

Internal distribution code:

- (A) Publication in OJ
(B) To Chairmen and Members
(C) To Chairmen
(D) No distribution

**Datasheet for the decision
of 20 September 2013**

Case Number: T 0824/13 - 3.2.08

Application Number: 02003577.0

Publication Number: 1233199

IPC: F16C 33/46

Language of the proceedings: EN

Title of invention:
Retainer for roller bearing

Patent Proprietor:
NSK LTD

Opponent:
Schaeffler Technologies GmbH & Co. KG

Headword:
-

Relevant legal provisions:
EPC Art. 108
EPC R. 101(1), 126(2)

Keyword:
"Admissibility of the appeal"
"Late filed notice of appeal"

Decisions cited:
-

Catchword:
-



Case Number: T 0824/13 - 3.2.08

D E C I S I O N
of the Technical Board of Appeal 3.2.08
of 20 September 2013

Appellant: Schaeffler Technologies GmbH & Co. KG
(Opponent) Industriestraße 1-3
D-91074 Herzogenaurach (DE)

Representative: Schaeffler Technologies GmbH & Co. KG
ST/SWE-GI
Postfach 12 60
D-97419 Schweinfurt (DE)

Respondent: NSK LTD
(Patent Proprietor) Ohsaki 1-chome
Shinagawa-ku
Tokyo (JP)

Representative: Grünecker, Kinkeldey
Stockmair & Schwanhäusser
Leopoldstrasse 4
D-80802 München (DE)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted 3 January 2013
rejecting the opposition filed against European
patent No. 1233199 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman: T. Kriner
Members: P. Acton
C. Schmidt

Summary of Facts and Submissions

- I. The appeal contests the decision of the Opposition Division of the European Patent Office rejecting the opposition of the Opponent Schaeffler Technologies GmbH & Co. KG against the decision of the Examining Division of the European Patent Office granting the European Patent No. 1233199. The contested decision was dispatched by registered letter with advice of delivery on 3 January 2013 and reached the applicant on 9 January 2013. The applicant filed a notice of appeal by letter received on 19 March 2013. The appeal fee was paid on the same day.

- II. By a communication dated 10 April 2013 send by registered letter with advice of delivery, the Registrar of the Board informed the appellant that the notice of appeal was not filed in due time and that the appeal could be expected to be rejected as inadmissible. The appellants attention was drawn to provision concerning the late receipt of documents pursuant to Article 108 EPC and Rule 101(1) EPC. The applicant was invited to file observations within two months.

- III. No answer was received within the given time limit to the Registry's communication.

- IV. By letter dated 15 July 2013 the patentee requested to reject the appeal as inadmissible.

Reasons for the Decision

As the appeal was not filed within the time limit provided by Article 108 EPC in conjunction with Rule 126(2) EPC, the appeal has to be rejected as inadmissible (Rule 101(1) EPC).

The Board is thus not in a position to examine whether the impugned decision is wrong and whether or not the appellant was adversely affected by it.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

V. Commare

T. Kriner