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**Datasheet for the decision
of 30 October 2025**

Case Number: T 1701/23 - 3.3.09

Application Number: 15729600.5

Publication Number: 3142493

IPC: A23G4/04, A23G4/18

Language of the proceedings: EN

Title of invention:
ADVANCED GUM FORMING

Patent Proprietor:
Intercontinental Great Brands LLC

Opponent:
Mars Incorporated

Headword:
Gum Forming/INTERCONTINENTAL GREAT BRANDS

Relevant legal provisions:
EPC Art. 113(2)

Keyword:
Withdrawal of approval to the text of the patent

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 1701/23 - 3.3.09

D E C I S I O N
of Technical Board of Appeal 3.3.09
of 30 October 2025

Appellant: Intercontinental Great Brands LLC
(Patent Proprietor) 100 Deforest Avenue
East Hanover, NJ 07936 (US)

Representative: Boulton Wade Tennant LLP
Salisbury Square House
8 Salisbury Square
London EC4Y 8AP (GB)

Appellant: Mars Incorporated
(Opponent) 6885 Elm Street
McLean, Virginia 22101-3883 (US)

Representative: Greaves Brewster LLP
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
24 July 2023 concerning maintenance of the
European Patent No. 3142493 in amended form.**

Composition of the Board:

Chairman A. Haderlein
Members: A. Veronese
N. Obrovski

Summary of Facts and Submissions

- I. This decision concerns the appeals filed by the patent proprietor and the opponent against the interlocutory decision of the opposition division that the European patent as amended met the requirements of the EPC.
- II. During the appeal proceedings the patent proprietor filed a main request and some auxiliary requests.
- III. At the oral proceedings, the patent proprietor withdrew its appeal. Furthermore, it withdrew its agreement to the text of the patent as granted and all auxiliary requests, and indicated that it would not file any further request.
- IV. The opponent requested that the decision under appeal be set aside and that the patent be revoked.

Reasons for the Decision

1. Under Article 113(2) EPC, the European Patent Office shall examine, and decide upon, the European patent only in the text submitted to it, or agreed, by the proprietor of the patent. This principle, according to which the text of the patent is at the disposition of the proprietor, has to be strictly observed also in opposition and opposition appeal proceedings.
2. As the proprietor of the patent no longer approves the text of the patent as granted (main request) and does not pursue the patent according to any auxiliary request, there is no text of the patent on which the board can base its consideration of the opponent's appeal.

3. If the proprietor of a European patent states in opposition or appeal proceedings that it no longer approves the text in which the patent was granted, and does not submit any amended text, the patent is to be revoked (Case Law of the Boards of Appeal, 10th edition 2022, IV.D.2, third paragraph and III.B.3.3, first paragraph). Therefore, the patent must be revoked, without any preceding substantive examination.

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:



K. Götz-Wein

A. Haderlein

Decision electronically authenticated