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**Datasheet for the decision
of 27 November 2006**

Case Number: T 0866/06 - 3.4.03

Application Number: 92900161.8

Publication Number: 0605418

IPC: G07F 7/00

Language of the proceedings: EN

Title of invention:
ATMS/POS based electronic mail system

Applicant:
ATM COMMUNICATIONS INTERNATIONAL INC.

Opponent:
-

Headword:
-

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

Keyword:
"Missing statement of grounds"

Decisions cited:
T 0003/90

Catchword:
-



Case Number: T 0866/06 - 3.4.03

D E C I S I O N
of the Technical Board of Appeal 3.4.03
of 27 November 2006

Appellant: ATM COMMUNICATIONS INTERNATIONAL INC.
(Patent Proprietor) 103 Foulk Road
Suite 200
Wilmington, DE 19803-3742 (US)

Representative: Casey, Lindsay Joseph
F.R. Kelly & Co.
27 Clyde Road
Ballsbridge,
Dublin 4 (IE)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 14 December 2005
revoking European patent No. 0605418 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: R. G. O'Connell
Members: G. Eliasson
J. Van Moer

Summary of Facts and Submissions

- I. This is an appeal against the revocation of European patent 0 605 418 posted 14 December 2005.

The appellant proprietor filed a notice of appeal on 22 February 2006, paid the fee for appeal on the same day and stated that a statement setting out the grounds of appeal would be filed in due course. The notice of appeal included a request for oral proceedings.

No written statement setting out the grounds of appeal was filed within the four-month time limit prescribed by Article 108 EPC in conjunction with Rule 78(2) EPC.

- II. By a communication dated 16 June 2006, sent by registered letter with advice of delivery, the board informed the representative of the appellant that it appeared that no written statement of grounds of appeal had been filed and that it was therefore to be expected that the appeal would 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 reestablishment of rights under Article 122 EPC.

- III. There was no reply to the board's communication. In response to a telephone inquiry from the registrar of the board 13 November 2006 regarding the outstanding request for oral proceedings, the representative of the appellant declared that he had no instructions from the appellant to prosecute the appeal further.

Reasons for the Decision

1. Having regard to the facts set out above and, in addition, to the fact that the proprietor is a legal person not having their principal place of business within the territory of one of the Contracting States of the EPC and must therefore be represented by a professional representative pursuant to Article 134(1) EPC and that no change of representative has been communicated to the European Patent Office, the board regards the request for oral proceedings as implicitly withdrawn. This conclusion is also supported by decision T 3/90 (OJ EPO 1992, 737) according to which a statement of a party that it would not be represented at the oral proceedings should normally be treated as equivalent to a withdrawal of the request for oral proceedings.

2. As no written statement setting out the grounds of appeal has been filed and as the notice of appeal contains nothing that could be regarded as a statement of grounds of appeal pursuant to Article 108 EPC, 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.

Registrar

Chair

S. Sánchez Chiquero

R. G. O'Connell