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**Datasheet for the decision
of 17 April 2026**

Case Number: T 1035/24 - 3.3.09

Application Number: 18178442.2

Publication Number: 3453532

IPC: B32B27/32, B32B7/08

Language of the proceedings: EN

Title of invention:

ORIENTED POLYETHYLENE FILMS AND A METHOD FOR MAKING THE SAME

Patent Proprietor:

Dow Global Technologies LLC

Opponent:

TotalEnergies One Tech Belgium

Headword:

Oriented polyethylene films/DOW GLOBAL TECHNOLOGIES

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Withdrawal of approval to the text of the patent

Decisions cited:

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

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Case Number: T 1035/24 - 3.3.09

D E C I S I O N
of Technical Board of Appeal 3.3.09
of 17 April 2026

Appellant: TotalEnergies One Tech Belgium
(Opponent) Industrial Property
Zone Industrielle C
7181 Seneffe (BE)

Representative: Synergy IP Group AG
Leonhardsgraben 52
Postfach
4001 Basel (CH)

Respondent: Dow Global Technologies LLC
(Patent Proprietor) 2040 Dow Center
Midland, MI 48674 (US)

Representative: Boulton Wade Tennant LLP
Salisbury Square House
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
10 June 2024 concerning maintenance of the
European Patent No. 3453532 in amended form.**

Composition of the Board:

Chairman A. Haderlein
Members: M. Ansorge
L. Basterreix

Summary of Facts and Submissions

- I. This decision concerns the appeal filed by the opponent against the opposition division's interlocutory decision holding the then third auxiliary request allowable.
- II. During the appeal proceedings the patent proprietor initially requested that the appeal be dismissed (main request). Auxiliary requests 1 to 23 have been filed as fall-back positions.
- III. By letter of 16 April 2026, the patent proprietor declared that they no longer approve the text in which the patent was granted and as maintained in amended form and that no amended text will be submitted. In addition, they withdrew the main request and auxiliary requests 1 to 23.
- IV. The opponent requested that the decision under appeal be set aside and that the patent be revoked.

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 patent proprietor. This principle, according to which the text of the patent is at the disposition of the patent proprietor, has to be strictly observed also in opposition and opposition appeal proceedings.
2. As the patent proprietor no longer approves the text of the patent as granted and as maintained in amended form

and does not pursue the patent according to any auxiliary request, there is no text of the patent on which the board can base its consideration of the opponent's appeal.

3. If the proprietor of a European patent states in opposition or appeal proceedings that it no longer approves the text in which the patent was granted, and does 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 preceding 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 Chairman:



K. Götz-Wein

A. Haderlein

Decision electronically authenticated