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**Datasheet for the decision
of 17 January 2020**

Case Number: T 2470/16 - 3.3.01

Application Number: 11001414.9

Publication Number: 2343070

IPC: A61K31/4412, A61P11/00

Language of the proceedings: EN

Title of invention:

Pirfenidone treatment for patients with atypical liver function

Patent Proprietor:

Intermune, Inc.

Opponent:

Sandoz AG

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Agreement to text withdrawn by patent proprietor

Decisions cited:

T 1244/08, T 2054/08



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Case Number: T 2470/16 - 3.3.01

D E C I S I O N
of Technical Board of Appeal 3.3.01
of 17 January 2020

Appellant: Intermune, Inc.
(Patent Proprietor) 3280 Bayshore Boulevard
Brisbane, CA 94005-1021 (US)

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

Respondent: Sandoz AG
(Opponent) Lichtstrasse 35
4056 Basel (CH)

Representative: Elkington and Fife LLP
Prospect House
8 Pembroke Road
Sevenoaks, Kent TN13 1XR (GB)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 8 November 2016
revoking European patent No. 2343070 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

Chairman A. Lindner
Members: R. Hauss
L. Bühler

Summary of Facts and Submissions

- I. Following the grant of European patent No. 2 343 070, a notice of opposition to that patent was validly filed.
- II. The patent proprietor requested the rejection of the opposition and did not file any auxiliary requests.
- III. The decision under appeal is the decision of the opposition division, announced on 14 October 2016 and posted on 8 November 2016, revoking the patent.
- IV. The patent proprietor (appellant) filed an appeal against that decision, requesting that the decision under appeal be set aside and that the opposition be rejected.
- V. In its reply to the appellant's statement setting out the grounds of appeal, the opponent (respondent) requested that the appeal be dismissed.
- VI. The board issued a summons to oral proceedings.
- VII. In a letter dated 8 January 2020, the appellant declared that it no longer approved of the text in which the patent had been granted and would not be submitting an amended text.
- VIII. The board cancelled the oral proceedings

Reasons for the Decision

1. According to established case law of the boards of appeal, the declaration of the appellant (see point VII above), as the proprietor of a patent that has been revoked by the opposition division, is to be

interpreted as the withdrawal of its appeal (see e.g. decisions T 1244/08 and T 2054/08).

2. Consequently, the decision under appeal revoking the patent becomes final.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



M. Schalow

A. Lindner

Decision electronically authenticated