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**Datasheet for the decision  
of 19 September 2013**

**Case Number:** T 1875/10 - 3.3.09

**Application Number:** 99919543.1

**Publication Number:** 1091258

**IPC:** G03G 9/08

**Language of the proceedings:** EN

**Title of invention:**

Polymerization toner and process for producing the same

**Patent Proprietor:**

Zeon Corporation

**Opponent:**

Canon Kabushiki Kaisha

**Headword:**

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**Relevant legal provisions:**

EPC R. 84(1), 100(1)

**Keyword:**

"Patent lapsed in all designated contracting states"  
"Termination of appeal proceedings"

**Decisions cited:**

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**Catchword:**

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Case Number: T 1875/10 - 3.3.09

**DECISION**  
of the Technical Board of Appeal 3.3.09  
of 19 September 2013

**Appellant:** Canon Kabushiki Kaisha  
(Opponent) 30-2, Shimomaruko 3-Chome  
Ohta-ku  
Tokyo 146-8501 (JP)

**Representative:** TBK  
Bavariaring 4-6  
D-80336 München (DE)

**Respondent:** Zeon Corporation  
(Patent Proprietor) 6-1, Marunouchi 2-chome  
Chiyoda-ku  
Tokyo 100-8323 (JP)

**Representative:** Jones, Helen M.M.  
Gill Jennings & Every LLP  
The Broadgate Tower  
20 Primrose Street  
London EC2A 2ES (GB)

**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
29 June 2010 concerning maintenance of European  
patent No. 1091258 in amended form.

**Composition of the Board:**

**Chairman:** W. Sieber  
**Members:** M. O. Müller  
R. Menapace

## **Summary of Facts and Submissions**

- I. This decision concerns the appeal filed by the opponent against the interlocutory decision of the opposition division that European patent No. 1 091 258 as amended met the requirements of the EPC.
- II. The opponent had requested revocation of the patent in its entirety on the grounds that the claimed subject-matter was neither novel nor inventive (Article 100(a) EPC).
- III. The opposition division's decision was announced orally on 10 June 2010 and issued in writing on 29 June 2010.
- IV. On 6 September 2010, the opponent (hereinafter: "the appellant") filed an appeal and, on the same day, paid the prescribed fee. The statement setting out the grounds of appeal was filed on 9 November 2010.
- V. On 18 June 2013, the board's preliminary opinion on the allowability of the claims as maintained by the opposition division was communicated to the parties.
- VI. In a further communication, dated 1 July 2013, the appellant and the patent proprietor (hereinafter: "the respondent") were informed that the opposed patent had been surrendered or had lapsed with effect for all the designated contracting states and that the appeal proceedings may be continued at the request of the appellant, provided that within two months a request was so filed.

VII. With its letter of 5 August 2013, the appellant informed the board that it had decided not to file a request for continuation of the appeal proceedings.

VIII. The respondent has not made any submissions and has not filed any requests.

### **Reasons for the Decision**

1. The appeal is admissible.
2. Rule 84(1) EPC which applies to appeal proceedings (Rule 100(1) EPC) provides that if the European patent has been surrendered or has lapsed in all the designated contracting states the proceedings may (only) be continued at the request of the opponent filed within two months of a communication from the European Patent Office informing him of the surrender or lapse.
3. Since the appellant (opponent) has decided not to file a request under Rule 84(1) EPC (see letter of 5 August 2013), the appeal proceedings are terminated.

**Order**

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

The appeal proceedings are terminated.

The Registrar:

The Chairman:

M. Cañueto Carbajo

S. Sieber