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**Datasheet for the decision
of 9 July 2019**

Case Number: T 0541/15 - 3.4.03

Application Number: 09002507.3

Publication Number: 2058774

IPC: G07F7/10, G07F7/08, H04W12/00

Language of the proceedings: EN

Title of invention:
A forensic toolkit and method for accessing data stored on SIM
or USIM cards

Patent Proprietor:
Radio Tactics Limited

Opponent:
Micro Systemation AB

Headword:

Relevant legal provisions:
EPC R. 84(1), 100(1)
EPC 1973 R. 60(1)

Keyword:

Lapse of patent in all designated states - continuation of appeal proceedings (no)

Decisions cited:

G 0001/90, T 0607/00, T 0708/01, T 1557/08, T 0520/10,
T 2536/10

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 0541/15 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 9 July 2019

Appellant: Radio Tactics Limited
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Agile IP LLP
Airport House
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Respondent: Micro Systemation AB
(Opponent) Box 17111
117 34 Stockholm (SE)

Representative: Norberg, Charlotte
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 12 January 2015
revoking European patent No. 2058774 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

Chairman G. Eliasson
Members: G. Decker
S. Ward

Summary of Facts and Submissions

- I. The appeal of the patent proprietor (hereinafter "the appellant") lies against the decision of the opposition division of 12 January 2015 revoking European patent No. 2 058 774.
- II. The patent has meanwhile lapsed in all designated Contracting States. By communication of the board of 21 March 2019, the attention of the parties was drawn to Rule 84(1) EPC and the appellant was asked whether it wanted the appeal proceedings to be continued.
- III. The appellant did not reply to the communication.

Reasons for the Decision

1. Pursuant to Rule 84(1) EPC, if a European patent has lapsed with effect for all the designated Contracting States, opposition proceedings may be continued at the request of the opponent filed within two months of a communication from the European Patent Office informing him of the lapse. According to Rule 100(1) EPC, this also applies in appeal proceedings following opposition proceedings.
2. However, if - as in the present case - the patent proprietor is the appellant, it would be inappropriate to allow the opponent (respondent) to decide whether the appeal proceedings should be continued. For this reason, according to the established case law of the boards of appeal, Rule 84(1) EPC has to be applied *mutatis mutandis* in such opposition appeal proceedings

so that it is the appellant-patent proprietor who can request that the appeal proceedings be continued (see, for instance, decisions T 708/01, Reasons 1; T 1557/08; T 520/10, Reasons 1; T 2536/10, Reasons 1).

3. Rules 84(1), 100(1) EPC in their direct application provide for a possible continuation of the opposition or appeal proceedings if the opponent requests so. In the absence of such a request, the opposition or appeal proceedings have to be closed (see G 1/90, OJ EPO 1991, 275, Reasons 7: Rule 60(1) EPC 1973 is a "special case of suspension" of the opposition proceedings; T 607/00, Reasons 2: "there is no legal basis for a continuation of the appeal proceedings"). The same legal consequence is valid if Rule 84(1) EPC is applied *mutatis mutandis* in the present circumstances, see point 2 above.
4. Consequently, since no such request has been filed by the appellant, the appeal proceedings are terminated by decision of the board.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



S. Sánchez Chiquero

G. Eliasson

Decision electronically authenticated