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**Datasheet for the decision
of 21 October 2025**

Case Number: T 0138/23 - 3.3.09

Application Number: 14826313.0

Publication Number: 3023404

IPC: C07C21/18, C07C17/38

Language of the proceedings: EN

Title of invention:

TRIFLUOROETHYLENE STORAGE METHOD AND TRIFLUOROETHYLENE STORAGE
VESSEL

Patent Proprietor:

AGC Inc.

Opponent:

ARKEMA FRANCE

Headword:

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by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

Decisions cited:

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
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Case Number: T 0138/23 - 3.3.09

D E C I S I O N
of Technical Board of Appeal 3.3.09
of 21 October 2025

Appellant: ARKEMA FRANCE
(Opponent) 51 Esplanade du Général de Gaulle
La Défense
92800 Puteaux (FR)

Representative: Bandpay & Greuter
11 rue Christophe Colomb
75008 Paris (FR)

Respondent: AGC Inc.
(Patent Proprietor) 5-1, Marunouchi 1-chome,
Chiyoda-ku
Tokyo 100-8405 (JP)

Representative: Müller-Boré & Partner
Patentanwälte PartG mbB
Friedenheimer Brücke 21
80639 München (DE)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 23 November
2022 rejecting the opposition filed against
European patent No. 3023404 pursuant to Article
101(2) EPC.**

Composition of the Board:

Chair A. Haderlein
Members: R. Pérez Carlón
L. Basterreix

Summary of Facts and Submissions

- I. The patent proprietor and the opponent appealed the opposition division's decision on the maintenance of European patent No. 3 023 404 in amended form.
- II. The patent proprietor withdrew its appeal.
- III. At the oral proceedings before the board, which took place on 21 October 2025, the respondent-patent proprietor withdrew its approval of the text of the patent as maintained, withdrew all the pending auxiliary requests and stated that it did not intend to file any other text upon which the patent could be maintained.
- IV. The opponent requested that the decision under appeal be set aside and that the patent be revoked.

Reasons for the Decision

1. The appeal is admissible.
2. During the oral proceedings in appeal the respondent withdrew its approval of the text of the patent as maintained in opposition, and of the pending auxiliary requests. It also stated that it did not intend to file any other text for maintenance of the patent.
3. 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 proprietor of the patent. There is, however, no text of the patent on the basis of which the board can consider this appeal.

As the text of the patent is at the disposition of the patent proprietor, a patent cannot be maintained against the proprietor's will. It is settled case law that in such circumstances the patent is to be revoked without examination on the merits (see Case Law of the Boards of Appeal of the European Patent Office, 11th Edition 2025, VI.D.2, third paragraph and III.B.3.3.1, first paragraph).

4. The board sees no reasons to deviate from the principles set out in the case law. The patent must therefore be revoked without substantive examination.

Order

For these reasons it is decided that:

The decision under appeal is set aside.

The patent is revoked.

The Registrar:

The Chair:



K. Götz-Wein

A. Haderlein

Decision electronically authenticated