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**Datasheet for the decision
of 19 October 2021**

Case Number: T 1425/18 - 3.3.08

Application Number: 11009790.4

Publication Number: 2458015

IPC: C12Q1/68, C12N15/10

Language of the proceedings: EN

Title of invention:

Method for providing DNA fragments derived from an archived sample

Patent Proprietor:

Epigenomics AG

Opponent:

Leeming, John Gerard

Headword:

DNA isolation method/EPIGENOMICS

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by
patent proprietor - patent revoked

Decisions cited:

T 0073/84

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
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Case Number: T 1425/18 - 3.3.08

D E C I S I O N
of Technical Board of Appeal 3.3.08
of 19 October 2021

Appellant: Leeming, John Gerard
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
4 April 2018 concerning maintenance of the
European Patent No. 2458015 in amended form.**

Composition of the Board:

Chairman B. Stolz
Members: M. Montrone
L. Bühler

Summary of Facts and Submissions

- I. An appeal was lodged by the opponent against the interlocutory decision of an opposition division that European patent no. 2 458 015 in amended form and the invention to which it related met the requirements of the EPC.
- II. The board issued a summons to oral proceedings to be held on 17 November 2021, followed by a communication pursuant to Article 17(1) RPBA 2020.
- III. By letter dated 18 October 2021, the patent proprietor withdrew its approval of the text in which the patent had been granted and withdrew all pending requests.
- IV. The board subsequently cancelled the oral proceedings.

Reasons for the Decision

1. Article 113(2) EPC requires that the EPO may decide upon a European patent only in the text submitted to it, or agreed, by the proprietor of the patent.
2. As the patent proprietor withdrew its approval of any text for the maintenance of the patent in suit, there is no valid text on the basis of which the board can consider the appeal.
3. In the circumstances described above, it is established case law that the appeal proceedings must be terminated by a decision ordering the revocation of the patent without going into the substantive issues (see, for instance, T 0073/84, OJ EPO 1985, 241). There are also

no ancillary issues that would have to be dealt with by the board in the present appeal case.

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:



L. Malécot-Grob

B. Stolz

Decision electronically authenticated