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**Datasheet for the decision
of 7 January 2026**

Case Number: T 0132/24 - 3.3.03

Application Number: 16723789.0

Publication Number: 3313908

IPC: C08F271/00, D21H17/33,
D21H17/54, D21H21/10,
C08L33/02, C08L33/26, C08L39/02

Language of the proceedings: EN

Title of invention:
INTERPENETRATING NETWORK MATERIAL

Patent Proprietor:
Kemira Oyj

Opponent:
SNF SA

Relevant legal provisions:
EPC Art. 113(2)

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Basis of decision - text or agreement to text withdrawn by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

Decisions cited:
T 0073/84, T 0186/84, T 0646/08, T 2434/18



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 0132/24 - 3.3.03

D E C I S I O N
of Technical Board of Appeal 3.3.03
of 7 January 2026

Respondent: Kemira Oyj
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Appellant: SNF SA
(Opponent) Rue Adrienne Bolland
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Representative: Ipsilon
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
20 November 2023 concerning maintenance of the
European Patent No. 3313908 in amended form.**

Composition of the Board:

Chairman D. Semino
Members: M. Barrère
M. Millet

Summary of Facts and Submissions

- I. The appeals lodged by the patent proprietor and the opponent lie from the interlocutory decision of the opposition division concerning maintenance of European Patent number 3 313 908 in amended form on the basis of the claims of auxiliary request 4 filed with letter of 6 October 2023 and an adapted description.
- II. The patent proprietor initially requested that the decision under appeal be set aside and that the patent be maintained as granted (main request). In the alternative the patent proprietor requested maintenance of the patent in amended form on the basis of one of auxiliary requests 1 to 4 filed with the statement of grounds of appeal.
- III. The opponent (appellant) requested that the decision be set aside and the patent be revoked.
- IV. The Board scheduled oral proceedings and subsequently issued a communication under Article 15(1) RPBA (dated 23 September 2025).
- V. With letter dated 21 October 2025, the patent proprietor withdrew their appeal and stated they will not participate in the oral proceedings.
- VI. With letter dated 11 November 2025, the patent proprietor withdrew all requests on file and requested a decision according to the state of the file.
- VII. The oral proceedings were then cancelled.

Reasons for the Decision

1. Procedural aspects
 - 1.1 The appellant requested oral proceedings if the Board did not issue a decision revoking the opposed patent (statement of grounds of appeal of the opponent, page 1, sixth paragraph). The patent proprietor initially requested oral proceedings in the event that the Board did not issue a decision to maintain the patent as granted (rejoinder to the statement of grounds of appeal of the appellant, page 1, point 1). However, with letter dated 21 October 2025, they withdrew their appeal and informed the Board that they would not attend the oral proceedings which the Board interprets as a withdrawal of the request for oral proceedings (Case Law of the Boards of Appeal, 11th edition 2025, in the following "Case Law", III.C.5.3.2 a)).
 - 1.2 As the Board is in the position to allow the appeal of the opponent and to revoke the patent, the decision can be taken in writing and the oral proceedings were cancelled, as not deemed necessary.
2. Article 113(2) EPC stipulates that the European Patent Office shall decide upon the European patent only in the text submitted to it, or agreed by the proprietor of the patent.
3. Since the text of a patent is at the disposition of the patent proprietor, their patent cannot be maintained against their will. In the case at hand the patent proprietor withdrew all their requests. Consequently,

there is no longer any text of the patent in the proceedings which the Board can consider for compliance with the requirements of the EPC, so that it is not possible to take a decision on the merits (see e.g. decisions T 186/84, Reasons 5; T 646/08, Reasons 4 and T 2434/18, Reasons 4).

4. It is established case law of the Boards of Appeal that, in the present circumstances, the decision under appeal must be set aside and the patent be revoked without further substantive examination as to patentability (see decision T 73/84 and Case Law, III.B.3.3 and IV.D.2). The Board has no reason to deviate from this established jurisprudence of the Boards of Appeal, with the consequence that the patent is to be revoked.

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:



D. Hampe

D. Semino

Decision electronically authenticated