

In T.48/96 the board decided not to accept copies of pages from a **catalogue** bearing a date as sufficient proof of availability to the public. In order to prove the allegation that a particular apparatus described in a catalogue had been available to the public before the priority date, it was not sufficient to show that the catalogue had been published on time, because a mere indication in a catalogue did not constitute absolute proof that the described product had in fact been available to anybody; for example, there could have been a delay (see in this chapter III.G.4.3.4_a) for examples of cases concerning catalogues and commercial brochures, including T.1710/12, in which the board addressed the implications for the standard of proof where such a catalogue has not been produced in support of alleged prior use).

In T.905/94 the patent proprietor had exhibited a blind at an exhibition. After having considered the evidence regarding the exhibition the board looked at the question of whether use of the same **trade name** for different models could constitute evidence of the fact that the patent proprietor had marketed or described the blinds according to the patent at issue before the date of priority. In the board's opinion, such use could not constitute sufficient evidence since it was common practice in industry for the same name to be used and retained for a product, the technical characteristics of which changed over time as improvements were made. See also T.2020/13 on a change of trade name for prior-art products defined by that trade name.

In T.2357/12, concerning the transfer of opponent status and the concept of "universal succession", the board commented on the evaluation of evidence. The proprietor questioned the probative force of **private documents**, as submitted in this case, rather than public registration documents, as evidence of the transfer of opponent status in inter partes proceedings. The board stated that whereas **public registers** often enjoyed public trust regarding the facts registered and other public documents might be more conclusive on formal questions, the identity of the issuer and the date and place of creation of a private document could be more easily contested. However, neither kind of document provided irrefutable evidence of the correctness of a document's content. Citing examples of the different types of documents accepted in individual cases, the board pointed out that the boards had always accepted public and/or private documents as evidence of the transfer of rights, whether by way of universal succession or a single transfer of assets. The level of proof required was credibility of the facts for which evidence was given, in the light of all circumstances.

The opponent having died, in T.74/00 in the board's view, the best evidence which could be provided was evidence of the relevant law of succession (here, Japanese law) by way of **legal opinion** from a Japanese attorney-at-law; the mere filing of copies of a party's correspondence with his instructing Japanese attorneys could not serve as substitute. In T.205/14 (and T.517/14) Israeli law (applicable) was proved to the satisfaction of the board by an expert opinion provided by the party (right of priority – assignment). In T.1201/14, which also concerned transfer of priority, legal opinions were provided but did not satisfy the board on their merits.