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**Datasheet for the decision
of 16 April 2013**

Case Number: T 1712/12 - 3.3.05

Application Number: 01109122.0

Publication Number: 1149799

IPC: C01B 3/40

Language of the proceedings: EN

Title of invention:

Process for the production of a hydrogen rich gas

Patent Proprietor:

Haldor Topsoe A/S

Opponent:

Johnson Matthey PLC

Headword:

-

Relevant legal provisions:

EPC Art. 108
EPC R. 101(1)

Keyword:

"Missing statement of grounds"

Decisions cited:

T 1042/07, T 0234/10

Catchword:

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Case Number: T 1712/12 - 3.3.05

D E C I S I O N
of the Technical Board of Appeal 3.3.05
of 16 April 2013

Appellant: Haldor Topsoe A/S
(Patent Proprietor) Nymollevvej 55
DK-2800 Kgs. Lyngby (DK)

Representative: Grünecker, Kinkeldey
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Respondent: Johnson Matthey PLC
(Opponent) 2-4 Cockspur Street
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Representative: Gibson, Sara Hillary Margaret
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted 31 May 2012
revoking European patent No. 1149799 pursuant
to Article 101(3)(b) EPC.**

Composition of the Board:

Chairman: G. Rath
Members: J.-M. Schwaller
C. Vallet

Summary of Facts and Submissions

- I. The patent proprietor (hereinafter "the appellant") filed on 27 July 2012 a notice of appeal against the decision of the opposition division dated 31 Mai 2012, whereby the European patent No. 1 149 799 was revoked under Article 101(3)(b) EPC. The appeal fee was paid on the same day. In its notice of appeal, the appellant requested oral proceedings. No statement of grounds was filed within the time limit set by Article 108 EPC.
- II. By a communication dated 23 November 2012 sent by registered letter with advice of delivery, the Registry of the Board informed the appellant 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 but it did not reply to said communication, and no request for re-establishment of rights under Article 122 EPC was filed.

Reasons for the Decision

1. 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 pursuant to Article 108 EPC, the appeal has to be rejected as inadmissible (Art. 108 EPC in conjunction with Rule 101(1) EPC).

2. Since the appellant has neither provided any statement as to the substantive merits of its appeal, nor given any explanation or comments as to why no statement of grounds had been filed, and has not reacted to the board's notification of an impending rejection of the appeal as inadmissible, the board considers the initial auxiliary request for oral proceedings to have become obsolete as a consequence of the subsequent course of action taken. The lack of any response to the board's notification is considered to be equivalent to an abandonment of the request for oral proceedings (see T 1042/07 of 22 August 2008, point 3 of the reasons; T 234/10 of 25 November 2012, point 2 of the reasons)

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar

The Chairman

C. Vodz

G. Raths