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**Datasheet for the interlocutory decision
of 20 May 2015**

Case Number: T 1889/13 - 3.3.10

Application Number: 02790278.2

Publication Number: 1458425

IPC: A61L24/10, A61L24/04,
B01F13/00, B01F15/02,
B65D25/08, A61K9/00, B01F3/12,
A61L33/12

Language of the proceedings: EN

Title of invention:
A HEMOSTATIC KIT, A METHOD OF PREPARING A HEMOSTATIC AGENT AND
A METHOD OF PROMOTING HEMOSTASIS

Patent Proprietor:
Ferrosan Medical Devices A/S

Opponent:
Baxter Innovations GmbH

Headword:

Relevant legal provisions:
EPC Art. 24(3)

Keyword:

Decisions cited:
T 1028/96

Catchword:



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Case Number: T 1889/13 - 3.3.10

I N T E R L O C U T O R Y D E C I S I O N
of Technical Board of Appeal 3.3.10
of 20 May 2015

Appellant: Ferrosan Medical Devices A/S
(Patent Proprietor) Sydmarken 5
2860 Søborg (DK)

Representative: Høiberg A/S
St. Kongensgade 59 A
1264 Copenhagen K (DK)

Respondent: Baxter Innovations GmbH
(Opponent) Industriestrasse 67
1221 Wien (AT)

Representative: Sonn & Partner Patentanwälte
Riemergasse 14
A-1010 Wien (AT)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 5 July 2013
revoking European patent No. 1458425 pursuant to
Articles 101(2) and 101(3) (b) EPC.**

Composition of the Board:

Chairman P. Gryczka
Members: R. Pérez Carlón
F. Blumer

Summary of Facts and Submissions

- I. The appeal lies from the decision of the opposition division to revoke European patent No. 1 458 425.
- II. In its statement setting out the grounds of appeal, the appellant (patent proprietor) requested that the members of the present board who were involved in decision T 1676/11 relating to divisional application No. 09159082.8 of the patent in suit be excluded from taking part in the present appeal proceedings for suspected partiality under Article 24(3) EPC.

The members objected to are the chairman and the rapporteur of the board in its present composition.

- III. The board informed the parties (communication of 7 October 2014) that it tended to regard the objection under Article 24(3) EPC as admissible and requested the parties to state whether they were prepared to agree to the board's taking a decision on its admissibility without oral proceedings.
- IV. The respondent (opponent), which had not provided any argument against the admissibility of the appellant's objection, indicated such agreement, by letter dated 14 November 2014.

Reasons for the Decision

1. In accordance with the procedure described in decision T 1028/96 (OJ EPO 2000, 475), the board in its original composition, i.e. with the member(s) objected to, is competent to examine the admissibility of an objection under Article 24(3) EPC for the purpose of opening the procedure under Article 24(4) EPC, according to which

the members objected to are replaced by their alternates and the board in the new composition decides on the allowability of the objection.

The board in its current composition will thus examine whether the appellant's objection is admissible in view of Article 24(3) EPC. The appellant's objection applies to the chairman and the rapporteur of the board in its present (original) composition.

2. The respondent has not contested the admissibility of the appellant's objection under Article 24(3) EPC.
3. The appellant raised its objection in the statement setting out the grounds of appeal. There is thus no objection arising from the requirements of Article 24(3), second sentence, EPC.

The appellant has not based its objection upon the nationality of the members, so that no objection arises from the requirements of Article 24(3), third sentence, EPC, either.

Lastly, the appellant has indicated facts and arguments in support of its objection. The objection is thus considered sufficiently substantiated.

Order

For these reasons it is decided that:

The objection of suspected partiality on the part of board members P. Gryczka and R. Pérez Carlón is admissible.

The Registrar:

The Chairman:



C. Rodríguez Rodríguez

P. Gryczka

Decision electronically authenticated