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**Datasheet for the decision
of 20 February 2023**

Case Number: T 0320 / 21 - 3.3.05

Application Number: 15759754.3

Publication Number: 3191613

IPC: C22F1/05, C21D1/42, C21D1/52

Language of the proceedings: EN

Title of invention:

METHOD OF ANNEALING ALUMINIUM ALLOY SHEET MATERIAL

Patent Proprietor:

Aleris Aluminum Duffel BVBA

Opponents:

Arconic Corporation
C-TEC CONSTELLIUM TECHNOLOGY CENTER /
CONSTELLIUM NEUF-BRISACH

Headword:

Annealing aluminium alloy sheet material/Aleris

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by
patent proprietor - patent revoked

Decisions cited:

Catchword:



Beschwerdekkammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
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Case Number: T 0320/21 - 3.3.05

D E C I S I O N
of Technical Board of Appeal 3.3.05
of 20 February 2023

Appellant: Aleris Aluminum Duffel BVBA
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
11 February 2021 concerning maintenance of the
European Patent No. 3191613 in amended form.**

Composition of the Board:

Chairman E. Bendl
Members: J. Roider
O. Loizou

Summary of Facts and Submissions

- I. The appeals by opponents 1 and 2 (appellants 1 and 2) lie from the interlocutory decision of the opposition division to maintain the patent in amended form on the basis of what was then auxiliary request 1.
- II. In its communication under Article 15(1) RPBA 2020, the board was of the preliminary opinion that the patent should be revoked.
- III. By letter of 30 January 2023, the respondent (patent proprietor) declared that the consent to the Official Communication according to Rule 71(3) EPC dated 26 October 2018 and the consent to the patent in amended form according to the decision of the first instance dated 11 February 2021 (main request in appeal procedure) were withdrawn.
- IV. By letter of 10 February 2023, the respondent additionally withdrew auxiliary requests 1 to 27, which were then still pending, and requested that the proceedings be terminated.

Reasons for the Decision

1. Under Article 113(2) EPC, the European Patent Office is to consider and decide upon a European patent only in the text submitted to it, or agreed, by the proprietor of the patent.
2. By withdrawing its approval of the text of the patent as granted and the text of the patent as maintained by

the opposition division, and by withdrawing auxiliary requests 1 to 27, the respondent withdrew its approval of any text for maintenance of the patent.

It is up to the patent proprietor to define the text of the claims and the description. However, in the current case there is no approved text of the patent.

3. Since there is no text of the patent on the basis of which the board can decide the present appeal, the patent can only be revoked, as stated in Article 101 EPC (Case Law of the Boards of Appeal of the EPO, 10th edition 2022, III.B.3.3).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

C. Vodz

The Chairman:

E. Bendl



Decision electronically authenticated