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**Datasheet for the decision
of 22 May 2024**

Case Number: T 1169/22 - 3.3.03

Application Number: 15769383.9

Publication Number: 3124543

IPC: C08L59/02, C08K3/40

Language of the proceedings: EN

Title of invention:

POLYACETAL RESIN COMPOSITION AND MOLDED ARTICLE THEREOF

Patent Proprietor:

ASAHI KASEI KABUSHIKI KAISHA

Opponent:

BASF SE

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - agreement to text withdrawn by patent proprietor - patent revoked



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 1169/22 - 3.3.03

D E C I S I O N
of Technical Board of Appeal 3.3.03
of 22 May 2024

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

Representative: Baier, Martin
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Respondent: ASAHI KASEI KABUSHIKI KAISHA
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 18 March 2022
rejecting the opposition filed against European
patent No. 3124543 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman D. Semino
Members: M. Barrère
R. Cramer

Summary of Facts and Submissions

- I. This decision concerns the appeal filed by the opponent against the decision of the opposition division rejecting the opposition against European Patent No. 3 124 543.
- II. On 22 May 2024 oral proceedings were held before the Board. Following a discussion on novelty and inventive step and deliberation by the Board on those issues, the patent proprietor stated that they withdrew their approval of the text of the patent in any form (see minutes of the oral proceedings, page 3, last paragraph).
- III. The opponent requested that the decision under appeal be set aside and the patent be revoked.

Reasons for the Decision

1. Article 113(2) EPC stipulates that the European Patent Office shall decide upon the European patent only in the text submitted to it, or agreed by the proprietor of the patent.
2. If the proprietor expressly states that they no longer approve the text of the patent in any form, there is no text submitted by the patent proprietor on which the Board could decide to maintain the patent.
3. In a situation as the present one the only possibility available to the Board is to revoke the patent. In this context, reference is made to the Case Law of the

Boards of Appeal of the EPO (point IV.D.2 of the 10th edition dated 2022) and the decisions cited therein.

Order

For these reasons it is decided that:

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

The Registrar:

The Chairman:



A. Pinna

D. Semino

Decision electronically authenticated