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**Datasheet for the decision
of 2 March 2021**

Case Number: T 2300/15 - 3.3.05

Application Number: 04721051.3

Publication Number: 1606089

IPC: B27N7/00, A62D3/00, C08J7/16,
C08J7/06, C09J129/04

Language of the proceedings: EN

Title of invention:
METHOD FOR REDUCING EMISSIONS AND METHOD FOR PRODUCING A
WOODEN PRODUCT

Patent Proprietor:
Akzo Nobel Coatings International BV

Opponent:
BASF SE

Headword:
Wooden product emissions/AKZO

Relevant legal provisions:
EPC Art. 101, 113(2)

Keyword:
Basis of decision - text or agreement to text withdrawn by
patent proprietor - patent revoked

Decisions cited:

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

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Case Number: T 2300/15 - 3.3.05

D E C I S I O N
of Technical Board of Appeal 3.3.05
of 2 March 2021

Appellant: BASF SE
(Opponent) 67056 Ludwigshafen (DE)

Representative: Eisenführ Speiser
Patentanwälte Rechtsanwälte PartGmbH
Am Kaffee-Quartier 3
28217 Bremen (DE)

Respondent: Akzo Nobel Coatings International BV
(Patent Proprietor) Velperweg 76,
P.O. Box 9300
6800 SB Arnhem (NL)

Representative: Akzo Nobel IP Department
Velperweg 76
6824 BM Arnhem (NL)

Decision under appeal: **Decision of the Opposition Division of the European Patent Office posted on 12 November 2015 rejecting the opposition filed against European patent No. 1606089 pursuant to Article 101(2) EPC.**

Composition of the Board:

Chairman E. Bendl
Members: G. Glod
S. Fernández de Córdoba

Summary of Facts and Submissions

- I. The opponent's (appellant's) present appeal lies from the decision of the opposition division to reject the opposition against European patent No. EP-B-1 606 089.
- II. In its communication under Article 15(1) RPBA 2020, the board was of the preliminary opinion that the patent should be revoked.
- III. By letters of 18 and 22 February 2021, the respondent (patent proprietor) indicated that it no longer approved the text of the patent in any form and that the "patent application" was withdrawn.
- IV. The oral proceedings were subsequently cancelled.

Reasons for the Decision

1. Under Article 113(2) EPC, the European Patent Office shall consider and decide upon the European patent only in the text submitted to it, or agreed, by the proprietor of the patent.
2. The respondent (patent proprietor) by disapproving the text of the patent as granted or in any other form has thereby withdrawn its approval of any text for maintenance of the patent. Since the text of the patent is at the disposition of the patent proprietor, a patent cannot be maintained against the patent proprietor's will. There is therefore no text of the patent on the basis of which the board can consider the present appeal.

3. Where there is no text of the patent on which basis the board can consider the present appeal, the patent can only be revoked as envisaged in Article 101 EPC. The request to withdraw the application amounts to a request to revoke the patent (Case Law of the Boards of Appeal of the EPO, 9th edition, 2019, III.B.3.3 and IV.D.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:



C. Vodz

E. Bendl

Decision electronically authenticated