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**Datasheet for the decision  
of 7 January 2025**

**Case Number:** T 0561/22 - 3.3.08

**Application Number:** 13809694.6

**Publication Number:** 2864479

**IPC:** C12N15/113, A61K31/7088

**Language of the proceedings:** EN

**Title of invention:**  
Modulation of UBE3A-ATS expression

**Patent Proprietors:**  
Ionis Pharmaceuticals, Inc.  
Baylor College Of Medicine

**Opponent:**  
F.Hoffmann-La Roche AG

**Relevant legal provisions:**  
EPC Art. 113(2)

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Basis of decision - text or agreement to text withdrawn by  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

**Decisions cited:**

T 0073/84, T 1182/17, T 1226/18, T 1310/19, T 0774/20,  
T 1361/21, T 1995/21



**Beschwerdekammern**

**Boards of Appeal**

**Chambres de recours**

Boards of Appeal of the  
European Patent Office  
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**Case Number:** T 0561/22 - 3.3.08

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.08**  
**of 7 January 2025**

**Appellant:** F.Hoffmann-La Roche AG  
(Opponent) Grenzacherstrasse 124  
4070 Basel (CH)

**Representative:** D Young & Co LLP  
3 Noble Street  
London EC2V 7BQ (GB)

**Respondent:** Ionis Pharmaceuticals, Inc.  
(Patent Proprietor 1) 2855 Gazelle Court  
Carlsbad, CA 92010 (US)

**Respondent:** Baylor College Of Medicine  
(Patent Proprietor 2) Mail Stop BM210  
One Baylor Plaza  
Houston, Texas 77030-3411 (US)

**Representative:** Carpmaels & Ransford LLP  
One Southampton Row  
London WC1B 5HA (GB)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
23 December 2021 concerning maintenance of the  
European Patent No. 2864479 in amended form**

**Composition of the Board:**

<b>Chairwoman</b>	T. Sommerfeld
<b>Members:</b>	A. Schmitt
	R. Winkelhofer

## **Summary of Facts and Submissions**

- I. The opponent's (appellant's) appeal is against the Opposition Division's interlocutory decision that European patent No. 2 864 479 (the patent) in the version of the main request and the invention to which it relates meet the requirements of the EPC.
- II. The appellant requested that the decision under appeal be set aside and amended such that the patent be revoked.
- III. In their reply, the patent proprietors (respondents) requested that the appeal be dismissed (main request), or that the patent be maintained on the basis of auxiliary requests.
- IV. Oral proceedings were appointed for 14 January 2025.
- V. In a submission dated 17 December 2024, the patent proprietors withdrew their approval of the text of the patent, and all outstanding requests including their request for oral proceedings, and stated that they would not attend the oral proceedings.
- VI. In view thereof, the oral proceedings were cancelled.

### **Reasons for the Decision**

1. Pursuant to Art. 113(2) EPC, the European Patent Office decides upon the European patent only in the text submitted, or agreed, by the patent proprietor(s).
2. There is no such agreement if the patent proprietor(s), as in the present case, expressly withdraw the consent to the text of the patent as granted, and all requests on file (see section V.).
3. According to the established jurisprudence of the Boards of Appeal, in these circumstances the proceedings are to be terminated by a decision ordering revocation of the patent, without going into substantive issues (Case Law of the Boards of Appeal, 10th edition 2022, IV.D.2; T 73/84, OJ EPO 1985, 241; T 1182/17; T 1226/18; T 1310/19; T 774/20; T 1361/21; T 1995/21).
4. Revocation of the patent is also the appellant's main request (see section II.). There are no remaining issues that need to be dealt with by the board in this appeal case, either. The decision can therefore be taken without holding oral proceedings.

## Order

### For these reasons it is decided that:

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

The Registrar:

The Chair:



L. Stridde

T. Sommerfeld

Decision electronically authenticated