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**Datasheet for the decision
of 20 May 2022**

Case Number: T 0711/19 - 3.2.05

Application Number: 11706423.8

Publication Number: 2539621

IPC: F16L55/165, F16L55/179

Language of the proceedings: EN

Title of invention:

Apparatus and method to repair the junction of a sewer main line and lateral pipe

Patent Proprietor:

LMK Technologies, LLC

Opponent:

Per Aarsleff A/S

Relevant legal provisions:

EPC R. 84(1), 100(1)

Keyword:

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

Decisions cited:

T 0329/88, T 0289/06



Beschwerdekammern

Boards of Appeal

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Case Number: T 0711/19 - 3.2.05

D E C I S I O N
of Technical Board of Appeal 3.2.05
of 20 May 2022

Appellant: Per Aarsleff A/S
(Opponent) Hasselager Alle 5
8260 Viby J. (DK)

Representative: Budde Schou A/S
Dronningens Tvaergade 30
1302 Copenhagen K (DK)

Respondent: LMK Technologies, LLC
(Patent Proprietor) John Hancock Building
875 N. Michigan Avenue, Suite 4020
Chicago, IL 60611 (US)

Representative: Tomkinson, Alexandra
Bailey Walsh & Co LLP
1 York Place
Leeds, LS1 2DR (GB)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 10 January 2019
rejecting the opposition filed against European
patent No. 2539621 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman P. Lanz
Members: B. Spitzer
A. Bacchin

Summary of Facts and Submissions

- I. The opponent lodged an appeal against the decision of the opposition division, by which the opposition was rejected.
- II. On 30 November 2021 the board issued a communication pursuant to Rule 84(1) EPC, in which the parties' attention was drawn to the fact that the patent had meanwhile lapsed with effect for all the designated Contracting States, and that the appeal proceedings may be continued at the request of the appellant/opponent, provided that a request to this effect was filed within two months from notification of this communication.

The parties were informed that if no request for continuation was received in due time, the appeal proceedings would be discontinued.

- III. The appellant did not reply within the time limit of two months. No further reply was received.

Reasons for the Decision

1. Pursuant to Rule 84(1) EPC, if a European patent has been surrendered in all the designated Contracting States or has lapsed in all those States, the opposition proceedings may be continued at the request of the opponent filed within two months of a communication from the European Patent Office informing it of the surrender or lapse. According to Rule 100(1) EPC, Rule 84(1) EPC also applies to opposition appeal proceedings. If no request for continuation of the proceedings is filed within the set time period and the state of the file gives no grounds for the proceedings

to be continued by the board on its own motion, the appeal proceedings are terminated (see e.g. decisions T 329/88 of 22 June 1993; and T 289/06 of 17 December 2007).

2. In the case at hand, on 30 November 2021 the board notified the appellant/opponent that the European patent subject to the present appeal proceedings had lapsed with effect for all the designated Contracting States. The appellant did not reply to the board's communication within the given time limit. This is interpreted as meaning that the appellant did not wish to request continuation of the opposition appeal proceedings. Under these circumstances, the board sees no reason to continue the appeal proceedings of its own motion. Therefore, the appeal proceedings are terminated.

Order

For these reasons it is decided that:

The appeal proceedings are terminated.

The Registrar:

The Chairman:



N. Schneider

P. Lanz

Decision electronically authenticated