
Kluwer Patent Blog

T2/09, European Patent Office (Appeals Court), 12 March 2012

Lars de Haas (V.O.) · Monday, July 30th, 2012

The board clarified the non-public status of e-mail correspondence. The opponent asserted an e-mail from a third party to the opponent as part of the state of the art. It was not in dispute that both the sender and the recipient were bound to secrecy. However, it was asserted that the e-mail should already be regarded publicly available because it was routed via third party servers, possibly through jurisdictions where lawful interception was possible. The board ruled that the sole fact that the e-mail was transmitted via the Internet before the filing date did not render its content available to the public within the meaning of Article 54(2) EPC 1973.

Click [here](#) for the full text of this case.

A summary of this case will be posted on <http://www.KluwerIPCases.com>

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