a patent proprietor, despite being aware of circumstances justifying an interruption which were exclusively within their sphere of influence, continued to act in proceedings for years after those circumstances had come to an end without ever invoking them, it would be unfair for them then to invoke an interruption at such a late stage, with the result that the proceedings conducted up to then, in which they had actively taken part, had to be conducted again. That would be at odds with the principle of good faith

4.8. Consequences of interruption of proceedings (Rule 142(4) EPC)

R. 142(4), first sentence, EPC (R. 90(4), first sentence, EPC 1973) states that the time limits in force as regards the applicant for or proprietor of the patent at the time of interruption of the proceedings shall begin again as from the day on which the proceedings are resumed. R. 142(4) EPC includes two exceptions in this respect, namely the time limits for making a request for examination and for paying renewal fees. R. 142(4) EPC does not, however, constitute an exception to the general principle that all time limits are interrupted. Its sole purpose is to specify how time limits are to be calculated when proceedings resume (J 7/83, OJ 1984, 211).

In J 10/19, the Legal Board stated in its catchword that, whereas a finding that proceedings have been interrupted owing to the patent (co-)proprietor's insolvency was usually made retrospectively, it could be reversed only with ex nunc effect. A retrospective reversal was out of the question, even in isolated individual cases after weighing up the interests concerned. It was instead a matter of law that had to be regulated generally.

The board in T 1389/18 (citing J 9/06) observed that proceedings could only be resumed with ex nunc effect.

In J 7/83 (OJ 1984, 211) the Legal Board held that in the event of proceedings for grant of a European patent being interrupted because the applicant company has gone into receivership (R. 90(1)(b) EPC 1973), the period prescribed by Art. 94(2) EPC 1973 for payment of the **examination fee** is suspended as from the date on which payments were discontinued by court order up to the date on which proceedings for grant are resumed (R. 90(2) EPC 1973). The period then resumes for the part remaining to elapse, or for at least the two months prescribed by R. 90(4), second sentence, EPC 1973. In J ..87 (= J 902/87, OJ 1988, 323) the Legal Board stated that such an interpretation could not be applied to **renewal fees**, for which the EPC did not prescribe a time limit for payment but simply dates on which they fell due. The only time limit affecting renewal fees that might be suspended was the six-month period for paying the renewal fee together with an additional fee referred to in Art. 86 EPC 1973. R. 90(4) EPC 1973 had to be interpreted as