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D E C I S I O N
of 4 October 1994

Case Number: T 0488/93 - 3.2.4

Application Number: 88903307.2

Publication Number: 0309536

IPC: F02M 45/12

Language of the proceedings: EN

Title of invention:
Fuel injection system

Applicant:
PERKINS ENGINES GROUP LIMITED

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC R. 67

Keyword:
"Reimbursement of appeal fee on withdrawal of appeal - no"

Decisions cited:
T 0013/82, T 0773/91, T 0324/90, T 0089/94, J 0012/86

Catchword:
-



Case Number: T 0488/93 - 3.2.4

D E C I S I O N
of the Technical Board of Appeal 3.2.4
of 4 October 1994

Appellant: PERKINS ENFINES GROUP LIMITED
Eastfield
Peterborough PE1 5NA (GB)

Representative: Sorrell, Terence Gordon
Fitzpatrick's
Cardinal Court
23, Thomas More Street
London E1 9YY (GB)

Decision under appeal: Decision of the Examining Division of the European
Patent Office dispatched on 22 January 1993
refusing European patent application
No. 88 903 307.2 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: C. A. J. Andries
Members: M. G. Hatherly
J. P. B. Seitz

Summary of Facts and Submissions

- I. European patent application No. 88 903 307.1, filed on 15 April 1988 as PCT/GB88/00293 and published under the publication number WO 88/08079, was refused by a decision of the Examining Division dispatched on 22 January 1993.
- II. An appeal was filed against this decision on 12 March 1993, the appeal fee was paid on 19 March 1993 and the Statement of Grounds of Appeal received on 17 May 1993.
- III. By letter dated 21 June 1994 the appellant withdrew the appeal, withdrew the patent application and requested reimbursement of the appeal fee.
- IV. The Board informed the appellant by letter of 4 July 1994 why refund of the appeal fee would not be possible and invited him to comment within a specified time limit. No reply was received from the appellant.

Reasons for the Decision

Reimbursement of the appeal fee is possible if an appeal was not filed within the time limit laid down in Article 108 EPC or was deemed not to have been filed, i.e. an appeal never existed.

The present appeal was however duly filed, see section II above.

For a duly filed appeal, the conditions for reimbursement of the appeal fee are laid down in Rule 67 EPC. According to this Rule, reimbursement is ordered "in the event of interlocutory

revision or where the Board of Appeal deems an appeal to be allowable, if such reimbursement is equitable by reason of a substantial procedural violation".

The appellant has withdrawn his duly filed appeal before the Board has considered whether it would be admissible and, if so, whether a substantial procedural violation had occurred. Accordingly there is no basis for reimbursement of the appeal fee.

Order

For these reasons it is decided that:

The request for reimbursement of the appeal fee is dismissed.

The Registrar:



N. Maslin

The Chairman:



C. Andries

