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**Datasheet for the decision
of 22 April 2015**

Case Number: T 1343/14 - 3.3.06

Application Number: 08250846.6

Publication Number: 1970427

IPC: C10G9/28, C10G31/06

Language of the proceedings: EN

Title of invention:

Methods and systems for producing reduced resid and bottomless products from heavy hydrocarbon feedstocks

Applicant:

Ivanhoe HTL Petroleum Ltd.

Headword:

Relevant legal provisions:

EPC Art. 108

EPC R. 99(2), 101(1)

Keyword:

Decisions cited:

J 0007/87, T 0500/97, T 0060/00, T 1042/07, T 0234/10

Catchword:



**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 1343/14 - 3.3.06

D E C I S I O N
of Technical Board of Appeal 3.3.06
of 22 April 2015

Appellant: Ivanhoe HTL Petroleum Ltd.
(Applicant) 1111 Bagby St, Suite 2000
Houston, TX 77002 (US)

Representative: Potter Clarkson LLP
The Belgrave Centre
Talbot Street
Nottingham, NG1 5GG (GB)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 6 January 2014
refusing European patent application No.
08250846.6 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman B. Czech
Members: L. Li Voti
S. Fernández de Córdoba

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the Examining Division to refuse the European patent application 08250846.6, which was announced in oral proceedings on 14 November 2013 and the written reasons of which were posted on 6 January 2014.
- II. The Appellant filed a "NOTICE OF APPEAL (ARTICLE 106 EPC)" on 5 March 2014 and paid the appeal fee on the same day.

In said notice of appeal, the Appellant requested that *"the decision is cancelled in its entirety to the extent that the appellant was adversely affected by it, the application allowed, and oral proceedings under Article 116 EPC in the event that the Board of Appeal intends not to allow the appeal"*.

Furthermore, the Appellant stated the following: *"We consider that the Division's decision is incorrect (to the extent that the appellant was adversely affected by it) in relation to the requirements of Article 123 EPC, novelty and inventive step. We maintain our previous arguments and requests."*

- III. By communication of 11 November 2014, 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.

- IV. No reply was received within the set time limit. In response to a telephone enquiry by the Registry of the Board, the Appellant sent a fax letter dated 20 March 2015 stating that the "appeal should be allowed to go abandoned".

Reasons for the Decision

1. After having received the communication of 11 November 2014, the Appellant did not dispute the view expressed therein that no written statement setting out the grounds of appeal appeared to have been filed.
2. The Board agrees with said view.
 - 2.1 Indeed, subsequently to the filing of its written submission labelled "NOTICE OF APPEAL (ARTICLE 106 EPC)", the Appellant did not file any further written submission comprising a statement setting out the grounds of appeal within the time limit provided by Article 108, third sentence, EPC in conjunction with Rule 126(2) EPC.
 - 2.2 Moreover, for the Board, the requests and statements comprised in the notice of appeal itself cannot be regarded as constituting a statement of grounds meeting the requirements of Article 108 EPC and Rule 99 (2) EPC either. For the purpose of compliance with Article 108 EPC, third sentence, it is not sufficient - as in the present case - merely to indicate that the decision under appeal is wrong and/or to make a general reference to the appellant's submissions in the foregoing first instance proceedings. Rather, the appellant has to state the legal and factual grounds

which constitute the basis of his challenge to the validity of the decision (see e.g. decision T 500/97 of 25 January 2001, points 1 and 2 of the reasons).

3. Therefore, the appeal has to be rejected as inadmissible (Article 108 and Rule 101(1) EPC).

4. The statement of the appellant that the "appeal should be allowed to go abandoned" cannot be regarded as an unambiguous withdrawal of the appeal but merely as a lack of interest in the sense that the appellant intended to give up its active role in the appeal procedure (see decisions J 7/87, OJ EPO 1988, 422; T 60/00 of 3 July 2003, point 2 of the reasons). As a consequence, the Board considers the initial conditional request for oral proceedings to have become obsolete (see e.g. decisions T 1042/07 of 22 August 2008, point 3 of the reasons; T 234/10 of 25 November 2010, point 2 of the reasons).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



D. Magliano

B. Czech

Decision electronically authenticated