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**Datasheet for the decision
of 13 October 2025**

Case Number: T 0573/23 - 3.2.04

Application Number: 17174104.4

Publication Number: 3248485

IPC: A24F47/00

Language of the proceedings: EN

Title of invention:

AN ELECTRICALLY HEATED SMOKING SYSTEM WITH IMPROVED HEATER

Patent Proprietor:

Philip Morris Products S.A.

Opponents:

Nicoventures Trading Limited
JT International S.A.

Headword:

Relevant legal provisions:

EPC Art. 113(2), 101

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Basis of decision - text or agreement to text withdrawn by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

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

Case Number: T 0573/23 - 3.2.04

D E C I S I O N
of Technical Board of Appeal 3.2.04
of 13 October 2025

Appellant: Philip Morris Products S.A.
(Patent Proprietor) Quai Jeanrenaud 3
2000 Neuchâtel (CH)

Representative: DREISS Patentanwälte PartG mbB
Friedrichstraße 6
70174 Stuttgart (DE)

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

Representative: D Young & Co LLP
3 Noble Street
London EC2V 7BQ (GB)

Appellant: JT International S.A.
(Opponent 2) 8 rue Kazem Radjavi
1202 Geneva (CH)

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

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
15 February 2023 concerning maintenance of the
European Patent No. 3248485 in amended form.**

Composition of the Board:

Chairman C. Heath
Members: J. Wright
 S. Hillebrand

Summary of Facts and Submissions

- I. Appeals were filed by the proprietor, opponent 1 and opponent 2 against the interlocutory decision of the opposition division finding that, on the basis of the auxiliary request Vg-1, the patent in suit met the requirements of the EPC.

- II. In a letter dated 16 September 2025 the opponent 1 informed the Board that it would not attend the oral proceedings. In a further letter of 26 September 2025 the opponent 1 withdrew its appeal.

- III. Oral proceedings before the Board were held on 13 October 2025. In accordance with Rule 115(2) EPC and Article 15(3) RPBA 2020, the oral proceedings were held without the opponent 1.

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 including the version as upheld in opposition. The opponent 1 subsequently withdrew its appeal.

Reasons for the Decision

1. All appeals were 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. In 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**).

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

C. Heath

Decision electronically authenticated