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**Datasheet for the decision
of 11 February 2008**

Case Number: T 1132/07 - 3.4.01

Application Number: 99114010.4

Publication Number: 0975048

IPC: H01Q 19/17

Language of the proceedings: EN

Title of invention:

Method for reducing cross-polar degradation in multi-feed dual offset reflector antennas

Applicant:

Hughes Electronics Corporation

Headword:

-

Relevant legal provisions (EPC 1973):

EPC Art. 108

Keyword:

"Reimbursement of appeal fee (no)"

Decisions cited:

G 0008/91

Catchword:

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Case Number: T 1132/07 - 3.4.01

D E C I S I O N
of the Technical Board of Appeal 3.4.01
of 11 February 2008

Appellant: Hughes Electronics Corporation
200 N. Sepulveda Boulevard
El Segundo
California 90245-0956 (US)

Representative: Lindner, Michael
Patentanwälte
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 7 February 2007
refusing European application No. 99114010.4
pursuant to Article 97(1) EPC 1973.

Composition of the Board:

Chairman: B. Schachenmann
Members: F. Neumann
G. Assi

Summary of Facts and Submissions

- I. This is an appeal against the decision of the examining division, dispatched on 07 February 2007, refusing European patent application No. 99 114 010.4. Notice of appeal was filed on 17 April 2007 and the appeal fee was paid on the same day. No statement of grounds of appeal was received.
- II. With letter of 19 June 2007 the appellant withdrew the appeal and requested that the appeal fee be refunded "if not become due yet".
- III. In a communication, the Board set out its preliminary opinion that the appeal fee had become due and that furthermore, Rule 67 EPC 1973 did not allow reimbursement in the present case.
- IV. No observations have been received by the Board in reply to this communication.

Reasons for the Decision

1. The Board considers the appellant's request for reimbursement of the appeal fee as a procedural issue in respect of which the appeal procedure has to be continued (G 8/91, OJ EPO 1993, 346, point 5).
2. The request for reimbursement of the appeal fee was made on the condition that the appeal fee had not yet become due. The question to be answered is therefore whether the appeal fee had already become due when the request for reimbursement was made.

3. In order for the appeal to have been validly filed, Article 108 EPC 1973 (which was the relevant provision at that time) requires that, within two months after the date of notification of the decision appealed from, a notice of appeal must have been filed and the fee for appeal must have been paid. Thus, the appeal fee became due two months after the date of notification of the decision appealed from.

In the present case, the appeal fee - which was timely paid on the last day of the two month period of Article 108 EPC 1973 - was necessary to establish the existence of the appeal and hence had already "become due" on the date that the appeal was withdrawn and reimbursement was requested.

Order

For these reasons it is decided that:

The request for reimbursement of the appeal fee is refused.

The Registrar

The Chairman

R. Schumacher

B. Schachenmann