

number of time limits have to be monitored. This was particularly so in the case at issue because the time limit for filing a notice of appeal and paying the appeal fee pursuant to Art. 108 EPC was absolutely critical; if the time limit was missed, there was no further ordinary remedy and the contested decision had legal effect (see also T 439/06, OJ 2007, 491).

In T 555/08 the board found that the requisite **standard of due care was not met by uncritically accepting the accuracy of an assistant's oral statements** although they must have been open to doubt (see T 602/94). Failure to query or check such statements had to be viewed in the context of the obligation to supervise assistants. Especially where there were signs that mistakes might have been made, it was essential to check whether assistants were correctly performing the duties assigned to them.

In T 2016/16 the board observed that the representative was not discharged from his or her duty to properly instruct and supervise the assistant, even if the time limits entered by the assistant in the docketing system were normally double-checked by a patent attorney.

c) Technically qualified assistants

In T 715/91 the board held that the consequences of an error by a technically qualified assistant (an engineer training for the European qualifying examination) imputed to the representative would also have to be borne by the appellants. The task of writing, or at least supervising, the despatch of important submissions, such as grounds of appeal, would normally fall to the representative himself. Furthermore, given that the assistant had only recently been taken on, the representative could not be expected to have been able to ascertain in such a short time to what degree the assistant did know the rules and regulations of the EPC.

In T 828/94 the board found *inter alia* that the technical assistant in charge was not supervised well enough and had not been properly instructed.

In T 832/99 the board, referring to the required standard in exercising due care, decided that a technical employee working in a firm of patent attorneys was not an assistant but was carrying out *de facto* the work of a patent attorney. This meant that the **same strict requirements** for due care would have to be applied to the technical employee as were applied to the appellant and the appellant's representative.

d) Substitutes replacing assistants

In J 16/82 (OJ 1983, 262) the Legal Board stated that the conditions relating to assistants also applied in the case of a substitute replacing an assistant who was on holiday, ill or otherwise absent. Where a qualified assistant was absent, therefore, the applicant or representative had either to be able to call on a similarly qualified substitute or else must himself take over the work assigned to the assistant. The **same standard of care** had to be exercised as regards the choice, instruction and supervision of the substitute as of the assistant himself (see also T 105/85).