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**Datasheet for the decision
of 18 February 2021**

Case Number: T 0088/20 - 3.3.09

Application Number: 11829685.4

Publication Number: 2621503

IPC: A23L19/12, A23L29/238,
A23L33/21, A23L7/117, A23L9/10,
A21D2/18, A21D2/36, A61K31/736

Language of the proceedings: EN

Title of invention:

USE OF A FOOD PRODUCT COMPRISING VISCOUS FIBRES WHICH HAS A
BENEFICIAL EFFECT ON COGNITIVE PERFORMANCE.

Patent Proprietors:

Orkla Foods Sverige AB
Pågen AB
Björck, Inger
Nilsson, Anne
Radeborg, Karl

Opponent:

N.V. NUTRICIA

Headword:

Use of a food product/ORKLA FOODS

Relevant legal provisions:

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

Keyword:

Lapse of patent in all designated states - termination of appeal proceedings

Decisions cited:

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

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 0088/20 - 3.3.09

D E C I S I O N
of Technical Board of Appeal 3.3.09
of 18 February 2021

Appellant: N.V. NUTRICIA
(Opponent) Eerste Stationsstraat 186
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Representative: Nederlandsch Octrooibureau
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Respondent: Orkla Foods Sverige AB
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Respondent: Pågen AB
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Respondent: Björck, Inger
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Respondent: Nilsson, Anne
(Patent Proprietor 4) Ösögatan 3
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Respondent: Radeborg, Karl
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Decision under appeal: **Decision of the Opposition Division of the European Patent Office posted on 4 November 2019 rejecting the opposition filed against European patent No. 2621503 pursuant to Article 101(2) EPC.**

Composition of the Board:

Chairman A. Haderlein
Members: M. Ansorge
 E. Kossonakou

Summary of Facts and Submissions

- I. The present appeal was filed by the opponent (appellant) against the opposition division's decision rejecting the opposition against European patent EP 2 621 503.
- II. In a communication pursuant to Rule 84(1) EPC issued on 1 December 2020, 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 the appellant, provided that a request to this effect was filed within two months of notification of the communication.
- III. No request regarding continuation of the proceedings was filed within the time limit set.

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*, decisions T 329/88 of 22 June 1993; T 949/09 of 17 October 2012; and T 480/13 of 5 November 2014).
2. As in the present case the appellant has not requested a continuation of the appeal proceedings and since the board does not see any reason to continue the proceedings of its own motion, 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