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**Datasheet for the decision
of 20 July 2022**

Case Number: T 0732/17 - 3.5.02

Application Number: 08797536.3

Publication Number: 2191446

IPC: G07B17/00

Language of the proceedings: EN

Title of invention:

System and method of offsetting invoice obligations

Applicant:

Invoice Clearing System, Inc.

Relevant legal provisions:

EPC R. 101(1)

EPC Art. 107

Keyword:

Admissibility of appeal - no - appeal filed after withdrawal
of application
- No legitimate interest for an appeal if the appellant is no
longer adversely affected



Beschwerdekammern

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Case Number: T 0732/17 - 3.5.02

D E C I S I O N
of Technical Board of Appeal 3.5.02
of 20 July 2022

Appellant:
(Applicant)

Invoice Clearing System, Inc.
9300 Wilshire Blvd., Ste. 333
Los Angeles, CA 90212 (US)

Representative:

Forresters IP LLP
Skygarden
Erika-Mann-Straße 11
80636 München (DE)

Decision under appeal:

**Decision of the Examining Division of the
European Patent Office posted on 25 July 2016
refusing European patent application No.
08797536.3 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman R. Lord
Members: H. Bronold
J. Hoppe

Summary of Facts and Submissions

- I. The appeal lies against the decision of the examination division of 25 July 2016 refusing the European patent application no. 08797536.3.
- II. On 20 September 2016 the former representative of the appellant filed a letter, citing the European patent application number and the registered applicant. In the letter the following declaration was given:
- "We hereby withdraw irrevocably the above noted application with immediate effect. Please credit the Patent Outsourcing account no. 28050612 with any refundable fees."*
- III. With a letter dated 23 September 2016 the examining division acknowledged receipt of the withdrawal noting that the proceedings were terminated.
- IV. With a letter dated 29 September 2016 the new representative of the appellant filed a notice of appeal against the decision of 25 July 2016 requesting that the application be granted on the basis of the requests to which the decision related. Oral proceedings were requested if the decision were not to be set aside or if the appeal were deemed inadmissible.
- V. On 30 September 2016, the new representative requested the correction of the withdrawal in the letter filed by the former representative on 20 September 2016 by retraction of that letter. It stated that the potential withdrawal was a mistake according to Rule 139 EPC, because the former representative was not authorised to

withdraw the application, but was instructed not to take any action. In the following correspondence with the examining division, the applicant filed further letters and requests concerning in particular the correction of the declaration as given in the letter of 20 September 2016 and its legal impact on the proceedings.

- VI. With decision of 15 December 2021 the examining division refused the applicant's requests, including *inter alia* the request for correction of the withdrawal and concluded that the application had been validly withdrawn by the applicant with its declaration of 20 September 2016.

No appeal was filed against this decision of the examining division.

- VII. With a communication under Rule 15(1) RPBA 2020 the Board informed the appellant that the appeal against the refusal of the application seemed to be inadmissible after withdrawal of the application.

- VIII. With letter dated 18 July 2022 the appellant withdrew its request for oral proceedings.

Reasons for the Decision

1. The appellant's request for oral proceedings was withdrawn with letter dated 18 July 2022. Therefore, oral proceedings are not required before deciding upon the appellant's appeal.
2. The appeal against the refusal of the application is inadmissible because it was filed after withdrawal of the application.
3. The appeal filed with letter dated 29 September 2016 was filed after the application had been effectively withdrawn with letter dated 20 September 2016. The appellant's request for correction of the withdrawal was rejected by decision of the examining division of 15 December 2021. No appeal has been filed against this decision so that it became final. The withdrawal of the application is therefore legally binding with retroactive effect.
4. If an application is withdrawn after an appeal has been filed, it is a general practice that the appeal proceedings are terminated without a decision.

In the present case however, the withdrawal (20 September 2016) had become effective before the notice of appeal was filed by the appellant. As a consequence, after the effective withdrawal of the application the appellant was no longer adversely affected by the refusal of the application (Article 107 first sentence EPC) and thus had no legitimate interest to set the impugned decision aside. If an appeal is filed although

it is already clear at the time of filing that the Board's decision is without any relevance for the specific case, the appeal is inadmissible (see also J 7/00, reasons 2).

5. Therefore the appeal is to be rejected as inadmissible under Rule 101(1) EPC.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



L. Stridde

R. Lord

Decision electronically authenticated