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**Datasheet for the decision
of 3 May 2023**

Case Number: T 2417/22 - 3.2.03

Application Number: 17198275.4

Publication Number: 3315229

IPC: B22F3/105, C22C1/04, C22C9/00,
B33Y70/00, B22F3/24, C22F1/08,
C22C9/06, B33Y80/00, B22F10/20

Language of the proceedings: EN

Title of invention:

USE OF A COPPER ALLOY POWDER, METHOD OF PRODUCING ADDITIVELY-
MANUFACTURED ARTICLE, AND ADDITIVELY-MANUFACTURED ARTICLE

Patent Proprietor:

Daihen Corporation
Osaka Research Institute of Industrial Science
and Technology

Opponent:

GKN Sinter Metals GmbH & Co. KG Radevormwald

Headword:

Relevant legal provisions:

EPC Art. 108, 116(1)
EPC R. 101(1)

Keyword:

Admissibility of appeal - missing statement of grounds
Oral proceedings - abandonment of request

Decisions cited:

T 1042/07, T 0234/10, T 2143/14, T 0118/19, T 2144/21,
T 0120/22

Catchword:



Beschwerdekammern
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Chambres de recours

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Case Number: T 2417/22 - 3.2.03

D E C I S I O N
of Technical Board of Appeal 3.2.03
of 3 May 2023

Appellant: GKN Sinter Metals GmbH & Co. KG Radevormwald
(Opponent) Krebsöge 10
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Respondent: Osaka Research Institute of Industrial Science
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
17 August 2022 concerning maintenance of the
European Patent No. 3315229 in amended form.**

Composition of the Board:

Chair C. Herberhold
Members: B. Goers
 N. Obrovski

Summary of Facts and Submissions

- I. The appeal of the opponent (appellant) is directed against the decision of the opposition division dated 17 August 2022 to maintain the patent in amended form.
- II. The appellant filed a notice of appeal, paid the appeal fee and requested that the decision under appeal be set aside and the patent be revoked in its entirety. Oral proceedings were requested in case the Board did not decide accordingly. The appellant did not file any statement of grounds of appeal.
- III. After the expiry of the prescribed period for filing the statement of grounds of appeal, the Board informed the appellant in a communication that no such statement had been filed, and that it was therefore to be expected that the appeal would be rejected as inadmissible. The appellant was also informed that any observations had to be filed within two months of notification of this communication.
- IV. No reply to the Board's communication was received within this period.

Reasons for the Decision

1. Under Article 108, third sentence, EPC a statement setting out the grounds of appeal must be filed within four months of notification of the decision. Failing this, the appeal must be rejected as inadmissible under Rule 101(1) EPC.

2. The appellant did not file any statement of grounds of appeal within the prescribed period. Therefore, the appeal must be rejected as inadmissible.

3. According to settled case law, an appellant's failure to reply in substance to a board's communication indicating that the appeal is expected to be rejected as inadmissible due to a missing statement of grounds of appeal is considered to be equivalent to an abandonment of the request for oral proceedings (see T 1042/07, T 234/10, T 2143/14, T 118/19, T 2144/21, T 120/22).

Notwithstanding the appellant's auxiliary request for oral proceedings in the notice of appeal, the decision could thus be taken in written proceedings.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chair:



C. Spira

C. Herberhold

Decision electronically authenticated