

In T. 698/94 neither the minutes of the oral proceedings before the opposition division nor the appealed decision itself contained the slightest hint at the arguments brought forward by the parties. Nor did the reasons address the decisions of the Enlarged Board of Appeal that had been cited in the summary of facts and submissions. It was impossible for the parties to the proceedings to see how the opposition division had arrived at its conclusion of lack of novelty. The losing party was deprived of its legitimate right to challenge the reasoning on which the decision was based, which was the very purpose of proceedings before the boards of appeal (see G 9/91, OJ 1993, 408). See also T. 135/96, T. 652/97.

In T. 1747/06 the board, distinguishing the situation before it from that in T. 856/91, where it had been decided that even incomplete and deficient reasoning still amounted to reasoning for the purposes of R. 68(2) EPC 1973, found that no reasons at all had been given since it was unclear whether or not any of the documents cited had been considered by the opposition division in arriving at their decision and proper reasoning for the conclusion drawn was lacking. Further, it was unclear whether the statements made in the "Grounds for decision" actually reflected the view of the opposition division or merely that of, e.g., the patent proprietor (see also T. 1366/05).

In T. 1724/10 the board held that the juxtaposition of seemingly contradictory conclusions (e.g. acknowledgement of technical differences but no possibility to define a technical problem), presented in the contested decision as apodictically evident and without any factual support, does not constitute a "reasoned decision" within the meaning of R. 111(2) EPC.

In T. 1713/20, the examining division's reasoning with regard to a lack of inventive step was incomplete. Only individual points of the problem-solution approach were addressed in isolation and it was not clear in relation to which claims or claimed subject-matter the respective arguments or statements were made. There was no logical chain of argumentation concerning the assessment of inventive step of the claimed subject-matter. It was in particular not clear from the decision as a whole from which document(s) the examining division had started when examining inventive step. The board held that the requirement in R. 111(2) EPC of a decision being reasoned is not met if the decision merely contains statements that at best give rise to speculation about what the deciding body might have intended to express.

In T. 3071/19 the examining division's decision had relied on a video which was no longer available at the time of the appeal decision. The board held that a decision open to appeal is not reasoned within the meaning of R. 111(2) EPC if it does not enable the board of appeal to review its correctness. A decision should therefore not rely on evidence accessible only at a web page which is not guaranteed to remain accessible and unchanged. Rather, it should be ensured that a person inspecting the file can reliably access the cited evidence, for example by using appropriate screenshots as evidence of what was shown in the video.