

In T 1152/05 the notice of appeal was filed in Dutch by a company which had its principal place of business in the US and thus could not benefit from the provisions of Art. 14(4) EPC. A translation into French was filed on the same day. The notice of appeal was deemed not to have been filed. Following G 6/91 (OJ 1992, 491), if the translation was filed at the same time as the original, the EPO could not take it as the "official" notice of appeal and ignore the original as superfluous. See also T 41/09.

5. Translations

Concerning the filing of a required translation of a European patent application, see in this chapter III.F.1.

Under Art. 14(4) EPC, if any required translation of a document filed in accordance with that provision is not supplied in due time (see R. 6(2) EPC), the document is deemed not to have been filed (cf. Art. 14(5) EPC 1973).

In T 323/87 (OJ 1989, 343), the translation of the notice of appeal required under Art. 14(4) EPC 1973 was not filed in due time in accordance with R. 6(2) EPC 1973. The notice of appeal was therefore deemed not to have been received (Art. 14(5) EPC 1973), and the appeal was held not to have been filed. See also T 193/87 (OJ 1993, 207), which concerned a notice of opposition.

However, in T 126/04 the board did not follow T 323/87 with respect to the legal consequence of failure to comply with the time limit. It held that the only possible interpretation of the reference in R. 65(1) EPC 1973 to R. 1(1) EPC 1973, which itself referred to Art. 14(4) EPC 1973, was that R. 65(1) EPC 1973 determined the legal consequence of failure to file a translation of the notice of appeal as required by Art. 14(4) EPC 1973. The legal consequence was therefore the **inadmissibility of the appeal**. It was not a case of conflict within the meaning of Art. 164(2) EPC 1973, since R. 65(1) EPC 1973 was a *lex specialis*. The provisions of R. 65(1) EPC 1973 are now to be found in R. 101(1) EPC, which does not refer to R. 3(1) EPC, the equivalent to R. 1(1) EPC 1973.

In T 170/83 (OJ 1984, 605) a debit order was filed in error in Dutch. The board held that Art. 14 EPC 1973 did not apply – a debit order did not have to contain text in a language at all, whilst remaining quite clear. The question whether a debit order in a non-official language was effective therefore did not arise.

In T 700/05, the board found that, taking into account that Euro-PCT applications were deemed by Art. 153(2) EPC to be European applications and the principle that they thus had to be treated as favourably as applications made in a contracting state, a PCT application originally filed in Japanese had to be treated in the same way as an application filed in the language of a contracting state which was not an official language of the EPC. Art. 14(2) EPC 1973 had thus to be applied by analogy to allow also the translation into English of an original PCT application in Japanese to be brought into conformity with the original Japanese text of the application throughout the proceedings before the EPO, i.e. including opposition and appeal proceedings. See also T 1483/10, T 2410/11, T 2202/19.