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**Datasheet for the decision  
of 28 September 2010**

**Case Number:** T 0919/10 - 3.4.03

**Application Number:** 00200658.3

**Publication Number:** 1005000

**IPC:** G07F 17/32

**Language of the proceedings:** EN

**Title of invention:**

Interactive wagering system and processes

**Patentee:**

ODS Properties, Inc.

**Opponent:**

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**Headword:**

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**Relevant legal provisions:**

EPC Art. 108

EPC R. 101, 103

**Relevant legal provisions (EPC 1973):**

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**Keyword:**

"Admissibility of appeal - no"

"Reimbursement of appeal fee - no"

**Decisions cited:**

T 0013/82

**Catchword:**

-



Case Number: T 0919/10 - 3.4.03

**D E C I S I O N**  
of the Technical Board of Appeal 3.4.03  
of 28 September 2010

**Appellant:**

ODS Properties, Inc.  
6701 Center Drive West  
Los Angeles  
CA 90045 (US)

**Representative:**

Hibbert, Juliet Jane Grace  
Kilburn & Strode LLP  
20 Red Lion Street  
London WC1R 4PJ (GB)

**Decision under appeal:**

Decision of the Examining Division of the  
European Patent Office posted 19 November 2009  
refusing European patent application  
No. 00200658.3 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chairman:** G. Eliasson  
**Members:** T. Karamanli  
R. Q. Bekkering

## **Summary of Facts and Submissions**

- I. This is an appeal against the refusal of European patent application No. 00200658 posted 19 November 2009.
- II. A notice of appeal on behalf of the applicant appellant was filed on 5 January 2010. The appeal fee was paid on the same day. No separate statement of grounds of appeal was filed.
- III. By a communication dated 6 May 2010 sent by registered letter with advice of delivery, the appellant was informed that no statement of grounds of appeal had been filed and that, therefore, it was to be expected that the appeal would be rejected as inadmissible pursuant to Article 108, third sentence, EPC in conjunction with Rule 101(1) EPC. The appellant was invited to file observations within two months.
- IV. By letter dated 13 May 2010, the appellant referred to the above mentioned communication and requested reimbursement of the appeal fee without any further submissions. However no comments were submitted regarding the missing statement of grounds of appeal and no request for re-establishment of rights was filed.
- V. In a communication dated 8 June 2010, the board expressed its preliminary opinion that there was no legal basis for reimbursing the appeal fee. The appellant was invited to file observations within two months.
- VI. No reply was filed to said communication.

## Reasons for the Decision

### 1. *Admissibility*

As no written statement setting out the grounds of appeal has been filed and as the notice of appeal does not contain anything that could be regarded as a statement of grounds of appeal according to Article 108, third sentence, EPC, the appeal has to be rejected as inadmissible (Article 108 EPC in conjunction with Rule 101(1) EPC).

### 2. *Reimbursement of the appeal fee*

There is no legal basis in the present case for reimbursing the appeal fee for the reasons that follow.

Since the notice of appeal was filed and the appeal fee was paid within the time limit under Article 108, first sentence, EPC, an appeal came into existence. Thus there was a legal reason for the payment of the appeal fee. Consequently, a reimbursement of the appeal fee because the appeal is deemed not to have been filed is excluded in the present case. The appeal fee can also not be refunded for the reason that a statement of grounds of appeal was not filed (T 13/82, OJ EPO 1983, 411).

Therefore, in the present case, reimbursement of the appeal fee can only be ordered if the requirements of Rule 103(1) EPC are fulfilled.

Rule 103(1)(a) EPC stipulates as a precondition for reimbursement of the appeal fee that the appeal must be

allowable. However said requirement is not met since the present appeal is found to be inadmissible and therefore is not examined as to its allowability (Article 110, first sentence, EPC).

According to Rule 103(1)(b) EPC, the appeal fee is reimbursed 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, however, the appeal was not withdrawn. Hence the requirements of Rule 103(1)(b) EPC are not fulfilled.

It follows from the above that the request for reimbursement of the appeal fee has to be refused.

## **Order**

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

1. The appeal is rejected as inadmissible.
2. The request for reimbursement of the appeal fee is refused.

The Registrar

The Chairman

S. Sánchez Chiquero

G. Eliasson