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**Datasheet for the decision
of 24 July 2009**

Case Number: T 1842/08 - 3.5.01

Application Number: 02760834.8

Publication Number: 1428119

IPC: G06F 9/48

Language of the proceedings: EN

Title of invention:

Task switching system, task switching method and DSP modem

Applicant:

Ricoh Company, Ltd.

Opponent:

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Headword:

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Relevant legal provisions:

EPC R. 103(1)

Relevant legal provisions (EPC 1973):

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Keyword:

"Refund of the appeal fee after withdrawal of the appeal (no)"

Decisions cited:

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Catchword:

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Case Number: T 1842/08 - 3.5.01

D E C I S I O N
of the Technical Board of Appeal 3.5.01
of 24 July 2009

Appellant: Ricoh Company, Ltd.
3-6, Nakamagome 1-chome,
Ohta-ku
Tokyo 143-8555 (JP)

Representative: Leeming, John Gerard
J.A. Kemp & Co.
14 South Square
Gray's Inn
London WC1R 5JJ (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 30 April 2008
refusing European patent application
No. 02760834.8 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: S. Steinbrener
Members: S. Wibergh
P. Schmitz

Summary of Facts and Submissions

- I. Notice of appeal, including a debit order for deduction of the appeal fee, was filed on 30 June 2008 against the decision of the examining division to refuse European patent application No. 02760834.8 dated 30 April 2008. The statement setting out the grounds of appeal was received on 29 August 2008.

- II. By letter dated 22 May 2009, the appellant withdrew the appeal and at the same time requested a refund of the appeal fee. The request for oral proceedings in case of any decision adverse to the appellant was withdrawn by letter dated 22 July 2009.

Reasons for the Decision

1. A refund of any fee is only possible if the fee was paid without any legal basis or if there is a special provision in the EPC allowing for a refund. In the present case payment of the appeal fee initiated the appeal procedure and therefore it had a legal basis.

2. According to Rule 103(1) EPC, the appeal fee shall be reimbursed where the board of appeal deems an appeal to be allowable, if such reimbursement is equitable by reason of a substantial procedural violation, or if the appeal is withdrawn before the filing of the statement of grounds of appeal and before the period for filing that statement has expired.

In the present case, the appeal was withdrawn and therefore cannot be allowable. Also no procedural violation was alleged. Moreover, a statement of grounds of appeal was filed within due time. Therefore, the requirements of Rule 103(1) EPC are not met and the appeal fee cannot be reimbursed.

Order

For these reasons it is decided that:

The request for reimbursement of the appeal fee is refused.

The Registrar:

The Chairman:

T. Buschek

S. Steinbrener