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**Datasheet for the decision
of 20 January 2026**

Case Number: T 0067/24 - 3.4.02

Application Number: 16176271.1

Publication Number: 3096166

IPC: G02B6/44

Language of the proceedings: EN

Title of invention:

High-density fiber optic modules and related equipment

Patent Proprietor:

Corning Optical Communications LLC

Opponent:

GRUND IPG Patentanwälte und Solicitor PartG mbB

Relevant legal provisions:

EPC Art. 13(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by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



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
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Case Number: T 0067/24 - 3.4.02

D E C I S I O N
of Technical Board of Appeal 3.4.02
of 20 January 2026

Appellant: GRUND IPG Patentanwälte und Solicitor PartG mbB
(Opponent) Steinsdorfstrasse 2
80538 München (DE)

Representative: Grund, Martin
Grund Intellectual Property Group
Patentanwälte und Solicitor PartG mbB
Steinsdorfstraße 2
80538 München (DE)

Respondent: Corning Optical Communications LLC
(Patent Proprietor) 4200 Corning Place
Charlotte, NC 28216 (US)

Representative: Reddie & Grose LLP
The White Chapel Building
10 Whitechapel High Street
London E1 8QS (GB)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
8 November 2023 concerning maintenance of the
European Patent No. 3096166 in amended form.**

Composition of the Board:

Chairman R. Bekkering
Members: C.D. Vassoille
P. Guntz

Summary of Facts and Submissions

- I. The appeal of the opponent lies from the decision of the opposition division that European patent no. 3 096 166, as amended according to the 1st auxiliary request, met the requirements of the EPC.
- II. The appellant (opponent) had requested in writing that the decision under appeal be set aside and that the patent be revoked.
- III. The respondent (patent proprietor) had requested, as a main request, that the appeal be dismissed, i.e. that the patent be maintained in amended form as found allowable by the opposition division on the basis of the then 1st auxiliary request, or, in the alternative, that the patent be maintained in amended form on the basis of the claims of one of auxiliary requests 1 to 21 as submitted with the reply to the appeal dated 15 July 2024.
- IV. With letter of 13 January 2025, the opponent withdrew their request for oral proceedings, indicating that they would not participate in oral proceedings if they were scheduled.
- V. In a communication under Article 15(1) RPBA, annexed to the summons to oral proceedings, the Board informed the parties of its preliminary opinion.
- VI. Oral proceedings took place on 20 January 2026, with only the patent proprietor present.

VII. During the oral proceedings, the patent proprietor declared to withdraw their approval of any text of the patent on file.

Reasons for the Decision

1. Under Article 113(2) EPC, the European Patent Office shall consider and decide upon the European patent only in the text submitted to it, or agreed, by the proprietor of the patent.
2. Since the text of the patent is at the disposition of the proprietor, a patent cannot be maintained against the proprietor's will. This principle has to be strictly observed and applies, in particular, in opposition proceedings and opposition appeal proceedings.
3. As the patent proprietor withdrew their approval of any text of the patent on file, there is no text on the basis of which the Board can consider the opponent's appeal.
4. These proceedings must, then, be terminated with a decision ordering revocation of the patent without substantive examination as to patentability (cf. Case Law of the Boards of Appeal 11th edition, IV.D.2., fourth paragraph).

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:



L. Gabor

R. Bekkering

Decision electronically authenticated