

the board offered the parties a half-hour suspension of the oral proceedings to enable them to study the fuller version of the document with the help of the interpreters.

In T 834/14 while the opposition division had accepted to consider other objections raised by the opponent only during the oral proceedings, which would normally have given a right to file a response to these new objections, the fact that there was one objection which had been on file right from the start of the opposition proceedings and which could and should have been addressed earlier seemed to the board to be enough to justify the opposition division refusing that any new requests be filed. Such a decision by the opposition division might be considered harsh, but in the case in hand the board found that it did not constitute a substantial procedural violation.

c) Cases where no new claims or relevant documents were introduced

In T 195/84 (OJ 1986, 121) the appellant (patentee) objected at the oral proceedings that new grounds on inventive step were presented to which he had not had an opportunity to reply. The board did not share this opinion as the appellant had been aware that such prior art existed, and had thus had sufficient time to consider it in full. Furthermore, he had not requested any additional time and had not asked for an adjournment.

In T 327/92 the opposition division, at oral proceedings, had relied on a document as closest prior art against an amended main claim, which had been cited in the opposition against a dependent claim only. The board did not consider this a substantial procedural violation, as the patentee was dealing with a document which had always been part of the opposition, and could further examine this document at the oral proceedings.

2.6.2 Introduction of new arguments

In T 248/92 the examining division had based its decision on arguments submitted for the first time during oral proceedings. The board held that the examining division's decision had not been taken contrary to Art. 113(1) EPC. Although one of the purposes of oral proceedings was to settle as far as possible all outstanding questions relevant to a decision, they did not have a constraining effect in the sense of requiring an immediate decision to be taken at the end of those proceedings. If the appellant had felt the need for further reflection, he could have asked for the oral proceedings to be adjourned or for the proceedings to be continued in writing so that he could study carefully the newly introduced arguments, which had obviously been crucial to the decision.

In T 623/12 the opposition division had found, on the basis of an argument first submitted by the opponent during the oral proceedings, that several auxiliary requests did not comply with Art. 123(2) EPC. The opposition division gave the patent proprietor only one opportunity to file a new claim, based on one of the previous auxiliary requests, and warned that "other requests may suffer from other deficiencies under Art. 123(2) EPC". It then decided that the new auxiliary request still did not comply with Art. 123(2) EPC. According to the board, the opposition division's warning did not provide the patentee with a basis for an informed choice since neither the objections nor the requests affected by them were specified. By acting in this manner, the opposition division did not exercise its