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**Datasheet for the decision  
of 6 December 2012**

**Case Number:** T 1787/10 - 3.2.06

**Application Number:** 05790086.2

**Publication Number:** 1799968

**IPC:** F01D11/24, F01D11/14,  
F01D11/08, F01D25/12

**Language of the proceedings:** EN

**Title of invention:**  
SHROUD FOR A GAS TURBINE

**Applicant:**  
NUOVO PIGNONE S.p.A.

**Headword:**

**Relevant legal provisions:**

EPC Art. 108 sentence 3  
EPC R. 99(2), 101(1)

**Keyword:**

Admissibility of appeal - appeal sufficiently substantiated  
(no)

**Decisions cited:**

**Catchword:**



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Case Number: T 1787/10 - 3.2.06

**D E C I S I O N**  
**of the Technical Board of Appeal 3.2.06**  
**of 6 December 2012**

**Appellant:** NUOVO PIGNONE S.p.A.  
(Applicant) Via F. Matteucci 2  
50127 Firenze (IT)

**Representative:** Bedford, Grant Richard  
Global Patent Operation - Europe  
GE International Inc.  
15 John Adam Street  
London WC2N 6LU (GB)

**Decision under appeal:** **Decision of the Examining Division of the European Patent Office posted 1 March 2010 refusing European patent application No. 05790086.2 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman:** W. Sekretaruk  
**Members:** T. Rosenblatt  
M. Hannam

## Summary of Facts and Submissions

- I. The applicant (appellant) filed an appeal against the decision of the examining division by which the European patent application was refused on the basis of Article 97(2) EPC.
- II. In a communication in preparation for oral proceedings the Board informed the appellant of its preliminary opinion, which was as follows:

"1. *The appeal does not appear to be admissible because the statement setting out the grounds of appeal has not been filed in accordance with the requirements set out in Rule 99(2) EPC of the Implementing Regulations, contrary to Article 108, third sentence, EPC.*

1.1 *The grounds of appeal in essence appear to literally reproduce an argument which was already brought forward before the examining division. This argument was also literally recited and then refuted in the impugned decision. The appellant seemingly did not give any reasons in the grounds of appeal why the examining division's reply (see the penultimate paragraph of page 5 of the impugned decision) to this previously presented and now repeated argument was wrong. The Board is thus unable, without having to conduct investigations on its own, to find out why the examining division's argument would be wrong. The grounds of appeal seemingly also do not identify any other deficiency with respect to the remaining parts of the impugned decision, let alone with respect to the problem-solution approach contained therein.*

1.2 The claims filed with the grounds of appeal seemingly also do not comprise any amendment which would appear to have the potential to deprive the impugned decision of its basis. The appellant did seemingly not indicate any reason why he believed that the amended claim 1 would overcome the objection under Article 56 EPC. In the Board's view, this amendment, consisting apparently in the addition of the expression "arranged to be" in the original feature "each sector being cooled by means...", does not appear to alter the subject-matter of the claim. The other amendments of the claims concern the introduction of further dependent claims and therefore do not appear to affect the subject-matter of the independent claim.

1.3 Therefore the Board, without having to conduct investigations on its own, is unable to see why the impugned decision is wrong and should be set aside. The grounds of appeal are thus not sufficiently reasoned.

2. It presently appears that the appeal will not be successful."

III. The appellant replied to the Board's communication by the following statement:

*"We hereby cancel our request for oral proceedings and request a decision."*

IV. Oral proceedings were held on 6 December 2012 in the absence of the appellant.

V. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims submitted with the grounds of appeal.

VI. Claim 1 submitted with the grounds of appeal has the following wording, the amendment compared to claim 1 underlying the impugned decision being marked in bold.

"A stator protection device (10) for a stator of a gas turbine of the type comprising a series of sectors (12) constrained to each other by connection means, each sector (12) has at least one cavity (14) having a bottom (15), in correspondence with said at least one cavity (14), a corresponding sheet (20) equipped with a series of pass-through holes (21) and suitable for covering said at least one cavity (14), being fixed on an outer surface of the relative sector (12), each sector (12) **being arranged to be** cooled by means of a stream of air coming from said pass-through holes (21) of the corresponding sheet (20) which is passed on said bottom (15) and discharged from at least one outlet hole, characterized in that said bottom (15) of each sector (12) comprises a series of protuberances (30) to increase the thermal exchange surface and increase the cooling efficiency of the protection device (10)."

### **Reasons for the Decision**

1. In reply to the Board's communication in preparation for oral proceedings, the appellant withdrew its request for oral proceedings. In the nevertheless maintained oral proceedings the appellant was not present and the proceedings were continued without it.
2. The appellant did not submit any argument in reply to the Board's preliminary opinion. The Board therefore is unable to see any reason why it should change its preliminary opinion.

3. The appeal is inadmissible according to Rule 101(1) EPC of the Implementing Regulations because the statement setting out the grounds of appeal has not been filed in accordance with the requirement set out in Article 108, third sentence, EPC in combination with Rule 99(2) EPC of the Implementing Regulations as explained in item II above.

## Order

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

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



M. H. A. Patin

W. Sekretaruk

Decision electronically authenticated