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**Datasheet for the decision
of 18 May 2018**

Case Number: T 2280/17 - 3.2.07

Application Number: 03008634.2

Publication Number: 1468930

IPC: B65D23/10

Language of the proceedings: EN

Title of invention:
Thin-walled container

Patent Proprietor:
Nestlé Waters Management & Technology

Opponent:
COMPAGNIE GERVAIS DANONE

Headword:

Relevant legal provisions:
EPC Art. 108, third sentence
EPC R.101(1)

Keyword:
Admissibility of appeal - statement of grounds (not filed)

Decisions cited:

Catchword:



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Case Number: T 2280/17 - 3.2.07

D E C I S I O N
of Technical Board of Appeal 3.2.07
of 18 May 2018

Appellant: COMPAGNIE GERVAIS DANONE
(Opponent) 17 Boulevard Haussmann
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Representative: Cabinet Plasseraud
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Respondent: Nestlé Waters Management & Technology
(Patent Proprietor) 12, Boulevard Garibaldi
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Representative: Santarelli
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75008 Paris (FR)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
24 July 2017 concerning maintenance of the
European Patent No. 1468930 in amended form.**

Composition of the Board:

Chairman I. Beckedorf
Members: G. Patton
V. Bevilacqua

Summary of Facts and Submissions

I. The appeal contests the interlocutory decision of the Opposition Division of the European Patent Office dated 24 July 2017 concerning maintenance of European patent No. 1 468 930 in amended form.

The appellant (opponent) filed a notice of appeal on 13 September 2017 and paid the fee for appeal on the same day. Auxiliary, it requested oral proceedings.

No statement of grounds was filed.

II. By a communication dated 14 December 2017 sent by registered letter with advice of delivery, the registry of the Board informed the appellant that no statement of grounds had been filed and that the appeal could be expected to be rejected as inadmissible.

By the same token, the appellant was invited to file observations within two months and to make clear if its auxiliary request for oral proceedings was intended to apply to the question of (in)admissibility of the appeal.

III. No answer has been given to the registry's communication.

Reasons for the Decision

1. The notice of appeal filed on 13 September 2017 contains nothing that could be regarded as a statement of grounds pursuant to Article 108 EPC.
2. As no written statement setting out the grounds of appeal has been filed, the appeal has to be rejected as inadmissible pursuant to Article 108 EPC, third sentence, in conjunction with Rule 101(1) EPC.
3. The auxiliary request for oral proceedings filed by the appellant with its notice of appeal was associated with its request for having the first instance's decision set aside and the patent revoked.

By the communication dated 14 December 2017 of the registry of the Board, the appellant has been made aware that in absence of a statement of grounds of appeal, its appeal could be expected to be rejected as inadmissible. By the same communication, it has also been requested to make clear if its auxiliary request for oral proceedings was intended to apply to the question of (in)admissibility of its appeal.

No answer has been given by the appellant to this communication. Hence, no submission, in particular no request for oral proceedings, has been filed by the appellant with respect to the question of the admissibility of its appeal.

Therefore, the Board considers that the appellant's auxiliary request for oral proceedings, made with its notice of appeal, does not apply to the question of the admissibility of its appeal and that the case can be decided on the basis of the file as it stands.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



T. Buschek

I. Beckedorf

Decision electronically authenticated