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**Datasheet for the decision  
of 24 November 2020**

**Case Number:** T 1929/17 - 3.3.09

**Application Number:** 10753524.7

**Publication Number:** 2410003

**IPC:** C08J3/22, B60C1/00, C08K3/04,  
C08L21/00, C08L21/02

**Language of the proceedings:** EN

**Title of invention:**

PROCESS FOR PRODUCING RUBBER-WET MASTERBATCH, RUBBER  
COMPOSITION, AND TIRE

**Patent Proprietor:**

Bridgestone Corporation  
Asahi Carbon

**Opponent:**

Cabot Corporation

**Headword:**

**Relevant legal provisions:**

EPC Art. 101, 113(2)

**Keyword:**

**Decisions cited:**

T 0073/84, T 2405/12

**Catchword:**



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

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Case Number: T 1929/17 - 3.3.09

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.09**  
**of 24 November 2020**

**Appellant:**  
(Opponent)  
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**Representative:**  
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**Respondent:**  
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**Respondent:**  
(Patent Proprietor 2)  
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**Representative:**  
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**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
29 June 2017 concerning maintenance of the  
European Patent No. 2410003 in amended form.**

**Composition of the Board:**

**Chairman**            F. Rinaldi  
**Members:**            M. Ansorge  
                              E. Kossonakou

## **Summary of Facts and Submissions**

- I. This decision concerns the appeal filed by the opponent (appellant) against the interlocutory decision of the opposition division finding that, on the basis of the main request, the European patent No. 2 410 003 met the requirements of the EPC.
- II. The appellant requested that the decision under appeal be set aside and that the patent be revoked in its entirety.
- III. By letter dated 7 January 2020, the patent proprietor (respondent) declared:

"The patent proprietor no longer approves the text of the above-identified patent and will not be submitting an amended text. We understand that this patent will be revoked."

## **Reasons for the Decision**

1. Pursuant to Article 113(2) EPC the EPO shall consider, and 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 if the patent proprietor - as in the present case - expressly states that it no longer approves the text of the patent and declares that it will not be submitting an amended text.
3. 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 on the basis of which the board can maintain the patent. Thus, the board concludes that the patent is to be revoked as envisaged in Article 101 EPC. In this context, reference is made to the case law developed by the Boards of Appeal, in, *inter alia*, T 73/84 (OJ 1985, 241) and T 2405/12.

## 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:



A. Nielsen-Hannerup

F. Rinaldi

Decision electronically authenticated