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**Datasheet for the decision
of 12 July 2022**

Case Number: T 1730/18 - 3.5.02

Application Number: 12184692.7

Publication Number: 2709229

IPC: H02J7/00, H04B5/00, H02J3/00,
H02J4/00

Language of the proceedings: EN

Title of invention:
Power distribution systems

Patent Proprietor:
GE Energy Power Conversion Technology Ltd

Opponent:
ABB Technology Ltd.

Relevant legal provisions:
EPC Art. 113(2)

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



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Case Number: T 1730/18 - 3.5.02

D E C I S I O N
of Technical Board of Appeal 3.5.02
of 12 July 2022

Appellant:

(Opponent)

ABB Technology Ltd.
Affolternstrasse 44
8050 Zürich (CH)

Representative:

Hoffmann Eitle
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81925 München (DE)

Respondent:

(Patent Proprietor)

GE Energy Power Conversion Technology Ltd
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Representative:

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75 Exploration Drive
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Decision under appeal:

**Interlocutory decision of the Opposition
Division of the European Patent Office posted on
4 May 2018 concerning maintenance of the
European Patent No. 2709229 in amended form.**

Composition of the Board:

Chairman

R. Lord

Members:

G. Flynn

R. Cramer

Summary of Facts and Submissions

- I. The opponent contested the interlocutory decision of the opposition division that account being taken of the amendments made according to the then first auxiliary request, the European Patent EP 2 709 229 and the invention to which it related met the requirements of the EPC.
- II. The appellant (opponent) requested that the decision under appeal be set aside and that the patent be revoked.
- III. The respondent (patent proprietor) initially contested the appeal.
- IV. The Board summoned the parties to oral proceedings, setting out their preliminary observations in a communication pursuant to Article 15(1) RPBA 2020.
- V. With a letter dated and filed electronically on 11 July 2022 the respondent (patent proprietor) requested that the patent be revoked.
- VI. The Board cancelled the summons to attend oral proceedings.

Reasons for the Decision

1. Article 113(2) EPC requires that the EPO may only decide on the text of the European patent "submitted to it, or agreed" by the proprietor.

2. According to established case law (Case Law of the Boards of Appeal, 9th Edition 2019, IV.D.2, third paragraph and the decisions cited there) if the patent proprietor himself requests that the patent be revoked, the decision to revoke the patent is given without substantive examination as to patentability. The examination as to whether the grounds for opposition laid down in Article 100 EPC prejudice the maintenance of the patent becomes impossible since the absence of a valid text of the patent precludes any substantive examination of the alleged impediments to patentability.

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. Stridde

R. Lord

Decision electronically authenticated