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**Datasheet for the decision  
of 14 May 2009**

**Case Number:** T 0958/07 - 3.4.01

**Application Number:** 97201302.3

**Publication Number:** 0794697

**IPC:** H05H 1/34

**Language of the proceedings:** EN

**Title of invention:**  
Plasma arc cutting apparatus

**Patentee:**  
HYPERTHERM, INC.

**Opponents:**  
L'AIR LIQUIDE, S.A. A DIRECTOIRE ET CONSEIL DE SURVEILLANCE  
POUR L'ETUDE ET L'EXPLOITATION DES PROCEDES GEORGES CLAUDE  
Kjellberg Finsterwalde Elektroden und Maschinen GmbH

**Headword:**  
-

**Relevant legal provisions:**  
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**Relevant legal provisions (EPC 1973):**  
EPC Art. 108  
EPC R. 65(1)

**Keyword:**  
"Admissibility of the appeal - no"

**Decisions cited:**  
-

**Catchword:**  
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Case Number: T 0958/07 - 3.4.01

**DECISION**  
of the Technical Board of Appeal 3.4.01  
of 14 May 2009

**Appellant:**  
(Patent Proprietor)                      HYPERTHERM, INC.  
P.O. Box A-10  
Etna Road  
Hanover  
New Hampshire 03755      (US)

**Representative:**                      Lawrence, John  
Barker Brettell LLP  
138 Hagley Road  
Edgbaston  
Birmingham B16 9PW      (GB)

**Respondents:**  
(Opponent I)                              L'AIR LIQUIDE, S.A. A DIRECTOIRE ET CONSEIL DE  
SURVEILLANCE POUR L'ETUDE ET L'EXPLOITATION  
DES PROCEDES GEORGES CLAUDE  
75 Quai d'Orsay  
F-75321 Paris Cedex 07      (FR)

**Representative:**                      Pittis, Olivier  
L'Air Liquide, S.A.  
Direction de la Propriété Intellectuelle  
75, Quai d'Orsay  
F-75321 Paris Cedex 07      (FR)

(Opponent II)                              Kjellberg Finsterwalde Elektroden and  
Maschinen GmbH  
Leipziger Strasse 82  
D-03238 Finsterwalde      (DE)

**Representative:**                      Manasse, Uwe  
Forrester & Boehmert  
Pettenkoferstrasse 20-22  
D-80336 München      (DE)

**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
5 April 2007 concerning maintenance of European  
patent No. 0794697 in amended form.

**Composition of the Board:**

**Chairman:** B. Schachenmann  
**Members:** H. Wolfrum  
G. Assi

## **Summary of Facts and Submissions**

- I. The appellant (patent proprietor) contests the decision of the opposition division dated 5 April 2007 maintaining European patent No. 0794697 in amended form.
- II. The appellant (patent proprietor) filed a notice of appeal received on 6 June 2007 and paid the appeal fee on the same day. No statement of grounds of appeal was received. No other appeal was filed.
- III. In a communication dated 20 September 2007 sent by registered post with advice of delivery, the board informed the appellant that no statement of grounds of appeal had been received and that it was to be expected that the appeal would be rejected as inadmissible. The appellant was informed that any observations should be filed within two months.
- IV. No such observations were filed. Instead, the appellant accepted by letter of 7 April 2009 that the appeal would be found inadmissible and asked for confirmation.

## **Reasons for the Decision**

1. Article 108 EPC 1973 requires that a statement setting out the grounds of appeal shall be filed within four months of notification of the decision. Pursuant to Rule 65(1) EPC 1973 the appeal shall be rejected as inadmissible if it does not comply with Article 108 EPC.

2. In the present case no document was filed by the appellant which could be regarded as a statement setting out the grounds of appeal. Consequently the appeal has to be rejected as inadmissible.

**Order**

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

The appeal is rejected as inadmissible.

The Registrar

The Chairman

R. Schumacher

B. Schachenmann