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**Datasheet for the decision
of 20 March 2026**

Case Number: T 0017/25 - 3.5.05

Application Number: 13192322.9

Publication Number: 2871862

IPC: H04R25/00, H01Q5/00, H01Q9/42

Language of the proceedings: EN

Title of invention:
A hearing aid with an antenna

Patent Proprietor:
GN Hearing A/S

Opponent:
Oticon A/S

Headword:
Revocation requested by proprietor/GN HEARING

Relevant legal provisions:
EPC Art. 113(2)

Keywords:
Revocation of the patent - (yes): no approved claims on file
Decision in written proceedings - (yes): oral proceedings
obsolete

Decisions cited:

T 0073/84, T 2405/12



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Case Number: T 0017/25 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 20 March 2026

Appellant I: GN Hearing A/S
(Patent Proprietor) Lautrupbjerg 7
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Representative: Zacco Denmark A/S
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Appellant II: Oticon A/S
(Opponent) Kongebakken 9
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Representative: Cohausz & Florack
Patent- & Rechtsanwälte
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
5 November 2024 concerning maintenance of the
European Patent No. 2871862 in amended form.**

Composition of the Board:

Chair K. Bengi-Akyürek
Members: K. Peirs
R. Romandini

Summary of Facts and Submissions

- I. The appeals lie from the interlocutory decision of the opposition division to maintain the opposed patent in amended form in accordance with the proprietor's "auxiliary request 4" (Article 101(3)(a) EPC).
- II. The parties made the following requests:
- The appellant-proprietor ("proprietor") requested that the appealed decision be set aside and, as a **main request**, that the opposition be rejected. The claims as granted underlying the main request were re-filed with the statement of grounds of appeal. In the alternative, the proprietor requested that the patent be maintained in amended form based on the set of claims according to one of **sixteen auxiliary requests**.
 - The appellant-opponent ("opponent") requests that the appealed decision be set aside and that the opposed patent be revoked.
- III. The parties were summoned to oral proceedings before the board. A communication was issued under Article 15(1) RPBA including the board's preliminary opinion.
- IV. In response to the board's communication, the proprietor stated that it no longer approved the text in which the patent was granted and would not submit an amended text. In addition, it withdrew all auxiliary requests and its request for oral proceedings.

- V. The board then cancelled the scheduled oral proceedings.

Reasons for the Decision

1. Under Article 113(2) EPC, the EPO shall consider and decide upon the patent only in the text submitted to it, or agreed, by the proprietor of the patent.
2. If the patent proprietor states in opposition or appeal proceedings that they no longer approve the text in which the patent was granted, withdraws all of its auxiliary requests and announces that it will not be submitting an amended text, there is no text of the patent on the basis of which the board can consider the appeal. It is generally accepted that the patent is to be revoked in such a case (cf. **T 73/84**, Reasons 2; **T 2405/12**, Reasons 2 to 4).
3. In view of the above, the board does not consider holding oral proceedings to be expedient in this case, and the condition for the opponent's request for oral proceedings does not apply. Thus, the board cancelled the oral proceedings.

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:



B. Brückner

K. Bengi-Akyürek

Decision electronically authenticated