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PATENTAMTS

BOARDS OF APPEAL
OF THE EUROPEAN
PATENT OFFICE

CHAMBRES DE RECOURS
DE L'OFFICE EUROPEEN
DES BREVETS

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File Number: T 0143/93 - 3.2.3

Application No.: 86 306 145.3

Publication No.: 0 215 568

Title of invention: Lift-off hinge assembly

Classification: E05D 7/10

D E C I S I O N
of 26 April 1993

Applicant: I.H.W. ENGINEERING LIMITED

Opponent: S.F. PROFFITT & CO. LTD.
BLOXWICH ENGINEERING LIMITED

Headword:

EPC Rule 67

Keyword: "Reimbursement of appeal fee in case of withdrawal of appeal"



Case Number : T 0143/93 - 3.2.3

D E C I S I O N
of the Technical Board of Appeal 3.2.3
of 26 April 1993

Appellant :
(Proprietor of the patent) I.H.W. ENGINEERING LIMITED
Stratford Road
Warwick CV34 6AL (GB)

Representative :
Dealtry, Brian
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Nottingham NG1 1LE (GB)

Respondent :
(Opponent) S.F. PROFFITT & CO LTD
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Representative :
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KEITZ W. NASH & CO
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Respondent :
(Opponent) BLOXWICH ENGINEERING LIMITED
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Representative :
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BARKER, BRETTELL & DUNCAN
138 Hagley Road
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Decision under appeal :
Decision of the Opposition Division of the
European Patent Office dated 21 December 1992
revoking European patent No. 0 215 568 pursuant
to Article 102(1) EPC.

Composition of the Board :

Chairman : C.T. Wilson
Members : J. du Pouget de Nadaillac
W. Moser

Summary of Facts and Submissions

- I. On 9 February 1993, the Appellant (Proprietor of the patent) filed a notice of appeal against a decision of the Opposition Division dated 21 December 1992 revoking European patent No.0 215 508 pursuant to Article 102(1) EPC. The appeal fee was paid on 11 February 1993.
- II. By letter filed on 16 April 1993 the Appellant withdrew the appeal and indicated that, as a consequence, he would not file a Statement of Grounds. Furthermore, he requested that the appeal fee be reimbursed.

Reasons for the Decision

1. Within the time limit pursuant to Article 108(1) EPC, a Notice of Appeal has been filed and the appropriate appeal fee has been paid. Thus, there was an appeal in existence.
2. Since the appeal has been withdrawn, the present decision is given by the Board in the exercise of its inherent original jurisdiction to consider requests submitted in matters arising out of or in connection with the former appeal proceedings.
3. Reimbursement of appeal fees is possible in a case in which no Notice of Appeal is filed or deemed to have been filed within the time limit pursuant to Article 108(1) EPC. Reimbursement of appeals fees may further be ordered if the requirements of Rule 67 EPC are met. In contrast to that, the fact that no Statement of Grounds of Appeal has been filed is irrelevant in this context (cf. T 13/82; OJ EPO 1983, 441).

4. In the present case, neither of these circumstances justifying the reimbursement of appeal fees applies. Consequently, the appeal fee may not be refunded.

Order

For these reasons, it is decided that:

The request for reimbursement of the appeal fee is rejected.

The Registrar:



N. Maslin

The Chairman:



C.T. Wilson