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**Datasheet for the decision  
of 16 April 2026**

**Case Number:** T 0261/24 - 3.3.08

**Application Number:** 10016074.6

**Publication Number:** 2322930

**IPC:** G01N33/569, C12Q1/68,  
C07H21/04, C12Q1/689

**Language of the proceedings:** EN

**Title of invention:**

Sequences for detection and identification of methicillin-resistant Staphylococcus Aureus (MRSA) of MREJ type xiv

**Patent Proprietor:**

Becton Dickinson Infusion Therapy Systems Inc.

**Opponent:**

Beckman Coulter, Inc.

**Headword:**

Method of detecting a methicillin-resistant staphylococcus aureus of MREJ type xiv/BECTON DICKINSON

**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Basis of decision - text or agreement to text withdrawn by  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

**Catchword:**



**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 0261/24 - 3.3.08

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.08**  
**of 16 April 2026**

**Appellant:** Beckman Coulter, Inc.  
(Opponent) 250 S. Kraemer Boulevard  
Brea, CA 92821 (US)

**Representative:** Boulton Wade Tennant LLP  
Salisbury Square House  
8 Salisbury Square  
London EC4Y 8AP (GB)

**Respondent:** Becton Dickinson Infusion Therapy Systems Inc.  
(Patent Proprietor) 1 Becton Drive  
Franklin Lakes, NJ 07417-1880 (US)

**Representative:** Vossius & Partner  
Patentanwälte Rechtsanwälte mbB  
Siebertstrasse 3  
81675 München (DE)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
15 December 2023 concerning maintenance of the  
European Patent No. 2322930 in amended form**

**Composition of the Board:**

**Chairwoman** T. Sommerfeld  
**Members:** D. Pilat  
A. Bacchin

## **Summary of Facts and Submissions**

- I. The opponent's appeal is against the opposition division's interlocutory decision concerning the maintenance of European patent No. 2 322 930 (the patent) in amended form based on auxiliary request 3 filed on 9 September 2022.
- II. In the statement of grounds of appeal, the opponent requested that the decision under appeal be set aside and that the patent be revoked.
- III. In reply to the appeal, the patent proprietor requested that the appeal be dismissed (main request) or, in the alternative, that the decision under appeal be set aside and the patent be maintained on the basis of the set of claims of one of auxiliary requests 1 to 4, all submitted with the reply to the appeal.
- IV. The board appointed oral proceedings in conformity with the parties' requests and issued a summons to oral proceedings and a communication pursuant to Article 15(1) RPBA, in which it provided its preliminary appreciation of some matters concerning the appeal.
- V. In a submission dated 17 December 2025, the patent proprietor stated that they withdrew all claim requests on file and no longer approved the text with which the patent was granted and maintained after opposition proceedings, that they did not intend to submit an amended text or further claim requests in the present appeal proceedings, and that they withdrew their request for oral proceedings.
- VI. The board then cancelled the oral proceedings.

## **Reasons for the Decision**

1. According to the principle of party disposition established by Article 113(2) EPC, the EPO shall examine and decide upon a European patent only in the text submitted to it, or agreed upon, by the proprietor of the patent.
2. As the respondent withdrew its approval of any text for the maintenance of the patent under appeal, there is no approved text on the basis of which the Board could consider the appeal and examine whether a ground for opposition under Article 100 EPC prejudices the maintenance of the patent (T 186/84, OJ EPO 1986, 79, point 5 of the Reasons; T 646/08, point 4 of the Reasons; T 2434/18, point 4 of the Reasons).
3. According to the jurisprudence of the Boards of Appeal, in such circumstances a substantive requirement for maintaining the patent is lacking and the proceedings are to be terminated by a decision ordering revocation of the patent, without going into the substantive issues. The respondent no longer challenges the appellant's request for revocation of the opposed patent, in fact they even request the patent's revocation. The patent cannot be maintained against the proprietor's will (see e.g. decision T 73/84, OJ EPO 1985, 241 and Case Law of the Boards of Appeal of the European Patent Office, 11th edition 2025, III.B.3.3 and IV.D.2). There are no remaining issues that need to be dealt with by the board in the present appeal case.

## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairwoman:



L. Stridde

T. Sommerfeld

Decision electronically authenticated