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**Datasheet for the decision  
of 23 January 2009**

**Case Number:** T 0856/06 - 3.3.01

**Application Number:** 96306436.5

**Publication Number:** 0761663

**IPC:** C07D 307/32

**Language of the proceedings:** EN

**Title of invention:**

Process for preparing optically active 3-hydroxy furan  
compounds

**Patentee:**

Takasago International Corporation

**Opponent:**

Vondrovsky, Gabriel

**Headword:**

Hydroxy Furan compounds/TAKASAGO

**Relevant legal provisions:**

EPC Art. 111(1)

**Relevant legal provisions (EPC 1973):**

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**Keyword:**

"Revocation of the patent"

"Statement of the Patent Proprietor to abandon the patent"

**Decisions cited:**

T 0237/86, T 0264/84, T 0322/91, T 0073/84, T 0459/88

**Catchword:**

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Case Number: T 0856/06 - 3.3.01

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.01  
of 23 January 2009

**Appellant:**  
(Opponent)

Vondrovsky, Gabriel  
Schellingstraße 78  
D-80799 Munich (DE)

**Representative:**

Vossius & Partner  
Siebertstraße 4  
D-81675 München (DE)

**Respondent:**  
(Patent Proprietor)

Takasago International Corporation  
37-1, Kamata 5-chome,  
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**Representative:**

Uchida, Kenji  
S.A. Fedit-Loriot et Autres  
Conseils en Propriété Industrielle  
38, avenue Hoche  
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**Decision under appeal:**

Decision of the Opposition Division of the  
European Patent Office posted 17 March 2006  
rejecting the opposition filed against European  
patent No. 0761663 pursuant to Article 102(2)  
EPC.

**Composition of the Board:**

**Chairman:** P. Ranguis  
**Members:** G. Seufert  
C.-P. Brandt

## **Summary of Facts and Submissions**

- I. The Appellant (Opponent) lodged an appeal on 26 May 2006 against the decision of the Opposition Division of 17 March 2006 on the rejection of the opposition against European patent No. 0 761 663 and filed a written statement on 07 July 2006 setting out the grounds of appeal.
- II. In a reply to the statement of grounds of appeal dated 12 January 2007, the Respondent (Patent Proprietor) requested that the patent be maintained as granted, or on the basis of any of the auxiliary requests 1 to 6 submitted with his reply.
- III. With letter dated 19 June 2008 the Respondent informed the Board of his intention to abandon the patent. He confirmed the same intention with letter of 11 August 2008 in reply to the summons to oral proceeding by the Board. With letter dated 07 November 2008 the Respondent stated that the European Patent application is abandoned.
- IV. In reply to a communication by the Board, the Appellant requested with his main request revocation of the patent referring to the decision T 237/86 where the declaration of abandonment of the patent is interpreted as equivalent to a request of the patent be revoked.
- V. With a communication dated 13 November 2008 the Board informed the parties that the oral proceedings are cancelled and that the Board intends to decide on the revocation of the patent in writing.

## Reasons for the Decision

1. The appeal is admissible.
2. The Respondent has stated repeatedly that he intends to abandon the patent and with letter of 07 November 2008 referring to the application number of the patent in suit that the European patent application is abandoned.
3. Following the principles set out in the decision T 237/86 (cf. OJ EPO 1988, 261) the Board interprets the statement in the Respondent's letter of 07 November 2008 that the patent is abandoned as meaning that the Respondent no longer wishes his patent to be maintained, and thus agrees with the revocation of the patent (see T 264/84, T 322/91), as requested by the Appellant. The Board also observes that the Respondent has not replied to the Board's communication informing the parties on its intention to revoke the patent in accordance with the decision T 237/86.
4. Thus, following the established jurisprudence of the Boards of Appeal (cf. T 73/84, OJ EPO 1985, 241; T 237/86 OJ EPO 1988, 261; T 459/88 OJ EPO, 1990, 425), the Board has decided, in exercise of its powers under Article 111(1) EPC, to revoke the European Patent.

**Order**

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

1. The decision under appeal is set aside.
2. The European patent No. 0 761 663 is revoked.

The Registrar:

The Chairman:

M. Schalow

P. Ranguis