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**Datasheet for the decision
of 13 January 2020**

Case Number: T 0998/15 - 3.2.07

Application Number: 10425291.1

Publication Number: 2428285

IPC: B08B3/02, B08B3/08

Language of the proceedings: EN

Title of invention:

Multi-purpose truck for re-establishment of safe and practicable road conditions, after car accidents, through cleaning of the road platform

Patent Proprietor:

Sicurezza e Ambiente S.p.A.

Opponents:

ECOLSIA S.r.l.
Consorzio Igiene Sicurezza Soccorso

Headword:

Relevant legal provisions:

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

Keyword:

Lapse of patent in all designated states - termination of
appeal proceedings
Patent proprietor sole appellant

Decisions cited:

T 0520/10, T 2020/14

Catchword:



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Case Number: T 0998/15 - 3.2.07

D E C I S I O N
of Technical Board of Appeal 3.2.07
of 13 January 2020

Appellant: Sicurezza e Ambiente S.p.A.
(Patent Proprietor) Largo Ferruccio Mengaroni 25
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Respondent 1: ECOLSIA S.r.l.
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Representative: Giugni, Diego
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Respondent 2: Consorzio Igiene Sicurezza Soccorso
(Opponent 2) Piazza Digione, 2
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Representative: Papa, Elisabetta
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 26 March 2015
revoking European patent No. 2428285 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

Chairman	G. Patton
Members:	K. Poalas
	R. Cramer

Summary of Facts and Submissions

- I. The present appeal was lodged by the patent proprietor against the decision of the Opposition Division revoking European patent No. 2 428 285.
- II. In a communication of the board dated 15 April 2019 the parties were informed that according to the information available to the European Patent Office the European Patent No. 2 428 285 has lapsed with effect for all the designated Contracting States. The appellant/patent proprietor was invited to indicate, within two months, whether continuation of the appeal proceedings was requested.
- III. No reply was received by the board in response to the communication.

Reasons for the Decision

1. 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.
2. Pursuant to Rule 100(1) EPC and in the absence of provisions stating otherwise, Rule 84(1) EPC applies to opposition appeal proceedings, i.e. the appeal proceedings may be continued at the request of the appellant/opponent filed within two months as from

notification of the surrender or lapse. Furthermore, according to an interpretation argumentum e contrario, if no request for continuation of the proceedings is filed within the set time limit and the state of the file gives no grounds for the proceedings to be continued by the board of its own motion, the appeal proceedings will be terminated.

3. However, if the patent proprietor is the sole appellant, as in the present case, it would be inappropriate to allow the respondent/opponent to decide whether the appeal proceedings shall be continued. For this reason, Rule 84(1) EPC has to be applied mutatis mutandis in such opposition appeal proceedings. Thus, it is the patent proprietor as the appellant who can request that the appeal proceedings be continued (cf. e.g. T 520/10, T 2020/14).

4. No request for continuation of the appeal proceedings has been received within the set time limit. Furthermore, the board sees no reason to continue the appeal proceedings of its own motion. Hence, the appeal proceedings are to be terminated.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



G. Nachtigall

G. Patton

Decision electronically authenticated