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**Datasheet for the decision
of 27 October 2017**

Case Number: T 1625/12 - 3.3.04

Application Number: 04737302.2

Publication Number: 1639011

IPC: C07K16/24, A61K47/48

Language of the proceedings: EN

Title of invention:

Pegylated single domain antibodies (dAb)

Patent Proprietor:

Domantis Limited

Opponents:

Boehringer Ingelheim International GmbH/
Boehringer Ingelheim Pharma GmbH & Co.KG
Ablynx N.V.

Headword:

Single domain antibodies/DOMANTIS

Relevant legal provisions:

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

Keyword:

Lapse of patent in all designated states - continuation of appeal proceedings (no)

Decisions cited:

Catchword:

-



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
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Case Number: T 1625/12 - 3.3.04

D E C I S I O N
of Technical Board of Appeal 3.3.04
of 27 October 2017

Appeal withdrawn: Boehringer Ingelheim International GmbH /
(Opponent 01) Boehringer Ingelheim Pharma GmbH & Co.KG
Binger Strasse 173
55216 Ingelheim am Rhein (DE)

Representative: Hoffmann Eitle
Patent- und Rechtsanwälte PartmbB
Arabellastraße 30
81925 München (DE)

Appellant: Ablynx N.V.
(Opponent 02) Technologiepark 21
9052 Ghent-Zwijnaarde (BE)

Representative: Dörries, Hans Ulrich
df-mp Dörries Frank-Molnia & Pohlman
Patentanwälte Rechtsanwälte PartG mbB
Theatinerstrasse 16
80333 München (DE)

Respondent: Domantis Limited
(Patent Proprietor) 980 Great West Road
Brentford, Middlesex TW8 9GS (GB)

Representative: Vossius & Partner
Patentanwälte Rechtsanwälte mbB
Siebertstrasse 3
81675 München (DE)

Decision under appeal: **Interlocutory decision of the Opposition**
Division of the European Patent Office posted on
12 June 2012 concerning maintenance of the
European Patent No. 1639011 in amended form.

Composition of the Board:

Chairwoman G. Alt
Members: B. Claes
 L. Bühler

Summary of Facts and Submissions

- I. Appeals were lodged by both opponents against the interlocutory decision of the opposition division maintaining European patent No. 1 639 011 (the patent in suit) in amended form.
- II. With a letter dated 18 September 2014, appellant I (opponent 01) withdrew its appeal.
- III. By a communication dated 16 October 2017, the board informed the parties that it was apparent from the entries in the European Patent Register that the patent in suit had been surrendered or had lapsed with effect for all the designated Contracting States in the course of the appeal proceedings and invited the appellant (opponent 02), within two months from notification of the communication, whether it requested continuation of the appeal proceedings.
- IV. With a submission dated 23 October 2017, the appellant informed the board that it did not request continuation of the appeal proceedings.

Reasons for the Decision

1. The appeal is admissible.
2. Rule 84(1) EPC provides that if "the European patent has been surrendered in all the designated Contracting States or has lapsed in all those States, the opposition proceedings may 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". Based on Rule 100(1) EPC, Rule 84(1) EPC applies *mutatis*

mutandis in opposition appeal proceedings, *i.e.* the appeal proceedings may be continued at the request of the appellant-opponent.

3. As the appellant has explicitly indicated that it does not request a continuation of the appeal proceedings (see section IV, *supra*) the appeal-proceedings are to be terminated.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairwoman:



L. Malécot-Grob

G. Alt

Decision electronically authenticated