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**Datasheet for the decision  
of 2 June 2022**

**Case Number:** T 0054/19 - 3.5.02

**Application Number:** 10702127.1

**Publication Number:** 2396863

**IPC:** H02G3/22, F16L5/00

**Language of the proceedings:** EN

**Title of invention:**

A Pipe or Cable Lead-through Having Layers of Different Thickness

**Patent Proprietor:**

Roxtec AB

**Opponent:**

Hauff-Technik GmbH & Co. KG

**Relevant legal provisions:**

EPC Art. 113(2)

**Keyword:**

Basis of decision - text or agreement to text withdrawn by patent proprietor - patent revoked



**Beschwerdekammern**

**Boards of Appeal**

**Chambres de recours**

Boards of Appeal of the  
European Patent Office  
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Case Number: T 0054/19 - 3.5.02

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.02**  
**of 2 June 2022**

**Appellant:** Hauff-Technik GmbH & Co. KG  
(Opponent) Robert-Bosch-Straße 9  
89568 Hermaringen (DE)

**Representative:** König Szynka Tilmann von Renesse  
Patentanwälte Partnerschaft mbB  
Zielstattstraße 38  
81379 München (DE)

**Respondent:** Roxtec AB  
(Patent Proprietor) P.O. Box 540  
371 23 Karlskrona (SE)

**Representative:** Ström & Gulliksson AB  
P.O. Box 793  
220 07 Lund (SE)

**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 2 November 2018  
rejecting the opposition filed against European  
patent No. 2396863 pursuant to Article 101(2)  
EPC.**

**Composition of the Board:**

**Chairman** R. Lord  
**Members:** F. Giesen  
J. Hoppe

## **Summary of Facts and Submissions**

I. The present appeal by the opponent (appellant) lies from the decision of the opposition division rejecting the opposition filed against European patent No. 2396863 pursuant to Article 101(2) EPC.

II. Oral proceedings before the board took place on 2 June 2022.

The parties' requests at the beginning of the oral proceedings were as follows:

The appellant (opponent) requested that the decision under appeal be set aside and the patent be revoked.

The respondent (patent proprietor) requested that the appeal be dismissed, or as an auxiliary measure that the decision under appeal be set aside and the patent be maintained in amended form on the basis of the claims of auxiliary request I filed with the reply to the statement of grounds of appeal, or on the basis of the claims of one of the auxiliary requests II to VII filed with letter dated 1 April 2022.

III. At the end of the oral proceedings, the patent proprietor withdrew all pending claim requests, and declared their disapproval of any text for maintenance of the patent in any version.

### **Reasons for the Decision**

1. The appeal meets the requirements of Article 106 and 108 EPC, as well as Rule 99 EPC. It is therefore admissible.
2. Pursuant to Article 113(2) EPC, the EPO shall examine, and decide upon, the European patent only in the text submitted to it, or agreed, by the patent proprietor of the patent.
3. Such an agreement cannot be deemed to exist where - as in the present case - the patent proprietor expressly states that they no longer approve any text for maintenance of the patent.
4. There is therefore no text of the patent on the basis of which the board can consider the appeal. In these circumstances, the proceedings are to be terminated by a decision ordering revocation of the patent, without examination as to patentability (see e.g. Case Law of the Boards of Appeal of the European Patent Office, 9th edition 2019, IV.D.2).

**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:



U. Bultmann

R. Lord

Decision electronically authenticated