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

Case Number: T 0698/24 - 3.3.03

Application Number: 17712573.9

Publication Number: 3423512

IPC: C08J3/05, C09D167/00,
C09D167/04

Language of the proceedings: EN

Title of invention:

AQUEOUS-BASED HYDROLYTICALLY STABLE DISPERSION OF A
BIODEGRADABLE POLYMER

Patent Proprietor:

Michelman, Inc.

Opponent:

Kemira Oyj

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Text or agreement to text withdrawn by patent proprietor -
appeal dismissed

Decisions cited:

T 2684/18



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 0698/24 - 3.3.03

D E C I S I O N
of Technical Board of Appeal 3.3.03
of 18 May 2026

Appellant: Michelman, Inc.
(Patent Proprietor) 9080 Shell Road
Cincinnati, OH 45236 (US)

Representative: Arnold & Siedsma
Bezuidenhoutseweg 57
2594 AC The Hague (NL)

Respondent: Kemira Oyj
(Opponent) Energiakatu 4
00180 Helsinki (FI)

Representative: Page White Farrer
Bedford House
21a John Street
London WC1N 2BF (GB)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted/electronically
transmitted on 19 March 2024 revoking European
patent No. 3423512 pursuant to Article 101(3) (b)
EPC.**

Composition of the Board:

Chairman D. Semino
Members: D. Marquis
M. Millet

Summary of Facts and Submissions

- I. The appeal of the patent proprietor lies against the decision of the opposition division revoking European patent No. 3 423 512.
- II. In their statement of grounds of appeal the patent proprietor (appellant) requested that the decision under appeal be set aside and the opposition be rejected (main request) or that the patent be maintained on the basis of any one of the auxiliary requests 1-10 filed therewith.
- III. With the reply to the statement of grounds of appeal, the opponent (respondent) requested that the appeal be dismissed.
- IV. Oral proceedings before the Board were organized for 22 May 2026.
- V. Following the summons, a communication according to Article 15(1) RPBA dated 13 January 2026 was issued by the Board.
- VI. With letter dated 15 May 2026, the appellant declared that they did no longer approve the granted text of the patent, that all requests were thereby withdrawn, including the request for oral proceedings and that they also did not intend to file any other text for amendment of the patent in the present proceedings. They added "Accordingly, no text agreed by the Proprietor is on file on the basis of which the appeal proceedings could continue or the patent could be maintained. The Proprietor understands that this will necessarily result in the revocation of the patent pursuant to Article 101 EPC (Guidelines for

Examination, D-VIII, 1.2.5)".

VII. The oral proceedings were then cancelled.

Reasons for the Decision

1. According to one line of board of appeal case law a declaration of the patent proprietor as sole appellant against a decision to revoke the patent that they no longer approve the text of the patent as granted and withdraw all further claim requests on file is equal to the withdrawal of their appeal, while according to another line of case law such a declaration means that the appeal is to be rejected as there is no longer any text of the patent in the proceedings on the basis of which the board could consider the appeal (Article 113(2) EPC), with the result that the decision of the opposition division to revoke the patent becomes final (see T 2684/18, reasons 1 and 2 for examples of the two lines).
2. The present Board follows the analysis in T 2684/18 and agrees with the second approach. It is established case law that a request for withdrawal of an appeal should only be accepted without question if it is completely unqualified and unambiguous (Case Law of the Boards of Appeal, 11th edition 2025, V.A.7.3.5). If the patent proprietor, instead of withdrawing the appeal (which would involve a partial refund of the appeal fee), does not choose this path but declares a non-approval of the text of the patent in any form, this is in the view of the Board a deliberate choice and can thus not be interpreted as an unambiguous withdrawal of the appeal.

3. As it is nevertheless unambiguous from the declaration that the patent proprietor wishes the decision of the opposition division to revoke the patent to become final, a dismissal of the appeal is in line with this wish as well as with the opponent's request, and the Board can therefore decide to dismiss the appeal without holding oral proceedings.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



D. Hampe

D. Semino

Decision electronically authenticated