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D E C I S I O N
of 24 September 1999

Case Number: T 0603/99 - 3.2.5

Application Number: 95921400.8

Publication Number: 0767734

IPC: B29C 70/52

Language of the proceedings: EN

Title of invention:

Method of making prepreg

Applicant:

Reichhold Chemicals, Inc.

Opponent:

-

Headword:

-

Relevant legal provisions:

EPC R. 67

Keyword:

"Request for reimbursement of the appeal fee (rejected)"

Decisions cited:

-

Catchword:

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Boards of Appeal

Chambres de recours

Case Number: T 0603/99 - 3.2.5

D E C I S I O N
of the Technical Board of Appeal 3.2.5
of 24 September 1999

Appellant: Reichhold Chemicals, Inc.
2400 Ellis Road
Durham
NC 27703-5543 (US)

Representative: MacDougall, Donald Carmichael
Cruikshank & Fairweather
19 Royal Exchange Square
Glasgow G1 3AE
Scotland (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 17 March 1999
refusing European patent application
No. 95 921 400.8 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: A. Burkhart
Members: M. J. Vogel
P. E. Michel

Summary of Facts and Submissions

- I. The appeal dated 14 May 1999 was lodged against a decision of the examining division dated 17 March 1999 refusing European patent application No. 95 921 400.8 on the grounds that the subject-matter of the application does not meet the requirements of Articles 52, 54, 56 EPC. The appeal fee was paid at the same date.
- II. By fax dated 19 May 1999 the appellant withdrew the appeal and requested the reimbursement of the appeal fee.
- III. By communication posted 25 June 1999 the Board informed the appellant of its preliminary opinion that according to Rule 67 EPC the withdrawal of the appeal is not a ground for reimbursement of the appeal fee. The appellant failed to respond to the invitation to file observations on that communication within two months.

Reasons for the Decision

1. The request of the appellant for reimbursement of the appeal fee is to be refused.
2. Pursuant to Rule 67 EPC the reimbursement of appeal fees shall be ordered in two cases:
 - in the event of interlocutory revision

or

 - where the Board of Appeal deems an appeal to be allowable

and

additionally - in both cases - if such reimbursement is equitable by reason of a substantial procedural violation.

3. No other reasons for reimbursement of the appeal fee are allowed. Rule 67 EPC is an exception to the general rule that there is no reimbursement of the appeal fee. However exceptions have to be understood in a restrictive way (see further EPO, Case Law of the Boards of Appeal of the EPO, Third Edition, 1998, page 510 seq.). Since the withdrawal of the appeal is not mentioned in Rule 67 EPC as a case for reimbursement of the appeal fee the request of the appellant cannot be successful.

Order

For these reasons it is decided that:

The request for reimbursement of the appeal fee is rejected.

The Registrar:

The Chairman:

A. Townend

A. Burkhart