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

Case Number: T 0457/24 - 3.3.08

Application Number: 20215445.6

Publication Number: 3869199

IPC: G01N33/569, C07K14/005,
C07K14/165

Language of the proceedings: EN

Title of invention:

A METHOD AND REAGENTS FOR THE DIAGNOSIS OF SARS-COV-2

Patent Proprietor:

EUROIMMUN Medizinische Labordiagnostika AG
Charité - Universitätsmedizin Berlin

Opponents:

Mikrogen GmbH
DIASORIN ITALIA S.p.A.
Simmons & Simmons LLP

Headword:

A method for aiding in the diagnosis of SARS-CoV-2 infection/
EUROIMMUN MEDIZINISCHE LABORDIAGNOSTIKA; CHARITÉ
UNIVERSITÄTSMEDIZIN BERLIN

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Basis of decision - text or agreement to text withdrawn by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 1484/19, T 1995/21, T 1549/22

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
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Case Number: T 0457/24 - 3.3.08

D E C I S I O N
of Technical Board of Appeal 3.3.08
of 7 July 2026

Appellant: (Opponent 3)	Simmons & Simmons LLP Prinzregentenstraße 68 81675 München (DE)
Representative:	Simmons & Simmons LLP (Munich) Lehel Carré Gewürzmühlstraße 11 80538 Munich (DE)
Respondent: (Patent Proprietor 1)	EUROIMMUN Medizinische Labordiagnostika AG Seekamp 31 23560 Lübeck (DE)
Respondent: (Patent Proprietor 3)	Charité - Universitätsmedizin Berlin Charitéplatz 1 10117 Berlin (DE)
Representative:	Vossius & Partner Patentanwälte Rechtsanwälte mbB P.O. Box 86 07 67 81634 München (DE)
Party as of right: (Opponent 1)	Mikrogen GmbH Floriansborgen 2-4 82061 Neuried (DE)
Representative:	Kraus & Lederer PartGmbH Thomas-Wimmer-Ring 15 80539 München (DE)
Party as of right: (Opponent 2)	DIASORIN ITALIA S.p.A. Via Crescentino SNC 13040 Saluggia (VC) (IT)

Representative: Rimini, Rebecca
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10152 Torino (IT)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted/electronically
transmitted on 1 March 2024 rejecting the
opposition filed against European patent No.
3869199 pursuant to Article 101(2) EPC

Composition of the Board:

Chairwoman T. Sommerfeld
Members: D. Pilat
D. Rogers

Summary of Facts and Submissions

- I. The appeal was filed by the opponent 3 (appellant) against the decision of the opposition division rejecting the opposition filed against European patent No. 3869199.
- II. The appellant requested that the decision under appeal be set aside and the patent be revoked.
- III. The patent proprietor (respondent) replied to the appeal, requesting *inter alia* that the appeal be dismissed.
- IV. The board summoned the parties to oral proceedings and gave its preliminary opinion in a communication pursuant to Article 15(1) RPBA.
- V. With letter dated 6 July 2026, the respondent stated the following:

"The patent proprietors no longer approve the text in which the patent was granted and will not submit any amended text. In accordance with Article 113(2) EPC, the opposition proceedings shall thus be terminated. For the avoidance of doubt, we hereby withdraw all requests made in our prior written submissions."
- VI. In view of this declaration, the oral proceedings were cancelled.

Reasons for the Decision

1. Article 113(2) EPC requires that the European Patent Office decides upon the European patent only in the text submitted to it, or agreed, by the proprietor(s) of the patent.
2. By disapproving the granted text of the patent, the patent proprietor has withdrawn their agreement with any text for maintenance of the patent. There is therefore no approved text of the patent on the basis of which the patent could be maintained.
3. In these circumstances, the patent is to be revoked without any further assessment of issues relating to patentability (see, for example, T 73/84 (OJ EPO 1985, 241), T 186/84 (OJ EPO 1986, 79), T 1484/19 of 29 November 2022, T 1995/21 and T 1549/22, and Case Law of the Boards of Appeal of the European Patent Office, 11th edition, 2025, sections III.B.3.3 and IV.D.2). There are no further issues to be decided.

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:



C. Rodríguez Rodríguez

T. Sommerfeld

Decision electronically authenticated