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**Datasheet for the decision
of 19 November 2020**

Case Number: T 1544/20 - 3.3.10

Application Number: 15751927.3

Publication Number: 3107890

IPC: C07C69/155, C07C69/145

Language of the proceedings: EN

Title of invention:

BRANCHED-CHAIN ESTERS AND METHODS OF MAKING AND USING THE SAME

Applicant:

Wilmar Trading Pte Ltd

Headword:

Relevant legal provisions:

EPC Art. 108

EPC R. 99(2), 100(1), 103(1)(b), 126(2)

Keyword:

Admissibility of appeal - missing statement of grounds

Decisions cited:

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

Case Number: T 1544/20 - 3.3.10

D E C I S I O N
of Technical Board of Appeal 3.3.10
of 19 November 2020

Appellant: Wilmar Trading Pte Ltd
(Applicant) 56 Neil Road
Singapore 088830 (SG)

Representative: Murgitroyd & Company
Murgitroyd House
165-169 Scotland Street
Glasgow G5 8PL (GB)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 3 January 2020
refusing European patent application No.
15751927.3 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman P. Gryczka
Members: R. Pérez Carlón
F. Blumer

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the Examining Division of 3 January 2020 to refuse European patent application No. 15751927.3.
- II. The applicant / appellant filed a notice of appeal on 3 March 2020; the appeal fee was paid on the same day.
- III. By letter of 29 April 2020, the appellant withdrew the appeal *"on condition that it can be confirmed before 3 May 2020 that application number 20169132.6 has been accorded divisional status"*.
- IV. In its communication of 24 August 2020, the board noted that the conditional withdrawal of 29 April 2020 could not be taken into account since the appellant's condition was unclear and the board was not in a position to examine whether it was fulfilled or not.
- V. In the same communication, the board noted that the written statement of grounds had not been filed and that a rejection of the appeal as inadmissible was expected pursuant to Article 108, third sentence, EPC, in conjunction with Rule 101(1) EPC.
- VI. For any observations to the communication of 24 August 2020, a time limit of two months was set.
- VII. No reply was received within said time limit.

Reasons for the Decision

1. As announced in its communication of 24 August 2020, it cannot be concluded that the condition set out by the

appellant for withdrawing the appeal was met on 3 May 2020 or at the expiry date of the time limit for filing the statement of grounds. The four month time limit under Article 108, third sentence, EPC for filing the grounds was extended under the Notice from the EPO dated 1 May 2020 concerning the disruptions due to the COVID-19 outbreak (OJ EPO 2020, A60) until 2 June 2020.

2. In fact, application No. 20169132.6, to which the conditional withdrawal referred, was filed as a divisional application to the application underlying this appeal. Whether or not it could be accorded divisional status was not established either before 3 May 2020 or before 2 June 2020. As mentioned in the board's communication of 24 August 2020, there was no office action concerning application No. 20169132.6 between 29 April 2020 (filing date of the conditional withdrawal) and 2 June 2020. Only within the framework of the extended European search report, the Examining Division informed the applicant on 8 July 2020 that the requirements of Article 76 EPC appeared to be fulfilled.
3. Under these circumstances the board has to conclude that the appeal has not been withdrawn within the time limit for filing the grounds of appeal.
4. No written statement of grounds of appeal was filed within the time limit provided by Article 108, third sentence, EPC in conjunction with Rule 126(2) EPC, taking into account the above-mentioned extension of the time limit until 2 June 2020.
5. In addition, neither the notice of appeal nor any other document filed contains anything that could be regarded as a statement of grounds pursuant to Article 108 EPC

and Rule 99(2) EPC. Therefore, the appeal has to be rejected as inadmissible under Rule 101(1) EPC.

6. Since the appeal was not withdrawn within the time limit for filing the statement of grounds, the appeal fee cannot be reimbursed under Rule 103(1)(b) EPC.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



C. Rodríguez Rodríguez

P. Gryczka

Decision electronically authenticated