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**Datasheet for the decision  
of 3 March 2026**

**Case Number:** T 0281/24 - 3.3.04

**Application Number:** 11707382.5

**Publication Number:** 2538975

**IPC:** A61K39/395, C07K16/06, A61K9/00

**Language of the proceedings:** EN

**Title of invention:**  
Immunoglobulin preparation and storage system for an  
immunoglobulin preparation

**Patent Proprietor:**  
CSL Behring AG

**Opponent:**  
Octapharma AG

**Headword:**  
Immunoglobulin storage stability/BEHRING

**Relevant legal provisions:**  
EPC Art. 113(2)

**Keyword:**  
Termination of the appeal proceedings - text or agreement to  
text withdrawn by patent proprietor - patent revoked

**Decisions cited:**

T 0073/84

**Catchword:**



**Beschwerdekammern**

**Boards of Appeal**

**Chambres de recours**

Boards of Appeal of the  
European Patent Office  
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**Case Number: T 0281/24 - 3.3.04**

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.04**  
**of 3 March 2026**

**Appellant:** Octapharma AG  
(Opponent) Seidenstrasse 2  
8853 Lachen (CH)

**Representative:** Ullrich & Naumann PartG mbB  
Schneidmühlstraße 21  
69115 Heidelberg (DE)

**Respondent:** CSL Behring AG  
(Patent Proprietor) Wankdorfstrasse 10  
3014 Bern (CH)

**Representative:** Carpmaels & Ransford LLP  
One Southampton Row  
London WC1B 5HA (GB)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
15 January 2024 concerning maintenance of the  
European Patent No. 2538975 in amended form.**

**Composition of the Board:**

**Chairwoman** M. Pregetter  
**Members:** D. Luis Alves  
M. Blasi

## **Summary of Facts and Submissions**

- I. The opponent (appellant) filed an appeal against the interlocutory decision of the opposition division that European patent No. 2 538 975 in amended form and the invention to which it related, met the requirements of the EPC. The patent is entitled "*Immunoglobulin preparation and storage system for an immunoglobulin preparation*".
- II. With the statement of grounds of appeal the appellant requested that the decision be set aside and the patent be revoked. Oral proceedings were requested on an auxiliary basis.
- III. The patent proprietor (respondent) submitted a reply to the statement of grounds of appeal.
- IV. The board appointed oral proceedings and, in a communication pursuant to Article 15(1) RPBA, provided its preliminary appreciation on some matters concerning the appeal.
- V. Oral proceedings were held as scheduled. At the oral proceedings before the board, the patent proprietor stated that it no longer approved the text of the patent as granted and withdrew all the requests pending in the appeal proceedings.

## **Reasons for the Decision**

1. 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.
2. Such an agreement cannot be deemed to exist if the patent proprietor, as is presently the case, expressly states that it no longer approves the text of the patent as granted and no alternative text is offered.
3. There is therefore no approved text on the basis of which the board could consider compliance thereof with the requirements of the EPC. It is established case law of the boards of appeal that in these circumstances the patent must be revoked without further examination as to patentability (see also decision T 73/84, OJ EPO 1985, 241 and decisions mentioned in the Case Law of the boards of Appeal of the EPO, 11th edition, 2025, IV.D.2).
4. There are no remaining issues that have 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:



I. Aperribay

M. Pregetter

Decision electronically authenticated