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**Datasheet for the decision
of 7 February 2023**

Case Number: T 1838/19 - 3.4.03

Application Number: 13802742.0

Publication Number: 2934905

IPC: B42D25/00

Language of the proceedings: EN

Title of invention:

IDENTITY DOCUMENT COMPRISING A GHOST IMAGE BASED ON A TWO-DIMENSIONAL IMAGE

Patent Proprietor:

IDEMIA The Netherlands B.V.

Opponent:

Giesecke+Devrient Mobile Security GmbH

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Basis of decision - text or agreement to text withdrawn by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

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Case Number: T 1838/19 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 7 February 2023

Appellant: Giesecke+Devrient Mobile Security GmbH
(Opponent) Prinzregentenstraße 159
81677 München (DE)

Representative: Klunker IP
Patentanwälte PartG mbB
Destouchesstraße 68
80796 München (DE)

Respondent: IDEMIA The Netherlands B.V.
(Patent Proprietor) Oudeweg 32
2031 CC Haarlem (NL)

Representative: Santarelli
49, avenue des Champs-Élysées
75008 Paris (FR)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 23 April 2019
rejecting the opposition filed against European
patent No. 2934905 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman T. Häusser
Members: M. Ley
G. Decker

Summary of Facts and Submissions

- I. The appeal is against the decision of the opposition division to reject the opposition against European patent No. 2 934 905 pursuant to Article 101(2) EPC.
- II. The appellant-opponent requests that the impugned decision be set aside and the patent be revoked.
- III. In the course of the oral proceedings, the respondent-patent proprietor declared that it no longer approved the text of the patent as granted, and withdrew all pending auxiliary requests.

Reasons for the Decision

1. 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.
2. Such an agreement cannot be deemed to exist where - as in the present case - the patent proprietor expressly states that it no longer approves the text of the patent as granted and withdraws all pending auxiliary requests.

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 (Case Law of the Boards of Appeal of the European Patent Office, 10th edition 2022, 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:



S. Sánchez Chiquero

T. Häusser

Decision electronically authenticated