



Case Number: D 0025/99

D E C I S I O N
of the Disciplinary Board of Appeal
of 4 December 2000

Appellant:

n.n.

Decision under appeal: Decision of the Examination Secretariat for the
European Qualifying Examination dated
5 August 1999.

Composition of the Board:

Chairman: B. Schachenmann
Members: C. Rennie-Smith
J.-P. Seitz
Ch. Kalonarou
E. Klausner

Summary of Facts and Submissions

- I. The Appellant appealed, by a notice of appeal received by fax on 28 September 1999, against the decision, posted by registered letter on 5 August 1999, of the Examination Secretariat to refuse her application for enrolment for the 1999 European qualifying examination. The written statement of the grounds of appeal dated 30 November 1999 were received by the Secretariat on 8 December 1999.
- II. By letters from the Board of 25 April 2000, the President of the European Patent Office and the President of the Institute of Professional Representatives were invited, pursuant to Articles 27(4) REE and 12 RDR, to comment on the case. By a letter dated 23 June 2000, the President of the EPO informed the Board he did not intend to comment. The President of the Institute did not reply.
- III. By a communication dated 15 May 2000, the Board notified the Appellant of its provisional opinion that the appeal was inadmissible and drew her attention to the possibility of an application for re-establishment of rights. No reply to that communication and no such application have been received.

Reasons for the Decision

1. Pursuant to Rule 78(2) EPC, applicable by virtue of Articles 27(4) REE and 21(2) RDR, the decision of the Examination Secretariat was deemed to have been notified to the Appellant on 15 August 1999. Article 27(2) REE provides that a written statement of the grounds of appeal must be filed within three months of the date of notification of the decision under appeal.

Thus in the present case the statement of grounds of appeal had to be filed by 15 November 1999 at the latest. However, the Appellant's statement of grounds of appeal, dated 30 November 1999 - and therefore apparently not sent until that date or later - was only received by the Secretariat on 8 December 1999. The apparent inadmissibility of the appeal was drawn to the Appellant's attention by the Board's communication of 15 May 2000 on which the Appellant did not, as invited by the Board, file observations within two months of its receipt.

2. No application for re-establishment of rights has been made pursuant to Article 24(2) RDR within the time-limit set out in that Article, namely one month from the removal of the cause of non-compliance with the time-limit for filing the statement of grounds of appeal. In the present case the date of the removal of the cause of non-compliance was, at the very latest, the date of receipt by the Appellant of the Board's communication of 15 May 2000. By virtue of Rule 78(2) EPC, that date was 25 May 2000.

3. In the circumstances, the appeal is clearly inadmissible pursuant to Articles 22(2) RDR and 27(2) REE and as such must be rejected.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:



M. Beer

The Chairman:



B. Schachenmann