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**Datasheet for the decision  
of 16 July 2013**

**Case Number:** T 0307/13 - 3.2.07

**Application Number:** 08150867.3

**Publication Number:** 1958880

**IPC:** B65C 3/16, B65C 9/06,  
A61M 5/00, B65D 25/56

**Language of the proceedings:** EN

**Title of invention:**  
Disposable container and method for labelling it

**Patent Proprietor:**  
CO.RI.M.A. S.r.l.

**Opponents:**  
PAGO International AG  
Krones AG  
Sanofi-Aventis Deutschland GmbH

**Headword:**  
-

**Relevant legal provisions:**  
EPC Art. 113(2)

**Keyword:**  
"Revocation of the patent at request of the patent proprietor"

**Decisions cited:**  
T 0186/84, T 0073/84

**Catchword:**  
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Case Number: T 0307/13 - 3.2.07

**D E C I S I O N**  
**of the Technical Board of Appeal 3.2.07**  
**of 16 July 2013**

**Appellant II:**  
(Opponent 2)

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**Representative:**

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**Appellant I:**  
(Opponent 3)

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**Representative:**

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**Respondent:**  
(Patent Proprietor)

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**Representative:**

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**Party as of right:**  
(Opponent 1)

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**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
28 November 2012 concerning maintenance of  
European patent No. 1958880 in amended form.

**Composition of the Board:**

**Chairman:** H. Meinders  
**Members:** G. Patton  
I. Beckedorf

## **Summary of Facts and Submissions**

- I. The European patent No. 1 958 880 was maintained in amended form by the decision of the Opposition Division posted on 28 November 2012. Against this decision appeals were filed by opponent III (appellant I) and opponent II (appellant II), respectively on 5 February 2013 and 8 February 2013. The statements setting out the grounds of appeal were submitted by both appellants on 5 April 2013.
- II. Both appellants request that the impugned decision be set aside and that the patent in suit be revoked.
- III. With its letter of 21 May 2013 the patent proprietor (respondent) also requests the revocation of the patent in suit.

## **Reasons for the Decision**

1. The appeals are admissible.
2. The respondent's request for revocation of the patent implies that the patent proprietor withdraws its agreement to the text in which the patent was maintained in amended form by the Opposition Division and that it does not intend to submit any other text for the maintenance of the patent (see e.g. T 73/84, OJ EPO, 1985, 241, reasons point 2).
3. Article 113(2) EPC, however, stipulates that the EPO may decide upon a European patent only in the text submitted to it, or agreed to by the patent proprietor.

This substantive requirement for maintaining the contested patent is not fulfilled in the present case.

4. The patent is therefore to be revoked, without going into the substantive issues (see T 186/84, OJ EPO 1986, 79, reasons point 5).

## **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:

G. Nachtigall

H. Meinders