

Internal distribution code:

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

**Datasheet for the decision
of 9 January 2014**

Case Number: T 1012/13 - 3.4.02

Application Number: 05767046.5

Publication Number: 1761747

IPC: G01F23/292

Language of the proceedings: EN

Title of invention:

CONFOCAL LIQUID LEVEL MEASUREMENT

Patent Proprietor:

Life Technologies Corporation

Opponent:

Eppendorf AG

Relevant legal provisions:

EPC Art. 108
EPC R. 101(1)

Keyword:

Admissibility of appeal - missing statement of grounds

Decisions cited:

T 1042/07



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

European Patent Office
D-80298 MUNICH
GERMANY
Tel. +49 (0) 89 2399-0
Fax +49 (0) 89 2399-4465

Case Number: T 1012/13 - 3.4.02

D E C I S I O N
of Technical Board of Appeal 3.4.02
of 9 January 2014

Appellant: Eppendorf AG
(Opponent) Barkhausenweg 1
22339 HAMBURG (DE)

Representative: Ricker, Mathias
Wallinger Ricker Schlotter Tostmann
Patent- und Rechtsanwälte
Zweibrückenstrasse 5-7
80331 München (DE)

Respondent: Life Technologies Corporation
(Patent Proprietor) 5791 Van Allen Way
Carlsbad, CA 92008 (US)

Representative: Wöhler, Christian
Life Technologies
Frankfurter Straße 129 B
64293 Darmstadt (DE)

Decision under appeal: **Decision of the Opposition Division of the European Patent Office posted on 15 February 2013 rejecting the opposition filed against European patent No. 1761747 pursuant to Article 101(2) EPC.**

Composition of the Board:

Chairman: A. G. Klein
Members: F. J. Narganes-Quijano
D. Rogers

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the opposition division dated 15 February 2013 rejecting the opposition filed against European patent No. 1761747.

The appellant (opponent) filed a notice of appeal on 24 April 2013 and paid the appeal fee on the same day. The appellant requested setting aside of the decision under appeal and, on an auxiliary basis, oral proceedings.

No statement setting out the grounds of appeal was filed within the time limit prescribed by Article 108 EPC.

- II. By communication dated 9 July 2013, 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.

- III. No reply was received.

Reasons for the Decision

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 a statement of grounds within the meaning of Article 108 EPC and Rule 99(2) EPC.

In addition, the lack of any substantive response to the notification of inadmissibility of the appeal is considered as equivalent to an abandonment of the request for oral proceedings made on an auxiliary basis in the notice of appeal (see decision T 1042/07, point 3 of the reasons).

In view of the above considerations, the appeal has to be rejected as inadmissible (Rule 101(1) EPC).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



M. Kiehl

A. G. Klein

Decision electronically authenticated