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**Datasheet for the decision
of 3 February 2017**

Case Number: T 0609/16 - 3.2.04

Application Number: 07115254.0

Publication Number: 1873602

IPC: A01B63/111, A01B63/00

Language of the proceedings: EN

Title of invention:

Headland routine for agricultural vehicle

Patent Proprietor:

CNH U.K. LIMITED

Opponent:

Deere & Company/John Deere GmbH & Co. KG

Headword:

Relevant legal provisions:

EPC Art. 108
EPC R. 101(1)

Keyword:

Admissibility of appeal - statement of grounds - filed within
time limit (no)

Decisions cited:

Catchword:



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Case Number: T 0609/16 - 3.2.04

D E C I S I O N
of Technical Board of Appeal 3.2.04
of 3 February 2017

Appellant: CNH U.K. LIMITED
(Patent Proprietor) Cranes Farm Road
Basildon, Essex S14 3AD (GB)

Representative: Feldkamp, Rainer
Patentanwälte
Wallach, Koch, Dr. Haibach, Feldkamp
Garmischer Strasse 4
80339 München (DE)

Respondent: Deere & Company/John Deere GmbH & Co. KG
(Opponent) One John Deere Place/John-Deere-Str. 70
Moline, Il 61265/US/68163 Mannheim/DE (US)

Representative: Holst, Sönke
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Global Intellectual Property Services
John-Deere-Strasse 70
68163 Mannheim (DE)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 7 January 2016
revoking European patent No. 1873602 pursuant to
Article 101(2) EPC.**

Composition of the Board:

Chairman A. de Vries
Members: E. Frank
T. Bokor

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the Opposition Division of 9 December 2015, posted on 7 January 2016.
- II. The appellant filed a notice of appeal on 4 March 2016 and paid the appeal fee on the same day.
- III. On 17 May 2016 the appellant requested an extension of the time limit by one month.
- IV. The Registrar of the Board informed the appellant by way of a standardised communication (EPO Form 3028, version 03/13) dated 24 May 2016 that it appeared from the file that the written statement of grounds of appeal had not been filed, and that it was therefore to be expected that the appeal would be rejected as inadmissible pursuant to Article 108, third sentence, EPC in conjunction with Rule 101(1) EPC. The appellant was informed that any observations had to be filed within two months of notification of the communication. The communication was notified to the appellant on 25 May 2016.
- V. With fax of 13 June 2016 the appellant filed a letter dated 10 March 2016 including grounds of appeal and a copy of new claims. No reference was made to the communication of the Registrar mentioned above.
- VI. By a communication of the Board pursuant to Rule 100(2) EPC dated 17 November 2016 the Board informed the appellant of its preliminary assessment that the appeal is to be rejected as inadmissible for the reasons given in the previous communication sent by the Registrar (see point IV above), in view of the fact

that the grounds of appeal was filed out of time, for which no explanation was given, nor was a request for re-establishment filed. The appellant was informed that any observations had to be filed within two months of notification.

VII. The appellant did not respond to the communication of the Board.

Reasons for the Decision

1. The decision under appeal was posted 7 January 2016.
2. Pursuant to Article 108 EPC, third sentence, in conjunction with Rule 126(2) EPC, the time limit for filing the statement of grounds is four months and ten days from date of notification, that is 17 May 2016.
3. The appellant filed a letter dated 10 March 2016 containing the grounds of appeal and new claim set. However, this letter of the appellant was received by the Office only much later, namely on 13 June 2016 with fax of that date. In this manner, the statement of the grounds of appeal was filed after the expiry of the applicable time limit. This fact was called to the attention of the appellant with the communication of the Board dated 17 November 2016.
4. The appellant has not filed a request for reinstatement.
5. The Board concludes that no written statement setting out the grounds of appeal was filed within the time limit provided by Article 108, third sentence, EPC in conjunction with Rule 126(2) EPC.

6. As it does not comply with the requirements of Article 108 EPC, third sentence, the appeal is to be rejected as inadmissible pursuant to 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

Decision electronically authenticated