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D E C I S I O N
of 3 September 2002

Case Number: T 0058/02 - 3.2.2

Application Number: 96939869.2

Publication Number: 0865511

IPC: C22C 26/00

Language of the proceedings: EN

Title of invention:

Pre-alloyed powder and its use in the manufacture of diamond tools

Patentee:

n.v. Union Miniere s.a.

Opponent:

H.C. STARCK GmbH & Co. KG

Headword:

Inadmissibility of the appeal/H.C. STARCK

Relevant legal provisions:

EPC Art. 108
EPC R. 65(1)

Keyword:

"Missing Statement of Grounds"

Decisions cited:

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Catchword:

-



Case Number: T 0058/02 - 3.2.2

D E C I S I O N
of the Technical Board of Appeal 3.2.2
of 3 September 2002

Appellant: H.C. STARCK GmbH & Co. KG
(Opponent) Im Schleeke 78-91
D-38642 Goslar (DE)

Representative: Zobel, Manfred, Dr.
Bayer AG
Konzernbereich RP
Patente und Lizenzen
D-51368 Leverkusen (DE)

Respondent: n.v. Union Miniere s.a.
(Proprietor of the patent) Rue du Marais 31
B-1000 Brussels (BE)

Representative: -

Decision under appeal: Interlocutory decision of the Opposition Division
of the European Patent Office posted 5 November
2001 concerning maintenance of European patent
No. 0 865 511 in amended form.

Composition of the Board:

Chairman: W. D. Weiß
Members: R. Ries
J. C. M. de Preter

Summary of Facts and Submissions

I. The appeal contests the decision of the Opposition Division of the European Patent Office posted 5 November 2001, concerning maintenance of the European patent No. 865 511 in amended form pursuant to Articles 102(3), 106(3) EPC.

The Appellant (Opponent 01) filed a Notice of Appeal on 8 January 2002 and paid the fee for appeal on the same date.

No Statement of Grounds was filed.

The Notice of Appeal does not contain anything that could be regarded as a Statement of Grounds pursuant to Article 108 EPC.

II. By a communication dated 3 May 2002 sent by registered letter with advice of delivery, the Registry of the Board informed the Appellant that no Statement of Grounds had been filed and that the appeal could be expected to be rejected as inadmissible. The Appellant was invited to file observations within two months and attention was drawn to the possibility of filing a request for re-establishment of rights under Article 122 EPC.

III. No answer has been given within the given time limit to the Registry's communication.

Reasons for the Decision

As no written Statement setting out the Grounds of Appeal has been filed and as the Notice of Appeal does not contain anything that could be regarded as Statement of Grounds of Appeal according to Article 108 EPC, the appeal has to be rejected as inadmissible, (Article 108 EPC in conjunction with Rule 65(1) EPC).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

V. Commare

W. D. Weiß