

justify renewed oral proceedings (see T.748/91, T.692/90, T.755/90, T.25/91, T.327/91 and T.941/16).

In T.298/97 (OJ 2002, 83) the board observed that the right to oral proceedings was not to two oral proceedings on the same subject. Any further oral proceedings on the issue of admissibility would therefore be a matter for the board's discretion.

In T.547/88 the board rejected the request for further oral proceedings. The purpose of continuing the proceedings in writing after the first oral hearing was merely to provide further clarification of the same facts. In addition, in T.614/90 the board rejected the request to comment in writing on the board's reasons for refusing further oral proceedings because the reasons for the refusal had already been given in a communication.

In T.529/94 the examining division, in exercising its discretionary power under R. 86(3) EPC 1973, had considered newly filed claims 3 and 4 as inadmissible. The board held that the legal consequence of this was that claims 3 and 4 were never integrated into the text of the application and never became part of it. For this reason, refusing to hold oral proceedings a second time, during which proceedings it was intended to discuss the allowability of proposed amendments already judged as inadmissible, could not constitute a procedural violation.

4.4.2 Not the same subject of proceedings

In T.731/93 the board stated that where fresh evidence had been admitted into the proceedings, the "subject" of such proceedings, as construed by reference to the text of Art. 116(1) EPC 1973 in all three official languages, could no longer be the same.

In T.194/96 new citations were submitted after the first oral proceedings that were more pertinent than the documents on file and which could and in fact did radically change the nature of the decision. The board held that in such a case the subject of the proceedings could no longer be the same.

In T.1880/11 after the board had in a first decision ordered a patent to be granted on the basis of the main request and the description to be adapted accordingly, the examining division refused the application a second time without holding oral proceedings. The board held that there had been a new subject before the examining division, namely how to adapt the description and the figures in order to fulfil the board's order. It could at least have been discussed during oral proceedings whether the section of the first appeal decision on which there was disagreement between the division and the applicant belonged to the ratio decidendi of that decision and how this section should be interpreted.

In T.2106/09 the board had in a previous decision remitted the case to the opposition division. In its statement of grounds for the earlier appeal, the appellant had changed the subject of the proceedings by introducing a new citation and claiming a lack of inventive step on the basis of a combination of the teachings of various citations. The opposition division had thus been wrong to consider that the subject of the proceedings was the same