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Datasheet for the decision of 2 September 2026

Case Number: T 2037/23 - 3.3.04

Application Number: 13851803.0

Publication Number: 2914255

IPC: A61K31/165, A61K31/122, A61P9/10, A61K45/06, A61K31/37, A61K31/4365

Language of the proceedings: EN

Title of invention:
Treatment or prevention of cardiovascular events via the administration of colchicine

Patent Proprietor:
Murray & Poole Enterprises, Ltd.

Opponents:
Pharmascience Inc.
Teva Nederland B.V.

Headword:
Colchicine for cardiovascular events/MURRAY AND POOLE ENTERPRISES

Relevant legal provisions:
EPC Art. 113(2)

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It can be changed at any time and without notice

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Basis of decision - text or agreement to text withdrawn by patent proprietor

Decisions cited:
T 0073/84

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Case Number: T 2037/23 - 3.3.04

D E C I S I O N
of Technical Board of Appeal 3.3.04
of 2 September 2026

Appellant I: (Patent Proprietor)	Murray & Poole Enterprises, Ltd. Suite 41/42 Victoria House 26 Main Street Gibraltar (GB)
Representative:	Cohausz & Florack Patent- & Rechtsanwälte Partnerschaftsgesellschaft mbB Postfach 10 18 30 40009 Düsseldorf (DE)
Appellant II: (Opponent 1)	Pharmascience Inc. 6111, av. Royalmount Montréal, Québec H4P 2T4 (CA)
Representative:	Maiwald GmbH Elisenhof Elisenstraße 3 80335 München (DE)
Appellant III: (Opponent 2)	Teva Nederland B.V. Swensweg 5 2031 GA Haarlem (NL)
Representative:	D Young & Co LLP 3 Noble Street London EC2V 7BQ (GB)
Decision under appeal:	**Interlocutory decision of the Opposition Division of the European Patent Office posted/ electronically transmitted on 20 October 2023 concerning maintenance of the European Patent No. 2914255 in amended form**

Composition of the Board:

Chairman	A. Chakravarty
Members:	B. Rutz
	M. Blasi

Summary of Facts and Submissions

I. The patent proprietor (appellant I) and opponents 1 and 2 (appellants II and III) filed appeals against the decision of the opposition division that European Patent No. 2914255 as amended in the form of auxiliary request 1 (filed as auxiliary request 10) fulfilled the requirements of the EPC.

II. The patent had been opposed on the grounds of Article 100(a) EPC, in relation to novelty (Article 54 EPC) and inventive step (Article 56 EPC), and of Article 100(b) and (c) EPC.

III. With its statement of grounds of appeal appellant I requested that the decision under appeal be set aside and that the oppositions be rejected, meaning that the patent be maintained as granted, or, alternatively, the patent be maintained as amended in the form of the auxiliary request held allowable by the opposition division, or, further alternatively, that the patent be maintained in amended form on the basis of one of the sets of claims of auxiliary requests 1 to 9 or 11 to 25 as filed during the opposition proceedings.

IV. With their statements of grounds of appeal appellants II and III requested that the decision under appeal be set aside and the patent be revoked.

V. The board appointed oral proceedings, as requested by the parties, and, in a communication pursuant to Article 15(1) RPBA, provided its preliminary appreciation of some matters concerning the appeal case.

VI. Oral proceedings were held on 1 and 2 September 2026 in the presence of all parties. At the end of the oral proceedings appellant I withdrew its appeal and the approval to the text of the patent as granted and all auxiliary requests previously submitted in the appeal proceedings and stated that no further claim requests would be filed.

Reasons for the Decision

1. The appeals comply with Articles 106 to 108 and Rule 99 EPC and are 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.

3. Such an agreement cannot be deemed to exist if the patent proprietor - as in the present case appellant I - expressly declares that it withdraws the consent to the text of the patent in the form as granted, withdraws all claim requests on file and states that no further claim requests would be submitted (see section VI. above).

4. There is therefore no text of the patent on the basis of which the board can consider the appeal case. In these circumstances, the patent is to be revoked, without assessing issues relating to patentability (see also decision T 73/84, OJ EPO 1985, 241 and Case Law of the Boards of Appeal of the European Patent Office, 11th edition 2025, IV.D.2).

5. Revocation of the patent is also the main request of appellants II and III (see section IV. above). There

are also no remaining issues that need to be dealt with by the board in the present appeal case. Appellant I's appeal fee is to be reimbursed at 25% in accordance with Rule 103(4)(a) EPC.

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:

I. Aperribay A. Chakravarty

Decision electronically authenticated