

In T.2220/14 the opponent submitted a decision of a US District Court in relation to the appellant's US patent. Ultimately, pursuant to Art. 13(1) and (3) RPBA 2007, the board decided not to admit this document into the proceedings. It recalled the relationship between national decisions and procedures before the boards of appeal (point 16 of the Reasons) and considered the document to be irrelevant to the issues before it.

In T.301/94 a report by a "huissier de justice" (court bailiff) concerning champagne bottles had been submitted as evidence of alleged prior use. The evidential value of such official reports drawn up by a "huissier de justice" was no longer questioned at the appeal stage (see also T.838/92).

In T.801/98 lock designs had been deposited, under seal, with a court bailiff and submitted by the appellant during the oral proceedings before the board.

In T.1332/12 the respondent (opponent) filed a copy of Japanese application D7 as evidence of the prior art and a JPO **machine translation** into English (D7T). The appellant (patent proprietor) filed later D7JPO, in its view a more accurate machine translation of D7. The board pointed out that there was nothing in the EPC to prevent a party from filing a **corrected translation of a document filed as evidence**, even if the evidence and/or translation was filed by the other party to the proceedings. This also applied if the document was a patent application. See chapter III.F.5. "Translations".

For **internet publications**, see in particular T.286/10 and T.2227/11, reported in this chapter.

3. Taking of evidence

Mirroring the holding of oral proceedings by videoconference, R.117 and 118 EPC were amended with effect from 1 January 2021 to allow for means of taking evidence by videoconference (see OJ 2020, A132).

Art. 117 EPC entitled "Means and taking of evidence" is applicable before all EPO departments, including the Receiving Section, examining divisions, opposition divisions, the Legal Division and the boards of appeal.

3.1. Relevance of the evidence

3.1.1 Basic principles

The EPO departments must ascertain the **relevance of evidence submitted to them** before deciding whether to admit or reject it. EPO departments do indeed have some **discretion** in admitting evidence offered, for example where (i) it is no longer needed because the fact at issue is **not contested** by the other party, (ii) where the decision will in any case go in favour of the party offering it, (iii) where it is submitted very late in the proceedings and is considered immaterial, or (iv) where for some other reason it cannot affect the outcome (e.g. evidence offered in an inadmissibly late-filed opposition) (T.142/97, OJ 2000, 358).