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**Datasheet for the decision
of 17 January 2018**

Case Number: T 0666/14 - 3.2.02

Application Number: 97922307.0

Publication Number: 0957773

IPC: A61B17/00, A61F2/06

Language of the proceedings: EN

Title of invention:

PERCUTANEOUS CATHETER DIRECTED INTRAVASCULAR OCCLUSION DEVICES

Patent Proprietor:

Aga Medical Corporation

Opponents:

Occlutech Holding AG (withdrawn)

Occlutech GmbH (withdrawn)

Headword:

Relevant legal provisions:

EPC Art. 63(1)

EPC R. 84(1), 100(1), 133(1)

Keyword:

Lapse of patent in all designated states - termination of appeal proceedings

Decisions cited:

T 0708/01

Catchword:



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Case Number: T 0666/14 - 3.2.02

D E C I S I O N
of Technical Board of Appeal 3.2.02
of 17 January 2018

Appellant: Aga Medical Corporation
(Patent Proprietor) 5050 Nathan Lane North
Plymouth MN 55442-2204 (US)

Representative: Potter Clarkson LLP
The Belgrave Centre
Talbot Street
Nottingham NG1 5GG (GB)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 14 March 2014
revoking European patent No. 0957773 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

Chairman E. Dufrasne
Members: P. L. P. Weber
D. Ceccarelli
M. Stern
L. Bühler

Summary of Facts and Submissions

- I. The appeal of the patent proprietor is directed against the decision of the Opposition Division posted on 14 March 2014 to revoke European patent Nr. 0957773.
- II. European patent Nr. 0957773 is based on European patent application Nr. 97922307.0 filed on 14 April 1997.
- III. With communication of 8 September 2017, the appellant-patent proprietor was requested to inform the Board within a time-limit of two months after notification of the communication, whether he requested the appeal proceedings to be continued or not.
- IV. No answer to that communication was received within the two months' time-limit.
- V. On 29 November 2017 the registrar of the Board contacted the representative of the appellant-patent proprietor who confirmed that no reply to the above communication had been delivered to a recognised postal service provider in due time before expiry of the period.

Reasons for the Decision

1. As mentioned above the patent in suit is based on a patent application filed on 14 April 1997. It follows that the term of the patent pursuant to Article 63(1) EPC expired on 14 April 2017.
2. When a European patent has lapsed in all designated Contracting States, in analogy to Rule 84(1) EPC, which is to be applied in opposition appeal proceedings pursuant to Rule 100(1) EPC, the opposition appeal proceedings may be continued at the request of the patent proprietor filed within two months of a communication from the European Patent Office informing him of the lapse (e.g. T 0708/01, point 1 of the reasons).
3. Since the representative confirmed that no reply to the communication had been delivered to a recognised postal service provider in due time before expiry of the period, the expiry of the time limit of three months pursuant to Rule 133 EPC has not to be waited before proceeding further.
4. A continuation of the appeal proceedings was not requested so that the appeal proceedings are to be terminated.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



D. Hampe

E. DufRASne

Decision electronically authenticated