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**Datasheet for the decision  
of 8 March 2022**

**Case Number:** T 1873/16 - 3.2.03

**Application Number:** 05708214.1

**Publication Number:** 1709284

**IPC:** E21B17/10, F16L35/00, E21B17/01

**Language of the proceedings:** EN

**Title of invention:**  
ASSEMBLY AND METHOD FOR STIFFENING A FLEXIBLE PIPE

**Patent Proprietor:**  
GE Oil & Gas UK Limited

**Opponents:**  
National Oilwell Varco Denmark I/S  
Technip France

**Headword:**

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

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Basis of decision - text or agreement to text withdrawn by  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

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

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Case Number: T 1873/16 - 3.2.03

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.03**  
**of 8 March 2022**

**Appellant:** GE Oil & Gas UK Limited  
(Patent Proprietor) 2, High Street  
Nailsea Bristol  
BS48 1BS (GB)

**Representative:** HGF  
HGF Limited  
1 City Walk  
Leeds LS11 9DX (GB)

**Appellant:** National Oilwell Varco Denmark I/S  
(Opponent 1) Priorparken 480  
2605 Brøndby (DK)

**Representative:** Plougmann Vingtoft a/s  
Strandvejen 70  
2900 Hellerup (DK)

**Appellant:** Technip France  
(Opponent 2) 6-8, Allée de l'Arche,  
Faubourg de l'Arche,  
ZAC Danton  
92400 Courbevoie (FR)

**Representative:** Lavoix  
2, place d'Estienne d'Orves  
75441 Paris Cedex 09 (FR)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
17 June 2016 concerning maintenance of the  
European Patent No. 1709284 in amended form.**

**Composition of the Board:**

**Chairman**            C. Herberhold  
**Members:**            B. Miller  
                              E. Kossonakou

## **Summary of Facts and Submissions**

I. Appeals against the interlocutory decision of the opposition division in which it held that European patent EP 1 709 284 B1 ("the patent") in an amended form met the requirements of the EPC were filed by all parties (patent proprietor, opponent 1 and opponent 2). For the sake of simplicity the Board will refer to the parties as the patent proprietor, opponent 1 and opponent 2 in the present decision.

II. Oral proceedings before the Board were held on 8 March 2022 by videoconference using the platform ZOOM. With respect to the course of the oral proceedings, reference is made to the minutes.

III. Requests

At the end of the oral proceedings, the parties' requests were as follows:

Opponent 1 and opponent 2 requested that the decision under appeal be set aside and that the patent be revoked.

The patent proprietor withdrew its appeal and subsequently declared that it no longer approved the text of the patent as granted or the text of the patent found allowable by the opposition division or any other text.

## **Reasons for the Decision**

1. Article 113(2) EPC states that the European Patent Office confines its considerations in proceedings to the text of the European patent application or the European patent "submitted to it, or agreed, by the applicant for or proprietor of the patent". This principle has to be strictly observed also in opposition and opposition appeal proceedings.
2. It follows from Article 113(2) EPC that a European patent cannot be maintained against the patent proprietor's will. Since the patent proprietor withdrew its approval of any text for maintenance of the patent, there is no text of the patent on the basis of which the Board can consider the appeal. Thus, the present European patent has to be revoked.
3. In these circumstances, the proceedings are to be terminated by a decision ordering revocation of the patent, without examination as to patentability (see e.g. Case Law of the Boards of Appeal of the European Patent Office, 9th edition 2019, 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. Spira

C. Herberhold

Decision electronically authenticated