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**Datasheet for the decision
of 8 November 2024**

Case Number: T 0222/20 - 3.4.01

Application Number: 11177727.2

Publication Number: 2428912

IPC: G06K7/00, G06K19/07, G06K17/00

Language of the proceedings: EN

Title of invention:
System and method for responding to a request received at an
object with an RFID device

Patent Proprietor:
NXP B.V.

Opponent:
Bundesdruckerei GmbH

Headword:
Response to requests by object with a RFID device/ NXP B.V.

Relevant legal provisions:
EPC Art. 110
EPC R. 84(1), 100(1), 103(4) (c)

Keyword:

Lapse of patent in all designated states - no request for continuation received within the period prescribed - termination of appeal proceedings

Reimbursement of appeal fee - partial reimbursement of appeal fee 25%



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 0222/20 - 3.4.01

D E C I S I O N
of Technical Board of Appeal 3.4.01
of 8 November 2024

Appellant: Bundesdruckerei GmbH
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Respondent: NXP B.V.
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
19 November 2019 concerning maintenance of the
European Patent No. 2428912 in amended form.**

Composition of the Board:

Chairman P. Scriven
Members: A. Medeiros Gaspar
D. Rogers

Summary of Facts and Submissions

- I. An opposition was filed to the European patent.
- II. The Opposition Division's found the patent maintainable, on the basis of auxiliary request 2.
- III. The opponent appealed this decision and requested that it be set aside and the patent revoked (main request).
- IV. The proprietor (respondent) requested that the appeal be dismissed (main request), or that the patent be found maintainable on the basis of one of five auxiliary requests, submitted with the reply to the grounds of appeal.
- V. Oral proceedings were also requested by both parties, should the Board be minded not to allow their main requests.
- VI. In a communication under Rule 84(1) EPC, the Board notified the parties that the European patent had been surrendered or had lapsed, with effect for all designated Contracting States and that the appeal proceedings would be discontinued, unless a request for continuation was filed by the opponent within two months from notification of the communication.

- VII. Shortly thereafter, the Board issued a summons to oral proceedings and a communication setting out its provisional opinion. The oral proceedings were scheduled for a date later than the last day for responding to the communication under Rule 84(1) EPC. The provisional opinion was negative with regards to all of the proprietor's requests.
- VIII. Within a day of the summons, the proprietor informed the Board that they would not attend the oral proceedings. They made no substantive submissions.
- IX. The oral proceedings were cancelled.
- X. No request for continuation was received from the opponent, within the two months period set in the communication under Rule 84(1) EPC.

Reasons for the Decision

Cancellation of the oral proceedings and partial reimbursement of the appeal fee

1. The proprietor's announcement that they would not attend oral proceedings was equivalent to a withdrawal of their request that oral proceedings be held (Case Law of the Boards of Appeal, 10th edition, III.C.4.3.2).

2. The proprietor did not contest the Board's provisional opinion, which was negative with regards to all of their requests. After reconsideration, the Board considered itself in a position to take a substantive decision, setting aside the contested decision and revoking the patent, as per the Opponent's main request, should the opponent request continuation of the proceedings within the time limit set in the communication under Rule 84(1) EPC. In that case, the condition in the opponent's request for oral proceedings would not be met.
3. Therefore, the oral proceedings were cancelled.
4. Since the proprietor's withdrawal of the request for oral proceedings was made within one month of notification of the preliminary opinion, both conditions of Rule 103(4)(c) EPC (that any request for oral proceedings is withdrawn and no oral proceedings take place) are met. It makes no difference that the party withdrawing the request for oral proceedings is not the appellant. Consequently, the appeal fee is to be reimbursed at 25%.

Termination of the appeal proceedings

5. Under Rule 100(1) EPC, unless otherwise provided, the provisions relating to proceedings before the department which has taken the decision impugned apply to appeal proceedings.
6. The EPC contains no specific provision concerning continuation of appeal proceedings in case a European Patent has been surrendered or has lapsed.

7. Rule 84(1) EPC is a provision relating to opposition proceedings and provides that, if a European patent has been surrendered or lapsed in all designated Contracting States, the opposition proceedings may be continued at the request of the opponent, filed within two months of a communication from the European Patent Office informing them accordingly.
8. In the present appeal proceedings, a communication under to Rule 84(1) EPC was sent to the parties, but no request for continuation was received from the opponent within the two months period set.
9. There is, therefore, no reason for these appeal proceedings to be continued.
10. Consequently, no substantive decision is taken and proceedings are terminated.

Order

For these reasons it is decided that:

1. The appeal proceedings are terminated.
2. The appeal fee is reimbursed at 25%.

The Registrar:

The Chairman:



D. Meyfarth

P. Scriven

Decision electronically authenticated