

In T.1325/15 the appellant argued that since a system with a cross-check would identify any single mistake, the term "an isolated mistake" had to be understood as encompassing more than one mistake. In the case in hand, the failure to file the notice of appeal in time had been caused by a combination of isolated mistakes and the appellant argued the requirement of all due care was therefore complied with. The board rejected the appellant's proposition; having a satisfactory system in place does not relieve a representative of his duty to take all due care required by the circumstances when performing procedural steps forming part of that system.

In T.1815/15 the first employee (an attorney's clerk) made a mistake by mentioning the wrong paragraph of R. 82 EPC in the heading of the accompanying letter to the EPO, overlooking the surcharge required by R. 82(3) EPC. It appeared to the board that the firm of attorneys representing the patent proprietor was equipped with a monitoring system which would normally detect this kind of mistake. Therefore the mistake by the second employee when comparing the communication from the EPO with the actions performed by the first employee may be ascribed to an isolated error of the second employee, which the board ascribed to a personal and isolated error in a system which normally should prevent such deficiency.

In T.1214/20 a series of misunderstandings and errors had occurred. The board found that at least three opportunities were missed, and for this reason alone, it was not possible to talk of an isolated mistake within a normally-satisfactory monitoring system. The representative's ICT system also did not provide for independent cross-checks.

5.4.7 Deficiencies in computerised systems

In T.473/07 the board held that the representative's practice of checking only the dates entered by his records clerks while relying on the resulting time limits calculated by the computerised system did not rule out errors. Modern real-world offices comprised computerised systems but **program deficiencies** were also a well-known part of that reality and could not be absolutely ruled out. Therefore, relying exclusively on a time limit generated by a computer program and refraining even from a plausibility check did not meet the all-due-care requirement.

In T.902/05 the board held that whether the systems used in a particular firm to ensure that procedural acts were completed in due time fulfilled the requirement of the taking of "all due care" depended upon the individual circumstances of each case (see also T.1663/12). Where an applicant relied solely on electronic means to record and monitor time limits, the regular making of back-up copies, or some equivalent form of securing data, would generally be an elementary precaution.

For a case in which the computerised system was deemed satisfactory, see T.1269/13 of 4 February 2015.