

question of procedural economy, for which mainly the deciding body is responsible. A board has no particular duty to give reasons why it chose to proceed as it did.

In T 1477/15 the board stated that it is generally accepted that in appeal proceedings the principle of party disposition applies (see e.g. R 13/13, point 15 of the Reasons), meaning that parties can put forward, withhold or withdraw their requests as they see fit. In other words, if a patent proprietor withdraws or no longer agrees to a text (two auxiliary requests, in this case), this principle prevents the board of appeal from deciding on these issues.

3.2. The requirement of a text submitted by the applicant

In T 1440/12 the board held that in the case of opposition, the intention behind Art. 113(2) EPC is that the EPO may not maintain a patent according to a particular text unless the proprietor has consented unambiguously to the patent being maintained in that form. The "text submitted" is to be understood to mean a text submitted by the proprietor with the clear intention that the patent be maintained according to that text, at least as an auxiliary measure. In the case in issue, although six new requests were enclosed with the reply to the statement of grounds of appeal, the proprietor/respondent did not actually request maintenance of the patent on the basis of any of them, but merely described them as "six auxiliary requests that the proprietor may subsequently choose to rely upon". This phrase, although the submissions in question were termed "requests", made it clear that the proprietor was not at that point requesting maintenance of the patent based on them, but merely leaving open the possibility that it might choose to make such a request subsequently.

3.3. The requirement of a text agreed by the applicant

In T 73/84 (OJ 1985, 241) the board held that the European patent was to be revoked if the patent proprietor stated in opposition or appeal proceedings that he no longer approved the text in which the patent was granted (and, in the case in hand, **maintained after opposition**) and would not be submitting an amended text (see also T 2405/12, T 655/01, T 1526/06 and the cited case law, T 203/14, T 55/16, T 766/16). According to T 1244/08, such a statement by an appellant, who is the proprietor of **a patent which has been revoked by an opposition division**, clearly and unambiguously indicating that he no longer has an interest in the appeal proceedings, is equivalent to a declaration of withdrawal of the appeal, and it is not possible to retract it and continue the proceedings (see chapter IV.D.2. "Requests for revocation during opposition and opposition appeal proceedings").

In T 454/15 the proprietor lodged an appeal against the opposition division's decision to revoke its patent, but prior to the oral proceedings stated that it no longer approved of the text of the patent as granted and would not be proposing an amended text. The board stated that where a fundamental requirement for allowing the appeal of the patent proprietor against a decision of the opposition division to revoke the patent was lacking, the proceedings should be terminated by a decision ordering the dismissal of the appeal, without going into the substantive issues (see also T 163/99, T 1637/06, T 784/14, and T 2524/12). The board stressed that its order could not be the same as in T 2405/12