



Europäisches Patentamt
Beschwerdekammern

European Patent Office
Boards of Appeal

Office européen des brevets
Chambres de recours

Veröffentlichung im Amtsblatt	Ja/Nein
Publication in the Official Journal	Yes/No
Publication au Journal Officiel	Oui/Non

Aktenzeichen / Case Number / N^o du recours : T 387/88 - 3.4.1

Anmeldenummer / Filing No / N^o de la demande : 79 200 007.7

Veröffentlichungs-Nr. / Publication No / N^o de la publication : 0 011 880

Bezeichnung der Erfindung: A vehicle guidance system

Title of invention:

Titre de l'invention :

Klassifikation / Classification / Classement : G 01 C 21/00, G05D 1/02

ENTSCHEIDUNG / DECISION

vom / of / du 28 November 1988

Anmelder / Applicant / Demandeur :

Patentinhaber / Proprietor of the patent /

Titulaire du brevet :

Admasu Gebre

Einsprechender / Opponent / Opposant :

Robert Bosch GmbH

Stichwort / Headword / Référence : Printing fees/Admasu

EPÜ/EPC/CBE Article 108, Rules 58(5), 67 EPC

Schlagwort / Keyword / Mot clé : Error of EPO

Leitsatz / Headnote / Sommaire

Europäisches
Patentamt

European Patent
Office

Office européen
des brevets

Beschwerdekammern

Boards of Appeal

Chambres de recours

Case Number : T 387 /88 - 3.4.1



D E C I S I O N
of the Technical Board of Appeal 3.4.1
of 28 November 1988

Appellant :
(Proprietor of the patent) Gebre, Admasu
Kerkstraat 22
NL-3741 AK Baarn

Representative :

Respondent :
(Opponent) Robert Bosch GmbH
Postfach 50
D-7000 Stuttgart 1

Representative :

Decision under appeal : Decision of the Head of the Formalities Section of the European Patent Office dated 06 July 1988 revoking European patent No. 0 011 880 pursuant to Article 102(4) EPC.

Composition of the Board :

Chairman : K. Lederer
Members : C. Payraudeau
J. Roscoe

Summary of Facts and Submissions

- I. By decision of 30 October 1987, the Board of Appeal 3.4.1 of the European Patent Office decided that the European patent No. 11880 in the name of the Appellant should be maintained in an amended form and remitted the case back to the first instance for further prosecution.

- II. The Formalities Officer of the Opposition Division addressed therefore to the Appellant on 25 January 1988 a Communication under Rule 58(5) EPC requesting him to pay within a period of three months from the notification of the Communication the printing fees for the publication of the amended patent.

- III. On 6 July 1988, the Formalities Officer notified the Appellant that the European patent was revoked on the ground that the printing fees requested in the Communication of 25 January 1988 had not been paid in due time.

- IV. On 8 September 1988 the Appellant, who had paid the appeal fee on 29 August 1988, filed a notice of appeal in which he referred to a letter received by the EPO on 5 August 1988 from a non authorised representative but duly confirmed by the Appellant on 9 September 1988. In this letter the Appellant stated generally that the printing fees had been paid on 12 April 1988 and requested that the decision of revocation of the patent should be set aside. A copy of the corresponding debit order was annexed to this letter.

- V. By communication of 30 September 1988, the Rapporteur of the Board of Appeal notified the parties that the Board would probably allow the appeal since it appeared that the

decision under appeal was obviously based on erroneous facts, a search made in the registers of the EPO having established that the printing fees had effectively been paid on 13 April 1988.

VI. In his answer to this Communication, the Appellant repeated substantially his previous submissions requesting a prompt decision of the Board.

VII. The Respondent did not comment on the merit of the case but questioned the formal admissibility of the appeal in that it did not appear from the file of the case that the Appellant had paid the appeal fees and filed the statement of grounds in due time as required according to Article 108 EPC.

Reasons for the Decision

- 1.1 According to Article 108 EPC, the appeal fee is to be paid and the notice of appeal filed within two months of the date of notification of the contested decision.
- 1.2 In the present case this date is deemed to be the 16 July 1988 in application of Rule 78(3) EPC. Therefore, the time limit for filing the notice of appeal and for paying the corresponding fee expired on 16 September 1988.
- 1.3 Since the Appellant has paid the fee on 29 August 1988 and has filed the notice of appeal on 8 September 1988, the requirements of Article 108 in this respect have been satisfied.
- 1.4 As regards the statement of grounds required by Article 108, the Board considers that the Appellant's letter of 5 August 1988 indicating that the printing fees had been

paid and enclosing a copy of the corresponding debit order has quite sufficiently established the ground invoked by the Appellant for requesting the revocation of the decision under appeal.

1.5 Since the other conditions of Articles 106-108 and of Rules 64-65 EPC are also satisfied, the Board considers that the appeal is admissible.

2. Allowability of the appeal.

2.1 As indicated above (in point V) the printing fee for the re-publication of the above patent has been paid on 13 April 1988 i.e. well within the three months time limit set up by the Communication dated 25 January 1988.

Therefore, the revocation decision under appeal is obviously based on erroneous facts and should be set aside.

3. Reimbursement of appeal fee.

3.1 Reimbursement of the appeal fee should be ordered in the present case as it is obviously equitable by reason of the substantial procedural violation resulting from the above mentioned error (Rule 67 EPC).

Order

1. The decision of the Formalities Officer of the Opposition Division dated 6 July 1988 is set aside.
2. The patent is maintained as amended by order of the Board of Appeal 3.4.1 in its decision of 30 October 1987.

3. Reimbursement of the appeal fee is ordered.

The Registrar:

The Chairman:

F. Klein

K. Lederer