

p) COVID-19 pandemic

In T.437/17 the board stated that the mere general reference to the COVID- 19 pandemic and health risks with travel in Germany to and from the boards of appeal did not amount to serious reasons justifying the fixing of a new date for oral proceedings.

q) Representative unable to identify authorised person

In T.1150/13 the appellant's representative requested postponement of the oral proceedings, because he had been unable to identify the person at the appellant's company that was authorised to provide him with instructions on the case. He was making investigations with a view to identifying the authorised person, but anticipated that this would take some time. Thus, in order to give sufficient time to the instructing party to consider and respond to the summons to oral proceedings, the representative requested that the oral proceedings be rescheduled for a later date. In the case in hand the reason lay entirely in the sphere of the appellant and could in the board's view have been alleviated. It therefore did not constitute a serious reason for changing the date of the oral proceedings (Art. 15(2)(b) RPBA 2020).

r) Unavailability of an accompanying person – Article 15(2)(c)(iv) RPBA 2020

In T.777/17 the board stated that the reason provided by the respondent for requesting the postponement related to the impossibility of in-house counsel attending these oral proceedings; however, this reason is specifically listed in Art. 15(2)(c)(iv) RPBA 2020 as one of the reasons which, as a rule, do not justify a change to the date of the oral proceedings. The argument that the representative was relying on the support of the in-house counsel was not convincing as the representative must have been able to properly present the case without such support.

### 6.1.5 Postponement of the oral hearing at the instigation of the EPO

In T.679/14 the board found that it was unacceptable to repeatedly postpone oral proceedings without serious reasons, especially if it was done several times in the same examination proceedings after long delays had already occurred. The postponement of oral proceedings on five occasions at the instigation of the examining division without serious reasons constituted a procedural deficiency in the circumstances of the case.

## 6.2. Notice of two months in the summons

Under R. 115(1), second sentence, EPC (R. 71(1), second sentence, EPC 1973) the notice given in the summons to oral proceedings must be at least two months, unless the parties agree to a shorter period. Art. 15(1), first sentence, RPBA 2020 reads: "Without prejudice to R. 115(1) EPC, the Board shall, if oral proceedings are to take place, endeavour to give at least four months' notice of the summons".

In J.14/91 (OJ 1993, 479) the Legal Board ruled that a dispute about a third party's right to inspect the application dossier before publication had to be decided promptly (i.e. before