

**Internal distribution code:**

- (A) [ - ] Publication in OJ
- (B) [ - ] To Chairmen and Members
- (C) [ - ] To Chairmen
- (D) [ X ] No distribution

**Datasheet for the decision  
of 13 September 2021**

**Case Number:** T 2605/17 - 3.2.03

**Application Number:** 08795563.9

**Publication Number:** 2191042

**IPC:** C23F11/14

**Language of the proceedings:** EN

**Title of invention:**  
METAL CORROSION INHIBITION

**Patent Proprietor:**  
Momentive Performance Materials Inc.

**Opponent:**  
Atotech Deutschland GmbH

**Headword:**

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

**Keyword:**  
Basis of decision - revocation of the patent at request of the  
patent proprietor

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**

**Boards of Appeal**

**Chambres de recours**

Boards of Appeal of the  
European Patent Office  
Richard-Reitzner-Allee 8  
85540 Haar  
GERMANY  
Tel. +49 (0)89 2399-0  
Fax +49 (0)89 2399-4465

Case Number: T 2605/17 - 3.2.03

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.03**  
**of 13 September 2021**

**Appellant:** Atotech Deutschland GmbH  
(Opponent) Intellectual Property  
Erasmusstraße 20  
10553 Berlin (DE)

**Representative:** Atotech Deutschland GmbH  
Patent Management  
Erasmusstraße 20  
10553 Berlin (DE)

**Respondent:** Momentive Performance Materials Inc.  
(Patent Proprietor) 260 Hudson River Road  
Waterford, NY 12188 (US)

**Representative:** Gille Hrabal Partnerschaftsgesellschaft mbB  
Patentanwälte  
Brucknerstraße 20  
40593 Düsseldorf (DE)

**Decision under appeal:** **Decision of the Opposition Division of the European Patent Office posted on 24 November 2017 rejecting the opposition filed against European patent No. 2191042 pursuant to Article 101(2) EPC.**

**Composition of the Board:**

**Chairman** G. Patton  
**Members:** B. Miller  
E. Kossonakou

## **Summary of Facts and Submissions**

I. European patent No. 2 191 042 (the "patent") relates to a process for inhibiting corrosion of metals exposed to water employing ureido silanes as corrosion inhibitors.

II. An opposition was filed against the patent, based on the grounds of Article 100(b) EPC and of Article 100(a) EPC together with both Articles 54 and 56 EPC.

The opposition division found that none of the grounds of opposition prejudiced the maintenance of the patent as granted and therefore rejected the opposition.

This decision was appealed by the opponent (the "appellant").

III. The appellant requested that the decision under appeal be set aside and the patent be revoked.

IV. With the summons to oral proceedings, the Board sent a communication pursuant to Articles 15(1) and 17(2) of the Rules of Procedure of the Boards of Appeal (RPBA) indicating to the parties its preliminary opinion of the case.

V. With letter dated 5 July 2021 the proprietor (the "respondent") withdrew all pending requests and requested the revocation of the patent.

VI. The summons for oral proceedings were thus cancelled.

## 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 or the proprietor of the patent".
2. It follows from Article 113(2) EPC that a European patent cannot be maintained against the Proprietor's will. Thus, in view of the respondent's lack of approval of any text, the present European patent has to be revoked.

## 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

G. Patton

Decision electronically authenticated