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**Datasheet for the decision  
of 21 March 2014**

**Case Number:** T 1313/10 - 3.3.05

**Application Number:** 01987732.3

**Publication Number:** 1328475

**IPC:** C01B39/02

**Language of the proceedings:** EN

**Title of invention:**  
ZEOLITES AND THE USE THEREOF

**Patent Proprietor:**  
ABB LUMMUS GLOBAL INC.

**Opponent:**  
Exxon Mobil Research & Engineering Company

**Headword:**

**Relevant legal provisions:**  
EPC R. 84(1), 100(1)

**Keyword:**  
Surrender of patent in all designated states - continuation of  
appeal proceedings (no)

**Decisions cited:**  
T 0708/01, T 2536/19

**Catchword:**



**Beschwerdekammern  
Boards of Appeal  
Chambres de recours**

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Case Number: T 1313/10 - 3.3.05

**D E C I S I O N  
of Technical Board of Appeal 3.3.05  
of 21 March 2014**

**Appellant:** ABB LUMMUS GLOBAL INC.  
(Patent Proprietor) 1515 Broad Street  
Bloomfield, New Jersey 07003 (US)

**Representative:** Brochard, Pascale  
Osha Liang  
32 avenue de l'Opéra  
75002 Paris (FR)

**Respondent:** Exxon Mobil Research & Engineering Company  
(Opponent) 1545 Route 22 East, PO Box 900, Annandale  
NJ 08801-0900 (US)

**Representative:** Gerstberger, Gisela  
ExxonMobil Chemical Europe Inc.  
IP Law Shared Services  
P.O. Box 105  
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**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 16 April 2010  
revoking European patent No. 1328475 pursuant to  
Article 101(3) (b) EPC.**

**Composition of the Board:**

**Chairman:** G. Rath  
**Members:** A. Haderlein  
P. Guntz

## **Summary of Facts and Submissions**

- I. The patent proprietor (appellant) lodged an appeal against the decision of the opposition division posted on 16.04.2010, by which European patent No. 1 328 475 was revoked.
- II. By communication of the Registry of 8 August 2013, the appellant's attention was drawn to the fact that the patent had meanwhile lapsed in all designated contracting states, and the appellant was asked to inform the Board whether it wished to uphold or to withdraw the appeal.
- III. The appellant did not reply within the time limit of two months.
- IV. By communication of the Board of 23 January 2014, the appellant's attention was drawn to the communication of 8 August 2013 and the appellant was asked to state whether it wished to uphold or to withdraw the appeal.
- V. The appellant did not reply within the time limit of one month.

## **Reasons for the Decision**

1. If a European patent has lapsed in all designated contracting states, opposition proceedings may be continued at the request of the opponent. The request must be filed within two months of a communication from the European Patent Office informing him of the lapse (Rule 84(1) EPC). According to Rule 100(1) EPC, this also applies in appeal proceedings following opposition proceedings.

Rule 84(1) EPC has to be applied *mutatis mutandis* in opposition appeal proceedings where the patent proprietor is the sole appellant so that it is the patent proprietor who can request that the appeal proceedings be continued (see T 708/01 of 17 March 2005, point 1 of the Reasons and T 2536/10 of 13 January 2014, point 1 of the Reasons).

2. The appellant did not reply to the communication of the Registry nor to the communication of the Board informing him of the lapse of the patent in all contracting states. Under these circumstances, the Board sees no reason to continue the appeal proceedings of its own motion. Therefore, the appeal proceedings are terminated.

## Order

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

The appeal proceedings are terminated.

The Registrar:

The Chairman:



G. Rauh

G. Rath

Decision electronically authenticated