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**Datasheet for the decision
of 23 August 2021**

Case Number: T 2377/19 - 3.5.02

Application Number: 07857733.5

Publication Number: 2095381

IPC: H01F27/06, H01F27/33,
H01F27/02, H01F27/32

Language of the proceedings: EN

Title of invention:
Power Transformer/Reactor

Patent Proprietor:
ABB Schweiz AG

Opponent:
Siemens Aktiengesellschaft

Relevant legal provisions:
EPC Art. 108, 116
EPC R. 101(1)

Keyword:
Admissibility of appeal - missing statement of grounds
Request for oral proceedings - clearly inadmissible appeal

Decisions cited:
G 0001/97, G 0002/19, T 1573/20



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Case Number: T 2377/19 - 3.5.02

D E C I S I O N
of Technical Board of Appeal 3.5.02
of 23 August 2021

Appellant: Siemens Aktiengesellschaft
(Opponent) Werner-von-Siemens-Straße 1
80333 München (DE)

Representative: Siemens AG
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Respondent: ABB Schweiz AG
(Patent Proprietor) Brown Boveri Strasse 6
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 2 August 2019
rejecting the opposition filed against European
patent No. 2095381 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman R. Lord
Members: G. Flynn
W. Ungler
F. Giesen
A. Bacchin

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the opposition division posted on 2 August 2019 rejecting the appellant's opposition.
- II. The appellant filed a notice of appeal on 20 August 2019 and paid the appeal fee on the same day. They requested that the decision under appeal be set aside. Furthermore, they requested oral proceedings should their request not be granted.
- III. By communication of 17 January 2020, receipt of which was acknowledged by the appellant on 22 January 2020, 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.

Reasons for the Decision

1. No written statement of 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.

2. Request for oral proceedings
 - 2.1 The appellant requested oral proceedings should their request not be granted, i.e. in the case that the appeal would be dismissed. In the absence of any submission that could be regarded as a statement of grounds of appeal the issue of dismissal of the appeal was not a subject of the appeal proceedings. There was no request for oral proceedings in the case of a decision concerning the admissibility of the appeal.

 - 2.2 Despite the absolute nature of the right to oral proceedings under Article 116 EPC, the board concluded that oral proceedings were not required in the present circumstances. The board notes that the appellant did not file any observations in reply to the communication of 17 January 2020. In particular, the appellant did not contest the finding there that no statement of grounds of appeal had been received. Therefore, holding oral proceedings would have served no other purpose than confirming the (undisputed) preliminary finding that no statement of grounds of appeal had been filed, and announcing the decision afterwards. There was no contentious matter on which the appellant had to be

heard according to Article 113(1) EPC. Oral proceedings would thus have had no legitimate aim. The situation is therefore comparable to the "clearly inadmissible appeals" considered in decisions G 1/97 and G 2/19. (cf. T 1573/20, point 5 of the reasons). Thus no oral proceedings had to be held.

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

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



U. Bultmann

R. Lord

Decision electronically authenticated