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**Datasheet for the decision
of 16 September 2010**

Case Number: T 2265/09 - 3.3.10

Application Number: 06741308.8

Publication Number: 1937320

IPC: A61L 2/16

Language of the proceedings: EN

Title of invention:

Method for keeping a surface, object and/or installation free
of pathogens

Applicant:

Cornelis, Gielen

Opponent:

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Headword:

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Relevant legal provisions:

EPC Art. 108

Relevant legal provisions (EPC 1973):

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Keyword:

"Appeal fee not paid in due time"
"Appeal deemed not to have been filed"

Decisions cited:

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Catchword:

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Case Number: T 2265/09 - 3.3.10

D E C I S I O N
of the Technical Board of Appeal 3.3.10
of 16 September 2010

Appellant: Cornelis, Gielen
Astridlaan 222
BE-3900 Overpelt (BE)

Representative: -

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 31 July 2009
refusing European patent application
No. 06741308.8 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: R. Freimuth
Members: P. Gryczka
D. S. Rogers

Summary of Facts and Submissions

- I. A notice of appeal was filed on 23 September 2009 by the Applicant (Appellant) against the decision of the Examining Division sent by post on 31 July 2009 refusing the European patent application 06 741 308.8. The notice of appeal was not accompanied by the payment of the appeal fee.
- II. On 3 December 2009 the Registrar of the Board notified a loss of rights pursuant to Rule 112(1) EPC since the appeal fee had not been paid and that, consequently, the appeal was deemed not to have been filed.
- III. With letter dated 14 December 2009 the Appellant stated that she had attached to her letter dated 22 September 2009 a cheque for the amount of 1270 Euros.
- IV. With a communication dated 24 March 2010 the Board informed the Appellant that according to Article 1, point 2 of the Decision of the Administrative Council of the EPO of 25 October 2007 amending the Rules relating to Fees (OJ EPO, 11/2007, 533) the fees due to the Office denominated in Euros shall be paid only by payment or transfer to a bank account held by the office. The Appellant's attention was drawn to the fact that if the EPO had received a cheque for payment of the appeal fee, then the cheque would have been returned to the sender. The Board informed again the Appellant that since the appeal fee was not paid, the appeal was deemed not to have been filed (Article 108, second sentence, EPC).

- V. In response to this communication of the Board the Appellant paid the appeal fee on 6 July 2010.

Reasons for the Decision

1. The Appellant paid the appeal fee on 6 July 2010. However, the time limit for payment of the appeal fee, namely within two months after the date of notification of the decision appealed from, expired on 12 October 2009 (Article 108 EPC, first and second sentence and Rule 126(2) EPC). The appeal fee was consequently paid after said time limit.

2. Since the appeal fee was not paid in due time, the appeal is deemed not to have been filed (Article 108 EPC, second sentence).

Order

For these reasons it is decided that:

1. The appeal is deemed not to have been filed.

2. The appeal fee is reimbursed.

The Registrar:

The Chairman:

C. Rodriguez Rodriguez

R. Freimuth