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**Datasheet for the decision  
of 22 March 2022**

**Case Number:** T 2144/21 - 3.4.03

**Application Number:** 05826034.0

**Publication Number:** 1828841

**IPC:** G03F1/00, G03C5/00, G03F1/32

**Language of the proceedings:** EN

**Title of invention:**

TRI-TONE TRIM MASK FOR ALTERNATING PHASE-SHIFT  
PHOTOLITHOGRAPHY

**Applicant:**

Texas Instruments Incorporated

**Headword:**

**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

**Catchword:**



**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 2144/21 - 3.4.03

**D E C I S I O N**  
**of Technical Board of Appeal 3.4.03**  
**of 22 March 2022**

**Appellant:** Texas Instruments Incorporated  
(Applicant) P.O. Box 655474  
Mail Station 3999  
Dallas, TX 75265-5474 (US)

**Representative:** Zeller, Andreas  
Texas Instruments Deutschland GmbH  
Haggertystraße 1  
85356 Freising (DE)

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted on 17 June 2021  
refusing European patent application No.  
05826034.0 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chairman** T. Häusser  
**Members:** M. Papastefanou  
G. Decker

## **Summary of Facts and Submissions**

- I. The appeal is directed against the refusal of European patent application No. 05826034.0 posted on 17 June 2021.
- II. The appellant filed a notice of appeal on 27 August 2021 and paid the appeal fee on the same day. While the notice of appeal contained an auxiliary request for oral proceedings, no separate statement of grounds of appeal was filed.
- III. By a communication dated 15 December 2021, sent by registered letter with acknowledgement of receipt, the appellant was informed that no statement of grounds of appeal had 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 invited to file observations within two months.
- IV. No reply was received. No request for re-establishment of rights was filed.

## **Reasons for the Decision**

1. As no written statement setting out the grounds of appeal has been filed and as the notice of appeal does not contain anything that could be regarded as a statement of grounds of appeal according to Article 108, third sentence, and Rule 99(2) EPC, the appeal has to be rejected as inadmissible (Article 108, third sentence, EPC in conjunction with Rule 101(1) EPC).

2. In accordance with established case law, the request for oral proceedings is deemed withdrawn or superseded by the subsequent failure to react to the Board's communication. In this context, the Board refers to decision T 1042/07 of 22 August 2008, Reasons 3, which also apply to the case in hand:

"In the specific circumstances of the present case, where the appellant has not provided any statement as to the substantive merits of its appeal, has not given any explanation or comment as to why no statement of grounds had been filed, and has not reacted in substance to the Board's notification of an impending rejection of the appeal as inadmissible, the Board considers the initial auxiliary request for oral proceedings to have become obsolete as a consequence of the subsequent course of action taken. In other words, the lack of any substantive response to the notification of the inadmissibility of the appeal is considered as equivalent to an abandonment of the request for oral proceedings."

3. For the above reason, the decision could be rendered without oral proceedings.

**Order**

**For these reasons it is decided that:**

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



S. Sánchez Chiquero

T. Häusser

Decision electronically authenticated