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**Datasheet for the decision
of 16 October 2024**

Case Number: T 2193/22 - 3.3.10

Application Number: 19151232.6

Publication Number: 3489211

IPC: C07C11/21, C07C7/04, A61K9/107,
A61K31/01, A61K39/39,
A61K47/06, A61P31/16,
A61K39/00, A61K39/145,
B01D3/10, C12N7/00, A61P31/00

Language of the proceedings: EN

Title of invention:
IMPROVED METHODS FOR PREPARING SQUALENE

Patent Proprietor:
Seqirus UK Limited

Opponent:
GlaxoSmithKline Biologicals SA

Headword:

Relevant legal provisions:
EPC Art. 113(1)

Keyword:

Patent proprietor no longer agrees with the text of the patent
- auxiliary requests withdrawn

Decisions cited:

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0

Case Number: T 2193/22 - 3.3.10

D E C I S I O N
of Technical Board of Appeal 3.3.10
of 16 October 2024

Appellant:
(Patent Proprietor)
Seqirus UK Limited
Point
29 Market Street
Maidenhead
Berkshire SL6 8AA (GB)

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

Appellant:
(Opponent)
GlaxoSmithKline Biologicals SA
Rue de l'Institut 89
1330 Rixensart (BE)

Representative:
Furstoss, Olivia Aline
GSK
W23-F3
20, avenue Fleming
1300 Wavre (BE)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
4 August 2022 concerning maintenance of the
European Patent No. 3489211 in amended form.**

Composition of the Board:

Chairman P. Gryczka
Members: R. Pérez Carlón
T. Bokor

Summary of Facts and Submissions

- I. The patent proprietor and the opponent appealed the opposition division's interlocutory decision on the maintenance of the patent in amended form.
- II. At the oral proceedings before the board, which took place on 16 October 2024, the patent proprietor stated that it no longer approved the text of the patent as granted and withdrew all the requests then pending.

Reasons for the Decision

1. The appeals are admissible.
2. At the oral proceedings before the board, the appellant-patent proprietor withdrew its approval of the text of the patent as granted and withdrew all the requests pending.

Under Article 113(2) EPC, the European Patent Office must consider a European patent only in the text submitted to it, or agreed by the patent proprietor. There is, however, no text on the basis of which the board can consider this appeal.

3. Since the text of the patent is at the disposition of the patent proprietor, a patent cannot be maintained against the proprietor's will.

If a patent proprietor withdraws its approval of the text of the patent as granted and withdraws every other request on file it wishes to prevent any text of the patent from being maintained.

4. Following the case law (Case Law of the Boards of Appeal of the European Patent Office, 10th edition, 2022, IV.D.2), the patent must be revoked without examination of any substantive issue.

Order

For these reasons it is decided that:

The decision under appeal is set aside.

The patent is revoked.

The Registrar:

The Chair:



C. Rodríguez Rodríguez

P. Gryczka

Decision electronically authenticated