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**Datasheet for the decision
of 11 October 2021**

Case Number: T 1384/20 - 3.2.05

Application Number: 12823526.4

Publication Number: 2718076

IPC: B29B11/10, B29D23/00,
B29C45/00, C08L3/02, C08L67/04,
F16L9/127

Language of the proceedings: EN

Title of invention:
Polymer composition for manufacturing biodegradable articles
and process thereof

Patent Proprietor:
Essel Propack Ltd.

Opponent:
Albéa Services

Relevant legal provisions:
EPC R. 84(1), 100(1)

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



Beschwerdekammern

Boards of Appeal

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Case Number: T 1384/20 - 3.2.05

D E C I S I O N
of Technical Board of Appeal 3.2.05
of 11 October 2021

Appellant:

(Opponent)

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Representative:

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Respondent:

(Patent Proprietor)

Essel Propack Ltd.
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Representative:

Jones, Nicholas Andrew
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Decision under appeal:

**Decision of the Opposition Division of the
European Patent Office posted on 24 March 2020
rejecting the opposition filed against European
patent No. 2718076 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman P. Lanz
Members: T. Vermeulen
 A. Bacchin

Summary of Facts and Submissions

- I. The opponent lodged an appeal against the decision of the opposition division, by which the opposition against European patent No. 2 718 076 was rejected.
- II. On 19 July 2021 the board issued a communication pursuant to Rule 100(2) EPC, in which the appellant's attention was drawn to the fact that the patent had meanwhile lapsed in all designated Contracting States, and the appellant was invited to consider whether they wished the appeal proceedings to be continued. The appellant was also informed that appeal proceedings would be terminated if no request for continuation was filed within the given time limit.
- 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 had noted that the European patent subject to the present appeal proceedings had lapsed in all Contracting States.

3. 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:



K. Boelicke

P. Lanz

Decision electronically authenticated