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**Datasheet for the decision
of 11 November 2025**

Case Number: T 0491/25 - 3.5.07

Application Number: 19172667.8

Publication Number: 3719671

IPC: G06F16/93, G06F16/901,
G06F16/36, G06N3/02

Language of the proceedings: EN

Title of invention:

System for maintaining a virtual library of documents and
method of operating such system

Applicants:

Laich, Hilke
Malyshev, Aleksandr Andreevich

Headword:

Virtual document library/LAICH

Relevant legal provisions:

EPC Art. 107
EPC R. 101(1), 139

Keyword:

Correction of notice of appeal - (no) - request not filed
without delay - no evidence of original true intention
Admissibility of appeal - (no) - appeal filed on behalf of only
one of two joint applicants

Decisions cited:

G 0001/12, J 0007/19, T 0755/09, T 2474/19, T 0071/21



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Case Number: T 0491/25 - 3.5.07

D E C I S I O N
of Technical Board of Appeal 3.5.07
of 11 November 2025

Appellant: Laich, Hilke
Alexanderstrasse 86
70182 Stuttgart (DE)

Representative: Mzb PartmbB
Schloßberg 10
71032 Böblingen (DE)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 9 October 2024
refusing European patent application
No. 19172667.8 pursuant to Article 97(2) EPC**

Composition of the Board:

Chairman N. H. Uhlmann
Members: R. de Man
S. Fernández de Córdoba

Summary of Facts and Submissions

I. The appeal is directed against the decision of the examining division refusing European patent application No. 19172667.8. The application was filed by Hilke Laich and Aleksandr Andreevich Malyshev as joint applicants (Article 59 EPC). At the time of filing of the notice of appeal, no transfer of the European patent application had been recorded or requested under Rule 22 EPC.

II. The notice of appeal was filed on 9 December 2024. It indicated "Laich, Hilke" as the name of the represented party, and it contained a request which reads: "The appellant requests to set aside entirely the decision to refuse and to grant a patent on the basis of the documents of the European patent application."

The statement of grounds of appeal was filed on 31 January 2025, again in the name of "Laich, Hilke" and referring to "the applicant".

III. On 4 April 2025, the board issued a communication under Rule 101(2) EPC, informing the applicants that the appeal did not comply with Rule 99(1)(a) EPC because the notice of appeal did not contain the name of the appellants and the address of the appellants. The applicants were invited to remedy the deficiencies within two months of notification of the communication.

A reply to the board's communication was filed still on 4 April 2025. It stated that the appellant was Hilke Laich and indicated her address.

- IV. On 2 September 2025, the board issued a communication under Rule 100(2) EPC informing the appellant that, since the appeal had been filed by only one of the two co-applicants, the appeal had not been filed by a party eligible to appeal (Article 107 EPC). The appeal therefore appeared to be inadmissible (Rule 101(1) EPC).
- V. On 9 September 2025, the co-applicants filed a request for correction of the notice of appeal under Rule 139, first sentence, EPC and stated that the notice of appeal had actually and truly been intended to be filed on behalf of the joint applicants Hilke Laich and Aleksandr Andreevich Malyshev, the omission of the latter being due to a mistake.

Reasons for the Decision

1. Under Article 107, first sentence, EPC, a decision of a department of first instance of the EPO can be appealed only by a party to the proceedings which gave rise to it. If a party consists of a plurality of persons, an appeal against a decision which adversely affects this party has to be filed on behalf of all these persons through their common representative (see **T 755/09**, Reasons 1).
2. In the present case, the notice of appeal was filed on behalf of only one of the two co-applicants, i.e. not by a party eligible to appeal (Article 107 EPC). Hence, if the request of correction of the notice of appeal is not granted, the appeal is to be rejected as inadmissible (Rule 101(1) EPC).

Request for correction of the notice of appeal

3. According to decision **G 1/12**, OJ EPO 2014, A114, Reasons 37, for a request for correction under Rule 139, first sentence, EPC, to be allowable, the following principles apply:
 - The correction must introduce what was originally actually intended.
 - If the original intention is not immediately apparent, the requester bears a heavy burden of proof.
 - The request for correction must be filed without delay.

4. As for the requirement that the notice of appeal be filed without delay, the applicants were informed on 4 April 2025 that the notice of appeal did not mention the names and addresses of the appellants (plural). In a response filed on the same day, their representative confirmed that the appellant (singular) was Hilke Laich and indicated her address. Only on 9 September 2025 did the representative file a request for correction of the notice of appeal. The representative did not indicate the address of the co-applicant in any of its letters.
 - 4.1 In point 5 of its communication of 2 September 2025, the board had informed the applicants that a request for correction of the notice of appeal under Rule 139, first sentence, EPC, was unlikely to be allowed, given that such a request had to be filed without delay. Nevertheless, the request for correction filed on 9 September 2025 did not contain any arguments why it could not have been filed earlier.

- 4.2 In the absence of any explanation why the request for correction could not have been filed already in response to the communication of 4 April 2025, the board can only conclude that the request has not been filed "without delay". For this reason alone, the request cannot be allowed.
5. As for the requirement that the correction must introduce what was originally actually intended, the board accepts that, generally, it will be "immediately apparent" that an appeal filed against the refusal of an application is intended to be filed on behalf of all the co-applicants.
- 5.1 However, in its letter of 4 April 2025, the appellant confirmed that the (only) appellant was Hilke Laich. This is an explicit indication that it had in fact been the true intention to file the appeal on behalf of Hilke Laich as the sole appellant, rendering it no longer "immediately apparent" (cf. **G 1/12**, Reasons 37) that the appeal had been intended to be filed on behalf of both co-applicants. For example, the representative may have truly believed that Hilke Laich was the only applicant, which would mean that the notice of appeal did not contain a mistake in the sense of an expression deviating from the representative's actual intention (see **J 7/19**, Reasons 6 and 7; **T 2474/19**, Reasons 2.6.2 and 2.7.1; and **T 71/21**, Reasons 6.4.2), or he may for some other reason have decided to file the appeal on behalf of Hilke Laich only.
- 5.2 The request for correction merely asserts that the notice of appeal was actually and truly intended to be filed on behalf of the joint applicants and that one of the two co-applicants had been omitted due to a

mistake. It is not accompanied by any evidence of this true intention or by arguments explaining why this alleged true intention was "immediately apparent" in spite of the contrary indication given in the letter of 4 April 2025.

5.3 Hence, the board concludes that the applicants have not shown that the requested correction of the notice of appeal introduces what was originally actually intended, even less so according to the "heavy burden of proof" referred to in point 3. above. This is a second, independent reason why the request for correction cannot be allowed.

6. The applicants did not request oral proceedings. Moreover, the board considers that there is no need to give them a further opportunity to comment. In its communication of 2 September 2025, the board already drew their attention to the requirements and arguments considered in points 3. to 5. above. In addition, these requirements are well established in the case law of the boards of appeal, and a professionally represented party is expected to address them without being explicitly prompted by the board.

7. In view of the above, the request for correction of the notice of appeal under Rule 139, first sentence, EPC is to be refused, and the appeal is to be rejected as inadmissible (Article 107 and Rule 101(1) EPC).

Order

For these reasons it is decided that:

1. The request for correction of the notice of appeal is refused.
2. The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



S. Lichtenvort

N. H. Uhlmann

Decision electronically authenticated