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**Datasheet for the decision  
of 26 February 2026**

**Case Number:** T 1286/23 - 3.2.04

**Application Number:** 14735118.3

**Publication Number:** 2941163

**IPC:** A47K7/04, A61H23/02

**Language of the proceedings:** EN

**Title of invention:**

SKIN CLEANSER

**Patent Proprietor:**

FOREO LIMITED

**Opponents:**

Beurer GmbH  
GESKE GmbH & Co. KG

**Headword:**

Intervention

**Relevant legal provisions:**

EPC Art. 105, 107 sentence 1, 112(1) (a)  
RPBA 2020 Art. 21

**Keyword:**

Intervention of the assumed infringer - in appeal proceedings  
- continuation of proceedings after withdrawal of sole appeal  
(no)

Reimbursement of appeal fee - lack of legal basis (yes) -  
reimbursement ordered (yes)

**Decisions cited:**

G 0003/04, G 0002/24, T 1286/23

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

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Case Number: T 1286/23 - 3.2.04

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.04**  
**of 26 February 2026**

**Appellant:** Beurer GmbH  
(Opponent 1) Söflinger Straße 218  
89077 Ulm (DE)

**Representative:** Maiwald GmbH  
Elisenhof  
Elisenstraße 3  
80335 München (DE)

**Respondent:** FOREO LIMITED  
(Patent Proprietor) RM. 1801, Easey Comm. Bldg.,  
253-261 Hennessy Road,  
Wanchai (HK)

**Representative:** Marks & Clerk LLP  
15 Fetter Lane  
London EC4A 1BW (GB)

**Party as of right:** GESKE GmbH & Co. KG  
(Opponent 2) Am Lenkwerk 3  
33609 Bielefeld (DE)

**Representative:** Eisenführ Speiser  
Patentanwälte Rechtsanwälte PartGmbH  
Johannes-Brahms-Platz 1  
20355 Hamburg (DE)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
9 May 2023 concerning maintenance of the  
European Patent No. 2941163 in amended form.**

**Composition of the Board:**

<b>Chairman</b>	C. Heath
<b>Members:</b>	C. Kujat
	J. Wright
	G. Martin Gonzalez
	T. Bokor

## **Summary of Facts and Submissions**

- I. The facts of this case have been described in great detail in the interlocutory decision **T 1286/23** dated 11 November 2024 of this Board. With reference to that decision, only the following needs to be highlighted:
- Firstly, that Geske's appeal filed with letter of 15 August 2023 was held inadmissible to the extent that it was directed against the opposition division's finding that the second intervention was inadmissible (point 1.1.2 of the reasons).
  - Secondly, that the admissibility of Geske's appeal in regard of the substantive issues depended on whether an intervener intervening only at the appeal stage could obtain the status of an appellant by filing an appeal (point 1.1.3 of the reasons).
  - Thirdly, that the above letter (also) had to be interpreted as an intervention, which was admissible (point 1.2 of the reasons).
  - Fourthly, that while the case was pending before the Board, the only party appealing among those parties that had been parties to the proceedings before the opposition division (the opponent in this case) withdrew their appeal on 11 April 2024.

II. The Board noted that decision **G 3/04** by the Enlarged Board of Appeal had taken the position that after withdrawal of all appeals, appeal proceedings could not be continued with a third party intervening only at the appeal stage. The Board disagreed with this position and took the view that in such case, proceedings could and should be continued in a situation where the intervener had filed both intervention and appeal.

III. The Board under Article 112(1)(a) EPC and Article 21 RPBA thus referred the following points of law to the Enlarged Board of Appeal for decision:

*After withdrawal of all appeals, may the proceedings be continued with a third party who intervened during the appeal proceedings? In particular, may the third party acquire an appellant status corresponding to the status of a person entitled to appeal within the meaning of Article 107, first sentence, EPC?*

IV. With decision **G 2/24** the Enlarged Board answered the referral questions as follows:

*After withdrawal of all appeals, appeal proceedings may not be continued with a third party who intervened during the appeal proceedings in accordance with Article 105 EPC.*

*The intervening third party does not acquire an appellant status corresponding to the status of a person entitled to appeal within the meaning of Article 107, first sentence, EPC.*

- V. In a communication dated 22 October 2025, the Board highlighted that the answers of the Enlarged Board indicated that substantive proceedings must be deemed terminated given that the only appealing party to the decision under appeal had withdrawn its appeal, that the appeal filed by the intervener should be dismissed as inadmissible, and that the appeal fee paid by the intervener had to be reimbursed. The Board invited both parties to comment within a period of two months. No comments have been received by the Board.

### **Reasons for the Decision**

1. The decision of the Enlarged Board is binding upon the referring Board, Article 112(3) EPC.
2. It follows from the Enlarged Board's decision that appeal proceedings in this case have been terminated by withdrawal of the appeal of the only admissibly appealing party on 11 April 2024 and that Geske's appeal against the substantive issues of the appeal decision must be deemed inadmissible.
3. Further, that the appeal fee must be reimbursed because there is no legal basis for filing the appeal in the first place (**G 0003/04**, Reasons 11).

## Order

For these reasons it is decided that:

1. *The appeal filed by the intervener on 15 August 2023 is rejected as inadmissible.*
2. *The appeal fee is reimbursed.*

The Registrar:

The Chairman:



G. Magouliotis

C. Heath

Decision electronically authenticated