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**Datasheet for the decision
of 21 June 2007**

Case Number: T 0395/07 - 3.2.05

Application Number: 02773131.4

Publication Number: WO 03/016626

IPC: D21J 1/00

Language of the proceedings: EN

Title of invention:

Coated, cement bonded wood particle boards

Applicant:

Tepe Betopan Yapi Malzemeleri Sanayi Ve Ticaret

Opponent:

-

Headword:

-

Relevant legal provisions:

EPC Art. 108

EPC R. 67

Keyword:

"Admissibility (yes)"

"Reimbursement of appeal fee (no)"

Decisions cited:

T 0991/04

Catchword:

-



Case Number: T 0395/07 - 3.2.05

D E C I S I O N
of the Technical Board of Appeal 3.2.05
of 21 June 2007

Appellant: Tepe Betopan Yapi Malzemeleri Sanayi Ve Ticaret
A.S.
Beytepe Köyü Yolu No:3
Bilkent
TR-06530 Ankara (TR)

Representative: Yavuzcan, Alev
Ankara Patent Bureau Limited
Kavaklidere
Besteker Sokak No. 10
TR-06680 Ankara (TR)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 16 October 2006
refusing European application No. 02773131.4
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: W. Zellhuber
Members: P. Michel
M. J. Vogel

Summary of Facts and Submissions

- I. The appeal lies from the decision of the Examining Division dated 16 October 2006 refusing European patent application no. 02 773 131.4.
- II. The appellant filed the notice of appeal together with the grounds of appeal on 15 December 2006 not by regular mail or faxed letter but electronically using the so-called epoline®-system provided by the European Patent Office for filing documents relating to a European patent application.
- III. The Examining Division held that claims 7 and 8 contain subject-matter extending beyond the content of the application as filed.
- IV. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 6 filed with the notice of appeal as well as refund of the appeal fee.
- V. The examining division considered the appeal to be allowable and well founded and rectified the decision under appeal in accordance with Article 109(1) EPC. Reimbursement of the appeal fee was not, however, ordered.

Reasons for the Decision

1. *Admissibility*

The notice of appeal was received on 15 December 2006, that is, 12 days before the expiry of the time limit provided under Article 108 EPC on 27 December 2006. Accordingly, the formalities officer had sufficient time to warn the appellant before the expiry of the time limit that the notice of appeal should be filed in writing, for example by fax. Consequently, in accordance with the established jurisprudence on the principle of the protection of legitimate expectations, the notice of appeal is deemed to be filed in due time (cf. T 991/04 paragraphs 26 to 33).

2. *Reimbursement of the Appeal Fee*

In accordance with Rule 67 EPC, reimbursement of an appeal fee in the event of interlocutory revision shall be ordered if reimbursement is equitable by reason of a substantial procedural violation. In the present case, there is no suggestion that such a substantial procedural violation has occurred, and this has not been alleged by the appellant.

Order

For these reasons it is decided that:

Reimbursement of the appeal fee is refused.

The Registrar:

The Chairman:

D. Meyfarth

W. Zellhuber