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**Datasheet for the decision
of 28 November 2013**

Case Number: T 1493/13 - 3.2.05

Application Number: 04798225.1

Publication Number: 1712831

IPC: F17C9/02, B60P3/22

Language of the proceedings: EN

Title of invention:

Mobile LNG regasification plant

Applicant:

ROS ROCA INDOX EQUIPOS E INGENIERIA, S.L.

Headword:

Relevant legal provisions:

EPC R. 103(1) (a), 103(1) (b)

Keyword:

Withdrawal of the appeal - reimbursement of the appeal fee
(no)

Decisions cited:

G 0008/91

Catchword:



**Beschwerdekammern
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Chambres de recours**

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Case Number: T 1493/13 - 3.2.05

**D E C I S I O N
of Technical Board of Appeal 3.2.05
of 28 November 2013**

Appellant: ROS ROCA INDOX EQUIPOS E INGENIERIA, S.L.
(Applicant) Ctra. Nacional II, km 505
25300 Tarrega (ES)

Representative: Juan Antonio Morgades y Manonelles
Morgades, del Rio, Renter S.L.
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 20 December
2012 refusing European patent application No.
04798225.1 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman: M. Poock
Members: P. Lanz
M. J. Vogel

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the Examining Division posted on 20 December 2012.
- II. The appellant filed a notice of appeal on 19 February 2013 and paid the appeal fee on the same day.
- III. By communication of 22 August 2013 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.
- IV. By telefax dated 18 September 2013 the appellant withdrew the appeal and requested the appeal fee to be reimbursed.
- V. On 20 September 2013 the board informed the appellant by telephone that the request for reimbursement of the appeal fee could be expected to be refused, since none of the conditions set out in Rule 103(1) (a) and (b) EPC were met. This view was reiterated in the letter of the registry of the board dated 25 October 2013.

Reasons for the Decision

1. The appellant's withdrawal of its appeal immediately and automatically terminated the appeal proceedings. Therefore, no decision on the admissibility of the

appellant's appeal had to be taken. However, the appellant's request for reimbursement of the appeal fee is a procedural issue in respect of which the appeal procedure is to be continued (cf. G 8/91, OJ EPO 1993, 346, points 3 and 5 of the Reasons) and which has to be decided.

2. The appellant filed a notice of appeal and paid the appeal fee within the time limit set in Article 108, first and second sentence, EPC. Therefore, an appeal has been properly filed pursuant to Article 108, first and second sentence, EPC and has thus come into existence (as opposed to a situation where the appeal is deemed not to have been filed). Consequently, the reimbursement of the appeal fee is governed by Rule 103(1) EPC, which stipulates that the appeal fee shall be reimbursed:

- (a) in the event of interlocutory revision or where the Board of Appeal deems an appeal to be allowable, if such reimbursement is equitable by reason of a substantial procedural violation, or

- (b) if the appeal is withdrawn before the filing of the statement of grounds of appeal and before the period for filing that statement has expired.

3. In the present case interlocutory revision has not occurred nor has any substantial procedural violation occurred or been alleged to have occurred. Thus, the conditions for reimbursement stipulated in Rule 103(1)(a) EPC are not fulfilled.

4. The condition of Rule 103(1)(b) EPC is also not fulfilled in the present case, because the appellant's declaration to withdraw the appeal was received on

18 September 2013, i.e. more than four month after the expiry of the time limit for filing a written statement setting out the grounds of appeal pursuant to Article 108, third sentence, EPC.

5. Thus, there is no reason for the appeal fee to be reimbursed.

Order

For these reasons it is decided that:

The request for reimbursement of the appeal fee is refused.

The Registrar:

The Chairman:



D. Meyfarth

M. Poock

Decision electronically authenticated