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**Datasheet for the decision
of 20 March 2026**

Case Number: T 0421/23 - 3.2.04

Application Number: 13716763.1

Publication Number: 2840914

IPC: A24F47/00, H05B3/42,
F16L59/065, H05B3/14

Language of the proceedings: EN

Title of invention:
HEATING SMOKEABLE MATERIAL

Patent Proprietor:
Nicoventures Trading Limited

Opponent:
JT International S.A.

Headword:

Relevant legal provisions:
EPC Art. 113(2)

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Basis of decision - text or agreement to text withdrawn by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

Decisions cited:

T 0073/84

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

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Case Number: T 0421/23 - 3.2.04

D E C I S I O N
of Technical Board of Appeal 3.2.04
of 20 March 2026

Appellant: Nicoventures Trading Limited
(Patent Proprietor) Globe House
1 Water Street
London WC2R 3LA (GB)

Representative: Dehns
10 Old Bailey
London EC4M 7NG (GB)

Appellant: JT International S.A.
(Opponent) 8 rue Kazem Radjavi
1202 Geneva (CH)

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

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted/
electronically transmitted on 21 December 2022
concerning maintenance of the European Patent
No. 2840914 in amended form.**

Composition of the Board:

Chairman A. Pieracci
Members: J. Wright
M. Millet

Summary of Facts and Submissions

I. Appeals were filed by the proprietor and opponent against the interlocutory decision of the opposition division finding that, on the basis of the auxiliary request 3, the patent in suit met the requirements of the EPC.

II. Oral proceedings before the Board were held on 20 March 2026.

During the course of the oral proceedings, the proprietor withdrew its appeal. It subsequently stated that it no longer approved the text of the patent as granted and withdrew all its pending requests.

III. The appellant (opponent) requested that the decision under appeal be set aside and that the European patent No. 2 840 914 be revoked.

Reasons for the Decision

1. The opponent's appeal is admissible.
2. 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. 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.
3. There is therefore no text of the patent on the basis of which the Board can consider the appeal. Under these circumstances, the proceedings are to be terminated by a decision ordering revocation of the patent, without examination as to patentability (consistent case law since decision T 73/84, see also the Case Law of the Boards of Appeal, 11th Edition, 2025, 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:



G. Magouliotis

A. Pieracci

Decision electronically authenticated