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**D E C I S I O N**  
of 8 February 1996

**Case Number:** T 0550/95 - 3.2.3

**Application Number:** 87308787.8

**Publication Number:** 0265104

**IPC:** F21M 7/00

**Language of the proceedings:** EN

**Title of invention:**  
Protective shield for a vehicle lamp assembly

**Applicant:**  
SIGNAM LIMITED

**Opponent:**  
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**Headword:**  
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**Relevant legal provisions:**  
EPC R. 67

**Keyword:**  
"Refund of the appeal fee on abandonment of the application  
(no) "

**Decisions cited:**  
T 0041/82; T 0773/91

**Catchword:**  
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Case Number: T 0550/95 - 3.2.3

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.3  
of 8 February 1996

**Appellant:**

SIGNAM LIMITED  
Harris Road  
Warwick CV34 5FY (GB)

**Representative:**

Craske, Stephen Allan  
Craske & Co.  
Patent Law Chambers  
15 Queens Terrace  
Exeter  
South Devon EX4 4HJ (GB)

**Decision under appeal:**

Decision of the Examining Division 103 of the  
European Patent Office posted 28 February 1995  
refusing European patent application  
No. 87 308 787.8 pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** C. T. Wilson  
**Members:** H. Andrá  
L. C. Mancini

### **Summary of Facts and Submissions**

- I. European patent application No. 87 308 787.8 filed on 5 October 1987 was refused by a decision of the Examining Division dated 28 February 1995.
- II. On 24 April 1995 the Appellant (Applicant) filed a Notice of Appeal, the appeal fee being paid on 25 April 1995. The Statement of Grounds of Appeal was submitted on 26 June 1995.
- III. With telefax dated 28 July 1995 the Appellant informed the EPO that he had decided to abandon the application and requested refund of the appeal fee.
- IV. In the communication dated 7 September 1995 the Board pointed out that in accordance with the jurisprudence of the Boards of Appeal no reimbursement of appeal fee is possible on withdrawal of an appeal. The Appellant was invited to consider withdrawing his request for a refund of the appeal fee in the interest of economy.

No answer to this communication has been filed.

### **Reasons for the Decision**

1. The Notice of Appeal was filed within two months after the date of notification of the decision appealed from, the fee for appeal having been paid also within this period.

The Statement of Grounds of Appeal was duly filed within four months of this date of notification.

The appeal complies with Articles 106 to 108 and Rule 64 EPC and is admissible.

2. In the case of an appeal being admissible in the sense of Article 108 EPC as at present, the reimbursement of the appeal fee can only be ordered pursuant to Rule 67 EPC 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 (see e.g. decision T 41/82, OJ EPO 1982, 256 and decision T 773/91 dated 25 March 1992, not published in the OJ EPO).
  
3. The present appeal had been withdrawn by abandoning the application prior to any decision being issued in respect of either of the above-indicated possibilities. Hence, reimbursement of the appeal fee is not possible.

**Order**

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

The request for reimbursement of the appeal fee is rejected.

The Registrar:



N. Maslin

The Chairman:



C. T. Wilson