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**Datasheet for the decision
of 15 May 2024**

Case Number: T 1940/22 - 3.2.02

Application Number: 18191328.6

Publication Number: 3461478

IPC: A61K9/48, A61K38/28, A61P3/10,
A61M37/00, A61M5/142, A61B1/07,
A61J7/00, A61B5/145, A61B5/06,
A61B5/00, A61M31/00, A61B5/07

Language of the proceedings: EN

Title of invention:
SWALLOWABLE DRUG DELIVERY DEVICE

Patent Proprietor:
Rani Therapeutics, LLC

Opponent:
Novo Nordisk A/S

Headword:

Relevant legal provisions:
EPC Art. 113(2)

Keyword:

Decisions cited:

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 1940/22 - 3.2.02

D E C I S I O N
of Technical Board of Appeal 3.2.02
of 15 May 2024

Appellant: Rani Therapeutics, LLC
(Patent Proprietor) 2051 Ringwood Avenue
San Jose, CA 95131 (US)

Representative: WP Thompson
138 Fetter Lane
London EC4A 1BT (GB)

Appellant: Novo Nordisk A/S
(Opponent) Novo Allé
DK-2880 Bagsvaerd (DK)

Representative: Potter Clarkson
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
21 June 2022 concerning maintenance of the
European Patent No. 3461478 in amended form.**

Composition of the Board:

Chair M. Alvazzi Delfrate
Members: A. Martinez Möller
Y. Podbielski

Summary of Facts and Submissions

- I. Appeals were filed by the patent proprietor and by the opponent against the interlocutory decision of the Opposition Division finding that then auxiliary request 17 filed during the oral proceedings before the Opposition Division met the requirements of the EPC.
- II. Oral proceedings before the Board took place on 15 May 2024. Further details of the oral proceedings can be found in the minutes.

In the course of the oral proceedings, the appellant-patent proprietor declared that they no longer approved the text in which the patent had been granted and withdrew all pending claim requests.

Reasons for the Decision

1. Pursuant to Article 113(2) EPC, the EPO shall examine, and decide upon, the patent only in the text submitted to it, or agreed by the proprietor of the patent. Such an agreement cannot be deemed to exist where - as in the present case - the proprietor expressly states that it no longer approves the text of the patent as granted and withdraws all pending requests.
2. There is therefore no text of the patent on the basis of which the Board can consider the appeal. In these circumstances, the proceedings are to be terminated by a decision ordering revocation of the patent, without examination as to patentability (Case Law of the Boards of Appeal, 10th edition 2022, IV.D.2).

Order

For these reasons it is decided that:

The decision under appeal is set aside.

The patent is revoked.

The Registrar:

The Chair:



G. Magouliotis

M. Alvazzi Delfrate

Decision electronically authenticated