

the document with respect to the **accuracy of the facts** it contained. Such statements relate to the probative value of a document.

In T 71/99 the minutes of the proceedings as taken by the opposition division did not provide a full account of the conduct of the oral proceedings. To show the board what had actually happened, the respondent submitted part of a copy of a **report of the opposition proceedings** which had been dictated by his representative in the course of those proceedings. The appellant argued that this document should not be admitted, albeit without disputing the facts set out in it. Since the submitted part of the report was significantly more precise and not difficult to understand, the board saw no reason to disregard the evidence. In R 3/08 the Enlarged Board, having taken private minutes into account, considered that there was no indication that the petitioner had raised any objection.

On **minutes** of oral proceedings as evidence of the course of the proceedings, see also chapters III.C.7.10., V.B.3.6.4. and R 7/11. See also in this chapter: T 361/00 (minutes not contested), and T 2301/12, in which, the accuracy of the minutes of the oral proceedings having never been challenged, the board started from the position that they represented a faithful account of events. Similarly, in R 6/17 the petitioner had neither objected to nor requested a correction of the minutes.

In various cases concerning prior use, **photographs** were submitted as evidence (see e.g. T 833/99 (photos considered too unclear); T 1410/14; T 564/12; T 453/02 (photos as annexes to affidavits); T 1647/15; T 1127/97; T 544/14 and T 1604/16).

T 523/14 concerned an advertising newsletter as an alleged prior publication. Of the evidence produced by the opponents, the appellant (patent proprietor) argued that D61 – a **screenshot** of Microsoft Outlook documenting the forwarding of the email – might be a forged document. However, the appellant did not indicate, and the board could not find, any inconsistency or discrepancy in D61 which could suggest that this document was a forgery. The mere fact that it was a screenshot of Microsoft Outlook was insufficient to warrant the conclusion that it had been forged.

Where there is no evidence of forgery, it is not necessary to submit the originals of instruments of transfer. Failure to submit originals is not sufficient by itself to raise reasonable doubt as to the validity of the transfer (T 2466/13, which concerned a transfer of priority right).

The board in T 41/19 dealt, among other things, with the probative value of an email in light of a witness statement as to an alleged novelty-destroying prior use (it was considered to be weak in the context of the case in hand).

In T 518/10 (concerning a transfer of opponent status), opponent 2 had filed a copy of an extract from the Norwegian companies register from which it was clear that its name had changed following a merger. The board considered this evidence sufficient to demonstrate who was opponent 2's universal successor in law. See also T 347/15 (two extracts from the commercial register).