

In T.1829/10 the applicant's response to the examining division's first communication was that a hearing would be "expedient" (German: "sachdienlich") if basic concerns regarding patentability persisted. The board of appeal held that the term "hearing" was synonymous with "oral proceedings".

In T.2557/12 the examining division had considered that the following phrase did not constitute a request for oral proceedings: "In the case of the Examining division would decide to reject the application, an oral proceeding would be requested pursuant to article 116 EPC". The board held that the phrase in question left little doubt about the applicant's intention to avoid an immediate refusal of its application. It should be considered more likely as a request for oral proceedings than not.

4.2.2 Wording not constituting a request

In T.528/96, the final paragraph of the patentee's response to the opposition – the last document on the file before the opposition division took its decision – read as follows: "Should the opposition division feel that further information is required, the patentee will be pleased to respond in due course, either in writing or during the oral hearing". The statement did not constitute a formal request for oral proceedings.

In T.299/86 (OJ 1988, 88) a party "reserved the right to request oral proceedings". This was interpreted as meaning that the party had not yet decided whether to request oral proceedings. See also T.263/91.

In T.433/87 the board interpreted the patent proprietor's request "to conclude the opposition proceedings and if necessary arrange oral proceedings as soon as possible" to mean that oral proceedings were requested only in the event of their being considered necessary by the opposition division. See also T.650/94.

The statement "if there are any outstanding problems, the writer would welcome an opportunity to discuss the case with the examiner" could not be understood as a valid request for oral proceedings either (T.88/87). See also T.454/93, T.1606/07, T.1500/13.

In T.60/13 the board did not consider the respondent's statement that "if an oral hearing was to take place we wish to attend" to constitute a request for oral proceedings. Furthermore, the indication regarding the language used in "possible oral proceedings" and the request to use Swedish in oral proceedings, after the statement that "we find it unnecessary to attend an oral proceeding" were not seen to constitute a clear request for oral proceedings.

In T.1310/17 the board found that a party announcing that it would not be attending oral proceedings and at the same time requesting that they be postponed if they could not be held online was not to be treated as an independent request for oral proceedings. Instead, the party was merely commenting on the modalities of the oral proceedings scheduled (at the opposing party's request), should such a hearing take place. A conditional request for postponement made for the mere eventuality that the hearing might be held online was thus to no avail.