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**D E C I S I O N**  
**of 1 June 2004**

**Case Number:** T 0184/04 - 3.3.7

**Application Number:** 99942514.3

**Publication Number:** 1117480

**IPC:** B01J 23/20

**Language of the proceedings:** EN

**Title of invention:**

High surface area sol-gel route prepared oxidation catalysts

**Applicant:**

E.I. Du Pont de Nemours and Company

**Opponent:**

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**Headword:**

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**Relevant legal provisions:**

EPC Art. 108, 65(1)

**Keyword:**

"Missing statement of grounds"

"Reimbursement of the appeal fee - (no)"

**Decisions cited:**

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**Catchword:**

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Case Number: T 0184/04 - 3.3.7

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.7  
of 1 June 2004

**Appellant:** E.I. Du Pont de Nemours and Company  
1007 Market Street  
Wilmington  
Delaware 19898 (US)

**Representative:** Carpmaels & Ransford  
43 Bloomsbury Square  
London WC1A 2RA (GB)

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 16 July 2003  
refusing European application No. 99942514.3  
pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** R. E. Teschemacher  
**Members:** P. A. Gryczka  
B. J. M. Struif

## Summary of Facts and Submissions

- I. The appeal contests the decision of the Examining Division of the European Patent Office posted on 16 July 2003 refusing European patent application No. 99 942 514.3, published as WO 00/12208, pursuant to Article 97(1) EPC.

The applicants (appellants) filed a notice of appeal on 16 September 2003 and paid the fee for appeal on the same day.

No statement of grounds was filed. The notice of appeal contains nothing that could be regarded as a statement of grounds pursuant to Article 108 EPC.

By letter dated 18 September 2003 the appellants requested reimbursement of the appeal fee in effect relying upon the fact that the appeal had been filed inadvertently.

- II. By a communication dated 5 March 2004, sent by registered letter with advice of delivery, the Registry of the Board informed the appellants that no statement of grounds had been filed and that the appeal could be expected to be rejected as inadmissible.

The appellants were informed about the possibility of filing a request for re-establishment of rights under Article 122 EPC and were invited to file observations within two months.

- III. No answer has been received 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, the appeal has to be rejected as inadmissible (Article 108 EPC in conjunction with Rule 65(1) EPC).

The request for reimbursement of the appeal fee made in the applicant's letter dated 18 September 2003 has to be refused.

As already indicated in the communication of 5 March 2004, no facts establishing that a valid notice of appeal was not filed have been submitted. On the contrary, the appellants' declaration that they reserve the right to continue with the appeal shows that they considered their notice of appeal as valid.

Therefore, the appeal fee has become due (Article 4(1) RFees). Paid fees which have fallen due cannot be refunded, unless otherwise provided for (J 33/86, OJ EPO 1988, 84 - Headnote). The Convention makes provision for refunding the appeal fee only if the requirements of Rule 67 EPC are fulfilled.

**Order**

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

1. The appeal is rejected as inadmissible.
2. The request for reimbursement of the appeal fee is refused.

The Registrar:

The Chairman:

C. Eickhoff

R. Teschemacher