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**Datasheet for the decision
of 22 April 2026**

Case Number: T 0642/24 - 3.3.09

Application Number: 09848842.2

Publication Number: 2473063

IPC: A23K40/20, A23K50/75,
A23K20/105, A23K20/158

Language of the proceedings: EN

Title of invention:
IMPROVED METHOD FOR CONDITIONING ANIMAL FEED

Patent Proprietor:
Anitox Corporation

Opponents:
Nouryon Chemicals International B.V.
Zeman, Steven
Novus International, Inc.

Headword:
Animal Feed/ANITOX

Relevant legal provisions:
EPC Art. 113(2)

Keyword:

Basis of decision - text submitted or agreed by patent proprietor (no) - revocation of the patent at request of the patent proprietor

Decisions cited:

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

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Case Number: T 0642/24 - 3.3.09

D E C I S I O N
of Technical Board of Appeal 3.3.09
of 22 April 2026

Appellant: Zeman, Steven
(Opponent 2) Tannenstrasse 10a
82049 Pullach (DE)

Representative: Grünecker Patent- und Rechtsanwälte
PartG mbB
Leopoldstraße 4
80802 München (DE)

Respondent: Anitox Corporation
(Patent Proprietor) 1055 Progress Circle
Lawrenceville, GA 30043 (US)

Representative: HGF
HGF Limited
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Party as of right: Nouryon Chemicals International B.V.
(Opponent 1) Velperweg 76
6824 BM Arnhem (NL)

Representative: Ingrassia, Fisher & Lorenz UK Ltd.
Cambridge House
Henry Street
Bath BA1 1BT (GB)

Party as of right: Novus International, Inc.
(Opponent 3) 20 Research Park Drive
Saint Charles MO 63304 (US)

Representative: Greaves Brewster LLP
Copa House
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Cheddar, Somerset BS27 3AH (GB)

Decision under appeal: Interlocutory decision of the Opposition Division of the European Patent Office posted/ electronically transmitted on 5 March 2024 concerning maintenance of the European Patent No. 2473063 in amended fo rm.

Composition of the Board:

Chair A. Jimenez
Members: A. Veronese
S. Arrojo

Summary of Facts and Submissions

- I. This decision concerns the appeal filed by opponent 2 (appellant) against the opposition division's decision finding that the European patent as amended according to the main request fulfils the EPC requirements.
- II. The appellant requested that the decision under appeal be set aside and that the patent be revoked.
- III. In their reply to the appellant's statement setting out the grounds of appeal, the patent proprietor (respondent) requested that the appeal be dismissed or, alternatively, that the patent be maintained on the basis of one of auxiliary requests 1 to 31 filed with the reply.
- IV. The Board issued a summons to oral proceedings and a communication under Article 15(1) RPBA.
- V. With their letter dated 22 April 2026, the respondent stated that they no longer approved the text of the patent in any form. Furthermore, they stated that all their requests were withdrawn, including the request for oral proceedings, and that no amended text would be submitted.

Reasons for the Decision

1. Under Article 113(2) EPC, the European Patent Office shall examine, and decide upon, the European patent only in the text submitted to it, or agreed, by the proprietor of the patent. This principle, according to which the text of the patent is at the proprietor's

disposal, must also be strictly observed in opposition and opposition appeal proceedings.

2. As the respondent - proprietor of the patent - unambiguously stated that they no longer approve the text of the patent as granted (main request) and do not pursue the patent according to the auxiliary requests on file, there is no text of the patent on which the board can base its consideration of the appellant's appeal.
3. If the proprietor of a European patent states in opposition or appeal proceedings that they no longer approve the text in which the patent was granted, and do not submit any amended text, the patent is to be revoked (Case Law of the Boards of Appeal, 11th edition 2025, IV.D.2, third paragraph and III.B.3.3, first paragraph). Therefore, the patent must be revoked, without any substantive examination.

Order

For these reasons it is decided that:

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

The Registrar:

The Chair:



K. Götz-Wein

A. Jimenez

Decision electronically authenticated