

The board considered that this lack of information was clearly at odds with the stated intention of paying the appeal fee on filing notice of appeal. The deficiency had at any rate been readily identifiable as both the accompanying letter and the notice of appeal had contained very little information.

4.2.3 Electronic filing of documents

Under decision of the President of the EPO dated 14 May 2021 (OJ 2021, A42), electronic filing of documents is admissible in opposition and appeal proceedings. There are numerous cases which deal with electronic filing of appeals before this became permissible (see, with regard to the principle of legitimate expectation, T 781/04 of 30 November 2005 T 991/04 of 22 November 2005 and T 331/08; see also T 1633/18, in which the board considered that a notice of appeal and a further letter filed via the EPO Web-Form Filing service were validly filed).

In T 1764/08, the appellant filed its statement setting out the grounds of appeal via *epoline*® on the very last day of the period specified in Art. 108, third sentence, EPC. The board held that, even if the EPO had warned the appellant, the warning would not have allowed the appellant to re-file the statement of grounds of appeal by an acceptable means within said period. Therefore, under the principle of good faith, there was no duty on the part of the EPO to warn the appellant. To that extent, the case in hand differed from cases T 781/04, T 991/04 of 22 November 2005, T 514/05 and T 395/07, where the deficiency could have been identified in good time before the expiry of the relevant period.

4.2.4 Further examples involving easily identifiable deficiencies

In T 460/95 of 16 July 1996 the board found that in the case in hand the irregularity was obvious and easy to identify, and the appellant could easily have put it right during the time remaining. The registrar, when he received the request for an extension, could and indeed should have seen that it was based on a misunderstanding during a telephone conversation.

The principle of legitimate expectations was applied in J 11/89 where the Receiving Section failed to take any particular action upon the receipt of patent documents intended to be considered as priority documents, but whose priority was not claimed in the request for grant.

4.3. Limits of the obligation to draw attention to easily remediable deficiencies

4.3.1 Area of party's own responsibility

The case law demonstrates that the principle of good faith does not impose an obligation to warn a party of deficiencies within the area of the party's own responsibility (G 2/97, OJ 1999, 123; see inter alia J 41/92, OJ 1995, 93; J 4/96; T 690/93; T 161/96, OJ 1999, 331; T 778/00, OJ 2001, 554; T 267/08; R 4/09; T 578/14). The reason for this is that users of the European patent system, who are parties in proceedings before the