

Safeguards when making EPO payments

A case concerning a payment made after the nine-month opposition period because of a problem with the EPO's online filing software offers a useful checklist, says Edward Farrington of Inspicos

A recent technical board of appeal (the Board) decision, [T 480/21](#), has highlighted the circumstances in which periods for making payments to the EPO can be extended, under [the EPO's Arrangements for Deposit Accounts \(ADA\)](#).

In T 480/21, a professional representative attempted to file an opposition on the last day of the nine-month opposition period. They received repeated error messages from the EPO's online filing system, and eventually filed the opposition and associated evidence by fax.

However, the EPO does not accept payment orders sent via fax, and the representative therefore made the payment the following day. As the payment was made after the nine-month opposition period, the opposition was deemed by the EPO not to have been filed. The opponent appealed this finding.

Point 5.5 of [the ADA published in 2019](#) provides a safeguard, in that "If a payment period expires on a day on which one of the accepted means of filing debit orders under point 5.1.2 is not available at the EPO, the payment period is extended to the first day thereafter on which all such means as are available".

The Board firstly considered the individuals involved to be highly experienced, and their witness statements to be credible. Secondly, the Board considered the computer set-up to be correct, and that – even though an older version of the software was being used – this had not been withdrawn by the EPO. The Board also found that the error message was genuine and that a faulty internet connection was unlikely.

Furthermore, the Board found that the EPO's responsibility extended to software installed by users outside the EPO's premises and servers.

On January 19 2024, it was therefore judged that the error was attributable to the EPO, and thus point 5.5 of the ADA applied. Due to the error in the present case, the payment period was extended to the next day, and was deemed to be validly paid.

Decision T 480/21 presents a useful checklist for actions to be taken if the EPO's online filing software is suspected of malfunctioning when making a payment to the EPO.