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**Datasheet for the decision  
of 17 July 2025**

**Case Number:** T 1922/22 - 3.3.06

**Application Number:** 14755850.6

**Publication Number:** 3039113

**IPC:** C11D3/42, C11D3/386

**Language of the proceedings:** EN

**Title of invention:**

ENZYME GRANULE WITH FLUORESCENT WHITENING AGENT

**Patent Proprietor:**

Novozymes A/S

**Opponent:**

Danisco US Inc.

**Headword:**

Novozymes/ENZYME GRANULE WITH FLUORESCENT WHITENING AGENT

**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Basis of decision - text or agreement to text withdrawn by  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:**



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

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European Patent Office  
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Case Number: T 1922/22 - 3.3.06

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.06**  
**of 17 July 2025**

**Appellant:** Danisco US Inc.  
(Opponent) 925 Page Mill Road  
Palo Alto CA 94304-1013 (US)

**Representative:** Hoffmann Eitle  
Patent- und Rechtsanwälte PartmbB  
Arabellastraße 30  
81925 München (DE)

**Respondent:** Novozymes A/S  
(Patent Proprietor ) Krogshøjvej 36  
2880 Bagsvaerd (DK)

**Representative:** Potter Clarkson  
Chapel Quarter  
Mount Street  
Nottingham NG1 6HQ (GB)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
9 June 2022 concerning maintenance of the  
European Patent No. 3039113 in amended form.**

**Composition of the Board:**

**Chairman** J.-M. Schwaller  
**Members:** R. Elsässer  
J. Hoppe

## **Summary of Facts and Submissions**

- I. The appeals of both the proprietor and the opponent were directed against the decision of the opposition division to maintain the patent in amended form, based on the auxiliary request 1 then on file.
- II. With its reply to the opponent's appeal, the proprietor filed auxiliary requests 1-7.
- III. At the oral proceedings held on 17 July 2025, the requests on file were discussed with the parties and the proprietor filed an auxiliary request 8, which was not admitted by the board.

After closure of the debate, the proprietor withdrew its appeal as well as all pending requests and its approval to any text for maintenance of the patent.

The appellant (opponent) requested that the decision under appeal be set aside and the European patent be revoked.

## **Reasons for the Decision**

1. Pursuant to Article 113(2) EPC, the EPO shall examine and decide upon the European patent only in the text submitted to it, or agreed, by the proprietor of the patent.
2. In the present case, the proprietor expressly stated at the oral proceedings that they no longer approved the text of the patent in any form. Hence, an agreement no longer exists for the text of the patent as granted and all auxiliary requests, including the request held

allowable by the opposition division, were withdrawn.

3. There is thus no text of the patent on the basis of which the board can consider the appeal of the opponent. Under such circumstances the proceedings are to be terminated by a decision ordering revocation of the patent without examination as to the requirements of the EPC (Case Law of the Boards of Appeal of the European Patent Office, 10th edition July 2022, IV.D.2).

## 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. Wille

J.-M. Schwaller

Decision electronically authenticated