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**Datasheet for the decision  
of 2 March 2021**

**Case Number:** T 0583/18 - 3.3.05

**Application Number:** 09732650.8

**Publication Number:** 2274245

**IPC:** C02F3/32, C02F3/06, C02F3/22,  
C02F3/30, C02F3/28

**Language of the proceedings:** EN

**Title of invention:**

A PHYTOSYSTEM, ITS USE AND METHOD FOR TREATMENT OF SEWAGE

**Patent Proprietor:**

Alnarp Cleanwater Technology AB

**Opponent:**

Brann AB

**Headword:**

Proprietor disapproves text as granted

**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Basis of decision - text or agreement to text withdrawn by  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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Case Number: T 0583/18 - 3.3.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.05**  
**of 2 March 2021**

**Appellant:** Brann AB  
(Opponent) P.O. Box 12246  
Fleminggatan 7  
102 26 Stockholm (SE)

**Representative:** Brann AB  
P.O. Box 3690  
Drottninggatan 27  
103 59 Stockholm (SE)

**Respondent:** Alnarp Cleanwater Technology AB  
(Patent Proprietor) Box 206  
230 53 Alnarp (SE)

**Representative:** AWA Sweden AB  
P.O. Box 5117  
200 71 Malmö (SE)

**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 4 January 2018  
rejecting the opposition filed against European  
patent No. 2274245 pursuant to Article 101(2)  
EPC.**

**Composition of the Board:**

**Chairman** E. Bendl  
**Members:** J. Roider  
P. Guntz

### **Summary of Facts and Submissions**

- I. The opponent's (appellant's) appeal lies from the decision of the opposition division to reject the opposition against European patent No. EP 2 274 245 B1.
- II. In its communication under Article 15(1) RPBA 2020, the board was of the preliminary opinion that the patent should be revoked.
- III. By letter of 1 March 2021, the respondent (patent proprietor) indicated that it no longer approved the text of the patent as granted and would not be filing a replacement text, thus requesting termination of the opposition appeal proceedings.
- IV. The oral proceedings were subsequently cancelled.

### **Reasons for the Decision**

1. Under Article 113(2) EPC, the European Patent Office shall consider and decide upon the European patent only in the text submitted to it, or agreed, by the proprietor of the patent.
2. The respondent (patent proprietor) by disapproving the text of the patent as granted and by declaring that it would not file any replacement text has thereby withdrawn its approval of any text for maintenance of the patent. 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 of the patent on the basis

of which the Board can consider the present appeal.

3. Where there is no text of the patent on which basis the board can consider the present appeal, the patent can only be revoked as envisaged in Article 101 EPC (Case Law of the Boards of Appeal of the EPO, 9th edition 2019, III.B.3.3).

## 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. Vodz

E. Bendl

Decision electronically authenticated