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D E C I S I O N
of 5 October 2004

Case Number: T 0080/04 - 3.5.3

Application Number: 93119238.9

Publication Number: 0600427

IPC: G11B 7/24

Language of the proceedings: EN

Title of invention:

Optical information recording medium and composition for
optical information recording film

Patentee:

mitsui chemicals, inc., et al

Opponent:

Ciba Specialty Chemicals Holdings Inc.

Headword:

Optical information recording medium/MITSUI

Relevant legal provisions:

EPC Art. 108

EPC R. 65(1)

Keyword:

"Missing statement of grounds"

Decisions cited:

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Catchword:

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Case Number: T 0080/04 - 3.5.3

D E C I S I O N
of the Technical Board of Appeal 3.5.3
of 5 October 2004

Appellant: Ciba Specialty Chemicals Holding Inc.
(Opponent) Klybeckstrasse 141
P.O. Box/Postfach
CH-4002 Basel (CH)

Representative: Bernhardt, Wolfgang Willy-Hans
Ciba Specialty Chemicals Holdings Inc.,
Group Service,
Law and Environment,
Klybeckstrasse 141
CH-4002 Basel (CH)

Respondent: MITSUI CHEMICALS, INC.
(Proprietor of the patent) 2-5, Kasumigaseki 3-chome
Chiyoda-ku
Tokyo (JP)

Representative: Luderschmidt, Schüler & Partner GbR
Patentanwälte
Postfach 3929
D-65029 Wiesbaden (DE)

Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
10 November 2003 concerning maintenance of
European patent No. 0600427 in amended form.

Composition of the Board:

Chairman: A. S. Clelland
Members: A. J. Madenach
R. Moufang

Summary of Facts and Submissions

I. The appeal is from the interlocutory decision of the opposition division dated 10 November 2003 concerning the maintenance in amended form of the European Patent No. 0 600 427 granted in respect of European patent application 93 119 238.9.

II. The appellant (opponent) filed a notice of appeal on 19 January 2004. The payment of the appeal fee was recorded on 19 January 2004. The notice of appeal contains nothing that could be regarded as a statement of grounds pursuant to Article 108 EPC.

III. By a communication dated 26 April 2004, sent by registered post with advice of delivery, the Registry of the Board informed the appellant that no statement of grounds had been filed and that the appeal could be expected to be rejected as inadmissible.

The appellant's attention was drawn to the provision concerning the late receipt of documents pursuant to Rule 84a EPC and to the possibility of filing a request for re-establishment of rights under Article 122 EPC. The appellant was invited to file observations within two months.

IV. No answer was received within the given time limit to the Registry's communication.

Reasons for the Decision

As no written statement setting out the grounds of appeal has been filed within the time limit provided by Article 108 EPC in conjunction with Rule 78(2) EPC, the appeal has to be rejected as inadmissible (Rule 65(1) EPC).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

D. Magliano

A. S. Clelland