



Case No. T 28/82

DECISION
of Technical Board of Appeal 3.2.2
of 30 March 1982

Applicant: United Technologies Corporation
1, Financial Plaza
Hartford CT 06 101 (US)

Representative: Waxweiler, Jean
Office Dennemeyer S.a.r.l.
21-25 Allée Scheffer
P.O.Box 41
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Decision under appeal: Decision of Examining Division 062 of
the European Patent Office dated
22 April 1981 to refuse European
patent application No. 79 930 006.6

Composition of the Board:

G. Andersson, Chairman
P. Ford, Member
K. Schügerl, Member

SUMMARY OF FACTS AND SUBMISSIONS

- I. On 22 April 1981, Examining Division 062 of the European Patent Office issued a Decision to refuse the appellant's European patent application No. 79 930 006.6.
- II. By letter dated 5 June 1981, received on 10 June 1981, the appellant's representative filed a notice of appeal against the Decision, stating inter alia that a written statement setting out the grounds of appeal would be filed within the time limit provided in Article 108 EPC. In the circumstances of this case, the time limit expired on 5 October 1981. The appeal fee was duly paid but no written statement setting out the grounds of appeal was filed within the prescribed time limit.
- III. On 1 March 1982, the Registrar of the Boards of Appeal wrote to the appellant's representative, pointing out that, according to the file, no statement setting out the grounds of appeal had been filed, but inviting him to file observations on this matter if he wished to do so.
- IV. In a letter dated 12 March 1982, the appellant's representative stated in reply that "as motivation of the appeal" reference was made to the arguments contained in a letter sent to the Examining Division on 23 February 1981 and requested that the case should be decided as the facts stood.

REASONS FOR THE DECISION

1. Article 108 EPC requires that within four months after the date of notification of the decision appealed against, a written statement setting out the grounds of appeal must be filed. Rule 65(1) EPC provides that if an appeal does not comply with, inter alia, Article 108 EPC, the Board of Appeal shall reject it as inadmissible, "unless each deficiency has been remedied before the relevant time limit laid down in" that Article has expired.

2. Article 110(1) EPC provides that if an appeal is admissible, the Board of Appeal shall examine whether it is allowable.
3. In the present case, as no written statement setting out the grounds of appeal was filed in due time, the Board of Appeal is bound to reject the appeal as inadmissible, in accordance with the provisions of Rule 65(1) EPC. It is unnecessary to consider whether, if it had been received in due time, the appellant's representative's letter dated 12 March 1982 could have been regarded as a written statement complying with Article 108 EPC.
4. As the appeal must be rejected as inadmissible, the Board of Appeal is not required by Article 110(1) EPC to consider whether it is allowable. No opinion is expressed, therefore, on the merits of the appeal.

For these reasons,

it is decided that:

The appeal filed on 10 June 1981 is rejected as inadmissible.

The Chairman:

The Registrar:

PF.
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