

purpose of such inspection, i.e. obtaining patent information, to which the public was entitled in return for the exclusive monopoly rights that patents confer.

In T 851/18 of 12 April 2019, the board held that the request to exclude documents from file inspection was successful only in so far as the appellant (patent proprietor) had requested, in the alternative, that the documents in question be made available for inspection in anonymised form only. The board pointed out, however, that the appellant could not successfully invoke the EU General Data Protection Regulation (GDPR) as this was not binding on the European Patent Organisation. The applicable law was instead to be found in the Guidelines for the Protection of Personal Data in the EPO of 1 April 2014, together with Art. 1(2)(a) of the decision of the President of the EPO dated 12 July 2007 concerning documents excluded from file inspection (OJ SE 3/2007, 125) and the provisions in Art. 128(4) and R. 144(d) EPC on which that decision was based.

In T 2893/18 the board found that the fact that the contested documents were communicated to the other opponents was not in contradiction with their provisional exclusion from public inspection. The opposition division had at least provisionally excluded the contested documents from file inspection – as requested and as foreseen in the decision of the President of the EPO dated 12 July 2007 (OJ SE 3/2007, 125) – and examined their relevance for admission into the proceedings, their public availability and their exact influence on the patentability of the opposed patent before ultimately deciding on the issue of public file inspection.

1.2.2 Examples where file inspection was found not to be prejudicial to interests of appellant

In T 2254/08 the board decided that the inspection of documents that were marked confidential on filing but were publicly accessible on the internet was not prejudicial to the economic interests of the appellant (proprietor).

In T 1839/11 the board came to the conclusion that where a filed document contains information, some of which serves the purpose of informing the public about the patent but some of which does not, the filing of a version of the document in a form from which the latter information has been redacted may form the proper basis for an order excluding the unredacted document from file inspection under R. 144 EPC, the redacted version being open to file inspection.

In T 1150/13 the board agreed that details of the arrangement for providing instructions to a representative did not serve to inform the public about the application and that such information was not normally obtainable from a file. However, the board rejected the request for exclusion of a letter requesting the postponement of oral proceedings on the basis that the appellant had not argued why the publication of the letter would be prejudicial to its legitimate personal or economic interest, and the board did not consider that this would be the case.