

Summary of the case

Enlarged Board of Appeal G1/21 – Oral proceedings postponed.

For those practitioners eagerly awaiting the decision of the Enlarged Board of Appeal in G1/21 (Oral proceedings in the form of a videoconference) the wait will go on.

The Chair of the EBoA has announced that the proceedings are postponed (15:00 CET) to allow the appellant time to provide comments to the submissions of the President of the EPO.

The proceedings started with private discussions and deliberation concerning the admissibility of certain requests (1 to 9 and 11) made by the Appellant in its submissions of 24 May 2021. The requests were either deemed inadmissible or were refused.

The appellant was then invited to voice a further request concerning postponement of the oral proceedings. This request centred on the fact that it was only provided with certain papers two days before the oral proceedings. Notwithstanding that the submissions had been uploaded to the online register the appellant argued that its right to be heard (A.113 EPC) was likely to be violated and that the provision of documents was not in accordance with the Rules of Procedure of the Enlarged Board of Appeal (A.9).

Apparently, this was persuasive to the Enlarged Board as oral proceedings were postponed to afford the Appellant time to prepare a response to the various *Amicus Curiae* briefs and the submissions of the President of the EPO.

Re-arranged oral proceedings will likely be held during the first weeks of July (date to be fixed) after the Appellant waived its right to a two month window from time of Summons.