

3.2. Requests of equal ranking

In T 148/06 the board held several requests inadmissible which were submitted not as principle and auxiliary requests, but as requests of equal ranking. It was not the board's duty to give a legal opinion on the admissibility of several requests as guidance for appellants in defining the order in which they would like their requests to be examined. See also T 255/05 on the applicant's responsibility to define the text on the basis of which it requests a patent to be granted (in this chapter III.1.2).

3.3. Requesting further opportunity to formulate new requests

In T 792/92 the board considered as inadmissible the appellant's request at the end of the oral proceedings that, should the outcome of the discussions be negative for him, he be given the opportunity to formulate new requests.

3.4. Admissibility of late-filed requests

On the late filing of requests for amendment in examination proceedings, see chapter IV.B.3.3.3 "Criteria for admitting amendments filed in reply to the Rule 71(3) EPC communication"; in opposition proceedings, see chapter IV.C.5.1.4 "Time frame for filing amendments"; and in appeal proceedings, see chapter V.A.4. "New submissions on appeal".

4. Obligation to give reasons for refusal of each request

If a decision relates to several requests, it must give reasons for the rejection of each one. It must be clear from the decision which considerations led the division to its conclusions (T 234/86 (inter partes), T 169/96 (ex parte)).

According to T 961/00, it is a party's procedural right to file and maintain such requests as are regarded by the competent organ as unallowable or even inadmissible. If a party does so, then the competent organ has to give a decision on it, i.e. to refuse it if it is unallowable or inadmissible (see e.g. T 1105/96, OJ 1998, 249; T 1029/16), but it cannot simply disregard it and deal with the case as if the request did not exist. On the contrary, this would constitute a substantial procedural violation.

5. Withdrawal of request

In several recent decisions, boards have concluded (contrary to T 1157/01; see next paragraph) that **requests can be withdrawn implicitly** and that there is an implicit withdrawal when the circumstances leave **no doubt** that the party did not intend to pursue them (see T 388/12, T 2301/12, T 52/15, T 1255/16 and T 1695/14).

In T 1157/01 the applicant had maintained all its requests (main and three auxiliary requests). When it declared its non-approval of the text proposed for grant based on the third auxiliary request, however, the appellant did not explicitly repeat that it maintained all its previous and higher ranking requests. The board considered that, according to the