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**Datasheet for the decision
of 23 January 2017**

Case Number: T 0317/12 - 3.2.06
Application Number: 02256985.9
Publication Number: 1302627
IPC: F01D5/00, B23P6/00, B23K9/00,
F04D29/38
Language of the proceedings: EN

Title of invention:
Gas turbine engine compressor blade restoration

Patent Proprietor:
GENERAL ELECTRIC COMPANY

Opponent:
Siemens Aktiengesellschaft

Headword:

Relevant legal provisions:
EPC R. 84(1), 100(1), 126(2)

Keyword:
Lapse of patent in all designated states - termination of
appeal proceedings

Decisions cited:

T 0708/01

Catchword:



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Case Number: T 0317/12 - 3.2.06

D E C I S I O N
of Technical Board of Appeal 3.2.06
of 23 January 2017

Appellant: GENERAL ELECTRIC COMPANY
(Patent Proprietor) 1 River Road
Schenectady, NY 12345 (US)

Representative: Illingworth-Law, William Illingworth
GPO Europe
GE International Inc.
The Ark
201 Talgarth Road
Hammersmith
London W6 8BJ (GB)

Respondent: Siemens Aktiengesellschaft
(Opponent) Wittelsbacherplatz 2
80333 München (DE)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted on 30 November
2011 revoking European patent No. 1302627
pursuant to Article 101(3) (b) EPC.

Composition of the Board:

Chairman M. Harrison
Members: M. Hannam
M.-B. Tardo-Dino

Summary of Facts and Submissions

- I. The appellant (proprietor) lodged an appeal against the decision of the opposition division of 30 November 2011 which revoked European patent No. 1 302 627.
- II. In a communication dated 11 October 2016, the Board informed the parties that the patent in suit had lapsed with effect for all the designated Contracting States and invited the appellant to inform the Board, within two months from notification of the communication, whether it requested a continuation of the appeal proceedings (see T708/01, Reasons 1.1. to 1.4).
- III. No reply was received from the appellant within the two month period.

Reasons for the Decision

1. Rule 84(1) EPC provides that 'if the European patent has been surrendered in all the designated Contracting States or has lapsed in all those States, the opposition proceedings may be continued at the request of the opponent filed within two months of a communication from the European Patent Office informing him of the surrender or lapse.'
2. Based on Rule 100(1) EPC, Rule 84(1) EPC applies *mutatis mutandis* in opposition appeal proceedings. However, if - as in the present case - the patent proprietor is the sole appellant, it would be inappropriate to allow the opponent (respondent) to decide whether the appeal proceedings shall be continued. For this reason, Rule 84(1) EPC has to be

applied *mutatis mutandis* in such opposition appeal proceedings, so that it is the patent proprietor who can request that the appeal proceedings be continued.

3. In the present case, the notification of the lapse within the meaning of Rule 84(1) EPC was sent by registered letter to the parties on 11 October 2016. The period for requesting continuation of the appeal proceedings ended on 21 December 2016 (Rule 126(2) EPC). Since no such request was filed within that time limit, and since no grounds for the proceedings to be continued by the European Patent Office of its own motion are evident from the file, the appeal proceedings are to be terminated.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



M. H. A. Patin

M. Harrison

Decision electronically authenticated