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Patentamt

Beschwerdekammern

European Patent  
Office

Boards of Appeal

Office européen  
des brevets

Chambres de recours

T 166



Case Number: T 184 / 83

**DECISION**

of the Technical Board of Appeal 3.2.1

of 8 June 1984

**Appellant:** Lassota, Marek Ian  
8657 West Foster Avenue  
Chicago  
Illinois  
United States of America

**Representative:** Corfield, Peter Ralph  
MARKS & CLERK  
Alpha Tower  
ATV Centre  
Birmingham BI ITT  
England

<b>Decision under appeal:</b>	Decision of Examining Division 118 Office dated 11 May 1983 application No 78300705.7 EPC	of the European Patent refusing European patent pursuant to Article 97(1)
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**Composition of the Board:**

**Chairman:** G. Andersson  
**Member:** K. Schügerl  
**Member:** P. Ford

SUMMARY OF FACTS AND SUBMISSIONS

- I. European patent application No. 78300705.7, which was filed on 1 December 1978 and published on 3 September 1980 under No. 0014723, was refused by a Decision of the Examining Division dated 11 May 1983.
- II. The Decision was based on an amended main claim which had been submitted with a letter dated 20 July 1982. Having regard to the prior art cited in the proceedings, the subject matter of this claim was held to be novel but not to involve an inventive step. In Official Communications dated 26 March 1982 and 26 August 1982 the Examining Division had indicated a line of amendment and restriction of the application which could possibly lead to grant but the appellant had specifically indicated that he was not interested in pursuing this suggestion, in a letter dated 23 February 1983.
- III. The appellant filed a notice of appeal on 29 June 1983 and the appeal fee was duly paid. By his notice of appeal, the appellant sought reversal of the Decision.
- IV. In his Statement of Grounds of the appeal, filed on 14 September 1983, the appellant maintained his previous arguments that the subject matter of the main claim was not obvious but he submitted extensive amendments to the claims, description and drawings which he contended were in accordance with the indications previously given by the Examining Division as to the line of amendment which could possibly lead to grant.

REASONS FOR THE DECISION

1. The appeal is in conformity with Articles 106 - 108 and Rule 64 EPC; it is, therefore, admissible.
2. The Board considers that the Decision of the Examining Division regarding the amended main claim which had been submitted with

the letter dated 20 July 1982 was correct. However, since the appellant has now submitted amendments which could possibly lead to the grant of a patent but which have not been considered by the Examining Division, it is considered appropriate to set aside the Decision of the Examining Division and, in the exercise of the Board's discretion under Article 111(1) EPC, to remit the case to the Examining Division for further prosecution.

ORDER

For these reasons,

it is decided that:

1. The decision of Examining Division 118 of the European Patent Office dated 11 May 1983 is set aside.
2. The application is remitted to the Examining Division for further examination on the basis of the amended description, drawings and claims submitted with the Statement of Grounds of the appeal.

1.F.  
Schr

J. R.

Andersen