

applications per year). Under these circumstances, the board accepted that it was not necessary for meeting the standard of due care to make specific provisions for the unforeseeable two-day illness of the sole employee in charge of monitoring of time limits; more specifically, no substitute for him had to be appointed.

In T 122/91 the board held that due care had not been exercised if the head of an office went off on a journey without informing his deputy of matters requiring immediate attention because a time limit was involved.

In J 41/92 (OJ 1995, 93) the Legal Board found that if a professional representative ran a one-person office, appropriate provisions needed to be made so that, in the case of an absence through illness, the observance of time limits could be ensured with the help of other persons. If there was no substitute or assistant at the representative's office, co-operation with colleagues or with a professional association could, for example, be sought for this purpose. See also T 387/11, in which the representative, who ran a one-person office, had taken precautions to ensure that another representative could cover for him if he were absent owing to illness, so that deadlines would normally be met. In taking such organisational measures, he had met the requisite standard of "all due care".

In T 677/02 the board decided that a large enterprise had not exercised all due care required by the circumstances if, when the representative actually responsible was on short time working, **no deputy** had been designated to cross-check the input of time limits into the system for monitoring time limits.

In T 2569/16 the board was of the view that in the circumstances, where the appellant (patent proprietor) was at the relevant time a company which formed part of a group of companies operating in several countries, and where the intellectual property work of all companies within the group was centralised, it could be expected that there would be a satisfactory system in place in the IP department which ensured that time limits were not missed when the IP manager was absent or the IP manager position was vacant.

5.4.6 Second mistake by responsible person

In T 447/00 and T 448/00 the board was not convinced that the approach taken by the department of first instance, that the admitted existence of four mistakes in respect of the same procedural act could not, by definition, be qualified as "isolated", took sufficient account of the issues to be considered in connection with Art. 122(1) EPC 1973. The board stated that the case law of the boards of appeal referring to an "isolated mistake within a normally satisfactory system" did not normally require that only a "single" error had occurred in relation to a case for which re-establishment of rights was sought. It was not excluded that, in certain circumstances, a chain of errors could well be qualified as "isolated".

In T 808/03 of 12 February 2004 the board held that the condition of "an isolated mistake by a usually reliable person" was not met in the present case, as the responsible person had made a second mistake when processing the reminder of a system for monitoring time limits. See also T 1149/11, T 1325/15.