

Veröffentlichung im Amtsblatt	Ja/XXX
Publication in the Official Journal	Yes/NOX
Publication au Journal Officiel	Ou/XXX

Yes - but not necessarily the whole decision



Aktenzeichen / Case Number / N° du recours : T 146/82

Anmeldenummer / Filing No / N° de la demande : 79300047.2

Veröffentlichungs-Nr. / Publication No / N° de la publication : 0003178

Bezeichnung der Erfindung:  
Title of invention: Presence sensing system  
Titre de l'invention :

Klassifikation / Classification / Classement :

ENTSCHEIDUNG / DECISION SUSPENDING PROCEEDINGS  
vom / of / du 29 May 1985

Anmelder / Applicant / Demandeur : TAG RADIONICS LIMITED

~~Patentinhaber / Proprietor of the patent /~~  
Titulaire du brevet :

~~Einsprechender / Opponent / Opposant :~~

Third Party: PHILIPS ELECTRONIC AND ASSOCIATED INDUSTRIES  
LIMITED

Stichwort / Headword / Référence : Suspension of Proceedings /TAG

EPO/EPC/CBE Rule 13

"Suspension of Proceedings"

Leitsatz / Headnote / Sommaire

1. If satisfactory proof of the opening of relevant proceedings before a national court is given to the European Patent Office by a third party seeking suspension of proceedings for grant of a European patent under Rule 13(1) EPC, the suspension must be ordered, provided that the European patent application has not been withdrawn or is not deemed to have been withdrawn.
2. If, in accordance with Rule 13(3)EPC, the Office sets a date on which it intends to continue the proceedings for the grant of the European patent, the date may be varied or the order staying the proceedings may be discharged on the subsequent request of the applicant or of the third party who applied for the order.

Europäisches  
Patentamt

Beschwerdekammern

European Patent  
Office

Boards of Appeal

Office européen  
des brevets

Chambres de recours



Case Number: T 146 /82

**DECISION      SUSPENDING PROCEEDINGS**  
**of the Technical Board of Appeal    3.5.1**  
**of    29 May 1985**

**Appellant:**      TAG RADIONICS LIMITED  
Swains Industrial Estate  
Ashington Road  
Rochford Essex (GB)

**Representative:**      Williams, John Francis  
J.F. Williams & Co.  
34 Tavistock Street  
London WC2E 7PB (GB)

**Third Party:**      PHILIPS ELECTRONIC AND ASSOCIATED INDUSTRIES LIMITED  
Patent Department  
Mullard House  
Torrington Place  
London WC1E 7HD (GB)

**Decision under appeal:**      Decision of Examining Division    055      of the European Patent  
Office dated    20 April 1982      refusing European patent  
application No    79300047.2      pursuant to Article 97(1)  
EPC

**Composition of the Board:**

**Chairman:**      G. Korsakoff  
**Member:**      J. van Voorthuizen  
**Member:**      P. Ford

## SUMMARY OF FACTS AND SUBMISSIONS

- I. European patent application N°.79 300 047.2 filed on 11 January 1979 and published under N°. 0 003 178 on 25 July 1979, was refused by a decision of Examining Division 055 dated 20 April 1982.
- II. A notice of appeal was duly filed on 18 June 1982 and the appeal fee was duly paid. A statement of grounds of the appeal was duly filed on 16 August 1982.
- III. A Communication of the Technical Board of Appeal pursuant to Article 110(2) EPC, dated 20 November 1984, was sent to the Appellant by registered post. The Appellant was thereby invited to file observations within a period of two months. By letter dated 13 December 1984, received on 17 December 1984, the Appellant requested an extension of two months to this period on the ground that an action was pending under Section 12 of the United Kingdom Patents Act 1977 concerning entitlement to the European patent application and that oral proceedings in that action had been postponed pending negotiations between the parties. The requested extension was granted by the Registry of the Boards of Appeal. By duly confirmed telex on 15 March 1985, the Appellant requested a further extension of two months. On 20 March 1985, by telex, the Board granted the further extension, indicating that in the interest of third parties no indefinite postponement of the procedure was possible and that this extension should be regarded as final.
- IV. By duly confirmed telex on 17 May 1985, the Third Party requested a stay of the proceedings for grant of the European patent under Rule 13(1) EPC on the ground that proceedings under Section 12 United Kingdom Patents Act 1977 had been commenced before the United Kingdom Patent Office, by the Third Party, on 5 April 1982. It was alleged that the parties were attempting to resolve their dispute by discussion between themselves. Documents proving the existence of the United Kingdom proceedings were filed on 22 May 1985.

REASONS FOR THE DECISION

1. The application for a stay of the proceedings for grant of the European patent complies with the requirements of Rule 13(1) EPC and was made before the expiry of the final extension of time granted to the Applicant. Since the original period for reply to the Communication dated 20 November 1984 was set in a document sent by registered post, by virtue of the provisions of Rule 78(3) EPC the original period must be considered to have run for two months and ten days, with the result that all subsequent extensions of the period for reply have run until the thirtieth day of the month in question.
  
2. Since the application for a stay of the proceedings for the grant complies with the requirements of Rule 13(1) EPC, the Third Party having provided satisfactory proof of the opening of relevant proceedings against the Applicant before the United Kingdom Patent Office, the application must be granted.
  
3. However, having regard to the considerable length of time for which the proceedings before the United Kingdom Patent Office have been pending and having regard to the periods for which the Applicant's time for replying to the Board's Communication has already been extended, the Board is disposed to set a date on which it intends to continue the proceedings for the grant of the European patent, regardless of the stage reached in the proceedings before the United Kingdom Patent Office, pursuant to the provisions of Rule 13(3) EPC. That date will be 1 December 1985 unless the Board otherwise orders on subsequent application by either party.

.../...

ORDER

For these reasons,

it is ordered that:

1. All proceedings for the grant of a European patent on European patent application number 79 300 047.3 are suspended until 1 December 1985 or until further order by the Board.
2. The Applicant and the Third Party are each to be at liberty to apply to the Board for the discharge or variation of this order.

The Registrar

B A Norman

The Chairman

G Korsakoff