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**Datasheet for the decision
of 2 May 2012**

Case Number: T 0189/11 - 3.2.04

Application Number: 00977742.6

Publication Number: 1237428

IPC: A24D 1/02

Language of the proceedings: EN

Title of invention:

Smoking article comprising a wrapper containing a ceramic material

Patentee:

British American Tobacco (Investments) Limited

Opponent:

Rothmans, Benson & Hedges Inc.

Headword:

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Relevant legal provisions:

EPC Art. 108
EPC R. 101(1)

Keyword:

"Missing statement of grounds"

Decisions cited:

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Catchword:

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Case Number: T 0189/11 - 3.2.04

D E C I S I O N
of the Technical Board of Appeal 3.2.04
of 2 May 2012

Appellant: British American Tobacco (Investments) Limited
(Patent Proprietor) Globe House
1 Water Street
London WC2R 3LA (GB)

Representative: Hutter, Anton
Venner Shipley LLP
200 Aldersgate
London EC1A 7HD (GB)

Respondent: Rothmans, Benson & Hedges Inc.
(Opponent) 1500 Don Mills Road
North York (Toronto)
Ontario M3B 3L1 (CA)

Representative: Pawlyn, Anthony Neil
Urquhart-Dykes & Lord LLP
Tower North Central
Merrion Way
Leeds LS2 8PA (GB)

Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
16 November 2010 concerning maintenance of
European patent No. 1237428 in amended form.

Composition of the Board:

Chairman: A. de Vries
Members: P. Petti
C. Heath

Summary of Facts and Submissions

I. The appeal contests the decision of the Opposition Division of the European Patent Office concerning maintenance of European patent No. 1237428 in amended form. The decision was dispatched by registered letter with advice of delivery to each party on 16 November 2010.

The Appellant (Patent Proprietor) filed a notice of appeal on 26 January 2011 and paid the appeal fee on the same day.

No statement setting out the grounds of appeal was filed.

II. By a communication dated 3 May 2011 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.

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

Reasons for the Decision

As no written statement setting out the grounds of appeal has been filed and the notice of appeal contains nothing that could be regarded as a statement of grounds pursuant to Article 108, third sentence, EPC, the appeal has to be rejected as inadmissible (Article 108, third sentence, EPC in conjunction with Rule 101(1) EPC).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:

G. Magouliotis

A. de Vries