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**Datasheet for the interlocutory decision  
of 20 September 2013**

**Case Number:** T 1618/11 - 3.5.02

**Application Number:** 05703708.7

**Publication Number:** 1708367

**IPC:** H03M 13/19

**Language of the proceedings:** EN

**Title of invention:**

Inspection matrix generation method, data transmission system,  
encoding device, decoding device, and inspection matrix  
generation program

**Applicant:**

NEC Corporation

**Headword:**

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**Relevant legal provisions:**

EPC Art. 122

**Keyword:**

"Re-establishment of rights - yes"

**Decisions cited:**

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**Catchword:**

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Case Number: T 1618/11 - 3.5.02

**INTERLOCUTORY DECISION**  
of the Technical Board of Appeal 3.5.02  
of 20 September 2013

**Appellant:**  
(Applicant)

NEC Corporation  
7-1, Shiba 5-chome  
Minato-ku  
Tokyo 108-8001 (JP)

**Representative:**

Glawe, Delfs, Moll  
Patent- und Rechtsanwälte  
Postfach 26 01 62  
D-80058 München (DE)

**Decision under appeal:**

**Decision of the Examining Division of the  
European Patent Office posted 17 February 2011  
refusing European patent application  
No. 05703708.7 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman:** M. Ruggiu  
**Members:** P. Mühlens  
M. Léouffre

## **Summary of Facts and Submissions**

- I. In the present case, the time limit for filing a statement of grounds of appeal under Article 108 EPC ended on 27 June 2011. However, the letter with the statement of grounds was not received at the EPO until 29 June 2011. With letter of 26 August 2011, received at the EPO on the same day, the appellant requested re-establishment of rights.
  
- II. In the reasons for that request, the representative of the appellant explained how preparing and mailing of documents is organized and performed in his office. He also submitted that it was an isolated mistake by an experienced and otherwise reliable assistant that caused the belated filing of the statement of grounds of appeal.

## **Reasons for the Decision**

1. The formal requirements of a request for re-establishment, including the observance of the time limit (Rule 136 EPC), are met.
  
2. It has been demonstrated that the appellant, in spite of all due care required by the circumstances having been taken, was unable to observe the time limit for filing the statement of grounds of appeal. The Board is satisfied that the representative of the appellant took all reasonable steps to ensure that preparing and mailing of documents was carried out correctly in his office. Therefore, an isolated mistake by an assistant

may not be imputed to the representative, and hence not to the appellant either.

3. As a consequence, the appellant has to have his rights re-established (Article 122(1) EPC).

## **Order**

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

The appellant is re-established in his rights.

The Registrar:

The Chairman:

D. Meyfarth

M. Ruggiu