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**Datasheet for the decision  
of 3 April 2024**

**Case Number:** T 1858/21 - 3.3.02

**Application Number:** 12766821.8

**Publication Number:** 2731425

**IPC:** A01N1/02, A61J1/10, B32B27/08,  
B32B27/30, B32B27/32, A61K35/18

**Language of the proceedings:** EN

**Title of invention:**

RED BLOOD CELL PRODUCTS AND THE STORAGE OF RED BLOOD CELLS IN  
CONTAINERS FREE OF PHTHALATE PLASTICIZER

**Patent Proprietor:**

Fenwal, Inc.

**Opponent:**

BASF SE

**Headword:**

**Relevant legal provisions:**

EPC R. 124(1)

**Keyword:**

Correction of minutes

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

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Case Number: T 1858/21 - 3.3.02

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.02**  
**of 3 April 2024**

**Appellant:** Fenwal, Inc.  
(Patent Proprietor) Three Corporate Drive  
Lake Zurich, IL 60047 (US)

**Representative:** Maikowski & Ninnemann  
Patentanwälte Partnerschaft mbB  
Postfach 15 09 20  
10671 Berlin (DE)

**Respondent:** BASF SE  
(Opponent) Carl-Bosch-Str. 38  
67056 Ludwigshafen (DE)

**Representative:** BASF IP Association  
BASF SE  
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67056 Ludwigshafen (DE)

**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 9 August 2021  
revoking European patent No. 2731425 pursuant to  
Article 101(3) (b) EPC.**

**Composition of the Board:**

**Chairman** M. O. Müller  
**Members:** S. Bertrand  
B. Burm-Herregodts

## **Summary of Facts and Submissions**

The representative of the appellant (patent proprietor) requested with letter of 29 January 2024 to correct the minutes of the oral proceedings held on 23 January 2024. The minutes were forwarded to the parties on 26 January 2024.

The appellant requested that the minutes be corrected as follows :

### **"Auxiliary request 16**

The ~~appellant~~ respondent stated that it did not have any objections under Article 84 EPC. The appellant ~~It~~ submitted ~~however~~ that claim 1 of auxiliary request 16 did not contain added subject-matter which was contested by the respondent."

## **Reasons for the Decision**

1. A request for correction of the minutes is governed by Rule 124(1) EPC. According to Rule 124(1) EPC, "[M]inutes of oral proceedings ...shall be drawn up, containing the essentials of the oral proceedings..., the relevant statements made by the parties,..."

2. The appellant's request for correction was clear and concise and clearly identified the passage which was considered to be incorrect and clearly identified the correction to be made in referring to the statements made by the parties.

3. The reference on page 5 of the minutes to "*appellant*" where it should have been "*respondent*" and to "*it*" instead of "*the appellant*" was incorrect. The requested correction was in line with the board's written notes that it was the respondent who did not have any objections under Article 84 EPC and that it

was the appellant who was of the opinion that there was no added subject-matter in claim 1 of auxiliary request 16.

The board issued a communication on this matter giving a preliminary view that the appellant's request for correction was considered allowable and giving a time limit of two months starting from notification of the communication to the parties to respond to the communication.

Within the given time limit the respondent in its letter of 26 February 2024 responded indicating that it had no objections against the requested correction.

Therefore the board decides that the request to correct the minutes of the oral proceedings of 23 January 2024 is allowable.

A corrected version of the minutes is annexed to this decision.

## **Order**

### **For these reasons it is decided that:**

The minutes of the oral proceedings of 23 January 2024 are corrected by replacing the following passage on page 5 of the minutes:

#### **"Auxiliary request 16**

*The appellant stated that it did not have any objections under Article 84 EPC. It submitted however that claim 1 of auxiliary request 16 did not contain added subject-matter which was contested by the respondent."*

by the following passage:

**"Auxiliary request 16**

*The respondent stated that it did not have any objections under Article 84 EPC. The appellant submitted that claim 1 of auxiliary request 16 did not contain added subject-matter which was contested by the respondent."*

The Registrar:

The Chairman:



M. Schalow

M. O. Müller

Decision electronically authenticated