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**Datasheet for the decision  
of 16 June 2011**

**Case Number:** T 0641/11 - 3.4.01

**Application Number:** 98918625.9

**Publication Number:** 1012623

**IPC:** G01S 13/44

**Language of the proceedings:** EN

**Title of invention:**

Method for improving monopulse processing of aperture segment outputs

**Applicant:**

RAYTHEON COMPANY

**Headword:**

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**Relevant legal provisions:**

EPC R. 130, 152

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

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**Keyword:**

"Decision of the President of the EPO of 12 July 2007 on the filing of authorizations"

"Notice of appeal - deemed not to have been filed"

**Decisions cited:**

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**Catchword:**

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Case Number: T 0641/11 - 3.4.01

**D E C I S I O N**  
of the Technical Board of Appeal 3.4.01  
of 16 June 2011

**Appellant:** RAYTHEON COMPANY  
141 Spring Street  
Lexington  
Massachusetts 02421 (US)

**Representative:** Lawrence, John  
Barker Brettell LLP  
100 Hagley Road  
Edgbaston  
Birmingham B16 8QQ (GB)

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 9 November 2010  
refusing European patent application  
No. 98918625.9 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chairman:** B. Schachenmann  
**Members:** H. Wolfrum  
G. Assi

## **Summary of Facts and Submissions**

- I. European patent application No. 98 918 625.9 was refused by a decision of the examining division dispatched on 9 November 2010. The decision was notified to the authorized professional representative, Mr H., having his place of business in Germany.
  
- II. On 19 January 2011 a notice of appeal was filed and the appeal fee was paid by Mr L., a new professional representative having his place of business in the United Kingdom. The new and the previous representative are not members of the same association. Neither was an authorization filed for the new representative nor was the EPO notified by the previous representative that his authorization had terminated before the appeal was filed.
  
- III. With communication dated 23 February 2011 the EPO informed the new representative that, according to Rule 152(1) EPC in conjunction with Article 1(2) of the Decision of the President of the EPO dated 12 July 2007 on the filing of authorizations, OJ EPO 2007, L.1, an authorization in his favour must be filed within a period of two months from the notification of the communication. Otherwise any procedural steps taken by him would be deemed not to have taken place.
  
- IV. On 21 March 2011 the new representative withdrew the appeal and requested refund of the appeal fee. No authorization was filed by him within the time limit referred to above.

- V. With letter dated 1 April 2011 the previous representative laid down representation. On 20 May 2011 the new representative was informed by the EPO that he was recorded in the Register of European patents as professional representative for the present patent application.

### **Reasons for the Decision**

1. According to Rule 152(8) EPC a representative shall be deemed to be authorized until the termination of his authorization has been communicated to the EPO. The previous representative, Mr H., was therefore authorized until 1 April 2011 when he laid down representation.
2. The new representative, on the other hand, did not file an authorization of the applicant when he had been requested by the EPO to do so. The legal consequence is that, according to Rule 152(6) EPC, any procedural steps taken by him before 1 April 2011 are deemed not to have been taken. Consequently, the notice of appeal filed by him on 19 January 2011 is deemed not to have been filed. The same is true for the withdrawal of the appeal. Since the appeal fee was therefore paid without reason it is to be reimbursed.
3. On 1 April 2011, i.e. on the date when the previous representative laid down representation, the change of representatives has taken effect due to Article 1(2) of the Decision of the President of the EPO dated 12 July 2007 referred to above. Thus, according to Rule 130 EPC,

the present decision is to be notified to the new representative.

**Order**

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

The appeal is deemed not to have been filed.

Reimbursement of the appeal fee is ordered.

The Registrar:

The Chairman:

R. Schumacher

B. Schachenmann