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Datasheet for the decision of 5 September 2017

Case Number: T 0394/17 - 3.2.03
Application Number: 09762490.2
Publication Number: 2290121
IPC: C23C14/34
Language of the proceedings: EN

Title of invention: CYLINDRICAL SPUTTERING TARGET AND METHOD FOR MANUFACTURING THE SAME

Patent Proprietor: Tosoh Corporation

Opponent: Heraeus Deutschland GmbH & Co. KG

Headword:

Relevant legal provisions:

Keyword:
Decisions cited:

Catchword:
**DECISION**

**of Technical Board of Appeal 3.2.03**

**of 5 September 2017**

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**Appellant:** Heraeus Deutschland GmbH & Co. KG  
Heraeusstr. 12-14  
63450 Hanau (DE)

**(Opponent)**

**Representative:** Kador & Partner  
Corneliusstraße 15  
80469 München (DE)

**Respondent:** Tosoh Corporation  
4560, Kaisei-cho  
Shunan-shi  
Yamaguchi 746-8501 (JP)

**(Patent Proprietor)**

**Representative:** Vigand, Philippe  
Novagraaf International SA  
Chemin de l'Echo 3  
1213 Onex - Genève (CH)

**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
21 December 2016 concerning maintenance of the  
European Patent No. 2290121 in amended form.

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**Composition of the Board:**

**Chairman:** G. Ashley  
**Members:** B. Miller  
M.-B. Tardo-Dino
Summary of Facts and Submissions

I. The appeal is directed against the decision of the Opposition Division of 7 November 2016, posted on 21 December 2016.

II. The appellant filed a notice of appeal on 9 February 2017 and paid the appeal fee on the same day.

III. By communication of 23 May 2017, received by the appellant, the Registry of the Board informed the appellant that it appeared from the file that the written statement of grounds of appeal had not been filed, and that it was therefore to be expected that the appeal would be rejected as inadmissible pursuant to Article 108, third sentence, EPC in conjunction with Rule 101(1) EPC. The appellant was informed that any observations had to be filed within two months of notification of the communication. In addition, the registrar got the confirmation from the new appellant's representative by a telephone call (written notice of 22 May 2017) that there would be no statement of grounds.

IV. No reply was received.

Reasons for the Decision

No written statement setting out the grounds of appeal was filed within the time limit provided by Article 108, third sentence, EPC in conjunction with Rule 126(2) EPC. In addition, neither the notice of appeal nor any other document filed contains anything that could be regarded as a statement of
grounds pursuant to Article 108 EPC and Rule 99(2) EPC. Therefore, the appeal has to be rejected as inadmissible (Rule 101(1) EPC).

**Order**

**For these reasons it is decided that:**

The appeal is rejected as inadmissible.

The Registrar:  

The Chairman:

C. Spira  

G. Ashley

Decision electronically authenticated