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**Datasheet for the decision
of 8 May 2019**

Case Number: T 0118/19 - 3.5.07

Application Number: 14828815.2

Publication Number: 3025260

IPC: G06F17/50

Language of the proceedings: EN

Title of invention:

Lattice Boltzmann collision operators enforcing isotropy and Galilean invariance

Applicant:

EXA Corporation

Headword:

Missing statement of grounds/EXA

Relevant legal provisions:

EPC Art. 108

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

Keyword:

Admissibility of appeal - missing statement of grounds

Decisions cited:

T 1042/07, T 0234/10



Beschwerdekammern
Boards of Appeal
Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

Case Number: T 0118/19 - 3.5.07

D E C I S I O N
of Technical Board of Appeal 3.5.07
of 8 May 2019

Appellant: EXA Corporation
(Applicant) 55 Network Drive
Burlington, Massachusetts 01803 (US)

Representative: Conroy, John
Fish & Richardson P.C.
Highlight Business Towers
Mies-van-der-Rohe-Straße 8
80807 München (DE)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 13 July 2018
refusing European patent application No.
14828815.2 pursuant to Article 97(2) EPC**

Composition of the Board:

Chairman R. Moufang
Members: M. Jaedicke
R. de Man

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the Examining Division to refuse European patent application No. 14828815.2 which was announced in oral proceedings on 7 June 2018 and the written reasons of which were posted on 13 July 2018.
- II. The applicant (EXA Corporation) filed a notice of appeal on 13 September 2018 and paid the appeal fee on the same day. The notice of appeal contained a request for oral proceedings.
- III. By communication of 17 January 2019, sent by registered letter with advice of delivery (the receipt of which was confirmed by the appellant on 18 January 2019), 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. The appellant was furthermore informed that, unless a statement to the contrary was made by the appellant within the specified time period, the Board would assume that the request for oral proceedings did not apply to the issue of inadmissibility of the appeal since no grounds of appeal had been filed in due time.
- IV. No reply was received within the deadline set.

Reasons for the Decision

1. 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 pursuant to Article 108 EPC and Rule 99(2) EPC. Therefore, the appeal has to be rejected as inadmissible (Rule 101(1) EPC).

2. Notwithstanding the appellant's request for oral proceedings made in the notice of appeal, the present decision can be taken without the appointment of oral proceedings. Since the appellant has not provided any statement as to the substantive merits of its appeal, has not given any explanation or comments as to why no statement of grounds had been filed, and has not reacted to the Board Registry's notification of an impending rejection of the appeal as inadmissible, the Board considers the initial request for oral proceedings to have become obsolete as a consequence of the subsequent course of action taken. The lack of any response to the Board's notification is considered to be equivalent to an abandonment of the request for oral proceedings (see T 1042/07 of 22 August 2008, point 3 of the reasons; T 234/10 of 25 November 2012, point 2 of the reasons).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



I. Aperribay

R. Moufang

Decision electronically authenticated