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**Datasheet for the decision  
of 5 December 2008**

**Case Number:** T 0381/08 - 3.5.04

**Application Number:** 93116085.7

**Publication Number:** 0592922

**IPC:** G11B 5/706

**Language of the proceedings:** EN

**Title of invention:**  
Magnetic recording medium

**Patent Proprietor:**  
KONICA CORPORATION

**Opponents:**  
TODA KOGYO CORPORATION  
EMTEC Magnetics GmbH

**Headword:**  
-

**Relevant legal provisions:**  
EPC Art. 108, third sentence  
EPC R. 101(1)

**Relevant legal provisions (EPC 1973):**  
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**Keyword:**  
"Missing statement of grounds"

**Decisions cited:**  
-

**Catchword:**  
-



Case Number: T 0381/08 - 3.5.04

**DECISION**  
of the Technical Board of Appeal 3.5.04  
of 5 December 2008

**Appellant:**  
(Opponent 01)

TODA KOGYO CORPORATION  
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**Representative:**

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**Respondent:**  
(Patent Proprietor)

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**Representative:**

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**Other party involved:**  
(Opponent 02)

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Patentanwälte  
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**Decision under appeal:**

Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
19 December 2007 concerning maintenance of  
European patent No. 0592922 in amended form.

**Composition of the Board:**

**Chairman:** F. Edlinger  
**Members:** M. Paci  
T. Karamanli

## **Summary of Facts and Submissions**

- I. The appellant (Opponent 01) contests the interlocutory decision of the opposition division dated 19 December 2007 concerning maintenance of the European patent No. 0 592 922 in amended form.
- II. The appellant filed a notice of appeal received on 19 February 2008 and paid the appeal fee on the same day. No statement of grounds of appeal was received.
- III. In a communication dated 10 June 2008 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 observations were filed.

## **Reasons for the Decision**

1. Article 108 EPC requires that a statement setting out the grounds of appeal shall be filed within four months of notification of the decision. Pursuant to Rule 101(1) EPC 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

D. Sauter

F. Edlinger