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**Datasheet for the decision  
of 18 November 2021**

**Case Number:** T 1825/17 - 3.2.06

**Application Number:** 07730571.2

**Publication Number:** 2013130

**IPC:** B66B5/00, B66B1/30

**Language of the proceedings:** EN

**Title of invention:**  
ELEVATOR SYSTEM

**Patent Proprietor:**  
Kone Corporation

**Opponent:**  
TK Elevator Innovation and Operations GmbH

**Headword:**

**Relevant legal provisions:**  
EPC Art. 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Basis of decision - text or agreement to text withdrawn by  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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European Patent Office  
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**Case Number:** T 1825/17 - 3.2.06

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.06**  
**of 18 November 2021**

**Appellant:** TK Elevator Innovation and Operations GmbH  
(Opponent) E-Plus-Strasse 1  
40427 Düsseldorf (DE)

**Representative:** Lorenz, Bernd Ingo Thaddeus  
Andrejewski - Honke  
Patent- und Rechtsanwälte Partnerschaft mbB  
An der Reichsbank 8  
45127 Essen (DE)

**Respondent:** Kone Corporation  
(Patent Proprietor) Kartanontie 1  
00330 Helsinki (FI)

**Representative:** K & H Bonapat  
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Donnersbergerstraße 22A  
80634 München (DE)

**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 14 July 2017  
rejecting the opposition filed against European  
patent No. 2013130 pursuant to Article 101(2)  
EPC.**

**Composition of the Board:**

**Chairman** M. Harrison  
**Members:** T. Rosenblatt  
J. Hoppe

## **Summary of Facts and Submissions**

- I. The appellant (opponent) filed an appeal against the decision of the opposition division rejecting the opposition against European patent No. 2 013 130.
- II. The parties were summoned to oral proceedings before the Board.
- III. Oral proceedings before the Board were held on 18 November 2021 by videoconference. During the oral proceedings the respondent withdrew its original request for dismissal of the appeal and auxiliary requests 1 and 2, originally submitted with the reply to the statement of the appeal grounds. The respondent also declared that it no longer approved the text of the patent as granted.
- IV. The appellant requested that the decision under appeal be set aside and the patent be revoked.

## **Reasons for the Decision**

- 1. According to Article 113(2) EPC the European Patent Office shall decide upon the European patent only in the text submitted to it, or agreed, by the proprietor of the patent.
- 2. Such an agreement cannot be deemed to exist where - as in the present case - the patent proprietor expressly states that it no longer approves the text of the patent as granted and withdraws all pending requests.

3. There is therefore no text of the patent on the basis of which the Board can consider the appeal. In these circumstances, the proceedings are to be terminated by a decision ordering revocation of the patent, without examination as to patentability (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:



D. Grundner

M. Harrison

Decision electronically authenticated