

Internal distribution code:

- (A) [] Publication in OJ
(B) [] To Chairmen and Members
(C) [] To Chairmen
(D) [X] No distribution

D E C I S I O N
of 11 September 2001

Case Number: T 0121/99 - 3.5.1

Application Number: 84304672.3

Publication Number: 0132341

IPC: G05B 19/404

Language of the proceedings: EN

Title of invention:
Machine tool control

Patentee:
AE PLC

Opponent:
Mahle GmbH

Headword:
-

Relevant legal provisions:
EPC Art. 111(1)

Keyword:
"Revocation in effect requested by both parties - patent
revoked"

Decisions cited:
-

Catchword:
-



Case Number: T 0121/99 - 3.5.1

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 11 September 2001

Appellant: Mahle GmbH
(Opponent) Pragstr. 26-46
D-70376 Stuttgart (DE)

Representative: Patentanwalts-Partnerschaft
Rotermund + Pfusch
Waiblinger Strasse 11
D-70372 Stuttgart (DE)

Respondent: AE PLC
(Proprietor of the patent) Cawston House
Cawston
Rugby
Warwickshire CV22 7SB (GB)

Representative: Knott, Stephen Gilbert
MATHISEN, MACARA & CO.
The Coach House
6-8 Swakeleys Road
Ickenham
Uxbridge UB10 8BZ (GB)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 5 January 1999
rejecting the opposition filed against European
patent No. 0 132 341 pursuant to Article 102(2)
EPC.

Composition of the Board:

Chairman: A. S. Clelland
Members: R. R. K. Zimmermann
S. C. Perryman

Summary of Facts and Submissions

- I. An appeal was lodged by the Appellant (Opponent) against the decision of 10 December 1998 of the Opposition Division, with written reasons posted 5 January 1999, which rejected the opposition against European patent No. 0 132 341 (application No. 84 304 672.3), requesting that said decision be set aside and the patent be revoked in toto.

- II. In response to the Board sending a summons to oral proceedings with an accompanying communication, the representative of the Respondent (Patentee) stated in a letter dated 11 July 2001 "...On the instructions of the Patentee, I herewith withdraw this patent.". In response to a telephone query by the Board, by facsimile letter dated 7 September the representative of the Respondent stated that he now had instructions from his client to agree to withdrawal of the application ab initio, and indicated that the Respondent accepted that this would result in the patent being revoked.

Reasons for the Decision

1. The appeal is admissible.

2. The Respondent has indicated that it desires to withdraw the application, and thus the patent, ab initio, which requires the Board to revoke the patent. As the Appellant requests revocation, the parties' requests in effect coincide, and accordingly the Board in the exercise of its powers under Article 111(1) EPC

decides to revoke the patent.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:

M. Kiehl

A. S. Clelland