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**Datasheet for the decision  
of 29 April 2025**

**Case Number:** T 1771 / 23 - 3.2.02

**Application Number:** 16742092.6

**Publication Number:** 3316820

**IPC:** A61F2/24, A61F2/966

**Language of the proceedings:** EN

**Title of invention:**

ADJUSTABLE NOSECONE

**Patent Proprietor:**

Boston Scientific Scimed Inc.

**Opponent:**

Edwards Lifesciences Corporation

**Relevant legal provisions:**

EPC Art. 113(2)

**Keyword:**

Basis of decision - text or agreement to text withdrawn by  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



# 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 1771/23 - 3.2.02

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.02**  
**of 29 April 2025**

**Appellant:** Boston Scientific Scimed Inc.  
(Patent Proprietor) One Scimed Place  
Maple Grove, Minnesota 55311 (US)

**Representative:** Peterreins Schley  
Patent- und Rechtsanwälte PartG mbB  
Hermann-Sack-Straße 3  
80331 München (DE)

**Appellant:** Edwards Lifesciences Corporation  
(Opponent) One Edwards Way  
Irvine, CA 92614 (US)

**Representative:** Somerville, Andrew Edward  
Somerville Associates  
Dunston Innovation Centre  
Dunston Road  
Chesterfield S41 8NG (GB)

**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
10 August 2023 concerning maintenance of the  
European Patent No. 3316820 in amended form.

**Composition of the Board:**

**Chairman** M. Alvazzi Delfrate  
**Members:** S. Dennler  
C. Schmidt

## **Summary of Facts and Submissions**

Both the patent proprietor and the opponent appealed against the opposition division's interlocutory decision to maintain the contested patent in amended form.

At the end of the oral proceedings held before the Board on 29 April 2025, the patent proprietor withdrew all its pending requests.

## **Reasons for the Decision**

Pursuant to Article 113(2) EPC, the EPO shall examine, and decide upon, a 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Such an agreement cannot be deemed to exist where, as in this case, the patent proprietor has withdrawn all its pending requests, thereby indicating that it no longer approves the text and the claims of the patent in any form.

Consequently, there is 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 the revocation of the patent, without examination as to patentability (see: Case Law of the Boards of Appeal of the European Patent Office, 10th edition, 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:



A. Chavinier-Tomsic

M. Alvazzi Delfrate

Decision electronically authenticated