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**Datasheet for the decision  
of 25 July 2013**

**Case Number:** T 0804/13 - 3.5.03  
**Application Number:** 08725262.3  
**Publication Number:** 2111725  
**IPC:** H04R 25/00, H01H 13/785  
**Language of the proceedings:** EN

**Title of invention:**

Electrical contacts and switches using conductive silicone in hearing assistance devices

**Applicant:**

Starkey Laboratories, Inc.

**Headword:**

Hearing device/STARKEY

**Relevant legal provisions:**

EPC Art. 108, third sentence  
EPC R. 101(1)

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

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**Keyword:**

"Missing statement of grounds"  
"Request for oral proceedings in the notice of appeal"

**Decisions cited:**

T 1042/07

**Catchword:**

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Case Number: T 0804/13 - 3.5.03

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.03  
of 25 July 2013

**Appellant:**  
(applicant)

Starkey Laboratories, Inc.  
6600 Washington Avenue South  
Eden Prairie, MN 55344 (US)

**Representative:**

UEXKÜLL & STOLBERG  
Patentanwälte  
Beselerstrasse 4  
D-22607 Hamburg (DE)

**Decision under appeal:**

Decision of the examining division of the  
European Patent Office posted 19 October 2012  
refusing European patent application  
No. 08725262.3 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chairman:** F. van der Voort  
**Members:** T. Snell  
R. Moufang

## **Summary of Facts and Submissions**

- I. The appeal is directed against the decision of the examining division of 19 October 2012, posted on the same day.
- II. The appellant filed a notice of appeal on 28 December 2012 and paid the appeal fee on the same day.
- III. In the notice of appeal the appellant requested that the decision be set aside and that a patent be granted on the basis of the main request on which the decision is based, ie the main request filed on 6 September 2012. In addition, the notice of appeal states: "Oral proceedings according to Article 116 EPC are requested in case the Appeal Board does not intend to comply with the main request in the written proceedings".

It was further stated that further requests would be filed with the Grounds for Appeal.

- IV. By communication of 9 April 2013 sent by registered letter with advice of delivery and received by the appellant, the registry of the board informed the appellant that it appeared from the file that the written statement of grounds of appeal had not been filed, and that it was therefore 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 informed that any observations had to be filed within two months of notification of the communication.
- V. No reply was received.

## **Reasons for the Decision**

1. No written statement setting out the grounds of appeal was filed within the time limit provided by Article 108, third sentence, EPC in conjunction with Rule 126(2) EPC. In addition, neither the notice of appeal nor any other document filed contains anything that could be regarded as statement of grounds pursuant to Article 108 EPC and Rule 99(2) EPC. Therefore, the appeal has to be rejected as inadmissible (Rule 101(1) EPC).
  
2. In the notice of appeal the appellant conditionally requested oral proceedings pursuant to Article 116 EPC. However, the appellant subsequently did not provide any statement as to the substantive merits of the appeal, gave no explanation or comments as to why no statement of grounds had been filed, and did not react to the board's communication of the impending rejection of the appeal as inadmissible. As a consequence of the appellant's inaction, in particular the lack of any response to the board's communication, the board considers that the request for oral proceedings has been implicitly abandoned (cf. T 1042/07, point 3 of the reasons).

**Order**

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

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

G. Rauh

F. van der Voort