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**Datasheet for the decision  
of 26 April 2022**

**Case Number:** T 0866/20 - 3.2.05

**Application Number:** 12193434.3

**Publication Number:** 2732958

**IPC:** B29C70/50

**Language of the proceedings:** EN

**Title of invention:**

Method and apparatus for forming a curved prepreg strip

**Patent Proprietor:**

Airbus Operations GmbH

**Opponent:**

Deutsches Zentrum für Luft- und Raumfahrt e.V.

**Relevant legal provisions:**

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

**Keyword:**

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



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Case Number: T 0866/20 - 3.2.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.05**  
**of 26 April 2022**

**Appellant:** Deutsches Zentrum für Luft- und Raumfahrt e.V.  
(Opponent) Linder Höhe  
51147 Köln (DE)

**Representative:** Gramm, Lins & Partner  
Patent- und Rechtsanwälte PartGmbH  
Freundallee 13a  
30173 Hannover (DE)

**Respondent:** Airbus Operations GmbH  
(Patent Proprietor) Kreetslag 10  
21129 Hamburg (DE)

**Representative:** Isarpatent  
Patent- und Rechtsanwälte Barth  
Charles Hassa Peckmann & Partner mbB  
Friedrichstrasse 31  
80801 München (DE)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
23 January 2020 concerning maintenance of the  
European Patent No. 2732958 in amended form.**

**Composition of the Board:**

**Chairman** P. Lanz  
**Members:** M. Holz  
C. Brandt

## **Summary of Facts and Submissions**

- I. The opponent lodged an appeal against the decision of the opposition division, by which the patent was maintained in amended form according to auxiliary request 1.
- II. On 24 November 2021 the board issued a communication pursuant to Rule 84(1) EPC, in which the appellant's 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.
- 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.
2. In the present case 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 informing them of the lapse of the patent. 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