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**Datasheet for the decision  
of 14 January 2022**

**Case Number:** T 2442/18 - 3.3.09

**Application Number:** 01916753.5

**Publication Number:** 1276387

**IPC:** A23D7/00, A23D9/05, A23L27/00,  
A23L27/21, A23P10/30,  
B01J13/02, B01J13/12

**Language of the proceedings:** EN

**Title of invention:**  
ENCAPSULATION OF FOOD INGREDIENTS

**Patent Proprietor:**  
Commonwealth Scientific and Industrial Research  
Organisation

**Opponent:**  
BASF SE

**Headword:**  
Encapsulation of food ingredients/COMMONWEALTH RESEARCH  
ORGANISATION

**Relevant legal provisions:**  
EPC R. 84, 100(1)

**Keyword:**

Lapse of patent in all designated states - continuation of appeal proceedings (no)

**Decisions cited:**

T 0329/88, T 0949/09, T 0480/13



**Beschwerdekammern**  
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Case Number: T 2442/18 - 3.3.09

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.09**  
**of 14 January 2022**

**Appellant:** Commonwealth Scientific and Industrial Research  
(Patent Proprietor) Organisation  
Limestone Avenue  
Campbell, ACT 2612 (AU)

**Representative:** Forresters IP LLP  
Skygarden  
Erika-Mann-Straße 11  
80636 München (DE)

**Appellant:** BASF SE  
(Opponent) GVX/G  
67056 Ludwigshafen (DE)

**Representative:** BASF IP Association  
BASF SE  
G-FLP-C006  
67056 Ludwigshafen (DE)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
19 July 2018 concerning maintenance of the  
European Patent No. 1276387 in amended form.**

**Composition of the Board:**

**Chairman** A. Haderlein  
**Members:** F. Rinaldi  
E. Kossonakou

## **Summary of Facts and Submissions**

- I. This decision concerns the appeals filed by the patent proprietor and the opponent against the interlocutory decision of the opposition division that European patent No. EP 1276387 as amended met the requirements of the EPC.
- II. In a communication pursuant to Rule 84(1) EPC issued on 1 October 2021, the parties were informed that the patent had lapsed for all designated Contracting States and that the appeal proceedings might be continued at the request of either party, provided that such request was filed within two months of notification of the communication.
- III. Within the time limit set, no request for continuation of the proceedings was filed.

## **Reasons for the Decision**

1. Pursuant to Rule 84(1) EPC in conjunction with Rule 100(1) EPC, appeal proceedings may be continued after the European patent has lapsed, if the appellant files a request to this effect within two months of a communication informing it of the lapse (see, *inter alia*, T 329/88, T 949/09 and T 480/13).
2. As in the present case neither party has requested a continuation of the appeal proceedings, the appeal proceedings are to be terminated.

**Order**

**For these reasons it is decided that:**

The appeal proceedings are terminated.

The Registrar:

The Chairman:



A. Nielsen-Hannerup

A. Haderlein

Decision electronically authenticated