

Veröffentlichung im Amtsblatt	J/Nein
Publication in the Official Journal	Yes/No
Publication au Journal Officiel	Oui/Non

Aktenzeichen / Case Number / N<sup>o</sup> du recours : T 2/90 - 3.3.3

Anmeldenummer / Filing No / N<sup>o</sup> de la demande : 82 107 820.1

Veröffentlichungs-Nr. / Publication No / N<sup>o</sup> de la publication : 0 075 130

Bezeichnung der Erfindung: Improved reaction injection molding process

Title of invention:

Titre de l'invention :

Klassifikation / Classification / Classement : C08G 18/10, C08G 18/32

### ENTSCHEIDUNG / DECISION

vom / of / du 25 July 1990

Anmelder / Applicant / Demandeur :

Patentinhaber / Proprietor of the patent /

Titulaire du brevet :

The Dow Chemical Company

Einsprechender / Opponent / Opposant :

BASF

Imperial Chemical Industries PLC

Stichwort / Headword / Référence :

EPU/EPC/CBE Article 108, Rules 78(3), 83(2)(4)

Schlagwort / Keyword / Mot clé :

"No written statement setting out the grounds of appeal"

Leitsatz / Headnote / Sommaire



Case Number : T 2/90 - 3.3.3

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.3  
of 25 July 1990

**Appellant :** The Dow Chemical Company  
(Proprietor of the patent) 2030 Dow Center, Abbott Road  
Midland, Michigan 48640 (USA)

**Representative :** Henkel, Feiler, Hänzel & Partner  
Möhlstraße 37  
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**Respondent :** BASF-Aktiengesellschaft  
(Opponent) Carl-Bosch-Straße 38  
D-6700 Ludwigshafen

**Representative :** Maurer, Patentabteilung BASF-Aktiengesellschaft

**Respondent :** Imperial Chemical Industries PLC  
(Opponent) Imperial Chemical House  
Millbank  
London SW1P 3JF (United Kingdom)

**Representative :** Georges Leherte  
Legal Dept: Patents  
PO Box, Bessemer Road  
Welwyn Garden City  
Hertfordshire (United Kingdom)

**Decision under appeal :** Decision of the Opposition Division of the European  
Patent Office of 19 September 1989, issued on  
23 October 1989 revoking European patent  
No. 75 130 pursuant to Article 102(1) EPC.

**Composition of the Board :**

**Chairman :** F. Antony  
**Members :** M. Aúz Castro  
S. Schödel

## Summary of Facts and Submissions

- I. By a decision announced orally on 19 September 1989 and issued on 23 October 1989, the Opposition Division revoked European patent No. 75130.
- II. The Appellant lodged an appeal against this decision on 22 December 1989 and paid the appropriate fee on the same day.
- III. No written statement setting out the grounds of appeal was filed.
- IV. In a communication dated 2 May 1990 and sent by registered letter with advice of delivery, the Appellant's attention was drawn to the possibility of filing a request for re-establishment of rights under Article 122 EPC.

No such request has been filed so far.

## Reasons for the Decision

1. According to Article 108, third sentence EPC, a written statement setting out the grounds of appeal must be filed within four months after the date of notification of the decision. The date of notification of the decision is deemed to be the tenth day following its posting (Rule 78(3) EPC).

In accordance with the stipulation for the calculation of time limits in Rule 83(2) EPC the decision was deemed to have been delivered on 2 November 1989. Consequently, the time limit for filing the written statement setting out the grounds of appeal expired on 2 March 1990 (Rule 83(4) EPC).

2. According to Article 122(1) EPC the applicant for or the proprietor of a patent who was unable to observe a time limit vis-à-vis the European Patent Office can, upon application, under certain circumstances, have his rights re-established. The application must be filed in writing within two months from the removal of the cause of non-compliance with the time limit (Article 122(2) EPC), the removal of any such cause being here the receipt of the communication dated 2 May 1990 of the European Patent Office.

The said communication is deemed to have been received by the Appellant on 12 May 1990 (Rule 78(3), 83(2) EPC). Consequently, the two-month period for filing an application for Restitutio in integrum expired on 12 July 1990.

3. A written statement setting out the grounds of appeal having neither been filed within the time limit of Article 108 EPC, nor filed under the conditions of Article 122 EPC, the appeal is not admissible (Rule 65(1)).

Order

For these reasons, it is decided that:

The appeal is rejected as inadmissible.

The Registrar:



M. Beer

The Chairman:



F. Antony