

Internal distribution code:

- (A) Publication in OJ
(B) To Chairmen and Members
(C) To Chairmen
(D) No distribution

**Datasheet for the decision
of 14 February 2007**

Case Number: T 1560/06 - 3.5.02

Application Number: 02798933.4

Publication Number: 1436897

IPC: H03L 7/22

Language of the proceedings: EN

Title of invention:

Dual loop phase lock loops using dual control voltage supply regulators

Applicant:

Rambus, Inc.

Opponent:

-

Headword:

-

Relevant legal provisions:

EPC Art. 108

EPC R. 65(1)

Keyword:

"Missing Statement of Grounds"

Decisions cited:

T 0041/82

Catchword:

-



Case Number: T 1560/06 - 3.5.02

D E C I S I O N
of the Technical Board of Appeal 3.5.02
of 14 February 2007

Appellant: Rambus, Inc.
4440 El Camino Real
Los Altos, CA 94022 (US)

Representative: Eisenführ, Speiser & Partner
Patentanwälte Rechtsanwälte
Postfach 10 60 78
D-28060 Bremen (DE)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 18 April 2006
refusing European application No. 02798933.4
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: W. J. L. Wheeler
Members: M. Rognoni
E. Lachacinski

Summary of Facts and Submissions

- I. The appeal contests the decision of the examining division of the European Patent Office refusing European patent application No. 02 798 933.4. The decision was dispatched on 18 April 2006 by registered letter with advice of delivery. The applicant (appellant) filed the notice of appeal on 16 June 2006 and paid the appeal fee on the same day.

- II. In the notice of appeal, the appellant requested that the decision of the examining division be put aside and a patent be granted. Furthermore, the appellant asked for oral proceedings and for the reimbursement of the appeal fee by way of auxiliary requests. The notice of appeal, however, contains nothing that could be regarded as a statement of grounds pursuant to Article 108 EPC.

- III. By a communication dated 22 November 2006, sent by registered letter with advice of delivery, the Registry of the Board informed the appellant that no statement of grounds of appeal had been filed and that it was to be expected that the appeal would be rejected as inadmissible pursuant to Article 108 EPC in conjunction with Rule 65(1) EPC. Furthermore, the Registry drew the appellant's attention to the possibility of filing a request for re-establishment of rights under Article 122 EPC, and to the provision that any observations had to be filed within two months from notification of the Registry's communication.

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

Reasons for the Decision

Admissibility of the appeal

1. 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).

Reimbursement of the appeal fee

2. Once a notice of appeal has been properly filed and the fee for the appeal has been paid in accordance with the first two sentences of Article 108 EPC, the appeal fee may only be reimbursed under the explicit conditions specified in Rule 67 EPC and in particular where the Board deems an appeal to be allowable, if such reimbursement is equitable by reason of a substantial procedural violation.

As pointed out in paragraph 4 of T 0041/82 (OJ 1982, 256), the terms of other provisions, notably Article 110(1) and Rule 65(1) EPC, prevent a Board of Appeal from even considering whether an appeal can be deemed to be allowable until the decision has been taken that the appeal is admissible. Such a decision cannot be taken unless, *inter alia*, a statement of grounds of appeal has been duly filed, in accordance with Article 108 EPC.

3. In the result, since the appeal is to be rejected as inadmissible because the statement of grounds was not filed in due time, a prerequisite for reimbursement of the appeal fee has not been fulfilled and consequently the appeal fee cannot be reimbursed.

Request for oral proceedings

4. As the appellant has failed to provide any grounds of appeal, the appellant's auxiliary request for oral proceedings has to be regarded as groundless.

Order

For the above reasons it is decided that:

1. The appeal is rejected as inadmissible.
2. The request for reimbursement of the appeal fee is rejected.

The Registrar:

The Chairman:

U. Bultmann

W. J. L. Wheeler