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D E C I S I O N
of 26 January 2005

Case Number: T 0912/04 - 3.4.3

Application Number: 94309093.6

Publication Number: 0657974

IPC: H01S 3/06

Language of the proceedings: EN

Title of invention:

Polarization independent picosecond fiber laser

Patentee:

Agilent Technologies, Inc. (a Delaware corporation)

Opponent:

Imra America Inc.

Headword:

Picosecond fiber laser/AGILENT

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 0912/04 - 3.4.3

D E C I S I O N
of the Technical Board of Appeal 3.4.3
of 26 January 2005

Appellant:

Imra America Inc.
1044 Woodbridge Avenue
Ann Arbor
Michigan 48105 (US)

Representative:

Böckelen, Rainer
Patentanwälte
Tiedtke-Bühling-Kinne & Partner
Bavariaring 4
D-80336 München (DE)

Respondent:

(Proprietor of the patent)

Agilent Technologies, Inc. (a Delaware
corporation)
395 Page Mill Road
Palo Alto CA 94303 (US)

Representative:

Powell, Stephen David
WILLIAMS POWELL
Morley House
26-30 Holborn Viaduct
London EC1A 2BP (GB)

Decision under appeal:

**Decision of the Opposition Division of the
European Patent Office posted 24 March 2004
rejecting the opposition filed against European
patent No. 0657974 pursuant to Article 102(2)
EPC.**

Composition of the Board:

Chairman: R. K. Shukla
Members: E. Wolff
T. Bokor

Summary of Facts and Submissions

- I. The appeal contests the decision of the Opposition Division of the European Patent Office posted 24 March 2004, rejecting the opposition pursuant to Article 102(2) EPC.

- II. The Appellant filed a notice of appeal by letter received on 3 June 2004 and paid the fee for appeal on the same day. The notice of appeal contains a reference to the appealed decision, and a request to set aside the impugned decision of the Opposition Division, and to revoke the patent as a whole. Oral proceedings are requested as an auxiliary measure. In the notice of appeal it is submitted that a written statement setting out the grounds of appeal will be filed within the due time limit.

- III. No statement of grounds of appeal was filed.

- IV. By a communication dated 4 October 2004 sent by registered letter with advice of delivery, the Registry of the Board informed the appellant that no statement of grounds has been filed and that the appeal could be expected to be rejected as inadmissible. The Appellant was invited to file observations within two months and attention was drawn to the possibility of filing a request for re-establishment of rights under Article 122 EPC.

- V. There was no answer from the Appellant within the given time limit to the above communication.

VI. In response to a telephone inquiry on 18 January 2005 by the Registry of the Board, the representative of appellant confirmed that no Statement of Grounds had been filed by the appellant.

Reasons for the Decision

The notice of appeal contains nothing that could be regarded as a statement setting out the grounds of appeal pursuant to Article 108 EPC. The reference to the grounds of appeal in the notice of appeal itself indicates that the grounds of appeal are not contained in the notice of appeal. As no written statement setting out the grounds of appeal has been filed, the appeal has to be rejected as inadmissible (Article 108 EPC in conjunction with Rule 65(1) EPC).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

M. Patin

R. Shukla