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**D E C I S I O N**  
**of 14 March 2005**

**Case Number:** T 0756/04 - 3.5.1

**Application Number:** 93118618.3

**Publication Number:** 0599207

**IPC:** G06F 19/00

**Language of the proceedings:** EN

**Title of invention:**  
Digital x-ray radiographic apparatus

**Patentee:**  
Shimadzu Corporation

**Opponent:**  
Siemens AG

**Headword:**  
-

**Relevant legal provisions:**  
EPC Art. 108  
EPC R. 65(1)

**Keyword:**  
"Missing Statement of Grounds"  
"Withdrawal of request for oral proceedings"

**Decisions cited:**  
-

**Catchword:**  
-



Case Number: T 0756/04 - 3.5.1

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.1  
of 14 March 2005

**Appellant:** Siemens AG  
(Opponent) Postfach 22 16 34  
D-80506 München (DE)

**Representative:** -

**Respondent:** Shimadzu Corporation  
(Proprietor of the patent) 1, Nishinokyo-Kuwabaracho  
Nakagyo-ku  
Kyoto 604 (JP)

**Representative:** Patentanwälte  
Hauck, Graalfs, Wehnert  
Döring, Siemons, Schildberg  
Neuer Wall 41  
D-20354 Hamburg (DE)

**Decision under appeal:** Decision of the Opposition Division of the  
European Patent Office posted 6 April 2004  
rejecting the opposition filed against European  
patent No. 0599207 pursuant to Article 102(2)  
EPC.

**Composition of the Board:**

**Chairman:** S. V. Steinbrener  
**Members:** K. J. K. Bumés  
G. E. Weiss

## **Summary of Facts and Submissions**

- I. The appeal contests the decision of the Opposition Division of the European Patent Office rejecting the opposition against the European patent No. 0 599 207. The decision was dispatched by registered letter with advice of delivery on 6 April 2004. The Opponent filed a notice of appeal by letter received on 28 May 2004 and paid the fee for appeal on the same date. No Statement of Grounds was filed. The notice of appeal contains an auxiliary request for oral proceedings but nothing that could be regarded as a Statement of Grounds pursuant to Article 108 EPC.
- II. By a communication dated 23 September 2004 and sent by registered post, 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.
- III. The Appellant filed no observations in response to said communication. By letter dated 25 February 2005, the Appellant withdrew the request for oral proceedings.

## **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). Rule 84a EPC is no longer applicable.

**Order**

**For these reasons it is decided that:**

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

M. Kiehl

S. Steinbrener