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**Datasheet for the decision  
of 24 November 2014**

**Case Number:** T 1721/11 - 3.3.05  
**Application Number:** 06252076.2  
**Publication Number:** 1713094  
**IPC:** H01B1/22, H01L31/0224  
**Language of the proceedings:** EN

**Title of invention:**

Electroconductive thick film composition(s), electrode(s), and semiconductor device(s) formed therefrom

**Patent Proprietor:**

E.I. DU PONT DE NEMOURS AND COMPANY

**Opponent:**

Heraeus Precious Metals North America  
Conshohocken LLC

**Headword:**

Electroconductive thick film composition/E.I. DU PONT DE  
NEMOURS AND COMPANY

**Relevant legal provisions:**

EPC Art. 113(2)

**Keyword:**

Basis of decision -  
text or agreement to text withdrawn by patent proprietor -  
patent revoked

**Decisions cited:**

T 0073/84

**Catchword:**



**Beschwerdekammern  
Boards of Appeal  
Chambres de recours**

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Case Number: T 1721/11 - 3.3.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.05**  
**of 24 November 2014**

**Appellant:** Heraeus Precious Metals North America  
(Opponent) Conshohocken LLC  
24 Union Hill Road  
West Conshohocken, PA 19428 (US)

**Representative:** Gille Hrabal  
Brucknerstrasse 20  
40593 Düsseldorf (DE)

**Respondent:** E.I. DU PONT DE NEMOURS AND COMPANY  
(Patent Proprietor) 1007 Market Street  
Wilmington, DE 19898 (US)

**Representative:** Hoffmann, Benjamin  
Dehns  
St. Bride's House  
10 Salisbury Square  
London EC4Y 8JD (GB)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
9 June 2011 concerning maintenance of the  
European Patent No. 1713094 in amended form.**

**Composition of the Board:**

**Chairman** G. Rath  
**Members:** H. Engl  
D. Prietzel-Funk

## **Summary of Facts and Submissions**

- I. European patent EP-B-1 713 094 was granted with nine claims. It relates to electroconductive thick film composition(s), electrodes(s), and semiconductor device(s) formed therefrom.
- II. The granted patent was opposed under Article 100(a) EPC (lack of novelty and inventive step) and 100(b) EPC (insufficiency of disclosure).
- III. The opposition division maintained the patent in amended form on the basis of the claims of the main request filed on 25 January 2011.
- IV. The opponent (henceforth: the appellant) filed a notice of appeal by letter dated 4 August 2011. The grounds of appeal were received by letter dated 19 October 2011. The appellant requested that the patent be revoked in its entirety.
- V. The respondent (patentee) filed its observations by letter of 10 April 2012, accompanied by sets of claims as a main request and first to fifth auxiliary requests.
- VI. Pursuant to an agreement dated 6 February 2013 and submitted under cover of the appellant's letter dated 4 October 2013, the opponent status was transferred to Heraeus Precious Metals North America, 24 Union Hill Rd., West Conshohocken, PA 19428, USA.
- VII. By letter dated 8 September 2014, the respondent informed the board that it no longer approved the text of the patent as granted or as maintained by the opposition division, and that it withdrew all its

requests filed in response to the appeal. The respondent expressed its disapproval of any version of the text in which the patent could be maintained and, thus, expected its revocation.

### **Reasons for the Decision**

1. Article 113(2) EPC stipulates that the European Patent Office shall examine, and decide upon, the European patent or patent application only in the text submitted to it, or agreed, by the applicant or the proprietor of the patent.
2. In the present appeal case the patent proprietor (respondent) unconditionally withdrew all pending requests. It unconditionally withdrew its approval of the texts in which the patent was granted and in which it was maintained by the opposition division's decision and expressed its disapproval of any version of the text in which the patent could be maintained.
3. In view of these express declarations of the respondent (patent proprietor), there is no version of the patent having the patent proprietor's consent upon which the board could decide.

Consequently, the patent is revoked (see T 73/84, OJ EPO 1985, 241, points 2 and 3 of the reasons).

**Order**

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

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:



C. Vodz

G. Rath

Decision electronically authenticated