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**Datasheet for the decision
of 16 May 2025**

Case Number: T 2108/18 - 3.2.05

Application Number: 12758741.8

Publication Number: 2917611

IPC: F16J1/00, F16J10/02, F04B33/00,
F15B15/14, F16F9/32

Language of the proceedings: EN

Title of invention:

Piston-Chamber Combination - Vanderblom Motor

Applicant:

NVB Composites International UK Ltd

Relevant legal provisions:

EPC Art. 108

EPC R. 126(2), 131(2), 131(4)

Keyword:

Appeal - not deemed filed

Notice of appeal within time limit - no

Decisions cited:

G 0001/18



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 2108/18 - 3.2.05

D E C I S I O N
of Technical Board of Appeal 3.2.05
of 16 May 2025

Appellant:
(Applicant)

NVB Composites International UK Ltd
Office 595A
321-323 High Road
Chadwell Heath, Essex RM6 6AX (GB)

Decision under appeal:

**Decision of the Examining Division of the
European Patent Office handed over to the postal
service provider on 17 April 2018 concerning
European patent application No. 12 758 741.8**

Composition of the Board:

Chairman

P. Lanz

Members:

M. Blasi

C. Kujat

O. Randl

B. Burm-Herregodts

Summary of Facts and Submissions

- I. This case concerns an appeal against the decision of the examining division, handed over to the postal service provider on 17 April 2018, which relates to European patent application No. 12 758 741.8.
- II. With that decision, the examining division decided that the applicant's request of 3 May 2016 for re-establishment of rights in relation to the time limit for payment of the third-year and fourth-year renewal fees, with an additional fee, was to be deemed not to have been filed in time and that the application was deemed withdrawn with effect from 22 December 2015.
- III. On 7 June 2018, the appeal fee in an amount of EUR 1 880 was paid.
- IV. In a letter dated 1 August 2018, received at the EPO on the same day, the applicant (appellant) stated, inter alia, the following:

"We have a deadline of 17 August 2018 for filing the Appeal, and that is for the reasoning no problem - we have concluded the correct cause of non-compliance - but need at least 1 month more to find some evidence..."
- V. The appellant's statement of grounds of appeal dated 10 August 2018 was received at the EPO on 16 August 2018. The appellant filed further letters on 21, 24, 27 and 31 August 2018.
- VI. On 11 October 2019, the board issued a communication providing its preliminary opinion on the case. The

board informed the appellant, inter alia, that the appeal was deemed not to have been filed since no notice of appeal had been filed in due time.

- VII. Several further letters were filed by the appellant, none of which addressed the issue of its failure to file notice of appeal in due time.
- VIII. On 26 August 2024, the board issued a further communication, in which it referred to its communication dated 11 October 2019 and noted that the letters filed by the appellant neither addressed the issue of failure to file notice of appeal in due time nor contained a request for re-establishment of rights in this regard.
- IX. The appellant filed a further letter dated 20 February 2025, received at the EPO on 26 February 2025, commenting on issues other than those raised in the board's communication dated 26 August 2024.
- X. None of the letters submitted to the board contains a request for oral proceedings.

Reasons for the Decision

- 1. Pursuant to Article 108, first sentence, EPC, notice of appeal has to be filed within two months of notification of the decision. Under Article 108, second sentence, EPC, notice of appeal is not deemed to have been filed until the fee for appeal has been paid.
- 2. Subsequent to the decision of the examining division handed over to the postal service provider on

17 April 2018, an appeal fee in the amount of EUR 1 880 was paid on 7 June 2018. Therefore, payment was made within the two-month time limit as required under Article 108, first sentence, EPC, which, in accordance with Rule 126(2) EPC and Rule 131(2) and (4) EPC, expired on 27 June 2018.

3. However, no notice of appeal was filed, and nor was any other document filed which contained anything that could be regarded as notice of appeal within the two-month time limit prescribed in Article 108, first sentence, EPC. Furthermore, the appellant did not submit in its letter dated 1 August 2018, in its statement of grounds of appeal or in any of its subsequent letters that notice of appeal had been filed within that two-month time limit.
4. Even if one of the appellant's letters filed after expiry of the two-month time limit prescribed in Article 108, first sentence, EPC, i.e. after 27 June 2018, is considered as notice of appeal, the appeal is deemed not to have been filed in view of the Enlarged Board of Appeal's opinion G 1/18 (OJ EPO 2020, A26). The Enlarged Board of Appeal held that an appeal is deemed not to have been filed where the appeal fee was paid within the two-month time limit prescribed in Article 108, first sentence, EPC for filing notice of appeal and notice of appeal was filed after expiry of that two-month time limit (see G 1/18, *supra*, Conclusion 1(c)).
5. Consequently, as the requirements of Article 108, first sentence, EPC have not been met, the appeal is deemed not to have been filed.

6. Since the appeal is deemed not to have been filed, the appeal fee paid is no longer due and must therefore be reimbursed on the basis that it was paid for no reason. Reimbursement of the appeal fee is to be ordered *ex officio* (see also G 1/18, *supra*, B.VIII and Conclusion 2).
7. Given that no request for oral proceedings was made, the present decision could be taken in written proceedings.

Order

For these reasons it is decided that:

1. The appeal is deemed not to have been filed.
2. Reimbursement of the appeal fee is ordered.

The Registrar:

The Chairman:



N. Schneider

P. Lanz

Decision electronically authenticated