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**Datasheet for the decision  
of 11 June 2018**

**Case Number:** T 1214/13 - 3.4.03

**Application Number:** 06726607.2

**Publication Number:** 1866895

**IPC:** G09F3/10, C09J7/02, B32B27/32

**Language of the proceedings:** EN

**Title of invention:**  
A LABEL FOR REMOVABLE ATTACHMENT TO AN ARTICLE

**Patent Proprietor:**  
Spear Group Holdings Limited

**Opponents:**  
CCL Label GmbH  
Haendler & Natermann GmbH

**Headword:**

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

**Keyword:**  
Basis of decision - revocation of the patent at request of the  
patent proprietor

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
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Case Number: T 1214/13 - 3.4.03

**D E C I S I O N**  
**of Technical Board of Appeal 3.4.03**  
**of 11 June 2018**

**Appellant:**  
(Opponent 2)

CCL Label GmbH  
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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 3)

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**Representative:** Hinrichs, Nikolaus Wolfgang  
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**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 22 March 2013  
rejecting the opposition filed against European  
patent No. 1866895 pursuant to Article 101(2)  
EPC.**

**Composition of the Board:**

**Chairman** G. Eliasson  
**Members:** M. Papastefanou  
W. Van der Eijk

## **Summary of Facts and Submissions**

- I. The appeal is against the decision of the Opposition Division rejecting the oppositions against the European patent EP 1 866 895 B1 and maintaining the patent as granted.
- II. Three oppositions had been filed against the patent requesting its revocation under all grounds of Article 100 EPC. The first opposition was later withdrawn by Opponent 1. The Opposition Division with its decision rejected the oppositions of Opponent 2 and Opponent 3 and maintained the patent as granted. Opponent 2 is the sole Appellant against this decision.
- III. The Appellant - Opponent 2 (hereafter "Opponent") requests that the patent be revoked in its entirety.
- IV. In its reply to the appeal, the Respondent - Patent proprietor (hereafter "Proprietor") requested that the appeal be dismissed and the patent be maintained as granted, or as an auxiliary measure that the patent be maintained according to one of the 1st, 2nd and 3rd Auxiliary requests, filed with the Proprietor's letter of 20 December 2013.
- V. Opponent 3, party as of right, has made no submissions or requests during the appeal procedure.
- VI. After the Board had issued summons to oral proceedings, the Proprietor, with a letter dated 5 June 2018, requested revocation of the opposed patent stating that it "no longer approves the text in which the patent was granted, and will not be submitting an amended text". All previous Main and Auxiliary requests were

withdrawn.

- VII. Following the Proprietor's request for the patent to be revoked, the Board cancelled the oral proceedings.

### **Reasons for the Decision**

1. The Appeal is admissible.
2. Article 113(2) EPC requires that the EPO shall examine, and decide upon the European patent "only in the text submitted to it, or agreed" by the proprietor of the patent.

In its letter of 5 June 2018, the Proprietor has clearly withdrawn its agreement to the text of the opposed patent, as well as all the requests filed during the appeal proceedings, without filing any other amended text on which further prosecution of the appeal could be based.

3. The absence of any agreed text of the patent precludes any examination as to the whether the grounds of opposition laid down in Article 100 EPC prejudice the maintenance of the opposed patent (see also Case Law of the Boards of Appeal of the EPO, 8th Edition, IV.C. 5.2).

## 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:



S. Sánchez Chiquero

G. Eliasson

Decision electronically authenticated