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**Datasheet for the decision
of 1 June 2026**

Case Number: T 0734/24 - 3.3.08

Application Number: 18709132.7

Publication Number: 3601533

IPC: C12N5/0783, C12M1/04

Language of the proceedings: EN

Title of invention:

Processes for production of tumor infiltrating lymphocytes and
uses of same in immunotherapy

Patent Proprietor:

Iovance Biotherapeutics, Inc.

Opponent:

Maiwald GmbH

Headword:

Method for expanding tumor infiltrating lymphocytes/IOVANCE
BIOTHERAPEUTICS

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Basis of decision - text or agreement to text withdrawn by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 1182/17, T 0774/20, T 1995/21



Beschwerdekammern
Boards of Appeal
Chambres de recours

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Case Number: T 0734/24 - 3.3.08

D E C I S I O N
of Technical Board of Appeal 3.3.08
of 1 June 2026

Appellant I: Iovance Biotherapeutics, Inc.
(Patent Proprietor) 825 Industrial Road
Suite 400
San Carlos, CA 94070 (US)

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

Appellant II: Maiwald GmbH
(Opponent) Elisenhof, Elisenstrasse 3
80335 München (DE)

Representative: Maiwald GmbH
Elisenhof
Elisenstraße 3
80335 München (DE)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted/
electronically transmitted on 28 March 2024
concerning maintenance of the European Patent
No. 3601533 in amended form**

Composition of the Board:

Chairwoman T. Sommerfeld
Members: R. Morawetz
L. Bühler

Summary of Facts and Submissions

- I. The appeals lodged by the patent proprietor and the opponent lie from the opposition division's interlocutory decision that the set of claims of the main request (claims as granted) contravened Article 123(2) EPC, but that European patent No. 3 601 533 B1 ("the patent") with the set of claims of auxiliary request 1, and the invention to which it relates met the requirements of the EPC.
- II. The patent proprietor initially requested that the patent be maintained as granted (main request) or, alternatively, that the patent be maintained in amended form on the basis of the set of claims of one of its auxiliary requests 1 to 195.
- III. As their main request, the opponent requested that the decision under appeal be set aside and the patent be revoked in its entirety.
- 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. In a letter dated 30 March 2026, the patent proprietor stated that it *"no longer approves the text in which the above identified patent [European Patent No. 3601533] was granted and will not be submitting an amended text. Patent Proprietor also disapproves the amended claims according to pending Auxiliary Requests 1-195. No further requests will be filed."*
- VI. The board cancelled the oral proceedings.

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 its approval of the text of the patent as granted and all pending auxiliary requests (section V. above). 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, 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 complies with the main request of the opponent.
5. There are no remaining issues that have to be dealt with by the board in the present appeal case, either.

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