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**Datasheet for the decision  
of 12 June 2024**

**Case Number:** T 1300/22 - 3.3.09

**Application Number:** 12841563.5

**Publication Number:** 2768315

**IPC:** A23G9/00

**Language of the proceedings:** EN

**Title of invention:**

CRYSTALLIZATION RESISTANT FROZEN FOOD PRODUCTS

**Patent Proprietor:**

Corbion Biotech, Inc.  
Board of Supervisors of Louisiana State  
University and Agricultural and Mechanical College

**Opponent:**

Unilever PLC / Unilever NV

**Headword:**

Frozen food product/CORBION

**Relevant legal provisions:**

EPC Art. 113(2)

**Keyword:**



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

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Case Number: T 1300/22 - 3.3.09

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.09**  
**of 12 June 2024**

**Appellant:** Unilever PLC / Unilever NV  
(Opponent) Unilever House  
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London EC4Y 0DY / NL-3013 AL Rotterdam (GB)

**Representative:** Willett, Christopher David  
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**Respondent:** Corbion Biotech, Inc.  
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**Respondent:** Board of Supervisors of Louisiana State  
(Patent Proprietor 2) University and Agricultural and Mechanical  
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Baton Rouge LA 70803-0106 (US)

**Representative:** Beck Greener LLP  
Fulwood House  
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**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
14 March 2022 concerning maintenance of the  
European Patent No. 2768315 in amended form.**

**Composition of the Board:**

<b>Chairman</b>	F. Rinaldi
<b>Members:</b>	M. Ansorge
	A. Jimenez

## **Summary of Facts and Submissions**

- I. This decision concerns the appeal filed by the opponent against the interlocutory decision of the opposition division that the European patent as amended met the requirements of the EPC.
- II. In its letter of 11 June 2024, the proprietor made the following written statement:
- "The Proprietor no longer approves the text in the form in which the patent was granted nor in the form in which it was maintained at Opposition Proceedings. The Proprietor will not be submitting an amended text. Accordingly, it is our understanding that the patent will now be revoked without the need for the oral proceedings."
- III. The opponent requested that the decision under appeal be set aside and that the patent be revoked.

## **Reasons for the Decision**

1. Under Article 113(2) EPC, the European Patent Office shall examine, and decide upon, the European patent only in the text submitted to it, or agreed, by the proprietor of the patent. This principle, according to which the text of the patent is at the disposition of the proprietor, has to be strictly observed also in opposition and opposition appeal proceedings.

2. As the proprietor of the patent no longer approves the text of the patent as granted and does not pursue the patent according to any claim request, there is no text of the patent on which the board can base its consideration of the appeal of the opponent.
  
3. In such a case, the patent is to be revoked (Case Law of the Boards of Appeal, 10th edition 2022, IV.D.2, third paragraph and III.B.3.3, first paragraph). As a consequence, the appeal proceedings must be terminated by a decision ordering the revocation of the patent without any preceding substantive examination.

## 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:



K. Götz-Wein

F. Rinaldi

Decision electronically authenticated