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D E C I S I O N
of 11 August 2004

Case Number: T 0462/00 - 3.4.3

Application Number: 92907533.1

Publication Number: 0581787

IPC: G07D 5/00

Language of the proceedings: EN

Title of invention:

Method and apparatus for validating money

Patentee:

MARS, INCORPORATED

Opponent:

Giesecke & Devrient GmbH

Headword:

-

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

"Basis of decisions - patentee (request for revocation)"

Decisions cited:

-

Catchword:

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Case Number: T 0462/00 - 3.4.3

D E C I S I O N
of the Technical Board of Appeal 3.4.3
of 11 August 2004

Appellant:
(Opponent)

Giesecke & Devrient GmbH
Prinzregentenstr. 159
D-81677 München (DE)

Representative:

Klunker, Schmitt-Nilson, Hirsch
Winzererstrasse 106
D-80797 München (DE)

Respondent:
(Proprietor of the patent)

MARS, INCORPORATED
6885 Elm Street
McLean
Virginia 22101-3885 (US)

Representative:

Musker, David Charles
R.G.C. Jenkins & Co.
26 Caxton Street
London SW1H 0RJ (GB)

Decision under appeal:

Interlocutory decision of the Opposition
Division of the European Patent Office posted
9 March 2000 concerning maintenance of European
patent No. 0581787 in amended form.

Composition of the Board:

Chairman: R. K. Shukla
Members: V. L. P. Frank
P. Mühlens

Summary of Facts and Submissions

- I. In its interlocutory decision dated 9 March 2000 the Opposition Division maintained the European patent No. 0581787 in amended form.

- II. On 8 May 2000 the opponent (appellant) lodged an appeal against that decision and paid the corresponding fee on the same day. A statement of grounds of appeal was filed on 7 July 2000.

- III. In a letter dated 29 July 2004 the respondent's (proprietor's) representative stated that the European patent had been abandoned and that the proprietor no longer approved the text of the granted patent.

Reasons for the Decision

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

2. In accordance with Article 113(2) EPC, the EPO can maintain the patent only in the text agreed by the proprietor of the patent. Agreement cannot be held to be given if the proprietor, without submitting an amended text, expressly states that he no longer approves the text of the patent as granted or previously amended. In such situation a substantive requirement for maintaining the patent is lacking and the proceedings are to be terminated by a decision ordering revocation, without going into the substantive issues (Case Law of the Boards of Appeal, 4th edition 2001, Vll.D.11.3, page 540 of the English version).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. European patent No. 0581787 is revoked.

The Registrar:

The Chairman:

D. Meyfarth

R. Shukla