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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Basis of decision - text or agreement to text withdrawn by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Such an agreement cannot be deemed to exist where, as in this case, the patent proprietor has withdrawn all its pending requests, thereby indicating that it no longer approves the text and the claims of the patent in any form.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