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**Datasheet for the decision
of 18 March 2026**

Case Number: T 0664/24 - 3.3.08

Application Number: 16849423.5

Publication Number: 3352584

IPC: A23L33/13, A61K31/711,
A61K31/7115, A61K31/712,
C07H21/02, C12N15/11, C12P19/34

Language of the proceedings: EN

Title of invention:
Compositions and methods for synthesizing 5'-capped RNAs

Patent Proprietor:
TriLink BioTechnologies, LLC

Opponents:
Eisenführ Speiser
Cohausz & Florack Patent- und Rechtsanwälte
Partnerschaftsgesellschaft mbB

Headword:
Compositions and methods/TRILINK BIOTECHNOLOGIES

Relevant legal provisions:
EPC Art. 113(2), 116(1)

Keyword:

Basis of decision - text or agreement to text withdrawn by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

Decisions cited:

T 0073/84, T 0186/84, T 1182/17, T 0774/20, T 1995/21

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

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Case Number: T 0664/24 - 3.3.08

D E C I S I O N
of Technical Board of Appeal 3.3.08
of 18 March 2026

Appellant: TriLink BioTechnologies, LLC
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 11 April 2024
revoking European patent No. 3352584 pursuant to
Article 101(3) (b) EPC**

Composition of the Board:

Chair	T. Sommerfeld
Members:	M. Montrone
	D. Rogers

Summary of Facts and Submissions

- I. The appeal lodged by the patent proprietor (appellant) lies against the decision of an opposition division revoking the European patent No. 3 352 584.
- II. The board summoned the parties to oral proceedings and informed them of its preliminary opinion in a communication pursuant to Article 15(1) RPBA.
- III. With a submission dated 16 February 2026 the patent proprietor declared the following:
- "We hereby disapprove the text intended for grant in respect of European patent application no. 16849423.5 (published as EP 3352584 A1, later granted as EP 3352584 B1).*
- We await confirmation of safe receipt and that all EPO proceedings are terminated".*
- IV. After being asked by the board whether this disapproval included the pending auxiliary requests too, the patent proprietor in a submission dated 24 February 2026 declared the following:
- "We hereby confirm that we withdraw all requests on file in addition to disapproving the text intended for grant in respect of European patent application no. 16849423.5 (published as EP 3352584 A1, later granted as EP 3352584 B1)".*
- V. In view of these declarations the oral proceedings were cancelled.

Reasons for the Decision

1. Pursuant to Article 113(2) EPC, the EPO will examine, and decide upon, the European patent only in the text submitted to it, or agreed by the applicant or patent proprietor.
2. Since the text of the patent is at the disposition of the patent proprietor, their patent cannot be maintained against their will. In the present case the patent proprietor withdrew their approval of the text of the patent. Further, by declaring that they await confirmation that all EPO proceedings are terminated, they also unequivocally declared that all pending auxiliary requests were at the same time withdrawn. 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.
3. In these circumstances, as there is no approved text, the patent is to be revoked without assessing issues relating to patentability (see e.g. decisions T 73/84 (OJ EPO 1985, 241), T 186/84 (OJ EPO 1986, 79), T 1182/17, T 774/20, T 1995/21 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 is no reason to deviate from this consistent approach of the Boards of Appeal, with the consequence that the patent is to be revoked.
4. Revocation of the patent also complies with the request of the opponent-respondents. The present decision can therefore be taken without holding oral proceedings (Article 116(1) EPC and Article 12(8) RPBA).

Order

For these reasons it is decided that:

1. The appeal is dismissed.
2. The patent is revoked.

The Registrar:

The Chair:



C. Rodríguez Rodríguez

T. Sommerfeld

Decision electronically authenticated